



April 1, 2009

Indiana Department of Transportation

PUBLIC INVOLVEMENT PROCEDURES

Part 1: INDOT Public Involvement Policies and Procedures Manual. This document provides guidance to those who are engaged in providing public involvement opportunities related to INDOT decisions and actions.



Policy Manual

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Driving Indiana's Economic Growth

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Mitchell E. Daniels, Jr., Governor
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INTRODUCTION TO THE INDOT PUBLIC INVOLVEMENT MANUAL

The Indiana Department of Transportation (INDOT) has prepared the **INDOT Public Involvement Manual** to provide guidance to those who are engaged in providing public involvement opportunities related to INDOT decisions and actions and to let the public know what they can expect in terms of INDOT public involvement policies and practices.

This *Manual* is primarily addressed to INDOT staff and their consultants who will carry out INDOT's public involvement activities. The Manual will also be useful to Metropolitan Planning Organizations (MPOs), Rural Planning Organizations (RPOs), and local officials that conduct their own public involvement activities. The Manual will help the MPOs, RPOs, and local officials understand where their processes fit with INDOT public involvement approaches and will provide them with ideas on how to implement their own public involvement programs. In addition, the Manual is intended to provide the interested public reader with information about INDOT's commitment to public involvement and about how and where the public can become involved in the planning and project development processes.

The Indiana Department of Transportation Public Involvement Manual consists of **Part 1: INDOT Public Involvement Policies and Procedures**, **Part 2: INDOT Public Involvement Handbook**, and **Part 3: Appendices**. Parts 2 and 3 of the Public Involvement Manual will be subsequently released at INDOT's discretion at a later date.

INDIANA DEPARTMENT OF TRANSPORTATION PUBLIC INVOLVEMENT MANUAL

Part 1:
INDOT
Public
Involvement
Policies and
Procedures

Part 2:
INDOT
Public
Involvement
Handbook

Part 3:
Appendices

Part 2, *INDOT Public Involvement Handbook* will provide information on public involvement approaches and methods employed by INDOT to inform and engage the public. Since INDOT uses a range of activities to fulfill its goal of providing proactive, open, and continuous public involvement, the *Handbook* will provide a menu of options to assist INDOT planners, project managers, engineers, and public involvement staff and consultants to INDOT as they choose how to implement the requirements and the intent of the law, regulations, and policies on individual planning and project initiatives. The *Handbook* will reflect the range of INDOT practices that extend beyond the baseline requirements in engaging the public.

Part 3, *Appendices* will include a list of acronyms and glossary of terms, the text of pertinent Federal and State law and regulations, the text of official Federal guidance on public involvement, INDOT's organizational structure, key contacts related to public involvement in transportation decision making, a compendium of specific techniques that can be used to implement public involvement, and examples of forms.

Once produced, the *Handbook* and *Appendices* will be updated by INDOT on an as-needed basis. Such modifications do not require FHWA approval.

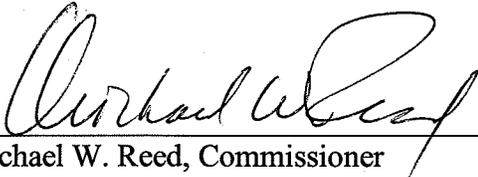
INDOT 2009 Public Involvement Procedures Manual:

- Last formal update to procedures manual occurred in 1997
- 2009 procedures manual explains federal guidance and regulations for public involvement
- Procedures document developed through significant coordination with FHWA
- INDOT Business Units contributed and participated in the review process for the development of these procedures; Planning Operations, District Operations & Traffic Management, Highway Management, INDOT Legal
- Document was presented for public review and comment via statewide legal advertisement in 28 widely circulated newspapers (statewide) per FHWA guidance; document presented to MPO Council, INDOT District Public Meetings
- Public Involvement Policy complements FHWA Context Sensitive Solutions Framework
- Procedures do exceed minimum requirements for public involvement in transportation decision making
- Procedures do not negatively impact development time for projects; Procedures promote timely engagement of INDOT customers at tangible project milestones; Procedures may result in increased costs for project correspondence materials, legal advertising, and implementation of public involvement plans depending on project complexity

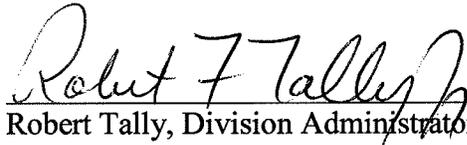
Part 1, *INDOT Public Involvement Policies and Procedures*, lays out INDOT's fundamental requirements for public involvement, established by Federal and State law and regulations and by INDOT policies. The *Policies and Procedures* Part has been approved by the Federal Highway Administration (FHWA) on _____¹. Every two years, INDOT will review the public involvement *Policies and Procedures* to ensure that they represent current policy and practice, as required by 23 CFR 450.212(a)(7).² FHWA must approve any changes to these *Policies and Procedures*.

INDOT Public Involvement Manual Approved on _____

3-25-09



Michael W. Reed, Commissioner
Indiana Department of Transportation



Robert Tally, Division Administrator
Federal Highway Administration, Indiana Division

¹ Code of Federal Regulations, Title 23, Section 771 (CFR 771.111(h)(1)) states: "Each State must have procedures approved by the FHWA to carry out a public involvement/public hearing program."

² 23 CFR 450.212(a)(7) states: "Public involvement processes shall provide for periodic review of the effectiveness of the public involvement process to ensure that the process provides full and open access to all and revision of the process as necessary."

**INDIANA DEPARTMENT OF
TRANSPORTATION**

**INDIANA DEPARTMENT OF TRANSPORTATION
PUBLIC INVOLVEMENT MANUAL**

**Part 1 of 3:
INDOT Public Involvement Policies and
Procedures**

**Public Involvement Procedures for those projects
(State and LPA) receiving federal aid as part of the
funding mechanism.**

**Document to be jointly approved by INDOT and
FHWA**

(MARCH 2009)

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Part 1:

INDOT Public Involvement Policies and Procedures

I. THE MISSION AND PUBLIC INVOLVEMENT POLICY OF INDOT

A. The Mission of INDOT

To build, maintain, and operate a transportation system enhancing safety, mobility and economic growth.

To fulfill this mission, INDOT undertakes long range and intermediate planning for transportation facilities; assigns budgets and schedules to projects through the transportation program; complies with federal and state law and regulations regarding transportation decision making; and designs, constructs, maintains, and operates transportation facilities. A key component of fulfilling the INDOT mission is keeping the public informed about INDOT activities and eliciting the needs and views of the public related to prospective INDOT decisions. The success of INDOT's mission depends on identifying and addressing public needs, in coordination with transportation partners, including other government agencies, local jurisdictions, community residents and businesses, interest organizations, and transportation facility users. While these procedures apply to those INDOT and Local Public Agency (LPA) projects receiving federal aid, it is INDOT's sincere hope that these procedures will be used as a template for all projects.

B. The INDOT Public Involvement Policy

1. The Importance of Public Involvement

Indiana citizens have an important role in shaping the transportation decisions that will affect their communities. Residents rely on the transportation system to move around their communities and through the state for work and pleasure. Visitors rely on the system to reach their destinations and return safely home. Businesses rely on the system to move products and materials. A solid transportation system is one of the top three drivers for economic development. In addition to their reliance on the system to meet transportation needs, all of these users have a stake in transportation decisions because they are taxpayers.

INDOT recognizes the importance of involving the public in information exchange when providing transportation facilities and services to best meet the state's transportation challenges. Therefore, it is the policy of INDOT to promote public involvement opportunities and information exchange activities in planning, developing, designing, construction, operations, and maintenance of transportation projects. The INDOT public involvement procedures provide opportunities for early and continuing involvement of the public in developing transportation plans, programs, and projects and provide complete public information, timely public notice, and public access to key decisions.

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Section I. The Mission and Public Involvement Policy of INDOT

INDOT defines public involvement as two-way communication aimed at providing information to the public and incorporating the views, concerns, and issues of the public in the transportation decision-making process. The public provides input on transportation needs, community concerns, and environmental considerations. INDOT uses this input to help make decisions. By involving the public early in planning transportation projects and throughout the development and implementation of projects, INDOT will deliver a statewide transportation system that meets the needs of and is supported by its customers, the citizens of Indiana.

2. The Benefits of Public Involvement

The two-way communication process between INDOT and the public that results from proactive public involvement assists INDOT in:

- a. Enhancing decisions and creating a better end product, including context sensitive solutions, because the public can provide valuable information and perspective throughout the process. Effective public involvement enhances sound engineering. It promotes fuller exploration of community needs, communication on objectives and trade-offs, and application of engineering judgment to the full range of alternatives.
- b. Obtaining funding and support for INDOT programs facing increasing competition for economic resources and ensuring effective use of limited financial resources. When project impacts on the community can be minimized while transportation is improved, then stakeholders (traveling public, community, and taxpayers) benefit from cost-effective projects.
- c. Complying with regulations, such as national transportation authorization acts and the National Environmental Policy Act.
- d. Increasing customer satisfaction, public trust, and public acceptance which can reduce project re-design and delays. When people feel their concerns are addressed, they refrain from challenges to transportation plans and projects which may lead to expensive re-designs or even project cancellation. Procedural delays increase project costs while safety and congestion problems remain unsolved.
- e. Enhancing INDOT's credibility and public perception as a responsible public works agency that is a leader in public and transportation issues.
- f. Achieving a final product, which is a transportation system that meets the transportation needs of Indiana and its visitors.
- g. It is also an opportunity for INDOT to educate it's constituents on the various intricacies of highway building.

3. INDOT's Adherence to Federal Guidance and Regulations on Public Involvement

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Section I. The Mission and Public Involvement Policy of INDOT

INDOT has established a proactive public involvement process in the planning and development of transportation projects. This process provides opportunities for early and continuing involvement of the public in developing transportation plans, programs, and projects and provides complete information, timely public notice, and public access to key decisions. INDOT's public involvement process is in keeping with the *Interim Policy on Public Involvement* established by the Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA)¹, which states:

State departments of transportation, metropolitan planning organizations, and transportation providers are required to develop, with the public, effective involvement processes which are custom-tailored to local conditions. The performance standards for these proactive public involvement processes include early and continuous involvement; reasonable public availability of technical and other information; collaborative input on alternatives, evaluation criteria and mitigation needs; open public meetings where matters related to Federal-aid highway and transit programs are being considered; and open access to the decision-making process prior to closure.

INDOT's public involvement procedures conform to the requirements of Federal law and regulations and the Indiana code regarding public hearings.

4. INDOT's Meets Federal and State Law and Regulations

Federal and state law and regulations provide only minimal prescription for implementing public involvement in transportation. There is no standard approach to informing, educating, and involving the public. Every project is different and will require the use of different public involvement strategies. INDOT seeks to *fulfill the intent* of the law as well as to *comply* with specific requirements. Therefore, INDOT undertakes a range of public involvement activities to reach out to and engage the public in INDOT transportation planning, programming, project development, construction, operations, and maintenance. INDOT has established its own baseline of requirements for public involvement to fulfill the intent of the regulations. These INDOT-defined requirements, along with those required by law and regulations, constitute INDOT's baseline of public involvement implementation procedures, which the Indiana public can rely on as opportunities for participation.

C. INDOT Implementation of the Public Involvement Policy

These policies are implemented through INDOT procedures summarized below and described further in this Part. *Part 2: INDOT Public Involvement Handbook* provides guidance on how to carry out these procedures, and the *Part 3: Appendices* provide examples of forms used in these procedures.

Other methods of implementing public involvement, which are not required but are used by INDOT to supplement the required procedures, will vary, depending on the type of project, the phase in the planning and project development process, and the local needs. Each

¹ See Appendices for the full text of the FHWA/FTA Interim Policy on Public Involvement.

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Section I. The Mission and Public Involvement Policy of INDOT

public involvement program for planning or a project may incorporate a variety of techniques. Every plan or project that will potentially affect the public has this in common under INDOT policy: there will be some level of public involvement. This may range from simple public notification of a proposed transportation improvement to conducting formal public hearings, and it may also include extensive outreach and engagement through informal public information meetings, dissemination of public information materials, and use of community advisory committees, with a spectrum of possible public involvement opportunities and options along the way. Many optional public involvement activities are described in *Part 2: INDOT Public Involvement Handbook* and *Part 3: Appendices*.

1. District Public Meetings

District Public Meetings enable the public to comment on the INDOT Long Range Plan and the INDOT Statewide Transportation Improvement Program. These meetings are held by each INDOT District Office to discuss with the public the planning, selection, and programming of current and future transportation projects (see Section III.C.1.b).

2. Public Involvement Plans (PIP)

INDOT staff prepares a written PIP for every project involving a Categorical Exclusion (CE), Environmental Assessment (EA), or Environmental Impact Statement (EIS) to ensure that an appropriate level of public involvement is conducted, commensurate with the nature of the project. No matter how small a project may be, it is essential for INDOT to reflect on whether the project will be of concern to the public and, if so, what the public needs to know about a project, how best to inform the public, and how best to elicit public input (see Section IV.C.1). Even if the result is the conclusion that no public involvement meeting is needed, preparation of a written PIP requires INDOT staff to go through this customer-service thought process. The PIP may be short and simple for small-scale or routine projects or programs, or may be detailed and extensive for large-scale or complex projects. *Please see Handbook section on Public Involvement Plans for suggested outlines of both simple and comprehensive Public Involvement Plans.*

3. Public Notices

INDOT publishes and distributes a number of Public Notices related to INDOT actions, availability of public involvement opportunities, and availability of planning and project development documents for public review and comment. INDOT publishes these notices in newspapers and mails notices to the INDOT statewide mailing list of interested persons who have contacted the Public Hearings Office and requested to be included in this list (see Section IV.C.5). In addition, for each project, INDOT establishes a project-based mailing list and mails project-related notices to that mailing list.

4. Public Hearings

INDOT holds a Public Hearing, or offers to hold a public hearing if requested, when a project meets certain criteria. A Public Hearing is a meeting at which the public can

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Section I. The Mission and Public Involvement Policy of INDOT

learn about a proposed INDOT project and make comments which will be included in a transcript of the meeting (see Section IV.C.4 and Section VI).

