



2012 NDDOT Construction Conference

March 7, 2012

FHWA Management Overview

Wendall L. Meyer

Division Administrator

FHWA North Dakota Division



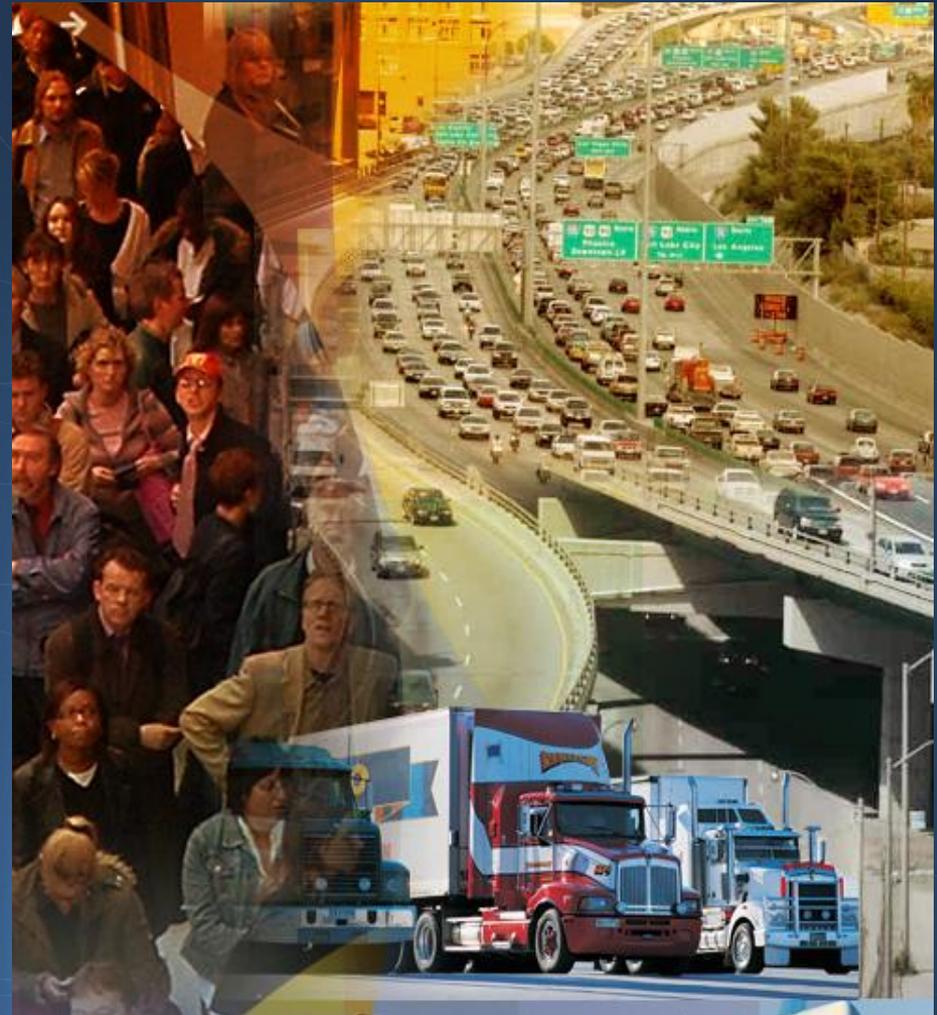
Discussion Areas

- FHWA Briefly
- Federal Funding
- FHWA Focus
 - Oversight
 - Every Day Counts



FHWA Briefly: Who are we?

- **Money:** About \$40B Federal Highway Funds
- **Legislated Mission:** “...provide for a strong and vigorous national economy...” 23 USC 101(b) *(and associated regulations)*
- **What we aspire to:** Improve Mobility on our Nation’s Highways Through National Leadership, Innovation, and Program Delivery.
- **What the public expects:** Safety and fiscal integrity, emergency response...





