

**LETTER OF AGREEMENT
PHASE I (PROJECT DEVELOPMENT)
NTTA, TxDOT, AND FHWA**

INTRODUCTION

NTTA's transportation decision-making process recognizes the critical relationship between an integrated transportation system and the region's environmental vitality. NTTA's primary focus is to balance tollway system performance with North Texas' natural, physical, cultural, socioeconomic, and human environment. NTTA is specifically committed to minimizing impacts on North Texas' communities and its environment, by streamlining Phase I (Project Development) processes more required to provide approvals for transportation infrastructure projects, in compliance with all applicable federal and state laws and in accordance with applicable and accepted policies and practices, while maintaining safety, public health, and environmental protection.

This Letter of Agreement – Phase I (LOA-I) sets forth the intent of the parties to more clearly define Environmental Stewardship and Streamlining¹ roles and further develop collaborative, open decision-making processes between the parties encompassing Phase I (Project Development) that measurably accommodate:

- Early planning process involvement to set priorities of staged, multi-year listing of transportation projects and, specifically, Transportation Improvement Program (TIP) effects on NTTA while more clearly defining the scoping process among agencies.
- Enhanced interagency protocol that ensures communication, coordination, environmental, and project development processing needs are set within mutually established timelines.
- Streamlined issue resolution among NTTA, TxDOT, and FHWA throughout the planning, environmental documentation, project development, permitting, and schematic design development activities.
- Improved quality and consistency with NTTA's environmental documents that satisfy approved NEPA processes and meet federal/state requirements within reasonable timelines.
- Proactive environmental compliance monitoring that ensures environmental commitments identified during NTTA's Phase I (Project Development) translate into subsequent Phase II (Final Design) and Phase III (Construction) actions.
- Enhanced relationships with external federal/state resource and regulatory agencies which may require timeline adjustments based on their involvement as interested parties while maintaining their obligations to serve all customers equally.

This LOA-I is also conceived as a living document that can incorporate oversight responsibility changes among the parties, as the need arises.

VISION

NTTA's vision is to become a nationally known leader in innovative toll facility design and implementation that is genuinely sensitive to community values, environmental impacts, and regional ecosystems through an NTTA, TxDOT, and FHWA formal partnership.

MISSION

NTTA's focus on achieving excellent tollway customer satisfaction begins with the resultant priority projects being responsive to the effects on the quality of the human and natural environment by working closely with federal and state natural, cultural, and historic resource agencies. FHWA and TxDOT Environmental Stewardship and Streamlining¹ initiatives further support NTTA's

mission by establishing realistic environmental review timelines through formal partnering and thereby implementing more efficient and streamlined decision-making. The partnering objective is to ensure that interagency activities add value in achieving timely delivery of NTTA priority projects and services through enhanced policy and program guidance, while being compliant with all federal and state laws and regulations.

JOINT GOALS

NTTA's essential goal is the development and implementation of toll facilities and related infrastructure priority projects in an effective and environmentally sound manner. TxDOT's primary goal is to be a progressive state transportation agency in delivering much needed infrastructure, whether toll facility or not, in an efficient and responsible manner. The measurable LOA-I outcome is establishing mutually agreeable communication protocols and corresponding decision-making hierarchy process improvements, as it relates to regional planning/Phase I project delivery among NTTA, TxDOT and FHWA including the corresponding resource agencies. This includes establishing reasonable and mutually agreeable timelines.

NTTA recognizes that TxDOT and FHWA interagency program goals and objectives vary from year to year, based on such factors as risk assessments, workload, needs or other agency priorities, program review findings from previous years, national and/or regional objectives, and updated regulatory requirements. The LOA-I objective is to establish joint goals between the agency's respective programs that balance NTTA's Phase I project delivery priorities with the transportation needs throughout the State of Texas.

