

## Responsible Charge for Federal-Aid Projects

In accordance with Federal Regulation 23 CFR 635.105 the Local Public Agency must provide a full time employee of the Local Public Agency to be in "responsible charge" of the project. This person does not need to be an engineer. This person is required even when consultants have been retained by the LPA to manage the entity's engineering activities, including design and construction engineering and inspection services. Identified below is the information and duties required of this employee.

Project No. \_\_\_\_\_ Project Name: \_\_\_\_\_

Entity: \_\_\_\_\_

Name & Title of Responsible Person \_\_\_\_\_

### **Contact Information:**

Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Cell Phone: \_\_\_\_\_

E-mail: \_\_\_\_\_

**NOTE:** The regulation does not require the same public employees to be in responsible charge over several projects. It allows for the transfer of responsible charge duties for different phases, i.e. design and construction. If design and construction duties are handled by separate individuals on a project, please identify each employee and the phase of the project they are responsible for. **(Note: Only one employee per phase should be listed.)**

### **Duties:**

- This person acts as the primary point of contact for the Entity with the DOTD Project Manager.
- Oversees project activities; cost, time adherence to contract requirements, design and construction quality and scope
- Ensures the contract is properly recorded
- Directs project staff, agency or consultant, to carry out project administration and contract oversight including proper documentation
- Is aware of the qualifications, assignments and on-the-job performance of the agency and consultant staff at all stages of the project
- Makes or participates in decisions about changed conditions or scope changes that require change orders or supplemental agreements
- Reviews financial processes, transactions and documentation to ensure that safeguards are in place to minimize fraud, waste and abuse
- Maintains familiarity of day to day project operations & safety issues
- Visits and reviews the project on a frequency that is proportionate with the magnitude and complexity of the project.
- Attends all project related meetings. (It is understood that if the person in Responsible Charge is not in attendance, the meeting will be cancelled.)

\_\_\_\_\_  
Name of Signatory Party for the Local Public Agency

\_\_\_\_\_  
Signature of Signatory Party for the Local Public Agency

**NOTE: It is the Entity's responsibility to notify the Project Manager if the Responsible Person in Charge changes during any phase or duty.**

# FHWA Memorandum

**INFORMATION:** “Responsible Charge”

Date: August 4, 2011

In Reply Refer To: HIPA-10

From: David A. Nicol  
Director, Office of Program Administration

To: Director of Field-Service  
Federal Lands Highway Division Engineers  
Division Administrators

The issue of “responsible charge” of Federal-aid construction projects has been raised on several occasions; most recently as it relates to Federal-aid projects that are administered by local public agencies. The following attachment provides guidance on the requirements and duties of the person designated to be in “responsible charge”.

If you have any questions about the memorandum and attachment, please contact Mr. Bob Wright as [Robert.wright@dot.gov](mailto:Robert.wright@dot.gov) .

Attachment

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## Attachment

### Defining “Responsible Charge” in the Federal-aid Highway Program

#### **Regulation:**

The key regulatory provision, 23 CFR 635.105 – *Supervising Agency*, provides that the State Transportation Agency (STA) is responsible for construction of Federal-aid projects, whether it or a local public agency (LPA) performs the work. The regulation provides that the STA and LPA must provide a full time employee to be in “responsible charge” of the project.

#### **Requirements of Position:**

For projects administered by the STA, the regulation requires that the person in “responsible charge” be a full-time employed state engineer. This requirement applies even when consultants are providing construction engineering services.

For locally administered projects, the regulation requires that the person in “responsible charge” be a full time employee of the LPA. The regulation is silent about engineering credentials. Thus, the person in “responsible charge” of LPA administered projects need not be an engineer. This requirement applies even when consultants are providing construction engineering services.

#### **Duties:**

Regardless of whether the project is administered by the STA or another agency, the person designated as being in "responsible charge" is expected to be a public employee who is accountable for a project. This person should be expected to be able to perform the following duties and functions:

- Administers inherently governmental project activities, including those dealing with cost, time, adherence to contract requirements, construction quality and scope of Federal-aid projects;
- Maintains familiarity of day to day project operations, including project safety issues;
- Makes or participates in decisions about changed conditions or scope changes that require change orders or supplemental agreements;
- Visits and reviews the project on a frequency that is commensurate with the magnitude and complexity of the project;
- Reviews financial processes, transactions and documentation to ensure that safeguards are in place to minimize fraud, waste, and abuse; and
- Directs project staff, agency or consultant, to carry out project administration and contract oversight, including proper documentation.

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- Is aware of the qualifications, assignments and on-the-job performance of the agency and consultant staff at all stages of the project.

The regulations do not restrict an agency's organizational authority over the person designated in "responsible charge," and the regulations do not preclude sharing of these duties and functions among a number of public agency employees. The regulations also do not preclude one employee from having responsible charge of several projects and directing project managers assigned to specific projects.

**Affect on Laws Regulating Licensure:**

The term "responsible charge" is used here in the context intended by the above regulation. It may or may not correspond to its usage in state laws regulating licensure of professional engineers

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