North Dakota Division

Wendall L. Meyer
Division Administrator

Brenda L. RedWing
Assistant Division
Administrator

Stephanie J. Hickman
Transportation Planning
and Research Manager
(Team Leader)

Kevin J. Michel
Structures and
Engineering Team
Leader

Sandy A. Zimmer
Financial Program
Manager
(Team Leader)

Nicholas J. Renna
Safety/Traffic
Operations/ITS Engineer

Gary A. Goff
Operations Engineer
Districts 6 and 8

Lindsey L. Handel
Operations Engineer
Districts 1, 3 and 5

Kari M. Steier
Financial Specialist

Leah M. Wetch
Administrative Assistant

Mark R. Schrader
Environment and
Right-of-Way Engineer

Kevin L. Brodie
Operations Engineer
Districts 2, 4, and 7

Olivia Becker
Student Aide



Structures and Engineering Team

Kevin J. Michel
Structures and
Engineering Team
Leader

Gary A. Goff
Operations
Engineer
Districts 6 and 8

Lindsey L. Handel
Operations
Engineer
Districts 1, 3 and 5

Kevin L. Brodie
Operations
Engineer
Districts 2, 4, and 7



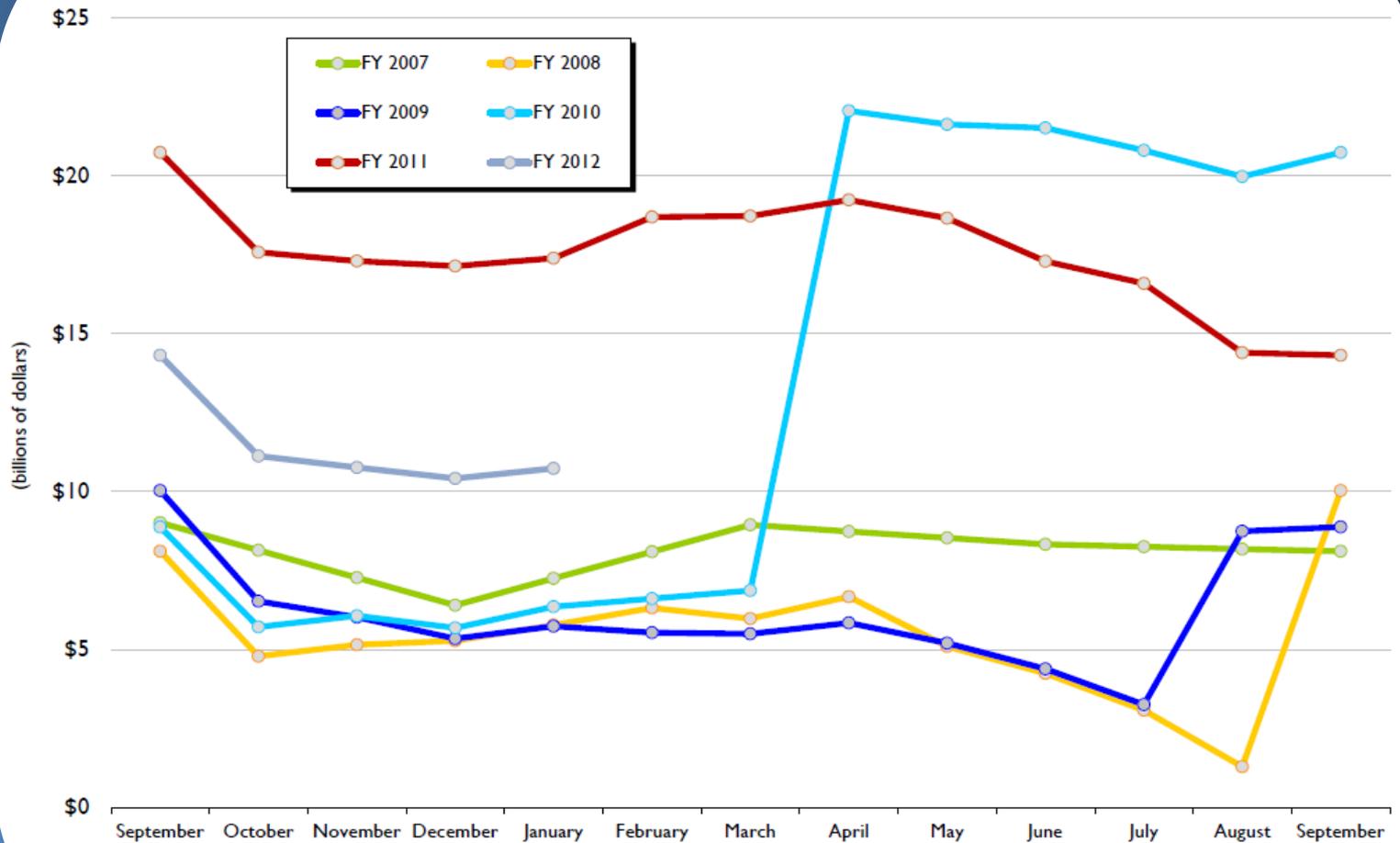
Federal Funding: Critical Issue