5. Public Information Meetings

Public Information Meetings are held early in the environmental analysis phase of certain types of projects and during the design phase of a project. Public information meetings provide opportunities for the public to learn about a proposed INDOT policy, plan, project, or action and to engage in discussion with INDOT staff. Public Information Meetings are less formal than Public Hearings. INDOT uses a variety of formats for public information meetings (see Section IV.C.3).

6. Community Advisory Committees (CAC)

INDOT has established a special requirement to ensure meaningful public involvement on certain projects. INDOT convenes an ongoing CAC for projects that involve an Environmental Impact Statement (EIS), and are optional for projects that involve an Environmental Assessment or an Environmental Assessment/Corridor Study (EA/Corridor Study)². The CAC is a group of citizens, convened by INDOT, who represent different community organizations and meet regularly during the project development and design process to provide input to INDOT regarding the transportation problem to be addressed, the alternative(s) to be considered, the potential impacts of the alternative(s), the means to address these impacts, and design considerations to accomplish context sensitive solutions.³ CAC members maintain ongoing knowledge of the development of a project and serve as channels of information to and from their friends, neighbors, associates, and constituents (see Section IV.C.2).

7. Inclusion of Under-Served Individuals and Communities

INDOT believes that an effective public involvement process should actively seek out and engage those individuals who may otherwise be under-served in the transportation planning, programming, and project development process. In keeping with the Americans with Disability Act, INDOT gives consideration to the needs of individuals with disabilities and seeks to provide means to accommodate individuals with hearing, speech, vision, or mobility limitations (see Section VII).

² These terms refer to projects that undergo differing levels of environmental analysis. These projects typically are larger-scale, complex projects that will be of particular interest to the public (see section on "Public Involvement in the Project Development Process" for a specific description of an EA, EIS, and EA/Corridor Study).

³ Context sensitive solutions are transportation design decisions that incorporate a community's character and desires in transportation improvements. The context sensitive solution process is intended to be a flexible approach in allowing the latitude to enhance environmental, scenic, historic, and unique community elements in a transportation improvement. Community input into context sensitive solutions aids during project development in determining strategies to mitigate impacts and in design to help the project be compatible with and beneficial to its surroundings.

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Section I. The Mission and Public Involvement Policy of INDOT

In keeping with Title VI of the Civil Rights Act of 1964, the Federal Highway Act of 1973, and the Age Discrimination Act of 1974 and the Executive and DOT Orders and FHWA Guidance on Environmental Justice, INDOT considers the needs of low-income and minority populations as it undertakes public involvement activities in the planning, programming, and project development processes. INDOT seeks ways to reach out to and solicit input from these populations (see Section VII).

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Section II. Federal and State Law and Regulations as a Foundation for Public Involvement Requirements

II. FEDERAL AND STATE LAW AND REGULATIONS AS A FOUNDATION FOR PUBLIC INVOLVEMENT REQUIREMENTS

A. The Role of the Federal Government

The U.S. Department of Transportation (USDOT) oversees the transportation planning and project activities of Metropolitan Planning Organizations (MPOs) and state Departments of Transportation. Within the USDOT, the Federal Highway Administration (FHWA) ensures that state departments of transportation follow federal law and regulations wherever federal funds or a federal action is involved in a state or local highway project.

B. Applicable Federal Law and Regulations

The federal law and regulations that pertain to public involvement in transportation decision making⁴ and that apply to how INDOT implements its transportation program are included in:

- United States Code (Legislation), including especially: 23 U.S.C. 109(h), 23 U.S.C. 128, 23 U.S.C. 134, 23 U.S.C. 135 (www.gpoaccess.gov/uscode/index.html)
- Code of Federal Regulations, including especially: 23 CFR 771, 40 CFR 1500-1508, 23 CFR 450, 23 CFR 772, 36 CFR 800 (www.gpoaccess.gov/cfr/index.html)
- National Environmental Policy Act (NEPA), which directs agencies to encourage and facilitate public input into decisions that affect the quality of the human environment (<http://ceq.eh.doe.gov/nepa/regs/nepa/nepaegia.htm>)
- Title VI of the Civil Rights Act of 1964, which declares that no person shall be excluded from participating in any program receiving federal assistance on the basis of race, color or national origin (www.fhwa.dot.gov/environment/title_vi.htm)
- Americans with Disabilities Act, which requires reasonable efforts be made to accommodate citizens with disabilities who wish to attend public meetings (www.usdoj.gov/crt/ada/adahom1.htm).

⁴ See Appendices for a table containing the text of the relevant portions of these federal and state law and regulations. Specific requirements identified in this Manual will include a footnote identifying the law or regulation that is the basis for the requirement.

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Section II. Federal and State Law and Regulations as a Foundation for Public Involvement Requirements

C. Applicable Federal Policy and Guidance

In addition, federal policy and guidance that pertain to public involvement⁵ may be found in:

- FHWA/FTA Interim Policy on Public Involvement
(http://www.fhwa.dot.gov/environment/pi_pol.htm)
- FHWA/FTA Questions and Answers on Public Involvement in Transportation Decision Making
(http://www.fhwa.dot.gov/environment/pub_inv/q_and_a.htm)
- Executive Order 12898 on Environmental Justice, February 11, 1994
(http://www.epa.gov/compliance/resources/policies/ej/exec_order_12898.pdf)
- Department of Transportation Order on Environmental Justice
(http://www.fhwa.dot.gov/environment/ejustice/dot_ord.htm)
- FHWA Order on Environmental Justice
(http://www.fhwa.dot.gov/legsregs/directives/orders/6640_23.htm)

D. State Laws that Pertain to Implementation of Public Involvement

State Laws that Pertain to Implementation of Public Involvement

- Indiana Code 8-23-2-17 Public Hearings
(<http://www.in.gov/legislative/ic/code/>)

IC 8-23-2-17 Public Hearings

Sec. 17. (a) As used in this section, "public hearing" means an assembly or a meeting by the department for the purpose of:

- (1) providing information early in the process of making decisions affecting proposed highway or bridge construction or improvement projects on a county arterial highway system or the state highway system so that the public can have an impact on the decision outcome, including a meeting in which the public is provided information, opportunity for review and comment, and an accounting for the rationale for a proposed project; or
- (2) complying with 23 U.S.C. 128 and 49 U.S.C 1602 (d) requirements in considering economic, social, environmental, and other effects of highway projects and proposals.

⁵ See Appendices for the text of the federal policy/guidance documents and Appendices for the Executive, USDOT, and FHWA Orders on Environmental Justice.

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Section II. Federal and State Law and Regulations as a Foundation for Public Involvement Requirements

- (b) Whenever the department holds a public hearing, the department shall allow any person an opportunity to be heard in the presence of others who are present to testify and in accordance with subsection (c).
- (c) The department through the commissioner or the commissioner's designee, may limit testimony at a public hearing to a reasonable time stated at the opening of the public hearing. As added by P.L. 52-1995, SEC. 3.

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Section III. Public Involvement in the INDOT Transportation Planning and Program Development Process

III. PUBLIC INVOLVEMENT IN THE TRANSPORTATION PLANNING AND PROGRAM DEVELOPMENT PROCESS

INDOT has established a proactive public involvement process in the planning and development of transportation projects. This process provides complete information, timely public notice, and full public access to key decisions and supports early and continuing involvement of the public in developing plans and transportation programs.

A. INDOT Planning and Programming

Transportation *planning* involves examining the long-term and strategic transportation goals of the state and specific areas within the state, studying respective demographic characteristics and travel patterns, assessing existing and possible future transportation assets, looking at how these considerations and factors interrelate, forecasting possible changes over multiple years, estimating resources and funds potentially available to address transportation concerns, and evaluating alternatives for meeting current and future transportation needs to bring the area closer to achieving its vision. INDOT identifies current and projected transportation problems and proposes possible solutions to those problems in the Statewide Long Range Transportation Plan (TP).⁶ Please see www.in.gov/dot to view *INDOT Long Range Plan*.

Before improvements in the state transportation system can be made, projects must be identified and project funding allocated in Indiana's Statewide Transportation Improvement Program (Indiana's STIP). The *programming* of projects entails prioritization, scheduling, and budgeting for anticipated projects in the near term timeframe. This process is generally described in the "Annual Program Development Process" (APDP) which may be found at www.in.gov/dot along with the Indiana STIP www.in.gov/dot. The Indiana STIP contains projects to be implemented with reasonably anticipated funds for the time window of the STIP. After opportunities for public review and comment, the Indiana STIP is forwarded to FHWA and FTA for federal approval. Projects must be listed in Indiana's approved STIP to be eligible for federal funding.

The Annual Program Development Process (APDP) generally describes INDOT's project selection and programming mechanism for the near-term program and Indiana's STIP. The APDP also provides support and potential input to INDOT's long-range planning operations. Most projects take three to twelve years to be developed, with each of its development phases (e.g., environmental analysis, design, right-of-way, and construction) programmed in Indiana's STIP when federal funds are used.

Transportation planning and programming processes are to consider the desires of communities and take into account both the natural and human impacts to the environment. Transportation plans help regions and communities reach their goals. Therefore, involvement of local communities, primarily through their elected public officials,

⁶ 23 U.S.C. 135 states that each State shall develop transportation plans and programs for all areas of the State, including a statewide long range plan with a minimum 20-year forecast period and shall do so in cooperation with the MPOs and in consultation with affected local officials with responsibility for transportation in non-metropolitan areas.

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is essential to developing INDOT's long range plans and Indiana's STIP. INDOT works through its six district offices and develops the Long Range Plan and the STIP in coordination and cooperates, coordinates, and consults with the fourteen Metropolitan Planning Organizations (MPOs) (see below), that cover parts of Indiana, rural local officials, and Regional and/or Rural Planning Organizations (RPOs), and obtains input from the public as part of developing its long range plans and STIP. The development process of the INDOT Long Range Plan includes the detailed local knowledge and insight of Indiana's MPOs and non-metropolitan local officials with INDOT's statewide perspective on the overall improvement program for non-metropolitan areas and on a statewide basis.

B. Requirements by Federal Law, Regulations and Policy for Public Involvement in Planning and Programming

1. MPO Requirements

Metropolitan Planning Organizations (MPOs) were created by Congress to develop transportation plans and programs for metropolitan areas containing more than 50,000 residents. INDOT works in coordination and cooperation with the MPOs to develop the INDOT Long Range Plan and the STIP. There are fourteen MPOs in Indiana.⁷ These are:

ANDERSON

Madison County Council of Governments (MCCOG)

Urbanized area: Anderson IN; Counties: Madison, parts of Delaware, Hancock, Hamilton
www.mccog.net

BLOOMINGTON

Bloomington Monroe County Planning Organization (BMCPO)

Urbanized area: Bloomington IN; County: Monroe
www.city.bloomington.in.us/planning/

CINCINNATI

Ohio-Kentucky-Indiana Regional Council of Governments (OKI)

Urbanized area: Cincinnati OH-KY-IN; IN County: Dearborn
www.OKI.org

COLUMBUS

Columbus Area Metropolitan Transportation Organization (CAMPO)

Urbanized area: Columbus IN; Counties: Bartholomew, parts of Johnson, Shelby
<http://www.campo.in.gov/>

EVANSVILLE

Evansville Metropolitan Planning Organization (EMPO)

Urbanized area: Evansville IN-KY; IN Counties: Gibson, Posey, Vanderburgh, Warrick
www.evansville.net/~euts

FORT WAYNE

Northeastern Indiana Regional Coordinating Council (NIRCC) www.acdps.org/

Urbanized area: Fort Wayne IN; Counties: Adams, Allen, DeKalb, Wells

⁷ See www.indianampo.com for information on Indiana MPOs, including the *Indiana MPO Handbook*.

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INDIANAPOLIS

Indianapolis Division of Planning / Department of Metropolitan Development (DMD)

Urbanized area: Indianapolis IN; Counties: Boone, Hamilton, Hancock, Hendricks, Johnson, Marion, Morgan, Shelby

www.indygov.org/indympo

KOKOMO

Kokomo-Howard County Governmental Coordinating Council (KHCGCC)

Urbanized area: Kokomo IN; County: Howard

www.kokomompo.com

LAFAYETTE

Tippecanoe County Area Plan Commission (TCAPC)

Urbanized area: Lafayette IN; County: Tippecanoe

www.indianampo.com/mpo/Lafayette.htm

LOUISVILLE

Kentuckiana Regional Planning and Development Agency (KIPDA)

Urbanized area: Louisville IN-KY; IN Counties: Clark, Floyd

www.kipda.org

MUNCIE

Delaware-Muncie Metropolitan Plan Commission (DMMPC)

Urbanized area: Muncie IN; County: Delaware County

www.co.delaware.in.us/departments/plancommission2/

NORTHWEST INDIANA

Northwestern Indiana Regional Planning Commission (NIRPC)

Urbanized area: Chicago IL-IN; IN Counties: Lake, Porter, LaPorte

www.nirpc.org/

SOUTH BEND

Michiana Area Council of Governments (MACOG)

Urbanized area: South Bend IN-MI; IN Counties: Elkhart, Marshall, St. Joseph

www.macog.com

TERRE HAUTE

West Central Indiana Economic Development District (WCIEDD)

Urbanized area: Terre Haute IN; Counties: Clay, Parke, Putnam, Sullivan, Vermillion, Vigo

www.Westcentralin.com

MPOs serve as a forum for local governments to provide short and long-term plans to address transportation-related concerns in the area. 23 CFR 450 states that each MPO must prepare and regularly update a transportation plan that has a planning horizon of no less than 20 years from its formal approval date (MPO Transportation Plan - TP) which establishes the long-term transportation investment, service, and policy agenda for the region. MPOs are also to routinely develop a Transportation Improvement Program (TIP) which is a listing of all transportation projects planned and funded for the next four years. The TIP is the document that translates the policies, strategies, and direction of the TP into specific decisions on project and investments during the short-term TIP time horizon. The MPO TPs and TIPs can be found on the MPO websites, listed above, or can be accessed through

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www.indianampo.com/index.htm. INDOT coordinates and cooperates with the MPOs in the development of the INDOT Long Range Plan and the STIP. The MPOs' Transportation Plans and TIPs are nested into in the INDOT Long Range Plan and STIP, respectively.