Working together through a formal interagency LOA-I also establishes a specific need and purpose regarding the communication hierarchy and protocols necessary to ensure that clear and well defined direction is provided to NTTA staff earlier in the Phase I scoping phase. The LOA-I need is to identify Environmental Stewardship methodologies and corresponding essential resources that ensure achievement of joint goals and more reliably ensure compliance with applicable laws. The LOA-I purpose is to identify Environmental Streamlining process improvement strategies that further demonstrate and strengthen TxDOT's and FHWA's roles in establishing reasonable and mutually agreeable, NTTA priority project delivery timelines. Accomplishing the LOA-I need and purpose is measured by achieving the following:

- *Establishing a "seat at the table"* by mutually defining a clearer understanding and appreciation for NTTA's role and corresponding responsibilities involving the NTTA Board and the public it directly serves as well as TxDOT's and FHWA's roles and responsibilities to the region and the state.
- *Mutually creating Quality Control/Quality Assurance (QC/QA) checklist mechanisms* that maintain the appropriate level of quality control and technical proficiency of required environmental documents designed to lessen the need for multiple reviews.
- *Mutually determining NTTA project delivery timelines* consistent with FHWA's and TxDOT's other transportation project delivery obligations, by mutually setting realistic milestone goals, to be more reliably achieved, as stated by Ms. Brown, FHWA Texas Division Administrator, "within a timeframe that is commensurate with the complexities of the outstanding project issues."²
- *Enhanced coordination* that achieves more efficient environmental and schematic design reviews by streamlining procedural requirements between the parties to be more consistent with SAFETEA-LU guidelines.

- *Re-defined communication protocols* designed to elevate and resolve controversies among federal, state, tribal, and local agencies related to the review or impacts of proposed NTTA projects in a measureable and timely manner.
- *Creating a living NTTA Environmental Manual* through the culmination of these LOA-I partnering efforts that sets forth consistent guidance (in compliance with state and federal laws and regulations for state and federally funded projects) to comprehensively address the assessment of environmental impacts for all future NTTA projects.

ROLES AND RESPONSIBILITIES

NTTA, TxDOT, and FHWA hereby agree to work in close partnership to mutually determine Phase I project delivery timelines that more reliably assure the efficient and effective coordination of multiple environmental reviews, analyses, and permitting actions which is essential to meeting FHWA/TxDOT Environmental Stewardship and Streamlining¹ objectives. Assuring the successful delivery of NTTA priority projects also requires that Environmental Project Delivery (EPD) procedures, consistent with SAFETEA-LU, corresponding work breakdown structures, and internal organizational responsibilities be clearly defined regarding how NTTA Phase I processes work and who is responsible (see attached NTTA project delivery protocol structure). NTTA's specific role under this LOA-I shall be to develop an EPD – Process Improvement Plan that covers process improvement elements and describes fundamental roles and responsibilities among the partnership, as follows:

- *Technical Team* – The Technical Team represents specially assigned NTTA, TxDOT, and FHWA technical staff responsible for identifying, prioritizing, and tracking emphasis areas that are based upon joint goals; making recommendations to the Executive Team; receiving approval from the NTTA Board on emphasis areas prior to making staff assignments; and making team assignments. The resultant pre-scheduled monthly technical coordination meetings with FHWA, TxDOT, and other agencies as needed shall occur throughout the EPD process to openly discuss and formulate strategies that make NTTA's environmental documents more proficient and higher quality. Moreover, project specific technical teams may need to be developed especially regarding large and complex NTTA projects, on an as-needed basis.

At least one member of the Technical Team shall meet quarterly with the Executive Team and report on current activities. The Technical Team shall also form a Regional Planning Task Force subcommittee, to meet on an as-needed basis, as follows:

- *Regional Planning Task Force Subcommittee* – The Task Force consists of specially assigned key staff representing federal, state, and/or local agencies, including NCTCOG staff focused on assuring compliance with the regional planning process. NTTA, TxDOT, and FHWA shall work cooperatively to enhance both the planning and environmental review linkages. The purpose of such work is to integrate NTTA transportation decision-making into measureable environmental, community, and economic goals throughout the project life cycle involving planning, development, operation, and maintenance of proposed improvement projects, facilities, and services. The Task Force shall strive to continually enhance communication within and among transportation and resource agencies, leading to improved project scoping and decision-making. The Task Force shall utilize the quality approach which includes identifying issues and opportunities for improvement, recommending

solutions, and proposing performance measures for those specific regional planning initiatives to be reported, in summary, directly to the Executive Team.