- Transportation Reauthorization
 - SAFETEA-LU expired September 30, 2009
 - Extension until **March 31, 2012**
- FY2012 Appropriations Act
 - **September 30, 2012**
 - North Dakota's Apportionment \$119,636,649 **[50%]**
 - North Dakota's Obligation Limitation is \$112,957,202 **[50%]**





Highway Account Balance



Ending balance for FY 2008 includes \$8.017 billion transferred from the General Fund in September pursuant to Public Law 110-318.

Ending balance for FY 2009 includes \$7 billion transferred from the General Fund in August pursuant to Public Law 111-46.

Ending balance for FY 2010 includes \$14.7 billion transferred from the General Fund in April pursuant to Public Law 111-147.



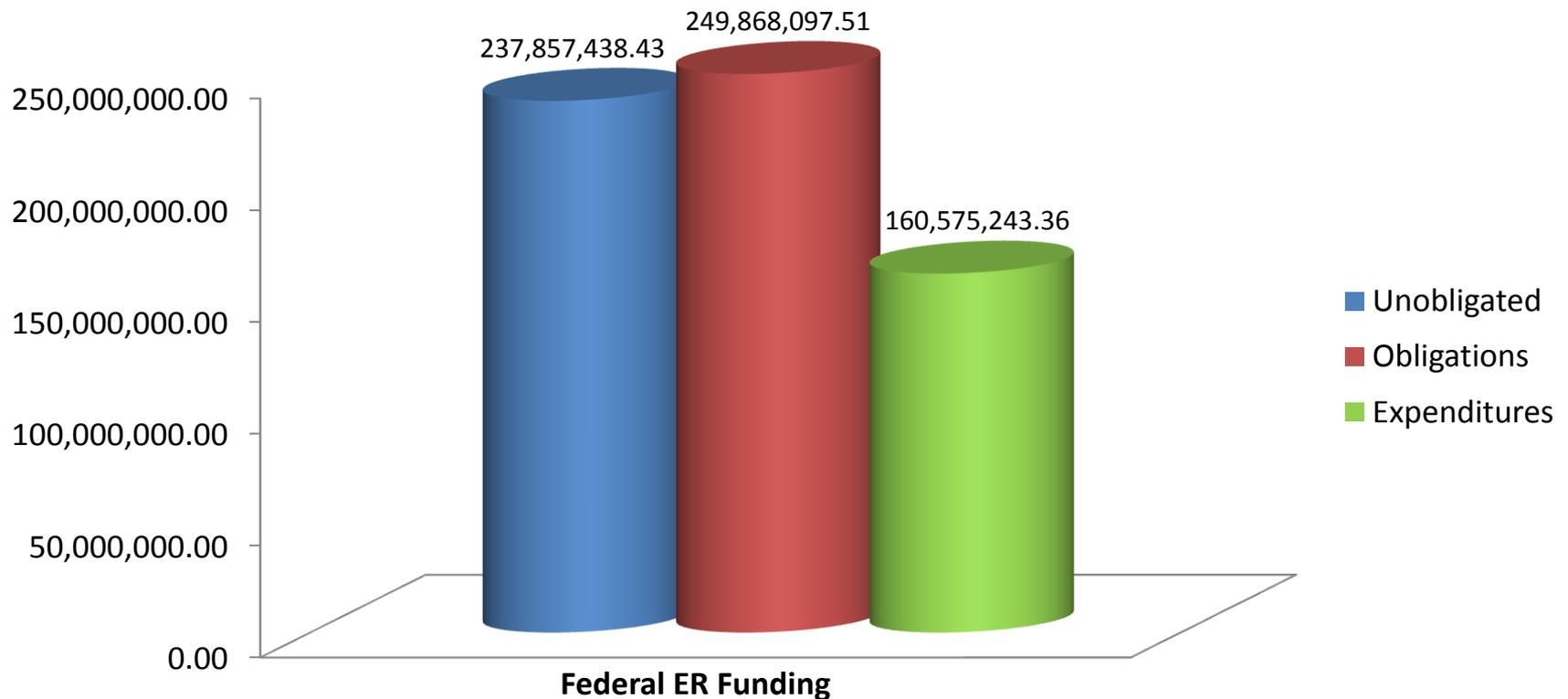
Emergency Relief

- Four separate events in both 2009 and 2010
- Five separate events in 2011
- About 775 detailed damage inspection reports
- Total damage to the federal-aid system at a cost of about \$740 million
- Current emergency relief \$495.32 million (doesn't include \$31.3 million pending request)