In urban areas with over 50,000 residents, INDOT relies on the MPO public involvement process for fulfillment of INDOT's public involvement responsibilities. INDOT's projects are included in the MPOs' Transportation Plans and TIPs and are subject to public involvement through the MPOs' public involvement process. The MPOs are responsible for conducting a proactive and inclusive public involvement process that will bring the views of the public into MPO planning and programming decisions. Most MPOs post their public involvement procedures on their websites.

23 U.S.C. 134(i)(5) state that:

Each metropolitan planning organization shall provide citizens, affected public agencies, representatives of public transportation employees, freight shippers, providers of freight transportation services, private providers of transportation, representatives of users of public transit, representatives of users of pedestrian walkways and bicycle transportation facilities, representatives of the disabled, and other interested parties with a reasonable opportunity to comment on the long-range transportation plan [and the transportation improvement program]. The metropolitan planning organization shall, to the maximum extent practicable hold any public meetings at convenient and accessible locations and times; employ visualization techniques to describe plans; and make public information available in electronically accessible format and means, such as the World Wide Web, as appropriate to afford reasonable opportunity for consideration of public information. Each long-range transportation plan [and transportation improvement program]...shall be published or otherwise made readily available for public review.

The regulations regarding MPO responsibilities for public involvement are found at 23 CFR 450. In particular, 23 CFR 450.316(a) states:

The MPO shall develop and use a documented participation plan that defines a process for providing citizens, affected agencies, representatives of public transportation employees, freight shippers, providers of freight transportation services, private providers of transportation, representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, representatives of the disabled, and other interested parties with reasonable opportunities to be involved in the metropolitan transportation planning process.

(1) *The participation plan shall be developed by the MPO in consultation with all interested parties and shall, at a minimum, describe explicit procedures, strategies, and desired outcomes for:*

(i) *Providing adequate public notice of public participation activities and time for public review and comment at key decision points, including but*

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not limited to a reasonable opportunity to comment on the proposed metropolitan transportation plan and the TIP;

- (ii) Provide timely notice and reasonable access to information about transportation issues and processes;*
 - (iii) Employing visualization techniques to describe metropolitan transportation plans and TIPs;*
 - (iv) Making public information (technical information and meeting notices) available in electronically accessible formats and means, such as the World Wide Web;*
 - (v) Holding any public meeting at convenient and accessible locations and times;*
 - (vi) Demonstrating explicit consideration and response to public input received during the development of the metropolitan transportation plan and the TIP;*
 - (vii) Seeking out and considering the needs of those traditionally underserved by existing transportation systems, such as low-income and minority households, who may face challenges accessing employment and other services;*
 - (viii) Providing an additional opportunity for public comment, if the final metropolitan transportation plan or TIP differs significantly from the version that was made available for public comment by the MPO and raises new material issues which interested parties could not reasonably have foreseen from the public involvement efforts;*
 - (ix) Coordinating with the statewide transportation planning public involvement and consultation process...*
 - (x) Periodically reviewing the effectiveness of the procedures and strategies contained in the participation plan to ensure a full and open participation process.*
- (2) When significant written and oral comments are received on the draft transportation plan or TIP...a summary, analysis, and report on the disposition of comments shall be made part of the final plan and TIP.*
- (3) A minimum public comment period of 45 calendar days shall be provided before the initial or revised participation plan is adopted by the MPO. Copies of the approved participation plan ... shall be posted on the World Wide Web, to the maximum extent possible.*

Each MPO develops, implements, and periodically updates its public involvement process, which is reviewed by INDOT and approved by FHWA, to solicit public input and comments on a comprehensive transportation plan and transportation projects within the given MPO area. The MPOs employ numerous proactive public involvement strategies, including newsletters, website information, and public meetings.

In addition, INDOT relies on the MPOs' public involvement activities to fulfill the requirements of the Clean Air Act and the Transportation Conformity Rule. The Clean

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Air Act requires that transportation plans and programs conform with air quality standards established by the Environmental Protection Agency (EPA) in air quality non-attainment and maintenance areas. The Transportation Conformity Rule 40 CFR Part 93.105 (e) Public Consultation Procedures states:

Affected agencies making conformity determinations on transportation plans, programs, and projects shall establish a proactive public involvement process which provides opportunity for public review and comment by, at a minimum, providing reasonable public access to technical and policy information considered by the agency at the beginning of the public comment period and prior to taking formal action on a conformity determination for all transportation plans and MPO TIPs, consistent with these requirements and those of 23 CFR 450.316(b).

2. INDOT Requirements

As stated earlier, in urban areas with over 50,000 residents, INDOT relies on the MPOs to conduct public involvement programs on the MPO TPs and TIPs, including INDOT projects. INDOT is responsible for public involvement in the remaining areas of the state. Citizens who wish to provide input on transportation projects in non-metropolitan areas are encouraged to do so through their local elected officials who participate in consultation with INDOT and through the activities, listed below, of the INDOT District Offices.

During planning and programming, INDOT is required to provide reasonable public access to technical and policy information and opportunity for public review and comment on plans and programs. Federal law sets forth expectations for public involvement for initial development and major revisions of the long range plan and the statewide transportation improvement program (23 CFR 450.210):

In carrying out the statewide transportation planning process, including the development of the long-range transportation plan and the STIP, the State shall develop and use a documented public involvement process that provides opportunities for public review and comment at key decision points.

(1) The states public involvement process at a minimum shall:

- (i) Establish early and continuous public involvement opportunities that provide timely information about transportation issues and decisionmaking processes to citizens, affected public agencies, representatives of public transportation employees, freight shippers, private providers of transportation, representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, representatives of the disabled, providers of freight transportation services and other interested parties;*

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- (ii) Provide reasonable public access to technical and policy information used in the development of the long-ranges statewide transportation plan and STIP;*
- (iii) Provide adequate public notice of public involvement activities and time for public review and comment at key decision points, including but not limited to a reasonable opportunity to comment on the proposed statewide transportation plan and the STIP;*
- (iv) To the maximum extent practicable, use visualization techniques to describe the proposed long-range statewide transportation plan and supporting studies;*
- (v) To the maximum extent practicable, make public information available in electronically accessible format and means, such as the World Wide Web, as appropriate to afford reasonable opportunity for consideration of public information;*
- (vi) Demonstrate explicit consideration and response to public input received during the development of the long-range statewide transportation plan and the STIP*
- (vii) Include a process for seeking out and considering the needs of those traditionally underserved by existing transportation systems, such as low-income and minority households, who may face challenges accessing employment and other services; and*
- (viii) Provide for the periodic review of the effectiveness of the public involvement process to ensure that the process provides full and open access to all interested parties and revise the process, as appropriate.*

The planning regulations 23 CFR 450.210(a)(2) further state that the State shall provide for public comment on the existing and proposed processes for public involvement in the development of the statewide long-range transportation plan and the STIP. At a minimum, the State shall allow 45 calendar days for public review and written comment before the procedures and any major revisions to existing procedures are adopted.

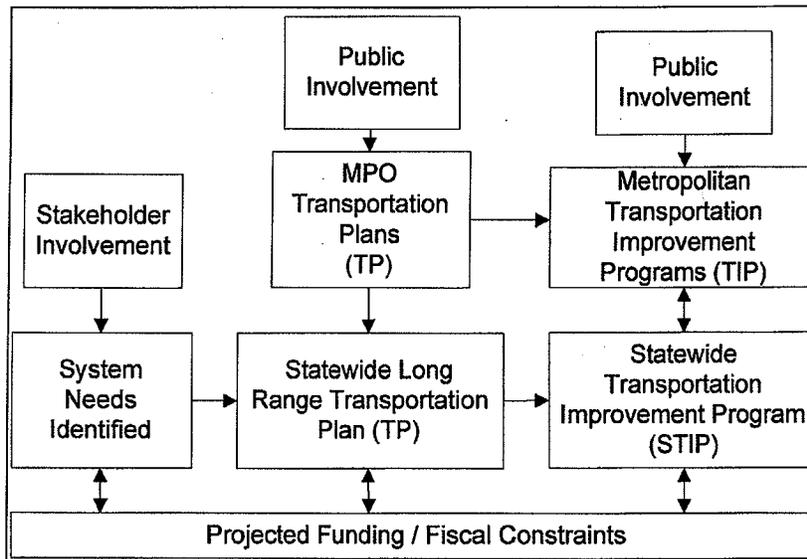
The State shall provide for non-metropolitan local official participation in the development of the long-range statewide transportation plan and the STIP. The planning regulations 23 CFR 450.210(b) requires the State to have a documented process for consulting with non-metropolitan local officials representing general purpose local government and/or local officials with responsibility for transportation that is separate and discrete from the public involvement process. The process shall be reviewed every 5 years starting from February 24, 2006 and provide for a comment period for not less than 60 days.

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PLANNING AND PROGRAMMING PROCESS**



C. How INDOT Implements these Public Involvement Requirements during Planning and Programming

Public involvement in the planning and programming process is carried out through a combination of MPO, INDOT District Office, and INDOT statewide efforts. Decision making is an iterative process, as input from MPOs, non-metropolitan elected officials, and the public is factored into the updating of plans and programs which are then brought forward for the next review and revision. Whereas INDOT relies on the MPO public involvement process in metropolitan areas, INDOT District Offices take the lead in conducting public involvement in non-metropolitan areas.

There are six INDOT District Offices. The District Offices play an important role in planning and programming activities, including coordination with the MPOs in their districts, consultation with local officials in rural areas of Indiana that are not within a metropolitan planning area, and conducting public involvement activities for the District as a whole. INDOT's Central Office is the generator of the Statewide Long Range Transportation Plan (TP) and performs statewide programming activities.

In non-metropolitan areas, INDOT District Offices conduct transportation planning and develop partial lists of specific projects to be advanced in the STIP. INDOT consults with the Regional and/or Rural Planning Organizations (RPOs) (see www.iarconline.org for member organizations of the Indiana Association of Regional Councils), rural area local elected officials, local government agency representatives, special interest groups, and other key transportation stakeholders.

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INDOT's APDP consultation procedures set the framework within which INDOT engages local communities in a two-way information-exchange process to aid decision makers in formulating transportation plans and programs. The APDP procedures may be found at www.in.gov/dot.

Following is a description of how INDOT fulfills the requirements for public involvement in transportation planning and programming (in addition to the MPO public involvement processes):

1. **District-Wide Public Involvement Activities** (indirect public involvement through local elected officials and MPOs)
 - a. District-Wide APDP Early Coordination Meetings (October through Mid December)

Each INDOT District Office holds District-Wide Early Coordination Meetings, preferably annually, but as deemed necessary/appropriate by the department. The District Offices arrange and host these meetings in each district (visit www.in.gov/dot for additional information regarding INDOT District Offices). The purpose of each meeting is to discuss the existing program and proposed projects as well as other transportation issues that may arise, and to seek agreement between all parties through consultation and cooperation on: proposed new state projects, changes to the existing program, and the relative priorities of recommended state projects within and across project categories. The goal of these meetings is to produce a list of existing and proposed new state projects district-wide, including those in MPO areas. Organizational details for these meetings are listed below:

- (1) INDOT attendees include both the District Office and representatives from the INDOT Central Office.
- (2) MPOs, local elected officials (mayors, town managers, county commissioners), local public works staff, and Regional and/or Rural Planning Organizations (RPOs), and other key transportation stakeholders are notified of this meeting and invited to participate.
- (3) The District Offices lead the process of establishing needed contacts, issuing invitations, and arranging meeting logistics and act as hosts at the meetings.
- (4) MPOs are expected to have conducted public involvement activities to elicit public input and to bring this perspective to these meetings.
- (5) Elected officials from communities outside the jurisdiction of an MPO are expected to be aware of those issues important to their constituents.
- (6) Minutes of the meeting are taken and submitted by each District Office to the Urban and MPO Section, along with a short report describing how priorities were set.

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- b. District Public Meetings (held generally in the Spring or Summer) (direct public involvement conducted by INDOT District Offices)

Each District Office holds District Public Meetings to coordinate input from the various communities within the respective district area and to solicit overall public input on transportation needs for both the update of the INDOT Long Range Plan, the draft Indiana STIP, and the effectiveness of the APDP consultation procedures, preferably annually but as deemed necessary/appropriate by the department. Participants can discuss projects in the INSTIP or local problems that still need to be addressed with new projects. Organizational details for these meetings are listed below:

- (1) The meetings are developed and conducted under the leadership of the INDOT Planning (District and Central Office)
- (2) INDOT conducts an extensive public outreach effort to inform the public of these meetings.
 - (a) The INDOT District Office sends notification of these meetings to local agencies, jurisdictions, organizations, and individuals on its general mailing list.
 - (b) The INDOT District Communications Office sends out press releases to notify the public of these District meetings. These press releases may include information about particular projects in each District, to elicit interest.
 - (c) The INDOT Long Range Plan and the draft INSTIP are posted on the INDOT website, www.in.gov/dot along with the schedule for the District Public Meetings.
 - (d) INDOT prepares a brochure that lists the schedule for the District Public Meetings and makes this available to the public.
- (3) Although each District determines the format for its District Public Meeting, the format typically includes a combination of:
 - (a) An open house session where the public can view displays and talk with INDOT representatives about specific issues and projects
 - (b) A more formal presentation session of the INDOT Statewide Long Range Transportation Plan, the STIP, and the APDP, followed by a comment and question and answer period
 - (c) An opportunity to submit written questions, comments, and requests on comment sheets
 - (d) And if INDOT deems appropriate to hold two sessions during the day.
- (4) Comments from the public and local elected officials are reviewed and addressed by INDOT. In addition, comments are solicited from MPOs regarding any significant changes resulting from these reviews. Any

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program comments received at these meetings are summarized in the final STIP document, which also includes a response to these comments.

