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CHAPTER EIGHT

PUBLIC-INVOLVEMENT PROCEDURES

8-1.0 INTRODUCTION

The Department has established a proactive public-involvement process that provides complete information, timely public notice, full public access to key decisions, and supports early and continuing involvement of the public in developing plans and transportation improvement programs.

The goal is to develop a continuous public-involvement process which is accessible to the public and identifies and addresses critical environmental issues early in the project-development process. It also minimizes duplication of public-involvement efforts and meets the needs of the public and resource/regulatory agencies to provide early and continuing input into the project-development process. The following are elements of the public-involvement process which INDOT utilizes to accomplish this goal.

1. MPO Procedures. Each metropolitan planning organization (MPO) develops a public-involvement process to solicit public comments on a comprehensive transportation plan and transportation project within the MPO's area. The MPO will include a discussion of the disposition of comments in their Transportation Plan or Transportation Improvement Program (TIP).

2. INDOT's Regional Process. INDOT's district offices will host annual meetings to seek public comment on the Statewide Transportation Plan and transportation projects programmed in the Indiana Statewide Transportation Improvement Program (INSTIP). These meetings will focus on the planning issues and projects outside MPOs' areas while recognizing the leadership role of the MPOs in conducting comprehensive transportation planning in the State's urbanized areas. The district offices will conduct transportation planning/public involvement meetings to include clusters of communities within that region. These meetings will be held periodically to focus on local-area goals and objectives.

3. Stakeholder Involvement. INDOT will involve stakeholders in the development of policies and strategies for the Statewide Transportation Plan as outlined below.

4. Statewide Transportation Forum. INDOT will conduct regular meetings to seek public comments on the Statewide Transportation Plan from public agencies, Statewide interest groups, stakeholders in the transportation system, and others who are not able to attend the individual MPO or district meetings. INDOT will invite the appropriate MPO to participate and provide a comprehensive overview of the metropolitan transportation plan. The

Statewide Transportation Plan and INSTIP will include a discussion of the disposition of comments from the above meetings.

5. Public Hearing. Once a project-specific environmental document required under the National Environmental Policy Act (NEPA) is approved for circulation, INDOT will offer a formal public hearing, as described in Section 8-8.0, to seek additional public comment. INDOT will include a disposition of these comments in the final approved NEPA document.

6. Design Summary. INDOT develops the design summary to serve as a public-information document, which includes permits, mitigation, design features, right-of-way features, etc., which are decided during final design.

8-2.0 BACKGROUND

The Statewide Planning and Metropolitan Planning Regulations (23 CFR Part 450 and 49 CFR Part 613, October 28, 1993) require that INDOT and the MPOs develop public involvement procedures. These regulations also require that a Major Investment Study (MIS) be accomplished to involve agencies and the public in efforts to define the design concept and scope of major transportation investments.

The regulations involving Air Quality Conformity (40 CFR Part 51, November 24, 1993) and the Management and Monitoring systems (23 CFR Part 500, December 1, 1993) indicate that the planning public-involvement process will serve as the vehicle for public input to air quality conformity determinations and the results of the management systems.

The procedures that also meet the public-involvement requirements are as follows:

1. 23 USC 128;
2. Executive Orders 12898, 11988, and 11990;
3. 36 CFR 800;
4. 49 CFR 622;
5. 33 CFR 115.60; and
6. 33 CFR 325 and 327.

These procedures are consistent with the Council on Environmental Quality's (CEQ) regulations for implementing NEPA (40 CFR, Parts 1500-1508) and FHWA internal operating procedures required by NEPA (23 CFR 771, Environmental Impact and Related Procedures).

8-3.0 MPO PROCEDURES

The Department recognizes the important role that an MPO plays in transportation network planning for an urbanized area. INDOT participates in the cooperative transportation planning process within the MPO's jurisdiction. An effective metropolitan plan must incorporate transportation under both local and State jurisdiction. Therefore, INDOT will rely on the MPO to include public involvement in the development of its comprehensive Transportation Plan and Transportation Improvement Program.

