



Federal Permitting Improvement Steering Council

# Recommended Best Practices





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## Acknowledgements

The Federal Permitting Improvement Steering Council (Permitting Council) issues these recommended Best Practices pursuant to 42 U.S.C. § 4370m-1(c) (2)(B).

The Permitting Council is a federal agency charged with improving the transparency and predictability of the federal environmental review and authorization process for certain critical infrastructure projects. The Permitting Council comprises the Executive Director, who serves as the Permitting Council Chair, and 15 members, including the Deputy Secretary (or equivalent) from 13 federal agencies, the Chair of the Council on Environmental Quality, and the Director of the Office of Management and Budget.



Federal Permitting Improvement Steering Council



Department of Agriculture



Department of the Army



Department of Commerce



Department of Energy



Department of Transportation



Department of Defense



Federal Energy Regulatory Commission



Department of Homeland Security



Nuclear Regulatory Commission



Department of Housing and Urban Development



Advisory Council on Historic Preservation



Office of Management and Budget



Council on Environmental Quality



Environmental Protection Agency



Department of the Interior

# Background

The Permitting Council is required to issue annual recommendations on best practices for improving the federal permitting process for “covered projects” under Title 41 of the Fixing America’s Surface Transportation Act (FAST-41).<sup>1</sup> Each lead agency and participating agency for FAST-41 covered projects must submit to Congress and the Director of the Office of Management and Budget (OMB) an annual report assessing agency performance in implementing these best practice recommendations.<sup>2</sup>

## **FAST-41 provides that the Permitting Council’s best practice recommendations may include the following categories:<sup>3</sup>**

- i. enhancing early stakeholder engagement, including—
  - I. engaging with Native American stakeholders to ensure that project sponsors and agencies identify potential natural, archaeological, and cultural resources and locations of historic and religious significance in the area of the covered project; and
  - II. fully considering and, as appropriate, incorporating recommendations provided in public comments on any proposed covered project;
- ii. ensuring timely decisions regarding environmental reviews and authorizations, including through the development of performance metrics;
- iii. improving coordination between Federal and non-Federal governmental entities, including through the development of common data standards and terminology across agencies;
- iv. increasing transparency;
- v. reducing information collection requirements and other administrative burdens on agencies, project sponsors, and other interested parties;
- vi. developing and making available to applicants appropriate geographic information systems and other tools;
- vii. creating and distributing training materials useful to Federal, State, tribal, and local permitting officials;
- viii. in coordination with the Executive Director, improving preliminary engagement with project sponsors in developing coordinated project plans;
- ix. using programmatic assessments, templates, and other tools based on the best available science and data; and
- x. addressing other aspects of infrastructure permitting, as determined by the Council.

The Permitting Council has issued recommended best practices annually since fiscal year (FY) 2017. Details on these previously issued best practice recommendations can be found at [permitting.gov](https://www.permitting.gov).

1 42 U.S.C. § 4370m-1(c)(2)(B).

2 42 U.S.C. § 4370m-7(a)(3). Any agency that is a lead or facilitating agency for a FAST-41 covered project must annually report on its implementation of the FAST-41 best practices, regardless of whether the agency is represented by a Permitting Council Member.

3 42 U.S.C. § 4370m-1(c)(2)(B).

# FY 2025 Recommendations

For FY 2025, the Permitting Council is reissuing the best practice recommendations from FY 2017 to FY 2024. Agencies should review these best practices from past years and continue implementing and reporting, consistent with agency priorities and forthcoming OMB reporting guidance.

This approach provides an opportunity for Permitting Council agencies to revisit established best practices, evaluate their progress toward implementation, and reflect on which have been the most successful in improving the federal permitting process for covered projects. This approach also provides agencies with flexibility to identify their priority areas for future best practice development and implementation. The expectation is not that each agency will report on every best practice issued since FY 2017; rather, this is an opportunity for a holistic assessment of agency performance and progress towards permitting excellence. OMB will provide agencies with specific guidance regarding reporting.

Permitting Council staff are available as a resource to agencies to provide assistance as agencies implement and track progress on best practices.





## Appendix: Compiled FY 2017-2024 Best Practices Recommendations

Below is a list of consolidated best practice recommendations from FY 2017 through FY 2024 intended to serve as a reference to inform agencies' reporting to OMB and Congress. Under each statutory category, best practice recommendations are listed in chronological order of issuance.