Emergency Relief

2009 - 2011 Emergency Relief Events

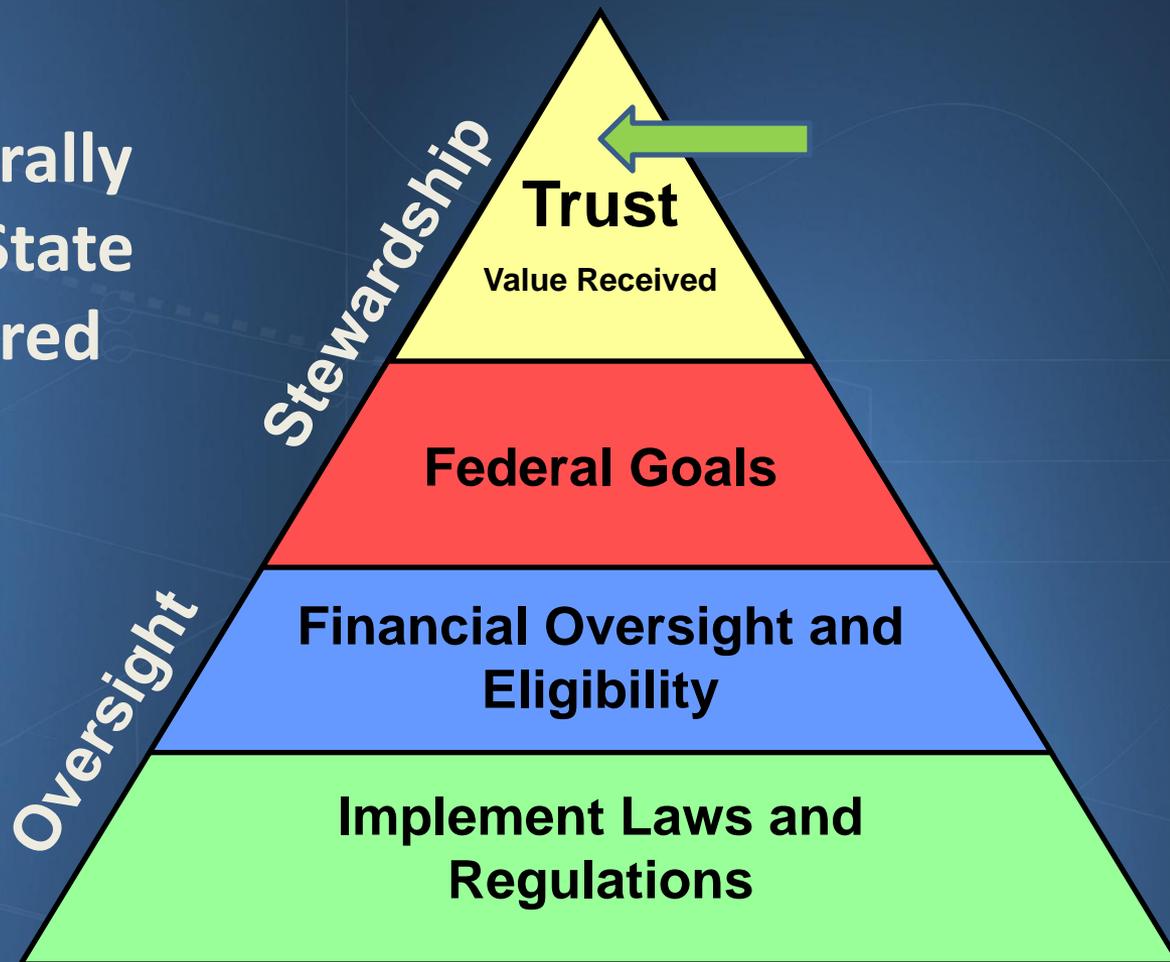




FHWA: Our Role Today

A Partner...