Procedures have been developed by each MPO to provide opportunity for the public to provide input on the MPO Transportation Plan (20-year planning horizon), MPO Transportation Improvement Program (TIP), and Major Investment Studies (MIS), where applicable. INDOT utilizes the MPO public-involvement process as the vehicle for soliciting public comment for an INDOT project within the MPO area. INDOT acknowledges the unique nature of each metropolitan area and has determined that the MPO procedures and the Statewide transportation forum meet the planning public-involvement requirements of 23 CFR 450.316(b) for each transportation project within the MPO area.

The MPO procedures include mechanisms for the public to express its views and to obtain information. The MPO procedures also provide a general approach for involving the public in MIS. Within this framework, the MIS will include the development of public involvement strategies.

The MPO procedures will also detail how the transportation needs of persons and groups who are traditionally underserved by existing transportation systems are identified and addressed per Executive Order 12898 (12/11/94), Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations. For example, an MPO may institute advisory committees to represent transportation-disadvantaged groups and communities such as transit patrons, elderly, handicapped, low income, and minorities.

When substantial written and oral comments are received on the draft Transportation Plan or TIP as a result of the public-involvement process or the interagency consultation process required by the conformity regulations, a summary, analysis, and report on the disposition of comments should be made part of the draft Transportation Plan and TIP. INDOT and the MPO will respond to comments and questions and include the responses in the final Transportation Plan and TIP.

INDOT and the MPO will coordinate the MPO plan and Statewide Transportation Plan through the cooperative transportation-planning process that INDOT and the MPO conduct. INDOT's participation in the MPO planning process ensures that Statewide issues are considered in the MPO planning process. INDOT will summarize and include the individual MPO transportation plan in the Statewide Transportation Plan.

8-4.0 INDOT REGIONAL PROCESS

INDOT recognizes that the district offices serve a critical role in identifying transportation needs within their respective areas. Local public officials and the public at-large will identify transportation needs through both formal requests for projects and informal telephone requests for maintenance. The results of the management systems are also considered in identifying metropolitan and Statewide transportation needs.

The district office's design staff will participate in the MPO public-involvement process to cooperatively identify INDOT transportation projects within the MPO area for inclusion in the metropolitan Transportation Plan and TIP. The district office should continue to utilize the various public-involvement mechanisms unique to its district to identify transportation needs.

To invite broader participation in the identification of transportation needs focusing on an area outside the MPO planning area, each INDOT district will conduct a transportation-planning and public-involvement process to identify transportation needs.

The district office, in cooperation with the Office of Environmental Services, conducts transportation planning meetings to include clusters of communities within that region and provide the opportunity for public involvement. These meetings will be conducted periodically within the district to better respond to local transportation needs and address community goals and objectives.

INDOT will provide notice in the local news media before a public meeting. The district office should utilize other communication techniques to encourage broad public participation (e.g., transportation fairs, telephone hot-lines, focus groups, surveys). The notice should include the meeting date, location, and information available for public review and comment. The district office will provide reasonable public access to technical and policy information used in the development of the Statewide Transportation Plan and INSTIP.

A comprehensive mailing list to notify the public and transportation stakeholders of planning and programming meetings will be maintained by the Central Office and the district offices for district meetings (see Section 8-6.0).

The district office will consider and respond to all issues identified through written and oral comments. This summary, analysis, and report on the disposition of comments should be made part of the final submittal to the Central Office listing the district's proposed projects for inclusion in the INSTIP.

Information on other public involvement methods is also available. Methods include direct participatory techniques such as workshops, on-site tours, brainstorming sessions, task forces, or advisory committees, agency hot-lines, surveys, and project-site information centers. Indirect participatory techniques may include newsletters, pamphlets, brochures, posters, information kits, and current mailing lists. The mass media may be used to inform the public.

The Local Programs Division's Office of Public Hearings is available to assist each district office by providing guidance on innovative public-involvement techniques and meeting formats that maximize meaningful public input. The Office of Public Hearings will also identify successful techniques being utilized by the district office and communicate those techniques to the other district offices.