### (i) Enhancing early stakeholder engagement

- Allocate sufficient resources to support stakeholder engagement.
- Begin stakeholder engagement as early as practicable.
- Assist project sponsors in the identification of all affected groups.
- Ensure that information is presented in plain English.
- Conduct early scoping.
- Provide early and continuous information on the project, the process and timetable for decision making, and available avenues for stakeholder engagement.
- Work to establish a lead for stakeholder engagement as early as possible.
- Ensure that clear avenues for participation are established.
- Support facilitated workshops or conversations with the project sponsor to create a more informed level of dialogue and debate.
- As appropriate, consider involving a neutral third party to facilitate stakeholder engagement.
- Foster flexibility in stakeholder engagement.

- Fully consider and, as appropriate, incorporate recommendations provided in comments.
- Evaluate the effectiveness of stakeholder engagement.
- Consolidate and organize information on permitting requirements and processes on existing departmental or Agency websites and, where appropriate, use social media platforms and other technologies to share information and to identify and engage interested stakeholders.
- Implement the Coordinated Project Plan (CPP) provisions in the FAST Act (42 U.S.C. § 4370m-2(c)(1)).
- Proactively engage stakeholders and other agencies early in the project review and permitting process, and identify and document measures taken to increase meaningful stakeholder engagement.
- Establish and/or utilize pre-review processes to provide project sponsors with an opportunity for early communication on project-specific information with the lead or facilitating agency, other relevant federal agencies, state agencies, Tribes, and/or local government entities prior to initiation of official review processes (e.g., submission of application or other initiation of the project review and permitting process).
- Identify Tribes that may be impacted by a project or may have knowledge and expertise related to the project by using multiple tools or sources (e.g., the Bureau of Indian Affairs' Tribal Leaders Directory, the Tribal Directory Assistance Tool, the National Park Service's Tribal Historic Preservation Officer Directory, etc.) to verify the accuracy of contact information. Include multiple relevant contacts (e.g., Tribal Government leadership, Tribal administrators, cultural resources staff, natural resources staff, Tribal Historic Preservation Officers, etc.) when conducting outreach to maximize chances that the designated representative(s) of a Tribe are engaged at the appropriate steps in the project's environmental review and authorization process.
- Invite identified Tribes, and any other Tribe who so requests, to participate in consultation as early as practicable in the environmental review and authorization process and, to the extent possible, maintain engagement throughout the process. This includes responding to Tribes' questions and concerns; ensuring that complete, accurate, and high-quality data and information is provided to Tribes in a timely manner for Tribes' review and comment; and actively informing Tribes of how the agency incorporated Tribal input into project-related decision making. In addition to consulting with a Tribe's designated representatives, federal agencies should be prepared to conduct Nation-to-Nation consultation with a federally recognized Tribe's leadership, where appropriate.
- Consult with Tribes to develop reasonable permitting timetables that provide sufficient time for meaningful consultation on federal environmental reviews and authorizations. To the extent possible, coordinate agency requests for Tribal review and input on related, adjoining, or similar projects to avoid overlapping timeframes and simultaneous requests.
- In consultation with Tribes, identify opportunities to incorporate Indigenous Traditional Ecological Knowledge as best available science in the development of project alternatives and scoping and proactively identify mechanisms to protect sensitive Tribal information. Request and incorporate, as appropriate, input from Tribes on the types of studies that are conducted and the ways in which studies are conducted to assess a project's potential impacts on Tribal lands and environmental and cultural resources.

- Build trust and mutually defined relationships with Tribes on an ongoing basis and in advance of project-specific information or consultation requests. Examples of relationship building activities include, but are not limited to, hosting biannual meetings with agency and Tribal leadership, visiting Tribal lands and resources that may be impacted by a project, establishing or leveraging an existing agency Tribal liaison position to maintain continuity in relationships throughout potential staff turnover, and hiring Tribal representatives to participate in the environmental review and authorization process.
- In consultation with Tribes, develop and regularly update trainings and other resources on Tribal consultation and engagement. Trainings and resources should include topics such as Tribal sovereignty and treaty rights, Sacred Sites, Nation-to-Nation consultation requirements, employing respectful protocols, and engagement before and beyond National Historic Preservation Act Section 106 consultation. Strongly encourage federal staff and third-party contractors to participate in training in advance of Tribal consultation or engagement with Tribal Nations.
- Where appropriate and to the degree the agency has the authority to do so, identify and pursue opportunities to provide funding or staffing support to Tribes for participating in the environmental review and authorization process for FAST-41 projects to address Tribe's resource and capacity constraints. For example, work with Tribes to hire consultants or technical review staff to increase Tribes' capacity to participate in the environmental review and authorization process. Actively inform Tribes of the Executive Director's ability to transfer funds from the Environmental Review and Improvement Fund to Tribal governments to facilitate timely and efficient environmental reviews and authorizations for FAST-41 projects. Tribal Nations interested in this funding mechanism can reach out to the Permitting Council Executive Director for further discussion.