- *Executive Team* – The Executive Team represents senior NTTA, TxDOT, and FHWA management and shall provide guidance and direction to the Technical Team. The Executive Team shall approve recommended emphasis areas on a quarterly or as-needed basis. The resultant pre-scheduled quarterly executive meetings with TxDOT and FHWA shall occur to openly discuss NTTA’s pending high priority projects and shall be the on-going forum for issue resolution regarding unresolved issues that result from the monthly technical coordination meetings. Each agency hereby commits the necessary resources to accomplish NTTA high priority objectives with regards to all other parties’ program commitments. Goals shall be revisited and updated quarterly.
- *NTTA Environmental Manual* – The Environmental Manual enhances communication protocol by clearly defining the assessment and documentation of environmental impacts and the roles and responsibilities for NTTA staff and consultants in order to more reliably achieve compliance within mutually defined QC/QA procedures.
- *Design and Construction Elements* – This LOA-I does not specifically cover Phase II (Final Design) or Phase III (Construction). Separate LOAs may need to be developed to specifically address the other pertinent NTTA Manuals and processes. These separate potential LOAs each covering Phase II (Final Design) and Phase III (Construction) would be first identified by the Technical Team. The separate LOAs need and purpose would be developed among the agencies if more clearly defining the corresponding agency’s roles and responsibilities in addition to what is already covered by the NTTA Design and Construction Manuals, becomes necessary. A brief summary of these manuals are, as follows:
 - *NTTA QMS Manual* – The Quality Management System (QMS) Manual is inclusive of all the procedures, manuals, and forms that indicate how compliance with NTTA requirements are fulfilled for planning, design management, and construction management.
 - *NTTA PS&E Preparations Manual* – The (Final Design) Manual was prepared as a supplement and/or modification to the TxDOT Plans, Specifications & Estimates (PS&E) Preparation Manual. This Manual also incorporates, by reference, NTTA Standard Drawings and Specifications including Special Specifications, Provisions, and General Notes. The Manual is comprehensive and requires that all federally funded projects include additional reviews and approvals by the TxDOT District, Design Division, Bridge Division, and Traffic Operations Division, as discussed in the TxDOT PS&E Preparation Manual.
 - *NTTA Construction Manual* – The Construction Manual details all pertinent construction and construction management activities necessary to fulfill NTTA requirements. The Manual also incorporates, by reference, TxDOT’s current version of the *Standard Specifications for Construction and Maintenance of Highways, Streets, and Bridges* as applicable to projects involving federal funds and/or approvals by TxDOT.

COMMUNICATION AND SUBMITTAL PROTOCOL

NTTA’s federally and/or state-funded toll facility projects shall be under the oversight of TxDOT. These projects require communication between the agencies and shall initially be between NTTA and the TxDOT Dallas District or TxDOT Fort Worth District. The appropriate TxDOT District

shall communicate with the TxDOT Design Division or the TxDOT Environmental Affairs Division regarding NTTA's projects. The appropriate TxDOT Division office shall then facilitate project communications with FHWA. Similarly, communications from FHWA to NTTA shall go from FHWA to the TxDOT Division offices to the TxDOT District offices to NTTA.

Environmental documents and schematic designs shall be certified by NTTA for QC/QA prior to submitting to the TxDOT Dallas or Fort Worth District offices for review; and, subsequently, forwarding the documents to the TxDOT Design or Environmental Affairs Division offices. Following TxDOT District subsequent reviews and quality assurance measures, NTTA's submittals shall provide a minimum 30-day review period at the TxDOT Division level and may require more time due to coordination with other agencies. NTTA shall subsequently address TxDOT Division comments and achieve resolution before the TxDOT Division shall forward submittals for FHWA review and comment (normally 30 days). FHWA/TxDOT Division review comments shall be transmitted to NTTA through the TxDOT District offices. NTTA shall address and satisfy review comments by the TxDOT Districts, the TxDOT Divisions, and FHWA prior to TxDOT or FHWA approving or clearing environmental documents and schematic designs for further processing; and, before a federally and/or state-funded project proceeds to construction. It should be expected, unless otherwise mutually agreed upon, that all submittals shall provide a minimum 30-day review period.