8-5.0 STAKEHOLDER INVOLVEMENT

INDOT will seek to involve transportation stakeholders in the development of policies and strategies for the Statewide Transportation Plan. Such efforts will focus on specific transportation issues and will strive to include various interested parties including intermodal transportation representatives, environmental organizations, academic advisors, economic development interests and representatives of other State agencies. INDOT may form advisory committees as appropriate.

8-6.0 STATEWIDE TRANSPORTATION FORUM

The Office of Public Hearings will maintain a list of stakeholders in the transportation system including public agencies, representatives of transportation agency employees, private providers of transportation, organizations representing the traditionally underserved and other interested parties and segments of the community affected by transportation plans, programs and projects. The Office of Public Hearings will annually distribute a notice listing the various INDOT and MPO public involvement opportunities. The notice will include all available meeting dates and locations and addresses for submittal of written comments. The Office of Public Hearings will also provide reasonable public access to the technical and policy information used in the development of the plan, INSTIP, draft MPO and district materials.

INDOT and the MPO will conduct regular meetings to seek involvement by the stakeholders in the transportation system, and invite public agencies, Statewide interest groups, or others who were not able to attend the individual MPO and district meetings. INDOT will make a presentation outlining the transportation planning process and the major initiatives evolving from the planning process. The presentation may also briefly outline the air quality conformity process and how the results of the management systems are considered in developing metropolitan and Statewide transportation plans and improvement programs.

The meeting format will allow full participation by the general public and stakeholders in the State's transportation system. Three ways to comment are as follows:

1. public statements before an audience of concerned citizens;
2. verbal comments to a court recorder which can be transcribed verbatim; or
3. comments submitted in writing at the meeting, by mail or via the Internet.

The format will consist of INDOT, in cooperation with the MPO, presenting the Statewide plan, if applicable. In a nearby room, handouts and displays will explain the Statewide and local transportation plans. A public-statement session will be held at an appropriate time during the meeting. All groups and individuals wishing to make public statements will have an opportunity to speak.

Written and oral comments will be collected at the Statewide Transportation Forum. A discussion of the disposition of comments from the district-office process, Statewide Transportation Forum, and those received by mail will be included each year in the final INSTIP and the Statewide Transportation Plan, if applicable.

Copies of the final INSTIP and Statewide Transportation Plan, where applicable, will be distributed to the district office and MPO. The respective district and MPO will publish the availability of the INSTIP (and Transportation Plan where applicable) and provide copies for review in convenient locations. INDOT will provide copies of the INSTIP (and Transportation Plan where applicable) to public agencies and interested groups.

8-7.0 AMENDMENTS TO THE TIPS AND INSTIP

Public involvement for amendments involving significant projects to the INSTIP or a TIP will be facilitated by the MPO or district office in which the amendment occurs. A notice will be published by the MPO in local news media informing the public of proposed changes within urbanized areas. A notice will be published by the district in local news media for informing the public of proposed significant changes outside urbanized areas.

A comment period should be established allowing time for interested parties to comment on the proposed amendments. A discussion of the disposition of comments will be included with the transmittal of the amendment to the FHWA/Federal Transit Administration (FTA) requesting approval.

Examples of revisions which are not sufficiently significant to require additional opportunity for public comment include minor changes in project scope/cost and moving minor or noncontroversial projects among the first three years of the INSTIP/TIP.

8-8.0 PUBLIC INVOLVEMENT DURING PROJECT DEVELOPMENT

8-8.01 Early and Continuing Opportunities for Public Involvement

Each transportation project will have a program of early and continuing public involvement coordinated with the stages of the NEPA process and building on public involvement conducted as

part of INDOT's or the MPO's transportation planning and programming process. Early and continuing public involvement may be conducted through many different public involvement techniques. Public meetings are only one element of a well-rounded involvement program. Transportation projects vary in scope, complexity, and level of public interest in a given project. A project may require a public hearing or an opportunity for a public hearing, as described in Section 8-8.02. For a complex project, additional involvement activities before the public hearing are appropriate. For a simple project with a low level of public interest, public notice through the transportation programming process may suffice.

The Office of Public Hearings in cooperation with the Office of Environmental Services, conducts public information meetings on an as-needed basis to seek public input to assist in defining the scope of a proposed project. INDOT normally conducts these public informational meetings before it prepares the environmental document.