- (5) Members of the public who do not attend these meetings can request to review the STIP and provide written public comment. The INDOT Public Hearings Section publishes a record of the District Public Meetings, including copies of the letters of invitation, the mailing lists, a listing of those in attendance at each District meeting, copies of the presentations, and the written comments received by the Hearing Section.
- (6) Each District Office documents the results of the District Public Meeting, including outreach methods, comments received, and follow-up.

Please see the Handbook for how-to suggestions to aid in implementing the Annual District Public Meetings.

c. Optional District Public Involvement Activities

In addition, the District Offices may conduct other public involvement activities including, for example, public opinion surveys, focus groups, and meetings with special interest groups.

2. Statewide Public Involvement Activities

INDOT conducts the following public involvement activities in fulfillment of the intent of 23 U.S.C. 135⁸:

a. Publication and Distribution of Documents

INDOT Planning (District & Central Office) publishes key planning and programming documents. These are sent to the MPOs, regional planning organizations, and the state Library in addition to being made available to the public for review at the District Public Meetings and on INDOT's website www.in.gov/dot. These include:

- (1) INDOT Long Range Plan (the website includes a feedback link to receive comments on the INDOT Long Range Plan).
- (2) INDOT Statewide Transportation Improvement Program (published in July)

b. Optional Statewide Public Involvement Activities

⁸ 23 U.S.C. 135, states that "the State shall provide citizens, affected public agencies, representatives of public transportation employees, freight shippers, private providers of transportation, representatives of users of public transit, representatives of users of pedestrian walkways and bicycle transportation facilities, representatives of the disabled, providers of freight transportation services, and other interested parties with a reasonable opportunity to comment on the proposed [Long-Range Transportation Plan] . . . and the proposed [Statewide Transportation Improvement Program]."

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INDOT conducts other activities, as appropriate and needed, to supplement what is required by law and regulation to obtain input on the INDOT Long Range Plan and the INSTIP. These have included, for example:

(1) Participation at the State Fair

INDOT participates each year at the State Fair, at which INDOT provides maps and such information as the availability of INDOT planning and programming documents, an abstract of the INDOT Long Range Plan, and the dates and locations of the Annual District Public Meetings.

(2) Statewide Transportation Forum

When INDOT is undertaking a major transportation plan update, INDOT may hold a Statewide Transportation Forum to present proposed changes to the INDOT Long Range Plan and solicit public comment.

(3) Presentations to each of the state's MPOs

INDOT meets with each MPO to present the INDOT Long Range Plan and elicit input.

(4) Presentations at the Annual MPO Conference

INDOT may make presentations at the Annual MPO Conference to provide an update on the INDOT Long Range Plan

(5) Road School Participation

INDOT has held sessions during the annual Purdue University Road School to present information on state transportation issues and to elicit the concerns of the professional transportation community within the State by interacting with local, regional, state, and federal transportation officials, consultants, and suppliers

(6) Focus Groups

INDOT may conduct focus groups of urban and/or rural stakeholders to collect information on public perceptions of the Indiana transportation system. In addition, INDOT may conduct focus groups to identify transportation needs and perceptions of how well transportation services are being delivered to minority and low-income groups in order to improve INDOT's ability to include minority and low-income groups in the transportation planning process and decision making on future system improvements.

(7) Indiana Transportation Futures Symposium

INDOT may conduct a Futures Symposium, including participation from elected officials, transportation professionals, academia, and special interest groups

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invited for the occasion. The purpose is to solicit viewpoints and feedback from concerned stakeholders regarding INDOT priorities and policies and the state of transportation facilities in Indiana.

3. Inclusion of Under-Served Individuals and Communities in INDOT Public Involvement for Planning and Programming

INDOT believes that an effective public involvement process should actively seek out and engage those individuals who may otherwise be under-served in the transportation planning, programming, and project development process. Therefore, in keeping with the Americans with Disabilities Act, INDOT holds meetings in locations that are accessible to people who have disabilities. Upon request, INDOT provides assistance in public meetings to individuals who are hearing, or sight-impaired.

In keeping with the Title VI of the Civil Rights Act and the Executive and DOT Orders and FHWA Guidance on Environmental Justice, INDOT proactively reaches out to and solicits input from low-income and/or minority communities.

Please see Section VII for further discussion of INDOT's efforts to include low-income and minority communities and to accommodate persons with disabilities.

D. How INDOT Implements these Requirements – A Summary of What is Required by INDOT during the Planning and Programming Phase

The following table summarizes the public involvement activities required during the planning and programming phase:

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| INDOT Procedure | Public Involvement Activities |
|--|--|
| Update of INDOT Long Range Plan | <ul style="list-style-type: none">▪ Reliance on MPOs' public involvement processes for the MPO TP. TP projects are coordinated with the INDOT Long Range Plan▪ District-wide APDP Early Coordination Meetings▪ District Public Meetings▪ Publication, distribution, and website posting of INDOT Long Range Plan▪ Website feedback link |
| STIP, including draft STIP and amendments to the STIP | <ul style="list-style-type: none">▪ Public participation through appropriate MPO▪ Reliance on MPOs' public involvement processes for the MPO TIP. TIP projects are coordinated with the STIP.▪ District-wide Early Coordination Meetings with affected non-metropolitan local officials with transportation responsibilities.▪ District Public Meetings – presentation of draft STIP for public review and comment▪ Publication of draft STIP and ultimately final STIP▪ Availability of STIP and amendments thereto on INDOT's Website |
| Update of APDP Consultation Process (done every 5 years) | <ul style="list-style-type: none">▪ District Public Meetings▪ Minimum of 60-day public comment period on effectiveness of existing consultation process and proposed modifications |

IV. PUBLIC INVOLVEMENT IN THE PROJECT DEVELOPMENT PROCESS

A. The Project Development Process

The Project Development Process (PDP) is a sequence of decisions which begins with a statement of a transportation problem to be solved and/or need to be addressed and ends with the identification and design of a specific project or solution. INDOT has developed and implemented a PDP process that includes regular communication among technical disciplines, results in quality plans, and minimizes costs overruns during right-of-way acquisition and project construction. Depending on project size, complexity, and/or potential impact to the environment, INDOT transportation projects are categorized as Maintenance, Minor, or Major.

Selection of the appropriate project classification is based on the anticipated level of project development complexity. The project classification identifies the recommended level of analysis, amount of stakeholder involvement and activities performed during each step. The PDP is designed to provide the necessary information to equitably and systematically advance the project in a logical sequence from the end of planning to the beginning of construction. The PDP transportation decision-making approach provides a seamless process from planning through construction and encourages open communication for making informed decisions during all stages of project development. By involving all disciplines at the earliest stages of the process, issues affecting project type, scope, preliminary development, and cost are identified early. See INDOT PDP manual at www.in.gov/dot "Project Development Process".

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As INDOT makes decisions on transportation projects, INDOT must integrate:

- Input from the public,
- Input from local government,
- Input from resource agencies (federal and state agencies which have responsibility for environmental resources, such as water resources, historic resources, air quality, and endangered species), and
- INDOT's own assessment of transportation needs, cost, funding availability, and engineering constraints.

No one entity drives transportation decision making. Rather, the interests and needs of each (within the bounds of regulatory mandates), must be considered along with the interests and needs of the others.

The National Environmental Policy Act (NEPA), enacted in 1969⁹, requires that any activity or project (including transportation projects) receiving Federal funding or other Federal approvals undergo full consideration of potential social, economic, and environmental impacts to arrive at a decision on a specific project or action. The NEPA process involves striking a balance among many different factors – mobility needs, freight movement, economic prosperity, health and environmental protection, community and neighborhood preservation, and quality of life for present and future generations. NEPA requires that Federal agencies disclose the results of their analysis and the effects of project implementation on the environment and solicit comments on the proposals from interested and affected parties. During the NEPA environmental process, projects undergo preliminary engineering to enable INDOT to define a project sufficiently to conduct the needed environmental analysis. Projects proceed to final design only after the NEPA document has been completed and a decision has been made. Implementation of NEPA is defined by the Regulations of the Council on Environmental Quality for Implementation of NEPA¹⁰. INDOT has developed a Procedural Manual for Preparing Environmental Documents. Visit INDOT's Office of Environmental Services at www.in.gov/dot for more information.

In addition to undergoing analysis through the NEPA process, projects must meet any related permitting requirements. The Waterways Permits Manual may be found at www.in.gov/dot.

⁹ <http://ceq.eh.doe.gov/nepa/regs/nepa/nepaegia.htm> and <http://www.environment.fhwa.dot.gov/projdev/index.asp>

¹⁰ The Council on Environmental Quality (CEQ) was established by Congress within the Executive Office of the President as part of NEPA. CEQ coordinates federal environmental efforts and works closely with agencies and other White House offices in the development of environmental policies and initiatives. CEQ reports annually to the President on the state of the environment; oversees federal agency implementation of the environmental impact assessment process; and acts as a referee when agencies disagree over the adequacy of such assessments. The CEQ Regulations are found at 40 CFR 1500-1508, and the FHWA Policies and Procedures for Implementing NEPA are found at 23 CFR 771.

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There are three types of environmental classifications under NEPA, plus an additional classification established by INDOT, and each is accompanied by its own public involvement requirements.

Categorical Exclusions (CEs) include projects which individually or cumulatively produce no significant adverse impacts on the human or natural environment. CEs are typically "simple" projects which have limited scope and one feasible alternative. CEs are generally used for such projects as resurfacing, restoration, and safety projects, and rehabilitation or reconstruction of existing bridges or other infrastructure. Most of INDOT's projects fall under the CE classification. Following the preparation of the CE environmental document, the project may proceed to its next steps in implementation, such as final design, right-of-way acquisition, and construction. See INDOT's CE Manual at www.in.gov/dot for more information.

Environmental Assessments (EAs) include actions in which the significance of the impact on the environment is not clearly established. If there is uncertainty about whether the project will have significant impacts, an EA is prepared, with some analysis to determine whether the project has significant impacts. If the answer is "Yes," then a full Environmental Impact Statement (EIS) is prepared (see below). If the answer is "No," then this decision is formally documented by FHWA with a Finding of No Significant Impacts (FONSI), and the project may proceed to its next steps in implementation, such as final design, right-of-way acquisition, and construction. Major reconstruction and/or minor roadway relocation projects generally fall into this category. See INDOT's Procedural Manual for Preparing Environmental Documents at www.in.gov/dot for more information.

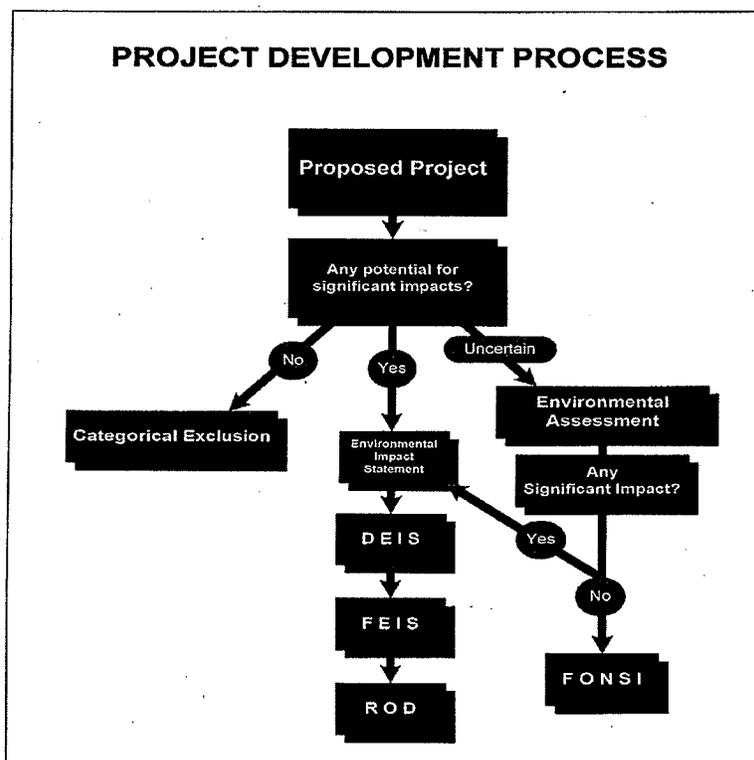
Environmental Impact Statements (EISs) are prepared for large-scale projects involving major expansion or new location construction where it is likely that the project will have significant environmental impacts.¹¹ The EIS entails a study to set forth the Purpose and Need of a project, identify a range of alternatives to address the transportation need(s) in a given study area, and analyze the social, economic, and environmental impacts of the alternatives. A Draft EIS (DEIS) is circulated for comment to the public and to relevant public agencies. This document provides a full description of the proposed project and the existing environment and an analysis of the anticipated beneficial and adverse effects of all reasonable alternatives. Following consideration of comments, a Final EIS (FEIS) is prepared. A Record of Decision (ROD) indicates the alternative selected for the project, including any required mitigation measures. Following the approval of the ROD by FHWA, the project may proceed to its next steps in implementation, such as final design, right-of-way acquisition, and construction. See INDOT's Procedural Manual for Preparing Environmental Documents at www.in.gov/dot for more information.

¹¹ 40 CFR 1502.1 states, "The primary purpose of an environmental impact statement is to serve as an action-forcing device to insure that the policies and goals defined in the Act [NEPA] are infused into the ongoing programs and actions of the Federal Government. It shall provide full and fair discussion of significant environmental impacts and shall inform decisionmakers and the public of the reasonable alternatives which would avoid or minimize adverse impacts or enhance the quality of the human environment."

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In addition, INDOT in cooperation with FHWA has developed an Environmental Streamlining Procedure which provides for planning studies at the corridor level to be conducted as environmental assessments under the NEPA process. These are called *Environmental Assessments/Corridor Studies* (EA/Corridor Studies). INDOT conducts EA/Corridor Studies to assess broad environmental implications of meeting transportation needs on a conceptual level in a corridor to be included in the INDOT Long Range Plan. An EA/Corridor Study identifies potential projects within a particular corridor, including projects of independent utility, NEPA document classification for each project, and a general timeframe for each project. EA/Corridor Studies follow the EIS procedures up through preliminary alternatives screening, after which INDOT and FHWA may decide to conclude the NEPA process with a CE, EA, or EIS on one or more individual projects in the corridor.