In “A Federally Assisted, State Administered Program”





FHWA Focus: Oversight

- Emergency Relief Projects: **REMINDER**
 - Emergency Repairs (prior FHWA approval not required)
 - Permanent repairs limited to \$150,000
 - Permanent Repairs (must have FHWA approval before work starts unless it is done as part of the Emergency Repairs)
 - Detailed Damage Inspection Report (DDIR) approved
 - FHWA has obligated the funds (i.e., project authorized)

<http://www.fhwa.dot.gov/reports/erm/index.cfm>

<http://www.dot.nd.gov/business/emergencyrelief.htm>



FHWA Focus: Oversight

- 23 CFR 650.313 (e) (3) – Bridges that are scour critical [metric 18 of 23]
 - Scour Critical Bridges have a Plan of Action (POA)
 - North Dakota is in “Compliance”
 - **Unknown Foundations have a POA**
 - North Dakota is in “Conditional Compliance”
 - Plan of Corrective Action with a deadline of July 31, 2012



FHWA Focus: Oversight

- Americans with Disabilities Act (ADA) of 1990 and Section 504 of the Rehabilitation Act of 1973.



- Maintenance (23 U.S.C. 116)
 - The maintenance requirements apply to all transportation facilities that are constructed with Federal funds. (i.e., roadways, sidewalks, trails, etc.)
- A public agency must maintain its walkways in an accessible condition, with only isolated or temporary interruptions in accessibility (28 CFR §35.133).