The Office of Public Hearings provides guidance on innovative public involvement techniques and meeting formats to maximize meaningful public input on such topics as gathering information on social impacts or locally known environmental resources (e.g., unmarked graves, long-abandoned underground storage tanks).

Although separate location and design public hearings are no longer required and all references to design approval have been deleted from the regulations, there are instances where additional meetings may be desirable. Where there are several practical location alternatives, preliminary public informational meetings may be appropriate.

Once additional design details are available, an informational meeting may be held to acquaint the public with specific design considerations for the project. This enables involved property owners to learn how the proposed project may affect abutting property.

The MPO public involvement procedures establish the general approach for involving the public in Major Investment Studies (MIS).

8-8.02 Public-Hearing Requirements

The INDOT and MPO procedures for seeking and addressing public comments in the development of transportation plans and improvement programs will provide early and continuing opportunities for public involvement. The public hearing is an opportunity for the public to make formal statements of position immediately before project decision-making and preparation of the final environmental document. INDOT views the hearing as a specific, observable, administrative benchmark for public involvement. Public meetings, as needed during the development of the NEPA document, provide additional opportunities for early and continuing public involvement.

The Office of Public Hearings will conduct one or more public hearings or provide the opportunity for public hearing at a convenient time and place for a Federal-aid project on a State-maintained route if a project meets one of the criteria as follows:

1. The proposal requires more than 0.2 ha of permanent right of way.

2. The proposal substantially changes the layout or function of connecting roadways or of the facility being improved.

3. The proposal may have substantial adverse impact on abutting property.

4. The proposal may have a significant social, economic, environmental, or other effect.

5. The proposal is determined by FHWA, in consultation with INDOT, to warrant a public hearing in the public's interest.

6. The proposal involves impacts to resources in or eligible for inclusion in the National Register of Historic Places, wetland impacts, and/or significant floodplain encroachments.

Under the supervision of the Office of Public Hearings, public hearings will be conducted for a local-agency project by the local authority or its agent(s) if it meets one or more of the criteria listed above.

Public hearings will be held for each transportation project which involves the development of an Environmental Impact Statement (EIS) under the National Environmental Policy Act (NEPA). The disposition of both oral and written comments will be included in the final approved NEPA document which constitutes FHWA location approval.

A transportation project that does not individually or cumulatively have a significant environmental effect is categorically excluded from the requirement for a NEPA document (EIS or EA). The public-involvement requirements for a Categorical Exclusion (CE) project can be satisfied either by holding a public hearing or by INDOT publishing notices offering the opportunity for a public hearing. Based on the re-evaluation of project environmental documents required by 23 CFR 771.129, FHWA, in cooperation with INDOT, will determine whether changes in the project or new information warrant additional public involvement.

INDOT will publish notices in local media. For a local-agency project, local authorities will publish such notices in accordance with I.C. 5-3-1-4. The procedure for requesting a public hearing should be explained in the notice. In addition, the notice should indicate the availability of the appropriate environmental document and should explain where appropriate project materials may be reviewed. Further, the notice shall advise of significant floodplain encroachments and whether a practicable alternative exists for the use of impacted wetland and historic resources. The deadline for

submission of a request for a public hearing should be clearly stated. If no response is received on the notice by the stated deadline, the Office of Public Hearings will certify that the public involvement requirements have been satisfied and document the files accordingly. INDOT should forward a copy of each certification to FHWA for information.

If a limited number of requests are received in response to a notice offering the opportunity for a public hearing, appropriate INDOT representatives may meet individually with those who responded to determine their involvement and concerns. The Office of Public Hearings will certify that the public-involvement requirements have been satisfied and will note the certification in the project files.

A project-limits resident may request a public hearing be held if a substantial and significant social, economic, or environmental interest in the matter is perceived. If a resident identifies no significant interest and INDOT determines that it is not in the public interest to hold such a meeting, the Office of Public Hearings will prepare a report to serve as documentation for the certification that the public-involvement requirements have been satisfied.