NTTA, TxDOT, and FHWA shall work collaboratively during NTTA's planning phases and corresponding project scoping process to determine the appropriate, project-level, NEPA environmental documentation (i.e., formal Request for Environmental Classification determination letters), and corresponding schematic design preparation requirements. The agencies shall also utilize efficient and cost-effective work methods that encourage innovation and creativity, on a project-specific basis, to develop production management schedules containing review periods, including resource agency review requirements, mutually agreed upon by all interested parties.

GROUND RULES

For purposes of this LOA-I, NTTA, TxDOT, and FHWA shall adhere to a common standard from which all processes and procedures are derived, as follows:

- Build and maintain trust, respect, and professionalism at all times at every level.
- Use consensus approach unless federal mandates require otherwise for compliance.
- Keep on schedule and do not let unresolved issues impede progress; instead propose options to resolve those issues in a mutually agreed upon revised timeline.
- Streamline processes by eliminating requirements (only if possible) that do not add value or are redundant.
- Achieve compliance with all legal requirements.
- Always produce quality documents, under a clearly defined QC/QA process, while operating within a realistic schedule-driven environment.
- Prioritize actions by cooperatively developing and maintaining the project prioritization process; whereby, the Executive Team reviews and concurs with the priorities established by the Technical Team and may, with cause, modify such priorities.
- Empower the Technical Team to cooperatively develop and deliver an annual plan of priorities presented in the context of the entire list of projects involving all parties.

- *Executive Team is the final arbiter* when consensus cannot be achieved using the interagency issue escalation ladder (attached). For federally funded projects, the sole decision rests with FHWA.

TEAM ASSIGNMENTS

Executive Team

NTTA – Executive Director, Deputy Executive Director, Assistant Executive Director of Project Delivery, Director of Project Delivery

TxDOT – Executive Director, Deputy Executive Director, Assistant Executive Director, Division Director, District Engineer, Deputy District Engineer

FHWA – Division Administrator, Assistant Division Administrator, Director of Planning and Program Development, District Engineer

Technical Team

NTTA – Director of Project Delivery, Project Manager – Agency/Local Government Coordination, Environmental Manager, Corridor Manager, Interagency/Planning Liaison

TxDOT Divisions (Environmental Affairs and Design) – Division Director, Project Managers - Dallas and Fort Worth Districts

TxDOT Districts (Dallas and Fort Worth) – Deputy District Engineer, Director of Transportation Planning and Development (TP&D), District Advance Planning Engineer, Assistant Advance Planning Engineer, Environmental Coordinator

FHWA – District Engineer, Urban Engineer, Area Engineer, Environmental Team Leader, Environmental/Transportation Planning Coordinator

Regional Planning Task Force

NCTCOG – Program Manager - Transportation Planning

NTTA – Project Manager - Agency/Local Government Coordination, Interagency/Planning Liaison

TxDOT Districts (Dallas and Fort Worth) – District Advance Planning Engineer, Assistant Advance Planning Engineer