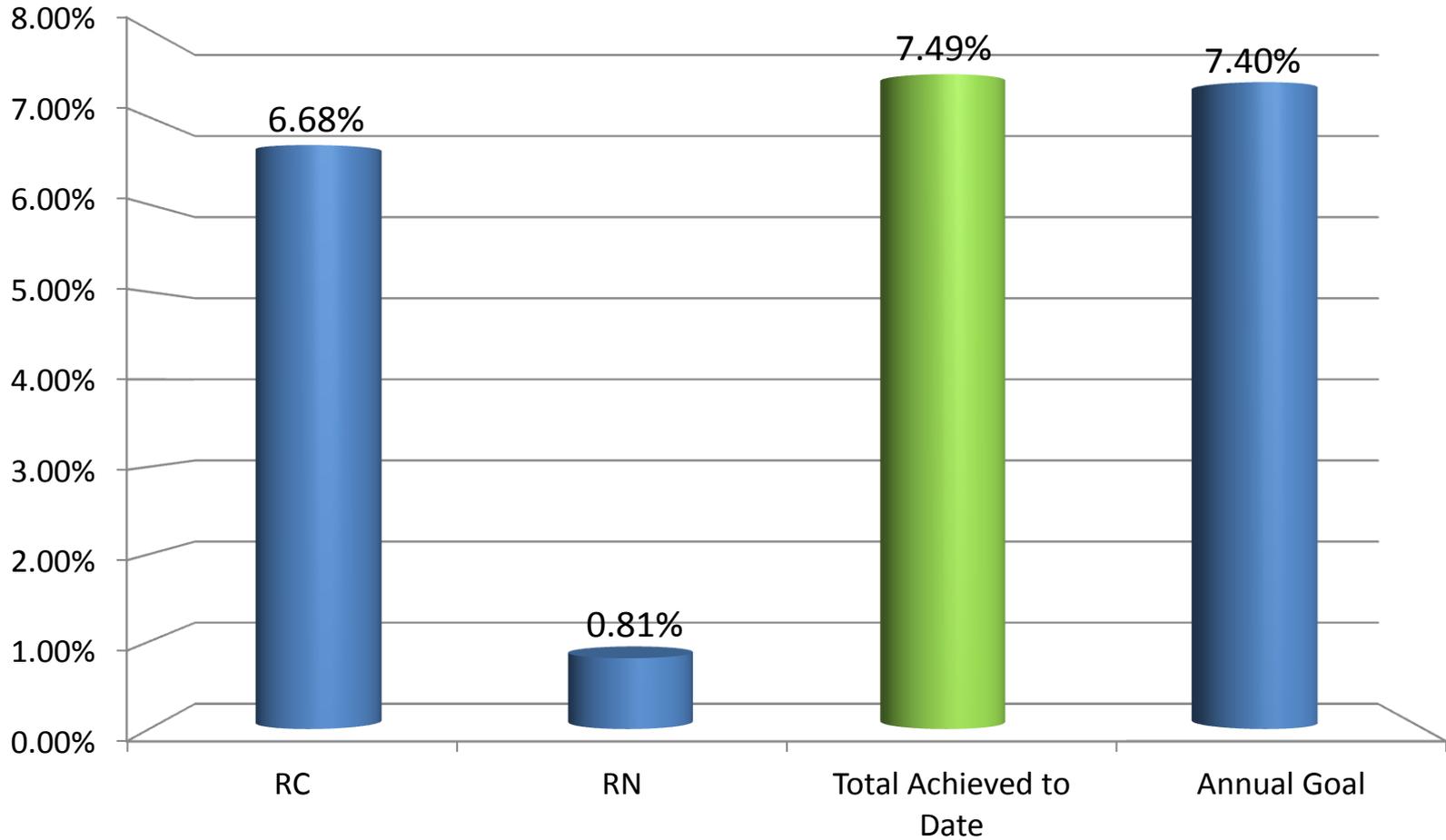


FHWA Focus: Oversight

- Do these things to avoid pitfalls on Federal-aid contracts:
 - Keep your haul tickets (discussing alternative procedure with NDDOT)
 - Request and retain material certifications
 - Request and retain Buy America certifications
 - Meet DBE project goals
 - Document field books
 - Other contract requirements



FHWA Focus: Oversight - DBE





TERMINATION FOR CONVENIENCE

DBE Final Rule: Effective February 28, 2011

- 49 CFR §26.53(f) has been expanded
 - Prime contractors may not terminate for convenience a DBE that it relied upon to obtain the contract without:
 - Good Cause
 - State DOT written approval



TERMINATION FOR CONVENIENCE

DBE Final Rule: Effective February 28, 2011

- What Constitutes Good Cause?
 - DBE fails or refuses to sign contract
 - DBE fails or refuses to perform to normal industry standards
 - DBE fails to meet prime's reasonable bond requirements
 - DBE goes bankrupt
 - DBE is suspended or debarred (ineligible for fed. contracts)
 - DBE is not a responsible contractor (in opinion of recipient)
 - DBE voluntarily withdraws
 - DBE is ineligible to receive DBE credit for work type
 - DBE death or disability
 - Other documented good cause



TERMINATION FOR CONVENIENCE

DBE Final Rule: Effective February 28, 2011

- What Does Not Constitute Good Cause?
 - Prime wants to self-perform the work
 - Prime want to substitute with another DBE or non-DBE subcontractor
 - Prime contractor makes it impossible for DBE to perform its work in an acceptable manner



TERMINATION FOR CONVENIENCE

DBE Final Rule: Effective February 28, 2011

- Request to Terminate for Good Cause
 - Prime gives written notice to DBE of intent to terminate with copy to State DOT.
 - DBE has 5 days to respond to notice and explain why it objects and why State DOT should not approve prime's request (shorter period if public safety involved).
 - Applies to post-awards and pre-award deletions and substitutions



PROGRAM OVERSIGHT

DBE Final Rule: Effective February 28, 2011

- 49 CFR §26.37(b) has been expanded
 - State DOTs must provide written certification that it has reviewed records AND monitored work sites in-state to ensure work committed to DBEs is actually performed by DBEs to which the work was committed.
 - How do you document DBE work on your contracts?



ACCOUNTABILITY

DBE Final Rule: Effective February 28, 2011

- 49 CFR §26.47 has added (c)
 - State DOT that has not met its overall DBE goal in any given year must submit written analysis to FHWA of why the goal was not met and corrective actions to be taken.