8-8.03 Hardship and Protective Buying of Right of Way

Federal regulation 23 CFR 771.117(d)(12) provides for the acquisition of land for hardship or protective purposes for a particular parcel or a limited number of parcels. Where the imminent development of land would preclude further transportation use, protective acquisition is permitted. Advance acquisition is permitted only where the acquisition will not limit the evaluation of alternatives which may be required in the NEPA process. The Office of Public Hearings will assure that all property owners are contacted, made aware of INDOT's reasons for early acquisition of their property, and informed of the availability of the Categorical Exclusion environmental document concerning the proposed right-of-way acquisition. Property acquisition may proceed once the Office of Public Hearings certifies that the contacts have been completed, thereby satisfying the public-involvement requirement.

If the governor or other appropriate official declares an emergency and INDOT deems it to be in the overall public interest for a specific project, INDOT can recommend to FHWA that alternative procedures for public involvement be followed or that certain requirements be waived. Written concurrence must be obtained from FHWA for such alternative procedures or waiver of certain steps.

8-8.04 Public Notices

Once the documentation for a categorical exclusion (where applicable) has been approved by INDOT, or FHWA has approved an EA for circulation, INDOT will publish a Public Notice of

Planned Improvement in accordance with I.C. 5-3-4-1, offering the opportunity for interested individuals to request a hearing. Should a hearing result or the documentation for a draft EIS is approved for circulation, INDOT will publish a Notice of Public Hearing in accordance with I.C. 5-3-4-1. INDOT will also achieve public-involvement goals in the appropriate minority and foreign-language communities where a project is proposed in accordance with the Civil Rights Act of 1964 and the Civil Rights Restoration Act of 1987 by publishing legal notices in the appropriate community media and language.

INDOT will publish this notice at least 15 days in advance of the public hearing. The *Federal Register* DEIS notice of availability should establish a period of not less than 45 days to return comments on the DEIS. Regulations require that interested parties submit EA comments within 30 days of the notice of the availability of the EA. FHWA recommends that two notices be made for an EIS project: an initial, minimum 15-day notice, with a second notice 5 to 12 days in advance of the hearing.

In addition to formal notices of the hearing, copies of the notice or a press release may be distributed to appropriate news media and local, State, or Federal governmental agencies that are affected or involved in the project or program. Copies will also be mailed to any agency, local public official, public advisory group, or individuals who have requested notice of hearings and to other groups or agencies who are on the current INDOT mailing list.

Each notice of a public hearing shall specify the date, time, and place of the hearing or meeting, and should include a general description of the proposal. The notice should specify that location maps and other pertinent information, including the appropriate environmental document developed for the proposal, will be available for public review. The notice should also provide information required to comply with public involvement requirements of other laws, Executive Orders, or regulations, as follows.

1. Per the Clean Water Act, the notice will indicate the availability, where applicable, of the Section 404 Permit application and reference the U.S. Army Corps of Engineers Public Notice seeking comments on the application.

2. Where historic properties are involved (i.e., buildings, structures, or sites including archeological sites, or objects that are listed in or eligible for listing in the National Register of Historic Places), the notice will indicate as follows: *Per the National Historic Preservation Act, the views of the public are being sought regarding the effect of the proposed project on [list specified properties involved]*.

3. Per Executive Order 11990, Protection of Wetlands, and Executive Order 11998, Floodplain Management, the notice should seek public comment on wetland impacts and floodplain encroachments where applicable.

INDOT maintains a current mailing list upon which any Federal or State agency, local public official, public advisory group, or any other interested committee or persons may enroll to request all legal notices issued by the Office of Public Hearings. Any agency, official, group, or citizen desiring to receive such notices must submit a written request to the following:

INDOT Local Programs Division
Office of Public Hearings
Room N848
Indiana Government Center North
100 North Senate Avenue
Indianapolis, Indiana 46204-2249

8-8.05 Conducting the Hearing

The Office of Public Hearings will hold a public hearing at a place and time generally convenient for persons affected by or interested in the proposed undertaking and in a facility that is accessible to the handicapped. The Office of Public Hearings will also be responsible for assuring that all public-involvement requirements listed below are satisfied. The identical procedures will be observed by the local entity or its agent(s) when conducting public-involvement procedures for a local-agency project.