The diagram below shows the three levels of analysis in the NEPA process.



B. Requirements by Federal Law, Regulation, and INDOT Policy for Public Involvement in the Project Development Process

The Council on Environmental Quality (CEQ) Regulations require that agencies “make diligent effort to involve the public in preparing and implementing their NEPA procedures” and “provide public notice of NEPA-related hearings, public meetings, and the availability

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of environmental documents so as to inform those persons and agencies who may be interested or affected.¹²

The level of public involvement depends, to some degree, on the classification for level of analysis (CE, EA, or EIS).

23 FR 771.111 states:

Early coordination with appropriate agencies and the public aids in determining the type of environmental document an action requires, the scope of the document, the level of analysis, and related environmental requirements. This involves the exchange of information from the inception of a proposal for action to preparation of the environmental document.... State public involvement/public hearing procedures must provide for: (i) Coordination of public involvement activities and public hearings with the entire NEPA process, (ii) Early and continuing opportunities during project development for the public to be involved in the identification of social, economic, and environmental impacts, as well as impacts associated with relocation of individuals, groups, or institutions.

The FHWA Environmental Policy Statement of 1994 states that:

The term "environment" ... includes the natural environment, the built environment, the cultural and social fabric of our country and our neighborhoods, and the quality of life of the people who live here. This quality of life is enhanced not only by economic security and ample natural resources, but by enduring community values and thriving neighborhoods where all citizens have access to safe, comfortable, and efficient transportation.

INDOT's public involvement procedures are designed not only to fulfill the letter of the law, but to fulfill the law's intent by communicating with the public to help INDOT assess impacts to the natural and human environment.

C. How INDOT Implements these Public Involvement Requirements during Project Development

This section describes the public involvement activities that are undertaken during the Project Development Process and identifies which of these activities are required for projects that are classified as a CE, EA, or EIS. Sub-sections related to public involvement during project development describe more specifically how and when these activities are differently used for CEs, EAs, and EISs.

Federal law and regulations provide very limited prescription on how to implement the exchange of information and early and continuing opportunities during project development for the public to be involved. INDOT is committed to providing meaningful opportunities for the public to become informed about and contribute its concerns and ideas to transportation project development. INDOT believes that the public should always be informed about INDOT projects at a level consistent with the project scope. Even limited

¹² 40 CFR 1506.6(a) and (b)

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public involvement may uncover unanticipated issues important to the community or individuals, allowing for appropriate adjustments. Therefore, INDOT has established certain procedures as tools to enhance public involvement. Regardless of the classification of a project as a CE, EA, or EIS, INDOT will meet the following requirements:

1. Preparation of a Public Involvement Plan (PIP) (required for all projects)

Projects that move from planning and program development into project development vary in terms of scope, cost, environmental issues, and public interest. An up-front assessment must be made of every project to consider what is the appropriate level of effort INDOT should make to inform the public and elicit public input. A PIP will be prepared on every project at the beginning of the project development process. The purpose of the PIP is to ensure that an appropriate level of public involvement is conducted, commensurate with the nature of the project. The plan will identify:

- a. The problem(s) with the existing transportation system that is being evaluated for potential improvements, including its geographic location
- b. Potentially affected members of the public, and, if needed,
- c. The methodologies or techniques that will be used to inform the public and elicit input.

The PIP may be short and simple for routine projects (such as road resurfacing) or may be detailed and extensive for complex or large-scale projects (such as projects that involve significant potential social, economic, or environmental impacts or are known to be controversial). Simple PIPs may be based on a minimum default template that applies to a set of similar projects. Whether simple or extensive, the PIP provides a means for INDOT staff to reflect on whether a project will be of concern to the public, what the public needs to know about a project, how best to inform them, and how best to elicit public input if needed.

2. Community Advisory Committees (CAC) (required for all EISs, varies for EAs)

A CAC is a group of representatives of various community organizations (public and private) that are convened by INDOT, or its agents, at the outset of the NEPA process for periodic meetings throughout the NEPA process to discuss issues and concerns related to proposed transportation projects. INDOT and FHWA meet routinely to discuss when a CAC is appropriate for any given EA. It is through this consultation process that INDOT and FHWA decide whether to require a CAC or perhaps not to require one. In any event, this consultation process alone will determine which EAs require the implementation of a CAC. Members of the CAC serve as liaisons to their respective groups/organizations and the community at large. The purpose of the CAC is to assist INDOT and its partners by providing input on issues related to the environmental evaluation. Following the completion of the environmental document, the CAC may continue to provide input during the design, construction, and

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operations phases of the project. In particular, the CAC may assist INDOT in the development of Context Sensitive Solutions.¹³

3. Public Information Meetings (varies for EAs, varies for CEs; required for EISs)

Public information meetings are meetings where the public may hear and obtain information about a proposed project, raise questions, and talk with project staff about their needs, concerns, and ideas. INDOT policy sets the expectation that for EAs, a public information meeting may be held early in the NEPA process and again during the design phase. Other public information meetings may be held, as needed. As per SAFETEA-LU for EIS level projects, public involvement is required on the Purpose & Need and Preliminary Alternatives Screening. In addition, INDOT and FHWA will consult to determine which EAs require public information meetings to be held during the Purpose and Need, and Alternatives Screening phases of NEPA. The focus of the first meeting is to obtain public views regarding the problem that needs to be addressed and the conceptual solution that need to be considered. The focus of the second meeting is to seek public comment on the preliminary alternatives screening, reasonable alternatives to be carried forward for detailed analysis, and the associated analysis methodologies. Public information meeting(s) may also be held during final design to obtain public input regarding noise walls and the proposed design. INDOT conducts outreach for these meetings by sending a notice to potentially affected property owners, other identified interest groups, and elected officials and by issuing a media release.

4. Public Hearings (Required for all EISs and EAs. *An Opportunity to Request a Public Hearing* is required for CEs if certain conditions are met)

A public hearing is a meeting held at a convenient time and place at which the public can learn about a proposed INDOT project and make comments which will be included in a transcript of the meeting. For EAs, INDOT holds public hearings generally near the end of the environmental evaluation. For EIS level projects, the public hearing is held after publication of the Draft EIS and prior to preparation of the Final EIS.

Per the *Programmatic Agreement Regarding Management and Preservation of Indiana's Historic Bridges* (Historic Bridges PA), owners of historic bridges will hold a public hearing prior to completion of NEPA. The Historic Bridges PA can be found in Appendix T of the Cultural Resources Manual at <http://www.state.in.us/dot/div/pubs/CulturalResourcesManual.pdf>.

For CEs (not involving a historic bridge), INDOT offers the opportunity to request a public hearing, prior to the completion of NEPA, when the project meets any of the conditions listed below.¹⁴

¹³ INDOT has adopted a policy to promote Context Sensitive Solutions that incorporate a community's character and desires in transportation improvements. The context sensitive solution process is intended to be a flexible approach in allowing the latitude to enhance environmental, scenic, historic, and unique community elements in a transportation improvement. INDOT seeks input to the development of context sensitive solutions not only in the development of alternatives, but also in the development of strategies to mitigate impacts and in design to help the project be compatible with and beneficial to its surroundings.

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- a. The proposal requires significant amounts [interpreted by INDOT to be more than one-half acre] of permanent right-of-way (r/w). *(Note: Any proposal resulting in the increase in right-of-way due to the factors listed below would be exempt from this requirement).*
 - (1) *The proposal does not involve NEW r/w impacts but rather reacquiring past prescriptions (i.e. existing or apparent existing r/w)*
 - (2) *The proposal involves the acquisition of donated r/w from property owner*
 - (3) *Acquiring r/w presently within INDOT apparent r/w to establish legal documented ownership*
 - (4) *Additional R/W needed for mitigation purposes, for projects where original R/W impacts as described in the environmental document were less than 0.5 acre*
- b. The proposal substantially changes the layout or functions of connecting roadways or the facility being improved.
- c. The proposal may have a substantial adverse impact on abutting property.
- d. The proposal may have a significant social, economic, environmental or other effect.
- e. The proposal is determined by the Federal Highway Administration to warrant a public hearing in the public's interest.
- f. The proposal is for a plan for the location of a Federal-aid highway project involving the bypassing of, or going through, any city, town, or village either incorporated or unincorporated or the proposal is for an Interstate System project ¹⁵.

**A change in project scope may require additional formal public involvement..*

Please see Section VI, "Requirements related to Conducting Public Hearings" and the Handbook for guidance on conducting public hearings.

5. Public Notices of proposed action or projects

The INDOT Public Hearings Section publishes a variety of notices in local newspapers and may mail these notices to one or more mailing lists, depending on the type of notice (see below) to inform the public of specific actions or information

¹⁴ 23 CFR 771.111(h)(2)(iii) states, "State public involvement procedures...must provide for...One or more public hearings or the opportunity for hearing(s) to be held by the State highway agency at a convenient time and place for any Federal-aid projects which requires significant amounts of right-of-way, substantially changes the layout or functions of connecting roadways or of the facility being improved, has a substantial adverse impact on abutting property, otherwise has a significant social, economic, environmental or other effect, or for which the FHWA determines that a public hearing is in the public interest".

¹⁵ 23 U.S.C. 128(a) states, "Any State transportation department which submits plans for a Federal-aid highway project involving the bypassing of, or going through, any city, town, or village, either incorporated or unincorporated, shall certify...that it has had public hearings, or has afforded the opportunity for such hearings...."

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related to transportation projects. INDOT maintains a statewide mailing list of people who have expressed an interest in receiving periodic information and routinely sends copies of legal advertisements to such people. For some projects, INDOT develops a project-based mailing list of individuals and groups who have expressed interest in or may be affected by the particular project. Depending on the NEPA documentation, the notices may include:

- a. Notice of Planned Improvement (required for CEs that meet the conditions which trigger the offer of a public hearing, listed above). This notice informs the public that INDOT is deciding upon a proposed project; provides a description, type, and scope of the project; requests comments; and offers the public the opportunity to request a public hearing. **A minimum 15 day deadline** in which the public may request a public hearing be held is announced within the public notice. This notice is mailed to adjacent property owners and is published in local newspaper(s). **Public notice must be published 2 times (at minimum) in the most widely circulated papers within the project area.** A public hearing for a CE may be held at INDOT's discretion if the project meets the minimum criteria. Should INDOT elect to offer the opportunity to request a public hearing, comments and concerns from the public will be addressed individually and documented in the project file prior to the certification of public involvement requirements for the project. **INDOT typically allows a minimum 30-day period** after the publishing legal notice to complete this process and to allow INDOT the opportunity to contact property owners, project stakeholders, etc to adequately address concerns and document the public involvement process. The Notice of Planned Improvement, and the associated Public Hearing (if required), must be completed prior to approval of the CE.
- b. Notice of Intent to Initiate an Environmental Impact Statement (NOI) (applicable to and required for EISs only). This is published by FHWA in the Federal Register and serves as the official start of an EIS.
- c. Notice of Public Hearing, including announcement of the availability of the environmental document (required for EISs). This notice is issued for an EA after FHWA approval of the EA, but prior to completion of the FONSI. The notice is issued for an EIS in conjunction with the release to the public of the DEIS. The notice announces the availability of the EA or the DEIS and must be **published 15 days in advance of the public hearing at a minimum; public notice must be published 2 times (at minimum) in the most widely circulated papers within the project area;** identifies where people can view the document (such as public repositories like libraries, public offices, and INDOT District Offices near the project area, and the INDOT website (for EISs and some EAs); **and announces a comment period (a minimum of 30 days for an EA and not less than 45 days for a DEIS).** The notice is mailed to adjacent property owners and the project mailing list and published in local newspaper(s).
- d. Notice Soliciting Comments on Historic Impacts (Section 106 of the National Historic Preservation Act) Per the *INDOT Cultural Resources Manual* and the *Programmatic Agreement regarding the Federal Aid Highway Program in Indiana* (Minor Projects PA), Section 106 public notices are required for

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all projects other than those listed in Appendices A and B of the Minor Projects PA. This notice describes a proposed project, and seeks public comment regarding the presence of historic resources and potential effects to historic resources. This notice is issued during development of a CE, EA, or EIS document and is published in local newspaper(s) by the project sponsor or their consultant.

- e. Notice of Section 4(f) De Minimis. The NEPA public involvement process can be used to satisfy these public participation requirements, since 4(f) *de minimis* determinations are usually conducted as part of the NEPA process.
- f. Notice of Project Level Conformity Determination associated with PM 2.5 & PM 10 Hot-Spot Analysis. The NEPA public involvement process can be used to satisfy these public participation requirements, since project-level conformity determinations are usually conducted as part of the NEPA process. If a project-level conformity determination that includes an associated hot-spot analysis is done after NEPA is completed, a public comment period is also to be provided.
- g. Notice Issued when the Final Environmental Impact Statement is Completed (required for EISs). This notice is an announcement that the FEIS is approved and available for viewing at public repositories, such as libraries, public offices, and appropriate INDOT District Office(s) and on the INDOT website. **Public notice must be published 2 times (at minimum) in the most widely circulated papers within the project area. There is a 30-day period following the publication of the final EIS notice in the Federal Register.** This notice is mailed to the project mailing list.
- h. Notice Issued when a Finding of No Significant Impacts is Issued (required for EAs). Following the public comment period for the EA and project decision by FHWA, a one-page notice of the FONSI is issued by INDOT on behalf of FHWA. **Public notice must be published 2 times (at minimum) in the most widely circulated paper within the project area; the notice of the FONSI does not require a comment period.** This is mailed to adjacent property owners and the project mailing list and is published in local newspaper(s).
- i. Notice Issued when a Record of Decision is Issued (required for EISs). Following the FEIS and a project decision by FHWA, a one-page notice of the ROD is issued by INDOT on behalf of FHWA. **This is mailed to adjacent property owners and the project mailing list and published 2 times (at minimum) in the most widely circulated papers within the project area; the ROD notice does not require a comment period.**
- j. Notice of Additional Information to an Approved Environmental Document **INDOT will consult with FHWA regarding the scope of the Additional Information and the need for public notice for EISs, EAs, and FHWA approved CEs.** INDOT has the authority to determine the scope of re-evaluation and the need for public notice for categorical exclusions that have been delegated to INDOT for approval. Following consultation with FHWA and if determined necessary, a notice is issued when there have been substantive changes to an earlier approved environmental document to let the public know about the changes, inform the public where they can

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view the modified document, and invite comments during a comment period of at least 15 days. At INDOT's discretion, a notice is mailed to adjacent property owners and the project mailing list and is published in local newspaper(s) or other project correspondence (i.e. a project newsletter) may be mailed to project stakeholders.