FHWA Focus: Every Day Counts (EDC)

- Shortening Project Delivery
- Accelerating Technology and Innovation Deployment

<http://www.fhwa.dot.gov/everydaycounts/>

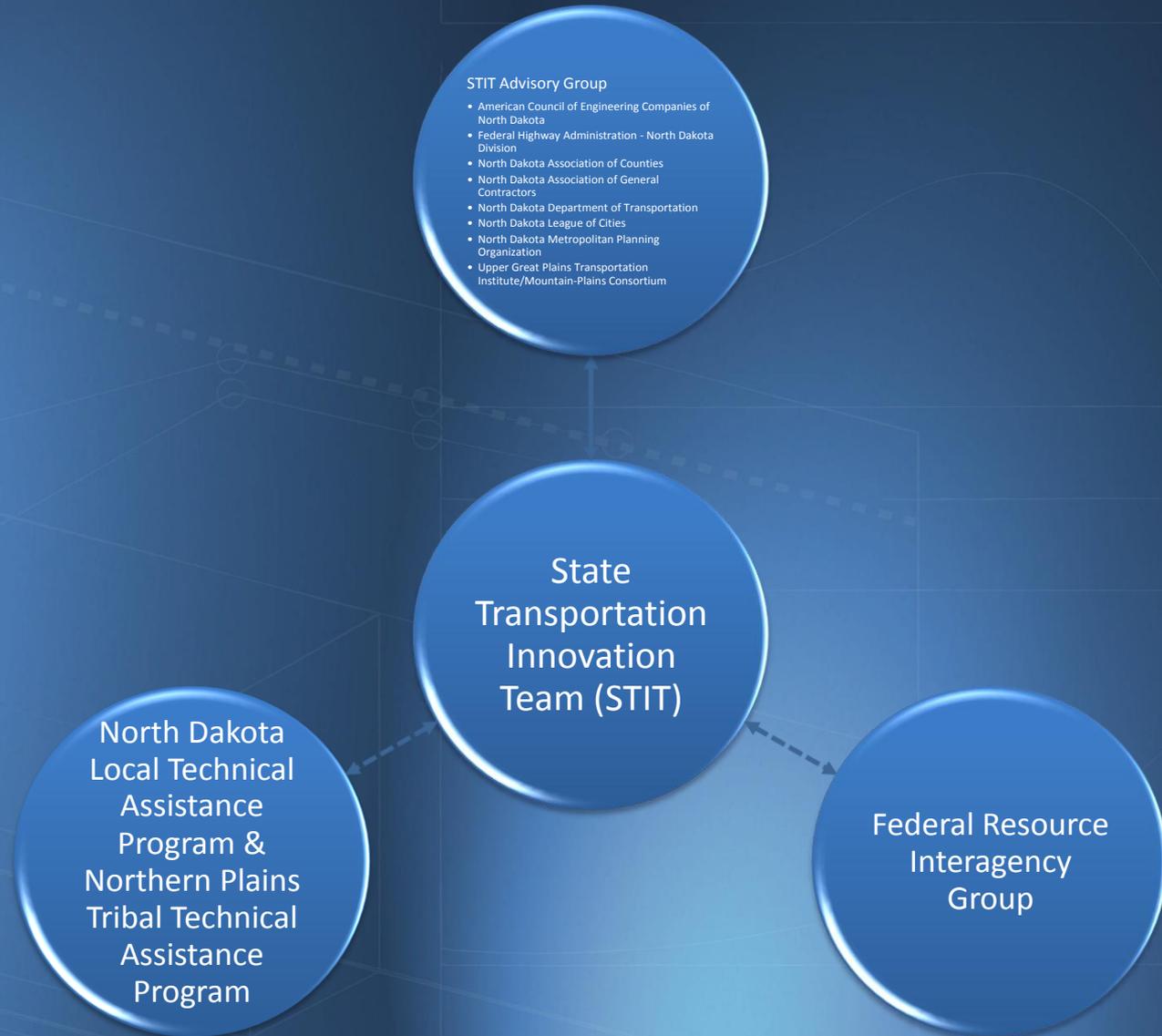


EDC Implementation Teams North Dakota

- Planning and Environmental Linkages
- In-Lieu Fee and Mitigation Banking
- Flexibility in Utility Relocation and Accommodation
- Warm Mix Asphalt



North Dakota's EDC Model





STIT Advisory Group

STIT Advisory Group

- American Council of Engineering Companies of North Dakota
- Federal Highway Administration - North Dakota Division
- North Dakota Association of Counties
- North Dakota Association of General Contractors
- North Dakota Department of Transportation
- North Dakota League of Cities
- North Dakota Metropolitan Planning Organization
- Upper Great Plains Transportation Institute/Mountain-Plains Consortium

Thank You!



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CLICK IT
OR
TICKET

Buckle Up, Every Trip, Every Time