Representatives of INDOT, the MPO, and the local authority or its agent(s), when appropriate, will explain the information as follows:

1. the project's purpose, need, and consistency with the goals and objectives of any local urban planning;

2. the project's alternatives and major design features;

3. the social, economic, environmental, and other impacts of the project;

4. the relocation-assistance program and the right-of-way acquisition process; and

5. INDOT's procedures for receiving both oral and written statements from the public.

INDOT will ensure that engineers, planners, or other qualified personnel are present to explain the proposal and answer questions which may arise.

At the public hearing it should be announced, or otherwise explained, that at any time after the hearing and before final approval is obtained, information developed relating to the proposed undertaking will be available upon request during normal working hours for public inspection and

copying. If the proposal requires the acquisition of property, INDOT's right-of-way procedures, including the relocation-assistance program (if applicable), will be explained. The availability of the appropriate environmental document will be announced at the public hearing.

INDOT is committed to providing a public-hearing format that allows full participation by the public. This format will permit the public to comment on the project in any of the methods as follows:

1. public statements before an audience of concerned citizens,
2. verbal comments to a tape recorder which can be transcribed verbatim, or
3. written comments provided in person, by mail, or via the Internet.

8-8.06 Section 106 Consultation Under the Historic Preservation Act

Once the views of interested persons have been considered and documented, the finding of no adverse effect or the Memorandum of Agreement can be forwarded to FHWA for approval. The INDOT transmittal letter should document the means employed to solicit public comment, summarize the views of interested persons, and discuss the resolution of any outstanding issues. Once the Section 106 process is completed, FHWA can process the 4(f) Programmatic Agreement where applicable and conclude the NEPA approval process.

8-8.07 Public-Hearing Transcript

A transcript of the verbal and written statements from the public involvement phase should be made. The future availability of the transcript should be announced at the public hearing or by news release subsequent to its completion and distribution. In addition, copies will be provided to individuals who request such copies as provided for in the INDOT policy concerning public disclosure. INDOT should submit to FHWA a copy of each public-hearing transcript and a certification that a required hearing or hearing opportunity was offered. The transcript will be accompanied by copies of all written statements from the public, both submitted at the public hearing and during an announced period after the hearing.

***** PRACTICE POINTER *****

With respect to resolution of hearing comments, it is not considered responsive to reply with statements such as, "It is not part of the scope," or, "It will be looked into." An explanation must be given.

Explicit consideration and response to both oral and written comments will be included in the Final Environmental Impact Statement (FEIS). If no significant impacts are identified, INDOT should furnish FHWA a copy of the revised EA as appropriate; the public hearing transcript, where applicable; copies of any comments received and responses thereto; and recommend a Finding-Of-No-Significant-Impact (FONSI). If a project is located in an MPO area, the MPO will be given the opportunity to review and make additions to responses. The MPO will provide expertise and assistance in addressing metropolitan-planning and community-development issues. Therefore, the public-hearing responses will constitute joint INDOT-MPO comments. Once the FHWA has granted final location approval by issuing the FEIS, Record of Decision, or FONSI, the project may be advanced to final design, right-of-way acquisition, and construction.

8-9.0 DESIGN SUMMARY

A Design Summary is required for each project for which a public hearing or the opportunity for a public hearing is offered. Although the Design Summary is not required by regulation, INDOT has developed this public-information document to provide a complete description of the proposed project and transcript of the public hearing or certification of hearing requirements. This document will also permit closure of unresolved issues at the time of FHWA approval of the FEIS/Record of Decision (ROD), EA/FONSI, or FHWA determination that the project is categorically excluded (CE) from the requirement to prepare a NEPA document.

The Design Summary includes findings on permit, mitigation, design, and right-of-way issues. The Design Summary also serves to respond to issues raised by written and oral comments on a project which is categorically excluded by FHWA from the requirement to prepare a NEPA document.

Copies of the Design Summary will be made available to interested parties upon request as provided for in the INDOT policy concerning public disclosure. FHWA will be supplied a copy of the Design Summary for each project located on the National Highway System.