- k. Notice of Proposed Design and Noise Study Information Meeting (required for CE's when a public hearing was held, and for EAs and EISs) INDOT will hold a public information meeting to provide citizens information on the proposed design, right-of-way acquisition requirements, and if applicable, the reasonableness of noise abatement measures. Public Information Meetings do not require the published legal notice however, reasonable measures should be taken to notify affected/impacted project stakeholders of this meeting and to solicit their input (i.e. project post cards, newsletters, website, media advisory)
- l. Notice of Final Plans and Construction Sequencing Information Meeting (required for EISs and optional for EAs) – The Project Manager will work jointly with the INDOT Public Hearings Office to host a public information meeting to inform the public of the final configuration and the proposed sequencing of the project construction. Public Information Meetings do not require the published legal notice however, reasonable measures should be taken to notify affected/impacted project stakeholders of this meeting and to solicit their input (i.e. project post cards, newsletters, website, media advisory)
- m. FHWA Statute of Limitation Notice (optional for all Federal Actions) – FHWA may chose to publish a 180-day statute of limitations (SOL) on claims against USDOT and other Federal agencies for certain environmental and other approval actions. The SOL established by SAFETEA-LU applies to a permit, license, or approval action. This is published by FHWA in the Federal Register.

INDOT's Public Hearings Section or the project sponsor publishes these notices in several area newspapers (unless otherwise noted above), with particular emphasis on non-traditional periodicals in addition to widely circulated newspapers. Depending on what particular phase the project is in, the notices described above may serve multiple functions. For instance the "Notice of Public Hearing" issued for an EIS project actually serves as the (1) notice of the hearing, (2) notice of the availability of the DEIS, and (3) the means to solicit comments on historic impacts, as required in Section 106 of the National Historic Preservation Act.

See the Appendices for sample notices.

6. Notice of Survey

INDOT sends a letter to individual property owners to notify them that INDOT staff (or INDOT's contractual representatives) will be present on their property to gather data that is needed for environmental or engineering analysis. This letter includes information about whom to contact at INDOT if the property owner has questions, visit www.in.gov/dot for more information.

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7. Solicitation of Views related to Noise Impacts and Noise Abatement Measures

INDOT strives to understand the needs of residents and businesses that may be impacted by traffic noise. 23 CFR 772.11(f) states:

The views of the impacted residents will be a major consideration in reaching a decision on the reasonableness of abatement measures to be provided.

During final design for projects that involve adverse noise impacts to residents and businesses, special effort is made to solicit the views of residents and businesses who may be impacted by traffic noise, to help INDOT select noise abatement measures and explore specific design strategies. INDOT will invite residents and businesses who may be impacted by noise to public information meetings that are held for this project. INDOT's *Highway Traffic Noise Policy* may be found at www.in.gov/dot. INDOT will conduct one or more activities targeted to these potentially impacted residents and businesses, including such options as:

- a. Mailings to noise-impacted residents and businesses, which may include questionnaires to elicit views regarding noise barriers
- b. Meetings specifically held for residents and businesses which may be impacted by noise. Affected homeowners will also be given an opportunity to comment on the color and texture of the noise barrier once the contract to construct the barrier has been awarded to a contractor.
- c. Interviews with residents and businesses
- d. General public information meetings during the design phase, in which the public may express their views on noise impacts and abatement measures, including barriers, as part of the comment process.

Public input is an important consideration when determining whether noise abatement appropriate for an area. This begins with a survey of property owners to gauge the desire for protection from traffic noise. While owners residences are generally in favor of noise barriers, owners of businesses may prefer visibility from the roadway, or for other reasons may prefer to forgo noise barriers. Input from all affected property owners must be collected and considered when determining the most appropriate solution for the area's needs.

Public hearings/meetings related to noise barriers are also conducted at three stages of project development. The first hearing/meeting is held during the NEPA stage to present preliminary noise impacts and identify suitable areas for abatement. The second is conducted during the design when barrier locations are more fully developed and have taken into account additional detail in areas such as drainage and grade. The third hearing/meeting is conducted after the construction contract has been awarded. At this time adjacent property owners are given an opportunity to comment on color and texture of the wall(s) facing their neighborhood.

8. Notice of Impacts to Historic Properties and Solicitation of Public Views under Section 106 of the National Historic Preservation Act

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Section 106 of the National Historic Preservation Act requires Federal agencies to take into account the effects of their undertakings on historic properties. 36 CFR 800.2(d) states:

The views of the public are essential to informed Federal decisionmaking in the section 106 process. The agency official shall seek and consider the views of the public in a manner that reflects the nature and complexity of the undertaking and its effects on historic properties, the likely interest of the public in the effects on historic properties, confidentiality concerns of private individuals and businesses, and the relationship of the Federal involvement to the undertaking.

INDOT consults with the public to identify historic properties potentially affected by the undertaking; assess the effects of the transportation project on these properties; and seek ways to avoid, minimize or mitigate any adverse effects on historic properties. INDOT uses public information meetings conducted for Environmental Assessments and Environmental Impact Statements, public hearings, and public notice of availability of documents as a means for seeking input from the general public, including input related to historic properties and the application of the Net Benefit or De Minimus 4(f). The NEPA documentation (CE/EA/EIS) summarizes the project's effects on historic properties. The public notice of availability of the NEPA documents specifically requests feedback from the public regarding impacts on historic properties. Comments received from the public are incorporated in the final Section 106 documentation.

In accordance with its Section 106 procedures, INDOT identifies and consults with specific organizations and individuals who have a particular interest in the effects of an undertaking on historic properties (see INDOT's Cultural Resources Manual at <http://www.in.gov/dot/div/pubs/CulturalResourcesManual.pdf>). When INDOT identifies key parties that have a demonstrated interest in the undertaking, INDOT invites their participation as "consulting parties" by sending them a self-addressed postcard which includes a check box where the potential consulting party can check either "we do" or "we do not" agree to be a consulting party. In addition, individuals or groups can request to be consulting parties. INDOT solicits the views of the consulting parties at various stages during environmental evaluation, in order to identify historic properties, potential adverse effects, and mitigation strategies.

9. Inclusion of Under-Served Individuals and Communities in INDOT's Public Involvement Process for Project Development

INDOT believes that an effective public involvement process should actively seek out and engage those individuals who may otherwise be under-served in the transportation planning, programming, and project development process. Therefore, in keeping with the Americans with Disabilities Act, INDOT holds meetings in locations that are accessible to people who have disabilities. Upon request, INDOT provides assistance in public meetings to individuals who are hearing- or sight-impaired or in need of other language translation.

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In keeping with the Title VI of the Civil Rights Act and the Executive and DOT Orders and FHWA Guidance on Environmental Justice, INDOT proactively reaches out to and solicit input from low-income and/or minority communities.

Please see Section VII for further discussion of INDOT's efforts to include low-income and minority populations and to accommodate persons with disabilities.

D. How INDOT Implements these Requirements on Categorical Exclusion (CE) Projects

Required public involvement for a CE includes:

1. Preparation of a Public Involvement Plan (PIP)

INDOT prepares a PIP for CE projects to determine whether any public involvement is needed and, if so, what form the public involvement should take. Many CE projects do not necessitate any public meeting, and the required step of preparing a simple PIP provides the opportunity for an assessment of this need. The PIPs should be commensurate with the level of potential project impacts. The PIP for simple projects or programs may only involve the publication of a notice.

See the Appendices for sample Public Involvement Plans.

2. Notice of Planned Improvement

The requirement for a Notice of Planned Improvement applies only to those CEs which meet the criteria listed in Section IV.C.5, above. Once the documentation for a CE has been signed by INDOT for release to the public, INDOT will publish a Notice of Planned Improvement which offers the public the opportunity to request a public hearing. If INDOT receives a request for a public hearing, INDOT may meet with the individual(s) requesting the hearing to address the persons' issues and then document this action, or may choose to hold a public hearing. After considering any public comments, the CE is revised, as appropriate, then approved. If no public hearing is held and INDOT receives comments in response to the Public Notice of Planned Improvement, INDOT will respond individually to those who provided comments. These comments and INDOT's response are documented in the CE. Final approval of the CE is not granted until the above hearing requirements have been met. **A minimum 15 day deadline** in which the public may request a public hearing be held is announced within the public notice. This notice is mailed to adjacent property owners and is published in local newspaper(s). **Public notice must be published 2 times (at minimum) in the most widely circulated papers within the project area.** A public hearing for a CE may be held at INDOT's discretion if the project meets the minimum criteria. Should INDOT elect to offer the opportunity to request a public hearing, comments and concerns from the public will be addressed individually and documented in the project file prior to the certification of public involvement requirements for the project. **INDOT typically allows a minimum 30-day period** after the publishing legal notice to complete this process and to allow INDOT the opportunity to contact property owners, project stakeholders, etc to

adequately address concerns and document the public involvement process. The Notice of Planned Improvement, and the associated Public Hearing (if required), must be completed prior to approval of the CE.

E. How INDOT Implements these Requirements on Environmental Assessment (EA) Projects

Required public involvement for an EA¹⁶ includes:

1. Preparation of a Public Involvement Plan (PIP)

This PIP will include an identification of the various transportation stakeholders groups including the general public, a set of public involvement activities, and a timeline for accomplishing the project. INDOT and FHWA consultation will determine the appropriate level of public involvement for EA's particularly at Purpose and Need and Alternatives Screening stages. The results of this consultation will be reflected in PIP.

2. Formation of a Community Advisory Committee (CAC)

INDOT will consult with FHWA prior to development of the PIP to establish consensus regarding the need for a CAC for a given EA. The purpose of the CAC on an EA is to assist INDOT by providing input on the nature and extent of potential environmental impacts. Following the completion of the EA and a Finding of No Significant Impacts (FONSI), the CAC may continue to provide input during the design, construction, and operations phases. In particular, the CAC may assist INDOT in the development of Context Sensitive Solutions. If the EA results in initiation of an EIS, the CAC will continue to serve as the CAC for the EIS.

3. Public Information Meetings

INDOT will consult with FHWA prior to development of the PIP to establish consensus regarding the need for public information and agency meeting(s) regarding Purpose and Need/Conceptual Solutions and Preliminary Alternatives Screening for a given EA. The focus of these meetings is to obtain public and agency views on what the problem is that should be addressed, what alternatives should be considered, what analysis methodologies should be utilized, and what are the nature and anticipated extent of impacts. Public Information Meetings do not require the published legal notice however, reasonable measures should be taken to notify affected/impacted project stakeholders of this meeting and to solicit their input (i.e. project post cards, newsletters, website, media advisory)

In addition, during the design phase, INDOT holds a public information meeting to obtain public input on design considerations, such as noise barriers.

4. Public Hearing

¹⁶ 23 CFR 771.119 includes the FHWA requirements for public involvement on an EA, which are incorporated in this section.

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A *Public Hearing* will be held for all EAs see (Section IV.C.4). The public hearing is held prior to FHWA making any determination of a Finding of No Significant Impact (FONSI). INDOT holds the hearing at a convenient time and place.

5. Public Notice of the Availability of the Environmental Assessment

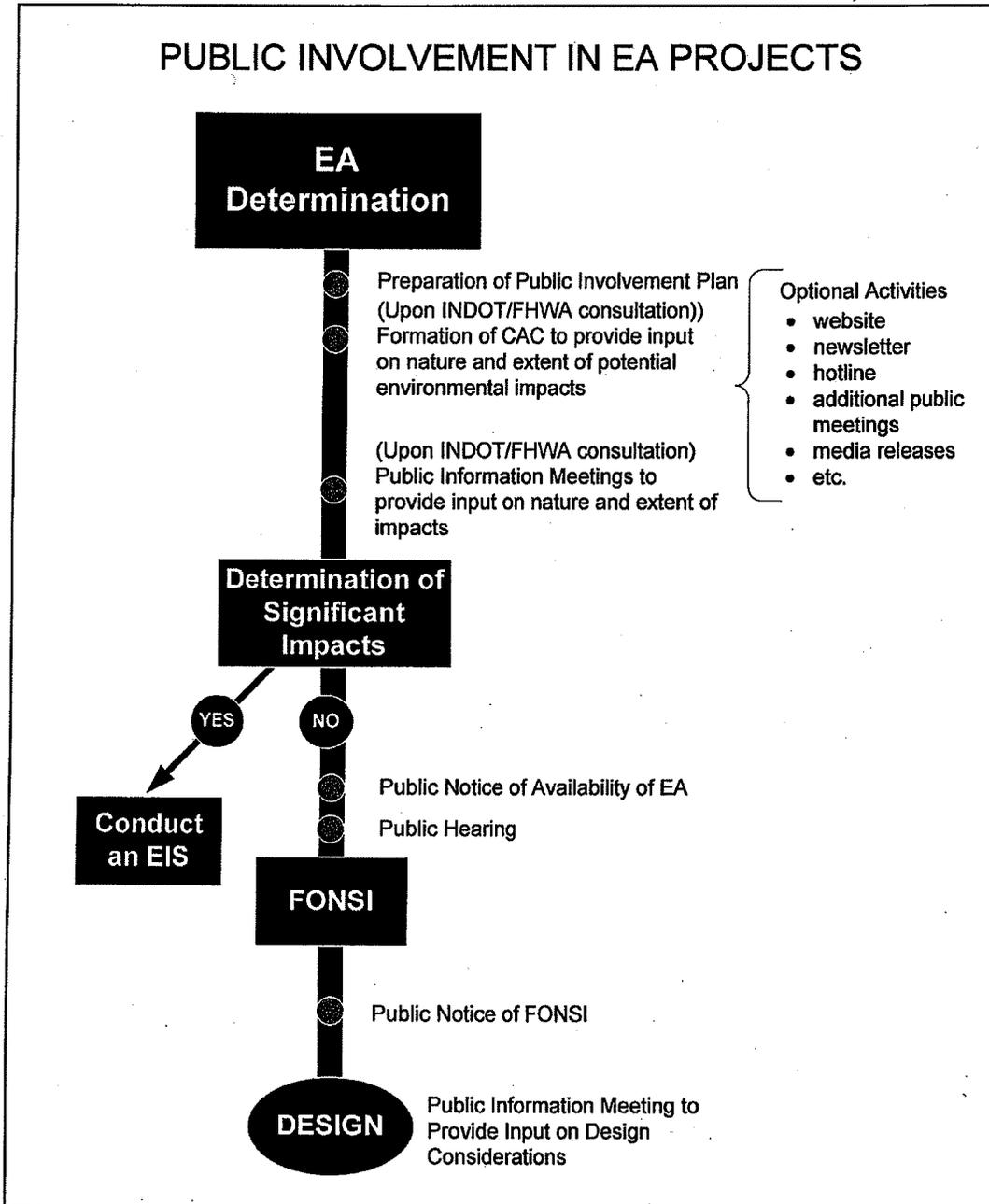
INDOT will issue a notice to advise the public of the availability of the EA, including information about where the public may obtain or read a copy and where information concerning the action may be obtained. The notice also serves as a notice of the public hearing and invites comments from all interested parties. Comments shall be submitted in writing to INDOT (or their consultant) within 30 days of the publication of the notice.