## **(ii) Ensuring timely decisions regarding environmental reviews and authorizations, including through the development of performance metrics**

- Develop and track agency performance metrics on the time required to reach intermediate and final milestones in permitting processes, if they are not already being tracked.
- Synchronize activities related to the processing of environmental reviews and authorizations, conducting them concurrently rather than sequentially unless an agency would be precluded from meeting statutory obligations in doing so.
- Explore opportunities to expand use of General Permits, where appropriate.
- Use mitigation banking and In Lieu Fee programs, as appropriate.
- Explore the use of regional- or national-level programmatic approaches for authorizations and environmental reviews, as appropriate.
- Either seek sufficient resources through the budget process or leverage available resources (e.g., cost recovery authorities).
- Align environmental review and authorization processes across Agencies at the outset of planning for FAST-41 covered projects to allow concurrent reviews where possible and to accurately reflect the sequence of the permitting process based on actual requirements.
- Develop and/or utilize intra-agency performance metrics (e.g., durations for applicable authorizations, meeting target completion dates, other measures of timeliness and efficient use of resources) in accordance with the Agency's mission, and share across Agencies when developed.
- Develop and/or use environmental review and authorization process templates, application forms, flow charts, and/or checklists to assist the project sponsor/applicant with providing the required information in a timely manner.
- Create or improve agency processes and internal controls to maintain current and accurate timetables and quickly identify, elevate, and resolve issues to continuously improve timeliness of decisions.
- Develop and implement systems to track and report qualitative and quantitative environmental and community outcomes resulting from the environmental review and authorization process.
- Establish or improve internal project management systems to support effective monitoring of environmental review and permitting status.
- Establish or improve and implement internal processes for issue identification, elevation, and resolution.

### **(iii) Improving coordination between federal and non-federal governmental entities, including through the development of common data standards and terminology across agencies**

- Continue to refine and expand unified interagency processes, establish common terminology and data standards across agencies, synchronize reviews, and eliminate duplicated efforts, as consistent with applicable law.
- Although state participation in FAST-41 is voluntary, federal agencies are encouraged to establish and maintain a strong collaborative environment between federal and state entities and work to develop federal-state agreements.
- Ensure that Tribal consultations are conducted in a way that fully respects the Nation-to-Nation relationship.
- Train federal agency staff to have an awareness of Trust and Treaty rights.
- Develop and implement agency-specific policies addressing Nation-to-Nation consultation with federally-recognized Tribal Nations.
- Initiate Nation-to-Nation consultation by providing correspondence with clear information on proposed infrastructure to the correct Tribal representatives, in a consistent and timely manner.
- Work with Tribes to identify the individuals with the appropriate expertise, and work to eliminate barriers that prevent agencies from fully acknowledging this expertise.
- Explore avenues to compensate Tribal representatives for the costs associated with providing that expertise.
- Ensure that Nation-to-Nation consultations are accessible.
- Build strong, ongoing relations with Tribal Nations.
- Share data with Tribal governments to the maximum extent practicable, on par with other government entities, and consistent with applicable law.
- Encourage development and/or utilization of joint application processes or programmatic approaches among federal, state, local, and Tribal governments with similar authorities to reduce duplicative actions.
- Establish interagency liaison positions (i.e., through Memorandums of Understanding or Memorandums of Agreement) or points of contact to improve communication and coordination with other federal, state, local, and Tribal governments; increase expertise; and facilitate permitting processes.
- Use regularly scheduled in-person and/or virtual meetings to ensure coordination among federal, state, local, and Tribal governments to facilitate cooperation and accountability among parties involved in general permitting processes and in environmental reviews and authorizations for covered projects.
- Develop, update, enhance, and/or utilize mutually acceptable standards and protocols with Tribal governments for gathering and documenting Tribal input and for the identification and treatment of resources that might be affected by infrastructure projects.