FHWA – Environmental/Transportation Planning Coordinator

ATTACHMENTS

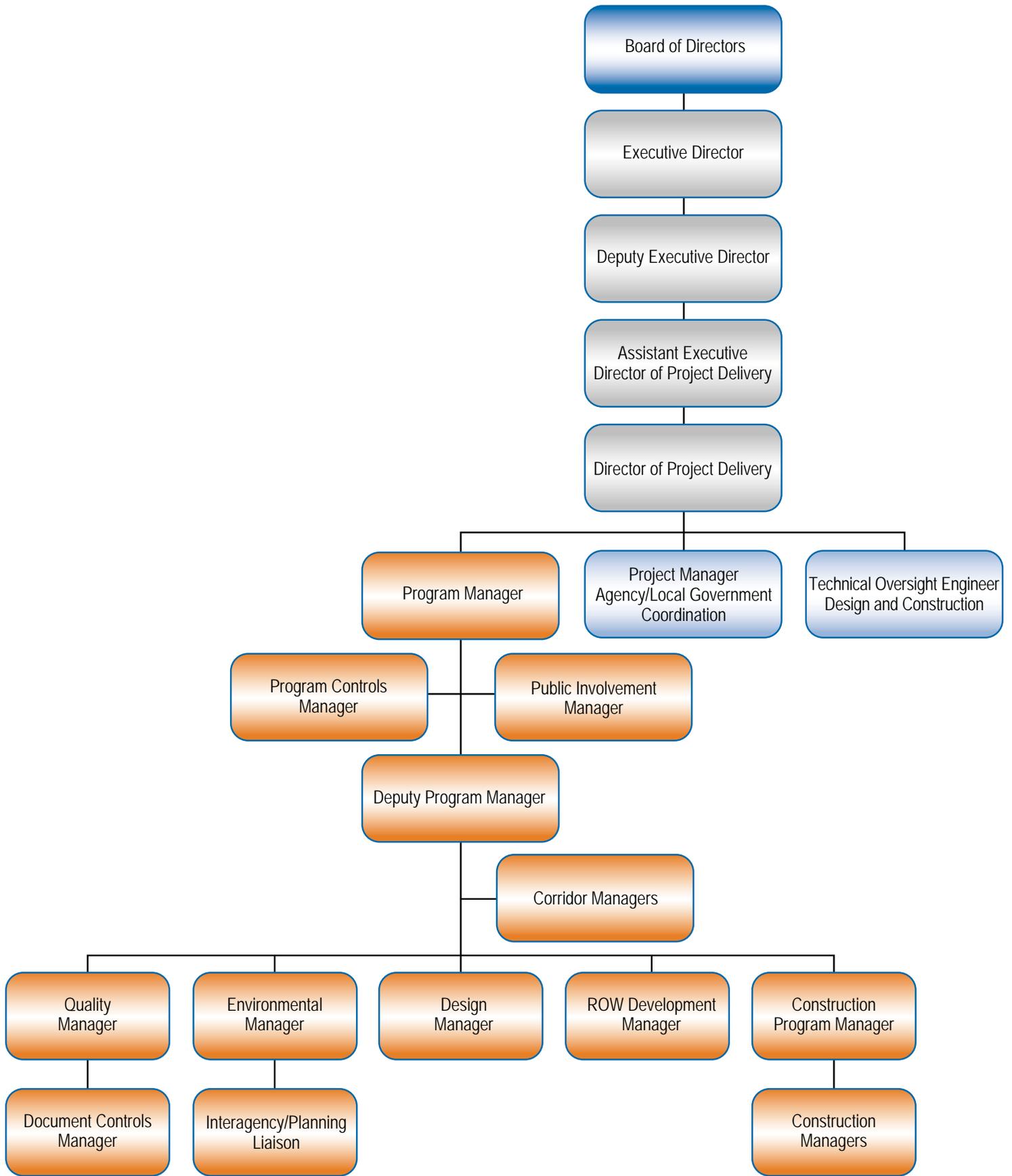
NTTA Project Delivery Protocol Structure