The EA shall be available to the public for a minimum of 15 days in advance of the public hearing and shall be available at the public hearing. The deadline for receiving public comments must provide a minimum of 30 days for public review.

6. Public Notice of a FONSI for an Action

INDOT will issue a public notice announcing the Finding of No Significant Impact (FONSI) decision and the availability of the FONSI document.

INDOT frequently chooses to supplement the required public involvement activities for EAs by holding additional public information meetings and by conducting public information dissemination through mailing lists, newsletters, and postings on its website www.in.gov/dot.



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F. How INDOT Implements these Requirements on Environmental Impact Statement Projects (EIS) and Environmental Assessment (EA) / Corridor Study Projects

EISs and EA/Corridor Studies constitute a very small number of projects, but due to their complexity and potential impact on the human and natural environment, they typically will entail the largest public involvement effort. Public involvement for an EA/Corridor Study generally parallels that for an EIS, up through the preliminary alternatives screening phase.

Required public involvement for an EIS or EA/Corridor Study includes:

1. Preparation of a Public Involvement Plan (PIP)

This PIP will include a comprehensive identification of the various stakeholders, a set of public involvement activities, and a timeline for accomplishing the project. For EISs, Federal law requires a Coordination Plan for public and agency participation and comment. It must be established early in the environmental review process. The PIP for an EIS is part of the public and agency Coordination Plan. INDOT will consult with FHWA to establish consensus regarding the application of these requirements to a given EA/Corridor Study.

2. Federal Notice of Intent to initiate an Environmental Impact Statement (EIS only)

At the outset of the NEPA process and preceding Scoping, FHWA publishes in the Federal Register a Notice of Intent to initiate an Environmental Impact Statement. This notice is commonly referred to as an "NOI" and officially starts the EIS process. An NOI is typically not issued for an EA/Corridor Study. *See Appendices for sample NOI.*

3. Formation of a Community Advisory Committee (CAC)

In keeping with INDOT policy, INDOT convenes a CAC at a project's Scoping Phase. The CAC, in conjunction with an early Public Information Meeting, is INDOT's chosen means of complying with the intent of 40 CFR 1501.7, which states that scoping shall be used to provide "an early and open process for determining the significant issues related to a proposed action." For an EIS, the CAC provides input to INDOT and FHWA on:

- Scoping
- Purpose and Need
- Identification of preliminary alternatives
- Analysis methodologies
- Alternative analysis and screening
- Selection of preferred alternative
- Mitigation

For an EA/Corridor Study, the CAC provides input to INDOT and FHWA on:

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- Scoping
- Purpose and Need
- Identification of preliminary alternatives
- Analysis methodologies
- Alternative analysis and screening

A CAC meeting is held following release of the DEIS and prior to the public hearing. Following completion of the EIS, the CAC may continue to provide input through the design, construction, and operations phases. In particular, the CAC may assist INDOT in developing Context Sensitive Solutions.

4. Public Information Meetings

INDOT policy and Federal law require that Public Information Meetings will be held during an EIS and EA/Corridor Study at key decision points, including:

- Draft Purpose and Need
- Draft Preliminary Alternatives Screening

INDOT may hold additional public meetings during the environmental review process. INDOT conducts outreach for these meetings by sending an invitation to affected property owners, other identified interest groups, and elected officials and by issuing a media release. See *Appendices for a sample media release and a sample invitation to a public information meeting.*

In addition, following the Record of Decision (ROD), INDOT may hold additional public information meetings during the final design phase to obtain public input on design considerations.

5. Draft EIS Availability Prior to a Public Hearing

INDOT publishes notices in appropriate newspapers, announcing the availability of the Draft EIS (DEIS) and announcing the public hearing. INDOT must provide a minimum of 15 days public notice before holding a public hearing. INDOT mails this notice to the statewide mailing list, the project mailing list, and adjacent property owners.

Also, the U.S. Environmental Protection Agency (EPA) publishes a notice in the Federal Register announcing the availability of the DEIS for public review and comment.

The DEIS is transmitted to any persons, organizations, or agencies that request a copy (typically in CD-ROM format). A hardcopy is made available for public review at INDOT offices and appropriate public institutions, such as local government offices, libraries, and schools.

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6. Public Hearing

INDOT is required to hold a public hearing on all EIS projects during the circulation period of the Draft EIS. The public may submit comments orally or in writing at the public hearing. *Please see Section VI for requirements related to Public Hearings, and please see the Handbook for more information on how to hold and provide public notice for Public Hearings.*

7. Public Comments on the DEIS

The public is encouraged to comment on the DEIS. Federal law establishes a maximum public comment period of 60 days starting from the date of EPA's Notice of Availability of the DEIS in the Federal Register to encourage timely project development. The Public Hearing notice and the DEIS transmittal letter identify where comments should be sent. INDOT compiles a transcript that includes all verbal and written comments received on the DEIS. This transcript is available to anyone who wishes to review it. All substantive comments submitted to INDOT are addressed in the Final EIS (FEIS). As appropriate, the project may be modified based on these comments.

8. FEIS Availability

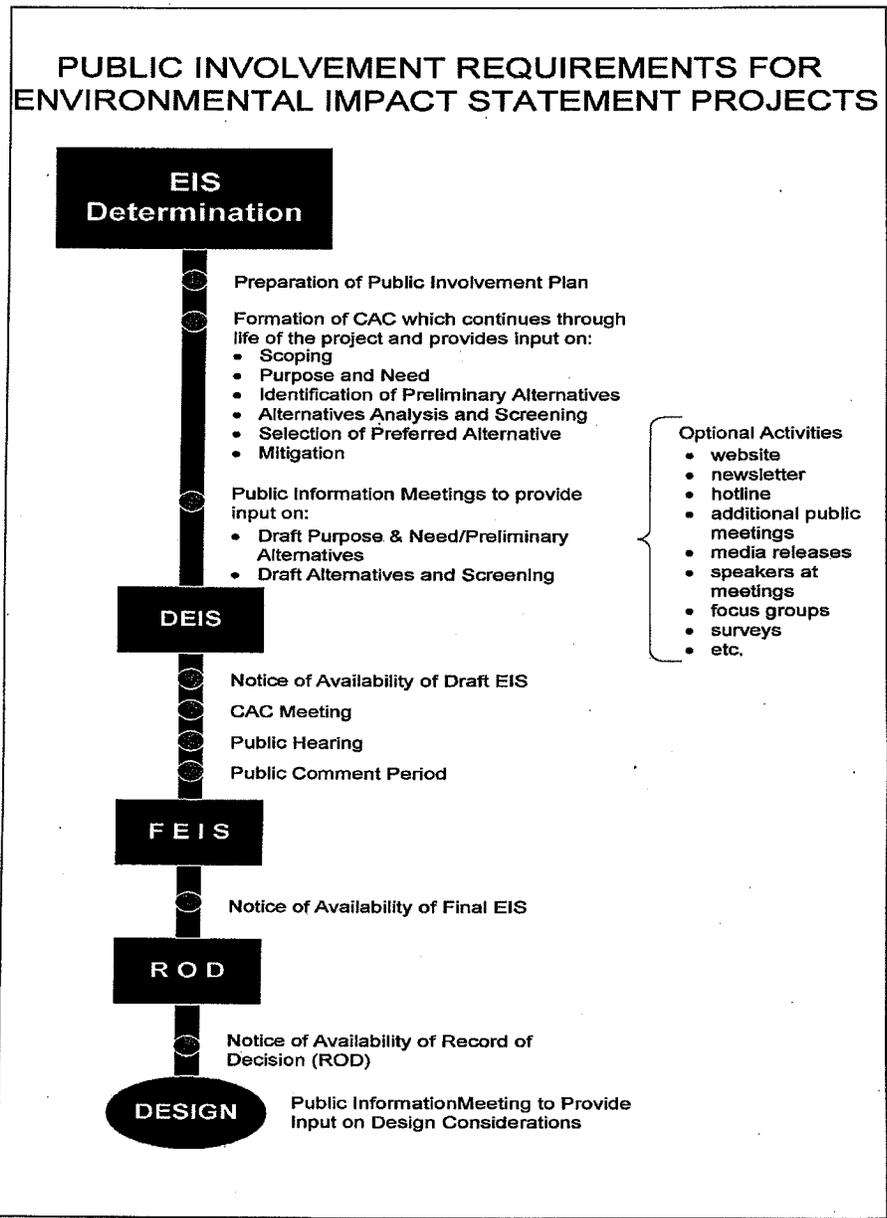
INDOT publishes a notice in appropriate newspapers, announcing the availability of the FEIS. The EPA also publishes a notice in the Federal Register announcing the availability of the FEIS.

The FEIS is transmitted to any persons, organizations, or agencies that request a copy (typically in CD-ROM format). A hardcopy is made available for public review at INDOT offices and appropriate public institutions, such as local government offices, libraries, and schools. The FEIS is also sent to those who submitted substantive comments on the DEIS.

9. Notice of Record of Decision (ROD)

Once a Record of Decision is signed by FHWA, INDOT will publish a public notice in appropriate newspapers announcing the availability of the ROD and will place the notice of its availability on the project website or send a copy of the ROD (usually by CD-ROM, upon request). Those on the project mailing list will also be notified of the decision and where the ROD may be obtained.

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G. How INDOT Implements these Requirements – A Summary of What is Required by INDOT during the Project Development Phase

The following table summarizes the public involvement activities required and suggested during the project development phase:

**PUBLIC INVOLVEMENT ACTIVITIES REQUIRED
 BY FEDERAL LAW AND REGULATIONS OR BY INDOT POLICY**

| Public Involvement Activity | NEPA Project Classification | | | |
|--|---|--|--|--|
| | Categorical Exclusion/ Simple Projects | Environmental Assessments | Environmental Impact Statements | Environmental Assessment/ Corridor Studies |
| Notice of Survey | If applicable (if project requires entry onto property) | If applicable (if project requires entry onto property) | If applicable (if project requires entry onto property) | If applicable (if project requires entry onto property) |
| Public Involvement Plan | Yes, at least using a simple default template | Yes, preparing a customized plan | Yes, preparing a customized and comprehensive plan | Yes, preparing a customized and comprehensive plan |
| FHWA Notice of Intent to Initiate an EIS, in Federal Register | Not applicable | Not applicable | Yes | Not applicable |
| Community Advisory Committee | Not required | To be determined early in the environmental process by INDOT and FHWA consultation | Yes, beginning at NEPA Scoping | Yes, beginning at NEPA Scoping |
| Public Information Meetings | Optional | To be determined early in the EA process and also during design phase. INDOT and FHWA consultation determine when appropriate | Yes, early in the EIS process, for input on draft Purpose and Need/Conceptual Solutions and Preliminary Alternatives Screening Yes, during design | Yes, early in the EA/Corridor Study process, for input on draft Purpose and Need/Conceptual Solutions and Preliminary Alternatives Screening |
| Notice of Opportunity to Request a Public Hearing (notice of planned improvement) and Notice of Availability of Environmental Document | Yes, if criteria listed in Section IV.C.4. are present; Yes, if criteria is met. 15 day minimum to request hearing; 2 publishing dates. | A public hearing and Notice of Availability of Environmental Document are required. 15 days advanced notice of hearing; at least 2 publishing dates; | A public hearing and Notice of Availability of Environmental Document are required. 15 days advanced notice of hearing; at least 2 publishing dates; | Not applicable as the projects of independent utility coming out of the study will follow applicable procedures. |