#### (iv) Increasing transparency

- Continue to develop and expand tools that provide transparency on federal permitting and review processes.
- Present analyses in a clear and concise manner, without overly technical or industry jargon, consistent with the Plain Writing Act of 2010.
- Use the Permitting Dashboard to track environmental reviews and authorizations across the Federal Government for projects subject to FAST-41 (42 U.S.C. § 4370m2(b)), providing dates to the extent allowed by applicable laws, and using dependencies only when determining dates is not feasible.
- Provide the project sponsor/applicant and all cooperating and participating agencies of a FAST-41 covered project information about the environmental review and authorization processes, including all steps, by the time the initial CPP or project management plan is completed. Provide an updated schedule to the project sponsor and the other governmental entities with environmental review and authorization processes when substantive changes occur. Substantive change is when any agency or the project sponsor does not conduct or complete on time a scheduled activity or milestone upon which another entity is dependent.
- In developing and maintaining the FAST-41 CPP or project plan, as applicable, facilitating, lead, cooperating, and participating agencies should share information about the project review and permitting process, including all information requirements and dependencies, with each other and the project sponsor and, where applicable, on the Permitting Dashboard. With each update to the FAST-41 CPP or project plan, the facilitating or lead agency, in conjunction with the cooperating and participating agencies, should continue to engage with each other and the project sponsor to identify reasonably foreseeable risks to the schedule and potential strategies to address those risks.

## **(v) Reducing information collection requirements and other administrative burdens on agencies, project sponsors, and other interested parties**

- Develop online or electronic tools so that (1) project sponsors may submit applications and supporting documentation electronically (2) using formats that can be shared easily among agencies, resulting in (3) the online publication of agency authorizations, environmental reviews, and notifications.
- Continue to develop and refine training, instructions, and processes that guide project sponsors to prepare high-quality and complete applications.
- Routinely conduct comprehensive evaluations of agency permitting and review processes, exploring every opportunity to eliminate unnecessary internal process steps, data collection requirements, and other administrative burdens.
- Develop and/or use environmental review and authorization process templates, application forms, flow charts, and/or checklists to assist the project sponsor/applicant with providing the required information in a timely manner.
- Institute a process for transitioning FAST-41 covered project information to new environmental review staff, if needed, to ensure continuity of project-specific knowledge.
- Institute a continuity plan to address staff changes. The continuity plan should include a process for updating the project sponsor and other agencies involved in the project review and permitting process and the FAST-41 CPP or project plan, as applicable, to ensure continued information flow and to minimize delays that may result in substantive schedule changes.
- Develop, enhance, and/or use joint coordination procedures among federal agencies, and with state, Tribal, and local governments with similar authorities





## **(vi) Developing and making available to applicants appropriate geographic information systems and other tools**

- Ensure that agency personnel are trained and equipped to use existing GIS tools in support of their permitting activities.
- Support development and integration of GIS tools and data sets that simplify and expedite permitting and project planning efforts.
- Continue to develop and refine integrated web tools that help create efficiencies within the permit process.
- Provide stakeholders with a list of GIS information sources that are publicly available and used by federal agencies to initially assess the potential for environmental resources in a project area.
- Survey government and/or non-government users of current tools to identify potential improvements and, where feasible, improve usability and data availability for existing tools and intra-agency, interagency, and public applications.
- Establish, utilize, and support the maintenance (updating) of one central federal database of Tribal areas of interest with Tribal points of contact to facilitate timely Nation-to-Nation coordination and consultation.
- Make resources available to project sponsors/applicants and stakeholders (e.g., in the form of a resource library) to facilitate knowledge sharing about the agency's environmental review and authorization processes.
- Develop and provide resources that explain agencies' project review and permitting processes and associated information needs for reference by project sponsors and agencies involved in the project review and permitting process, and identify appropriate geographic information systems (GIS) and other tools provided by agencies to support informed project reviews.