Interagency Issue Escalation Ladder

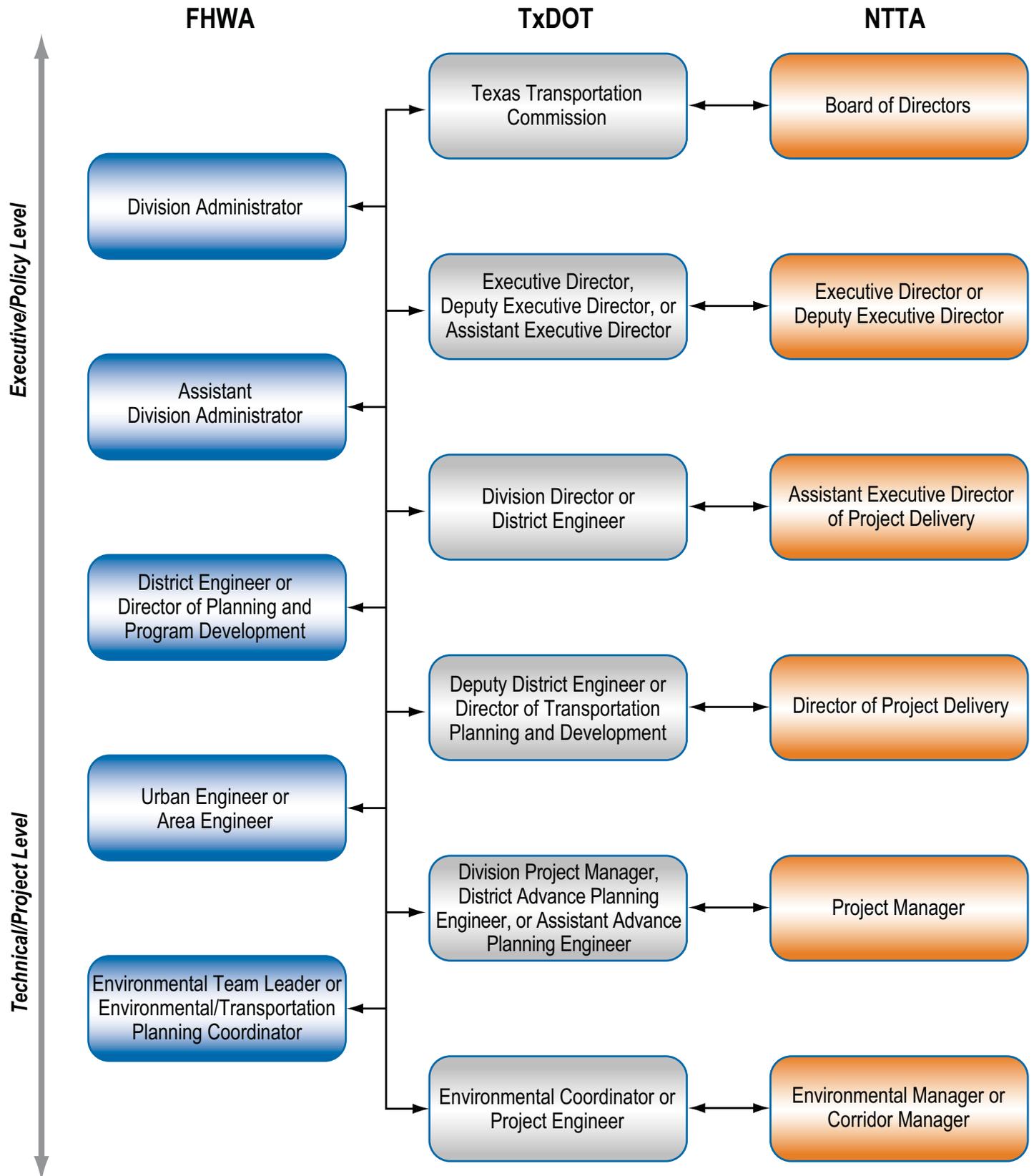
ENDNOTES

¹ *Administrator's Memorandum on Environmental Stewardship and Streamlining – October 11, 2002*; emphasizes the importance of expedited transportation project delivery while being good stewards of the environment. The main focus is about, “a new opportunity to engage (FHWA) colleagues in other Federal agencies and in State, local, and tribal governments in enhancing how (FHWA conducts) business so that transportation improvements are environmentally responsible and delivered in a timely fashion.”

² *FHWA Division Administrator, Texas Division, Letter to NTTA – June 10, 2008*; page 2. In response to the NTTA, May 23, 2008 Letter to FHWA RE: Requested assistance in bringing resolution and agreement on the environmental (NTTA Phase I) process for several regionally significant (NTTA) projects.



Project Delivery Protocol Structure



Note: Attempt to resolve project issues at the project level.
 Escalate when both parties agree or as determined by schedule.
 Escalate one level at a time.

Interagency Issue Escalation Ladder