

Senate Transportation Committee Hearing – Third Party Reviewers

As part of preliminary engineering during project delivery, PennDOT prepares environmental documents required by the National Environmental Policy Act and Pennsylvania's section 2002 of the Administrative Code. The federal and state laws require that PennDOT evaluate and document the relevant environmental impacts from projects.

A key component of the environmental review process is coordinating with other agencies that have jurisdiction over resources impacted by our projects. PennDOT currently has seven memoranda of understanding with state and federal agencies wherein PennDOT and FHWA pay salary and benefits for staff in those agencies to dedicate their time to PennDOT project reviews. These memorandums of understanding are with:

- US Army Corps of Engineers
- US Fish & Wildlife Service
- PA DEP
- PA Fish & Boat Commission
- PA Game Commission
- PA DCNR, and
- PA Historical and Museum Commission

This arrangement has been judged a national best practice. Although these come at a cost of \$3 million to PennDOT and FHWA for the 26 individuals representing these agencies, these positions are key in expediting PennDOT projects by having the means for cooperative collaboration and agency reviewers focused on PennDOT projects.

The cooperative collaboration fostered by the MOU process is between government agencies, all having missions tied to the public interest. The positions are all government employees managed by and charged with delivering the programs of their respective agencies under all applicable statutes and regulations, with which PennDOT must fully comply.

Nearly all PennDOT permits are processed by the Pennsylvania Department of Environmental Protection (a few are authorizations from the Army Corps of Engineers). Last year DEP approved 751 permits for PennDOT projects, noting that just over half of those were for maintenance projects and the majority of the remainder were general waterway permits

PennDOT and DEP renewed their MOU in 2014. Under the MOU, PennDOT funds DEP engineer and biologist reviewers in each of the six DEP regions, plus one central office liaison. In addition to dedicated reviewers, the MOU also sets review time frames that are shorter than the Permit Decision Guarantee (PDG) program which is the program

available to all other entities. Part of the requirement to maintain FHWA support for the funded positions is that DEP provide above customary service with respect to review times. For PennDOT's most numerous permits, waterway permits known as a GP-11s, the established review time is 35 working days compared to 89 under the PDG. This alone greatly reduces the time needed to secure the necessary permits.

Although each agency continues to maintain their independent missions and service to the public, the funded positions at DEP provide the framework which allows both agencies to work together in a collaborative manner. PennDOT is still fully responsible for preparing all the required permit packages and submissions, but they have direct access to DEP's reviewers. The MOU also includes an escalation process to resolve issues which cannot be addressed at the local level. Recognizing a current backlog of permits and workload in some regions, PennDOT is currently seeking to fund an additional DEP reviewer to help with the backlog of permit applications. This position is envisioned as a central office position to help with backlog from any DEP Region as needed.

PennDOT and DEP continue to work together to collaboratively address issues and make improvements through improved processes, training sessions, and partnering. This is evidenced by our collective efforts to modernize how permits are processed. PennDOT is working with DEP and the ACOE in the environmental permitting area to redesign and replace the Joint Permit Applications System (JPA), which will provide the means of processing almost all General [Waterway] Permits (Chapter 105 Permits) as well as all Erosion and Sedimentation Control Permits (Chapter 102 permits). The enhanced system, called the Keystone Environmental ePermitting System (KEES), is under development with a first stage rollout date of late spring 2017 and the full buildout expected by the end of 2018. KEES will be a cradle to grave system and will track all aspects of permitting from pre-application meetings through submission and authorization and conclude with permit authorization. KEES will be a Geographic Information Systems (GIS) based. Some permit and project data will be extracted directly from existing GIS layers and other PennDOT systems, thus reducing redundant data entry and reducing errors in gathering and inputting information. KEES will have system validation and human verification aspects that will greatly reduce omissions and consistency errors, thus streamline the permitting process by eliminating back and forth submissions and reviews due to missing information. KEES is also being structured to allow DEP to expand e-permitting to other state agencies, private sector work and the general public. The systems base programming platform is being developed to accommodate other entities, but it will be up to DEP to fund the programming that will allow other entities to use. KEES was conceived and funded by PennDOT, for the benefit of both agencies and possibly the private sector at some point.

In addition to permits related to PennDOT's typical program, most of the bridges in PennDOT's Rapid Bridge Replacement P3 program also require the issuance of permits from DEP. In order to keep the MOU funded DEP positions focused on delivering the Departments Act 89 program, the permits for the RBR program are actually submitted by the RBR contracting entity, known as Developmental Entity (DE) and are reviewed by DEP's general permit staff, not under the MOU process. DEP Southwest Region and South Central Region have experienced an extremely high volume of permit submittals (roughly 45% of the submittals) from the Developmental Entity for transportation projects in addition to PennDOT's current program.

PennDOT and DEP continue to discuss opportunities to improve collaboration between our agencies. PennDOT has had prior discussions with DEP regarding the concept of using a third party (consulting engineers) to review waterway permits (105 permits) on behalf of DEP. The Erosion and Sediment Control permits (102 permits) is a delegated approval process from the federal Environment Protection Agency (EPA), so any proposed change in state regulations would need approval by the EPA. DEP has relayed that they do not have the authority to delegate reviewers on their behalf. As mentioned previously, current PennDOT and DEP are looking for ways to fund an additional reviewer to better address the large volume of work. The Administrative officers for both agencies are working together to support an increased compliment position within DEP for the benefit of both PennDOT and DEP.

In summary, PennDOT continuously looks for tools and opportunities to improve project delivery and expedite the completion of our transportation projects while being good stewards of the environment. The interagency MOUs, process improvements, the development of KEES and pursuit of additional dedicated review staff are key in delivering a timely program. We will continue to look for processes that streamline transportation delivery to improve efficiencies for both agencies.