## **(vii) Creating and distributing training materials useful to federal, state, Tribal, and local permitting officials**

- Continue to create, refine, consolidate, and publicize online training resources on agency permitting processes.
- Continue to provide and refine live training opportunities for federal, state, Tribal, and local permitting officials.
- Make training materials (e.g., print, video, and/or presentation materials) about FAST-41 implementation available online or provided in person each year and available to federal, state, and Tribal governments and local permitting officials. The training materials should be related to implementation of FAST-41 or one or more of the Permitting Council's BPs (e.g., early stakeholder involvement, maintenance and communication of a project-specific environmental review and authorization review schedule, establishment of common data sets, pre-application).
- Survey federal, state, and Tribal governments and local permitting officials to identify currently available trainings to determine information gaps and potential improvements, and where feasible, create or improve existing resources.
- Provide training related to the implementation of FAST-41 or to one or more of the BPs, participate in Executive Director-hosted training, or jointly develop and host training with the Executive Director. These trainings may be presented to federal, state, and Tribal governments, and local permitting officials online or in person each year.
- Develop or revise policies, handbooks, programmatic agreements, and other agency resources to address where regulatory and policy changes have occurred, or where there are reoccurring misunderstandings between agencies, to improve the efficiency of the project review and permitting process.

### **(viii) In coordination with the Executive Director, improving preliminary engagement with project sponsors in developing coordinated project plans**

- Collaborate with Permitting Council agencies to share information with project sponsors to support greater understanding of federal agency Nation-to-Nation engagement responsibilities as they relate to environmental review and authorization processes and impacts to CPPs, including the permitting timetable.
- Provide information to project sponsors regarding best practices for identifying, communicating with, and engaging with Tribes as a complement to federal agency consultation, and identify opportunities to collaborate with Tribes to enhance Tribes' access to infrastructure projects, by leveraging existing resources such as the Advisory Council on Historic Preservation's Early Coordination with Indian Tribes in Pre-Application Processes Handbook.
- Coordinate with the project sponsor as early as practicable to obtain input on project sponsor milestones that will be used to inform the development of the permitting timetable.
- Explain how the project sponsor can provide input to agencies as they develop the permitting timetable and how project sponsors' responsibilities in the permitting process can impact agencies' ability to meet dates in the permitting timetable, such as a project sponsor's timely submission of complete applications.
- Develop, update, and share guidance or practice tips for project sponsors to explain authorization application requirements.
- Circulate the draft permitting timetable with the project sponsor concurrent with review by cooperating and participating agencies.
- Hold regular meetings, to the extent practicable, between the lead, participating, and cooperating agencies and the project sponsor to enhance communication and build trust.



## **(ix) Using programmatic assessments, templates, and other tools based on the best available science and data**

- Work with cooperating agencies, including state, local, and Tribal governments, and other federal agencies, as necessary, to gather and implement the best available science to inform decision making in the environmental analysis for a project.
- Document best available science used in analysis, where appropriate.
- Utilize existing studies, programmatic assessments, environmental analyses, templates, and/or tools for project-specific analysis to reduce possible duplication of effort and time, consistent with law.
- Implement a process for regular review and updating of existing resources to avoid the use and dissemination of out-of-date information.
- Use or establish cross-agency channels to communicate about new and existing permitting resources.
- Use lessons-learned from completed environmental reviews and authorizations, as applicable, to develop sector-specific regional programmatic approaches where multiple FAST-41 covered projects are anticipated in a region.

## **(x) Addressing other aspects of infrastructure permitting, as determined by the Council**

- Continue to use third-party neutral facilitators as appropriate, trained in Environmental Collaboration and Conflict Resolution.
- Periodically assess and incorporate feedback from federal, state, Tribal, and Local governments, and stakeholders, as appropriate.
- Evaluate policies and procedures related to environmental reviews and authorizations, and identify and share information on past and planned efforts to improve the permitting process, associated assessments, and performance metrics.
- Identify measures planned or taken by the agency in the outreach section of the CPP to increase the probability of reaching stakeholders (such as, but not limited to: virtual stakeholder meetings, notification tactics, web-based comment submission, and multiagency utilization of web-based information sources developed for the project).
- Identify and share success stories and/or lessons learned during Executive Director-hosted meetings, including Permitting Council Member or Chief Environmental Review and Permitting Officer meetings, training events, or other Executive Director-hosted meetings.
- Develop and/or use project review and permitting process templates, application forms, flow charts, and/or checklists to assist the project sponsor in providing required information in a timely manner.