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| Public Involvement Activity | NEPA Project Classification | | | |
|---|--|--|--|--|
| | Categorical Exclusion/ Simple Projects | Environmental Assessments | Environmental Impact Statements | Environmental Assessment/ Corridor Studies |
| Public hearing, including Notice of Hearing and Notice of Availability of Environmental Document | Yes, if offered and then requested by the public (unless INDOT satisfies the requester through other means). Must be prior to CE approval. | Yes, after draft EA document is developed, but prior to FONSI determination. | Yes, after DEIS has been released for public comment | Not applicable as the projects of independent utility coming out of the study will follow applicable procedures. |
| Public Comment Periods (Note: public comment period begins on the date the 1 st legal ad is published) | A minimum 15 day deadline in which to request a public hearing; minimum 30 days to address issues. | Minimum of 30 days during public hearing process. No required comment period following FONSI. | Following the release of the DEIS – not less than 45 day comment period. Following the release of the FEIS - 30 day availability period. | Not applicable |
| Agency List Serve; INDOT uses tool to notify subscribers of upcoming public involvement events. Media Advisory and/or Press Releases are encouraged | Notification per agency list serve is optional. Media advisories / press releases originate from INDOT District Offices. | Notification per agency list serve is optional. Media advisories / press releases originate from INDOT District Offices. | Notification per agency list serve is optional. Media advisories / press releases originate from INDOT District Offices. | Notification per agency list serve is optional. Media advisories / press releases originate from INDOT District Offices. |
| Notice Soliciting Comments on Historic Impacts | Yes, except for "minor projects" exempted under the Minor Projects PA | Yes, except for "minor projects" exempted under the Minor Projects PA | Yes | Yes |
| Notice Issued when the Final Environmental Impact Statement is Completed | Not applicable | Not applicable | Yes | Not applicable |
| Notice Issued when a ROD or FONSI is Issued | Not applicable | Yes, when FONSI is issued | Yes, when ROD is issued | Not applicable |
| Notice of Additional Information to an Approved Environmental Document | Decision made on case-by-case basis upon INDOT and FHWA consultation. | Decision made on case-by-case basis upon INDOT and FHWA consultation. | Decision made on case-by-case basis upon INDOT and FHWA consultation. | Not Applicable |
| Notice of Proposed Design and Noise Study Information Meeting | Yes, if a public hearing was held. | Yes. | Yes. | Not applicable |

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| Public Involvement Activity | NEPA Project Classification | | | |
|---|---|----------------------------------|--|---|
| | Categorical Exclusion/ Simple Projects | Environmental Assessments | Environmental Impact Statements | Environmental Assessment/ Corridor Studies |
| Notice of Final Plans and Construction Sequencing Information Meeting | Not applicable | Optional | Required | Not applicable |
| FHWA Statute of Limitation Notice in Federal Register | Optional | Optional | Optional | Not applicable |

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Section V. Public Involvement Activities in Construction, Operations, and Maintenance Phases of Transportation Projects

V. PUBLIC INVOLVEMENT ACTIVITIES IN CONSTRUCTION, OPERATIONS, AND MAINTENANCE PHASES OF TRANSPORTATION PROJECTS

INDOT conducts a number of activities to communicate with the public during the construction, operations, and maintenance phases.¹⁷ For example, during construction, INDOT staff work with local homeowners and businesses to address access and disruption concerns. Information about road closures and delays, posted on signs during construction and maintenance activities, is a form of public involvement. INDOT communicates on an ongoing basis to the public through its website, variable message signs, and newspaper announcements.

Community Advisory Committees may continue to meet and provide input to INDOT/FHWA in the construction and operations phases.

¹⁷ There are no federal public involvement requirements for the design, construction, operations, and maintenance phases of transportation projects.

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VI. REQUIREMENTS RELATED TO CONDUCTING PUBLIC HEARINGS

The public involvement requirements that are associated with project development include either holding public hearings or offering the public the opportunity to request a public hearing. Federal regulations and state law is more prescriptive about public hearings than any other element of public involvement. This portion of the *Policies and Procedures* describes how INDOT will adhere to the federal and state public hearing requirements.

The public hearing is an opportunity for the public to make formal statements of their views immediately before project decision-making and, in the case of an Environmental Impact Statement (EIS), preparation of the Final Environmental Impact Statement (FEIS). INDOT views the hearing as a specific, observable administrative benchmark for public involvement.

The following are the specific requirements related to offering the opportunity to request a public hearing and/or conducting a public hearing:

A. Notice of Opportunity to Request a Public Hearing

Following the release of documentation for a Categorical Exclusion (CE), INDOT may choose to hold a public hearing or may choose to offer the public an opportunity to request a public hearing or to comment on the project.¹⁸ The following requirements apply when offering an opportunity to request a public hearing:

1. Public Notice of Planned Improvement

For CE projects that meet the criteria listed in Section IV.C.4, INDOT publishes a "Public Notice of Planned Improvement," which is a formal legal notice of the action that INDOT will undertake. This notice is published in the legal notice section of relevant newspapers and mailed to currently known property owners, INDOT's statewide mailing list (those persons and organizations who have requested such notification), and project mailing list. The notice offers the opportunity to request a public hearing and includes procedures for requesting a hearing and a notification deadline for requesting the hearing.¹⁹ The notice also provides the public an opportunity to comment on the project.

2. Request for a Public Hearing/Decision on Whether to Hold a Public Hearing

If a member of the public requests a public hearing, INDOT will make a determination of whether to hold a public hearing, based on (a) the number of such requests received and (b) whether INDOT can satisfy the needs of the requester(s) through individual, direct contact.

3. If no Public Hearing is Held

¹⁸ 23 CFR 771.111(a)(2)(ii) and (iii)

¹⁹ 23 CFR 771.111(h) states that a minimum 15-day notification period will adequately serve as the required "reasonable notice" to the public of the hearing opportunity, but suggests that a longer period may be more appropriate.

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If there is no request for a public hearing or if INDOT determines that it is not in the public interest to hold a public hearing, INDOT's Public Hearings Section will prepare a report to serve as documentation for the certification that the public involvement requirements have been satisfied. INDOT will document the responses to the concerns raised by the requester, if any, and provide this response to the person(s) who raised the concerns.

B. Notice of Public Hearing

The following requirements apply when a public hearing is held.

1. Timing and Content

When a public hearing is held, INDOT is required to issue a public notice of the public hearing at least 15 days prior to the public hearing. INDOT policy requires notices on two different dates.

- a. The first notice is at least 15 days prior to the hearing.
- b. The second notice is approximately 5 to 7 days prior to the hearing.

The notice specifies the date, time, place, and purpose of the hearing, contains a brief description of the proposal, and specifies where the pertinent document is available for inspection. In addition, the notice provides contact information for requesting assistance for persons with a disability.

2. Placement

INDOT requires the hearing notice to be placed in the legal notice section of the newspaper. The notice is also mailed to individuals, property owners within the project area, and project stakeholders on INDOT's statewide and project mailing lists. In addition, INDOT may also do the following:

- a. Placement of the hearing notice in more conspicuous places within the newspaper
- b. Publication of the notice in media that is appropriate for traditionally underserved populations that may be impacted by the project
- c. Publication of notice in other relevant periodicals, as appropriate
- d. Distribution of press releases to the media, post information to INDOT website, announce via INDOT Public Hearings List Serve Service

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C. Coordination of Public Hearing Process with U.S. Army Corps of Engineers (USACE)

INDOT coordinates its public hearing process with the USACE public hearing requirements. Therefore, the public hearing notice will also include reference to USACE solicitation of public comments. When INDOT is applying for a 404 Permit Application under the Clean Water Act, INDOT will assist the USACE with the USACE public notice announcing the availability of the Permit Application²⁰ and seeking comments on the application, including comments on wetland impacts and floodplain encroachments, if applicable.

D. Format for Public Hearings

Public hearings will be held at a place and time generally convenient for persons affected by or interested in the proposed undertaking. The hearing location must be accessible in order to accommodate people with disabilities.

The required format for public hearings includes the following, as appropriate:

1. Presentation Content

Representatives of INDOT, the Metropolitan Planning Organization (MPO), and (if applicable) the local authority or its agent, will explain the following information, if appropriate:

- a. The project's purpose, need, and consistency with the goals and objectives of any local urban planning
- b. The project's alternatives and major design features
- c. The social, economic, environmental, and other impacts of the project
- d. The relocation assistance program and the right of way acquisition process
- e. The availability of the appropriate environmental document
- f. INDOT's procedures for receiving both oral and written statements from the public

2. Methods for Public Comment

INDOT is committed to providing a public hearing format that allows full public participation. Therefore, INDOT will provide the opportunity for an attendee to choose from at least three methods to provide comment, which may include:

- a. Public statements before an audience of concerned citizens²¹, with a transcript made of these statements (this method is always required for a public hearing)²²

²⁰ 33 USC 1344A and H (Clean Water Act)

²¹ IC-8-23-2-17 (b) and (c) states "(b) Whenever the department holds a public hearing, the department shall allow any person an opportunity to be heard in the presence of others who are present to testify and

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- b. Verbal comments made privately during the meeting to a tape recorder, which INDOT can include in the hearing transcript
- c. Written comments which will be accepted in person at the public hearing, by mail, or via the internet

E. Public Hearing Documentation

A transcript is made of verbal statements and comments made at the public hearing. The transcript is accompanied by copies of all written statements from the public, both submitted at the public hearing and during an announced period after the hearing. The future availability of the transcript is announced at the Public Hearing. In addition, copies are provided to individuals who request such copies. A summary of public hearing proceedings will be included in the Final EIS or will accompany the request for a FONSI. INDOT submits to FHWA a copy of each Public Hearing transcript and a Certificate of Compliance Form (see Appendices for a sample form) that states that a required hearing or hearing opportunity was offered.

Subsequent Public Information Meetings and other public involvement activities are held at varying stages of the project development process following the formal NEPA required public hearing. The purpose of these meetings and other public involvement activities is to provide timely information to the public regarding detailed design issues, the progression of land acquisition activities, perhaps the construction schedule, and etc. All this is to say that INDOT continues its commitment to public involvement well after the required NEPA public hearings phase.

in accordance with subsection (c). (c) The department, through the commissioner or the commissioner's designee, may limit testimony at a public hearing to a reasonable time stated at the opening the public hearing."

²² 23 CFR 771.111(h)(2)(vi) states "State public involvement/public hearing procedures must provide for:... Submission to the FHWA of a transcript of each public hearing 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 or during an announced period after the public hearing."

VII. INCLUSION OF UNDER-SERVED INDIVIDUALS AND COMMUNITIES IN INDOT PUBLIC INVOLVEMENT PLANS AND ACTIVITIES

INDOT believes that an effective public involvement process should actively seek out and engage those individuals who may otherwise be under-served in the transportation planning, programming, and project development process. 23 CFR 771.105 states that, "No person, because of handicap, age, race, color, sex, or national origin, be excluded from participating in, or denied benefits of, or be subject to discrimination under any Administration program or procedural activity required by or developed pursuant to this regulation."

A. INDOT's Compliance with the Americans with Disabilities Act

The Americans with Disabilities Act (ADA) (<http://www.usdoj.gov/crt/ada>) requires that individuals with disabilities be provided equal opportunity to participate in or benefit from public services, programs, and activities. The ADA prohibits discrimination and ensures equal opportunity for persons with disabilities in employment, State and local government services, public accommodations, commercial facilities, and transportation. By encouraging the involvement of individuals with disabilities, INDOT is afforded a valuable perspective on the attitudes and needs of an important component of the community for whom the transportation improvements are implemented. When designing and implementing public involvement, INDOT gives consideration to the needs of individuals with disabilities. To accommodate individuals with hearing, speech, vision, or mobility limitations, INDOT's requirements include the following:

1. Accessibility

Holding public meetings and hearings in places that are accessible to individuals in wheelchairs.

2. Assistance to People with Disabilities

Upon advanced request, providing assistance to people with physical disabilities who wish to participate and give testimony in public meetings and hearings, including, for example, use of sign language interpreters, listening assistance mechanisms, a telecommunications device for the deaf, recording devices, or accessible format of materials for sight-impaired persons (e.g., large print, tape recordings, Braille or electronic formats, or individuals to explain the content of visual displays).

3. Contact Person for Requests for Accommodation

Providing a contact person's telephone number in all meeting/hearing notices and advertisements so that individuals with special needs can request to be accommodated at meetings/hearings.

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B. INDOT'S Compliance with Title VI of the Civil Rights Act of 1964 and Environmental Justice in Conducting Public Involvement in Planning, Programming, and Project Development

Title VI of the Civil Rights Act of 1964²³ states that "discrimination on the ground of race, color, or national origin shall not occur in connection with programs and activities receiving Federal financial assistance and authorizes and directs the appropriate Federal departments and agencies to take action to carry out this policy" and that "no person in the United States shall be excluded from participation in or otherwise discriminated against on the ground of race, color, or national origin under any program or activity receiving Federal financial assistance." The Federal Highway Act of 1973 added prohibition of discrimination on the basis of sex (U.S.C. 324), and the Age Discrimination Act of 1975 (42 U.S.C 6101) added prohibition of discrimination on the basis of age.

Environmental Justice is an obligation defined through a set of Environmental Justice Orders (Executive Order 12898, the USDOT Order on Environmental Justice, and the FHWA Order on Environmental Justice, *please see Appendices*). These state that it is an obligation, when there is federal action involved, to avoid or minimize and mitigate adverse impacts to low-income and minority populations and to assure that disproportionately high and adverse impacts on these populations are identified and addressed. The U.S. Environmental Protection Agency describes environmental justice (www.epa.gov/compliance/basics/ej.html) as follows (emphasis added):

*Environmental Justice is the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. **Fair treatment** means that no group of people should bear a disproportionate share of the negative environmental consequences resulting from industrial, governmental and commercial operations or policies. **Meaningful involvement** means that: (1) people have an opportunity to participate in decisions about activities that may affect their environment and/or health; (2) the public's contribution can influence the regulatory agency's decision; (3) their concerns will be considered in the decision making process; and (4) the decision makers seek out and facilitate the involvement of those potentially affected.*

Public involvement is a key to addressing environmental justice issues. First, it is the best source of information about people's perceptions of impacts and benefits and can help develop a picture of the fabric of the community which will be affected by the transportation project. Second, there is a responsibility to ensure that affected populations comprised of low-income and minority people have an opportunity for meaningful participation in public involvement activities.

Environmental Justice is a component of FHWA's overall commitment to the protection and enhancement of the human and natural environment.²⁴ FHWA sets forth these principles:

²³ 42 U.S.C. 2000(d)-2000(d)(1)

²⁴ <http://www.fhwa.dot.gov/environment/ej2.htm>

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1. Avoid or minimize and mitigate disproportionately high and adverse human health and environmental effects, including social and economic effects, on minority and low-income populations.
2. Ensure full and fair participation by all potentially affected communities in the transportation decision-making process.
3. Prevent the denial, reduction, or significant delay of benefits to low-income and minority populations

In keeping with Title VI and the Environmental Justice Orders, INDOT considers the needs of low-income and minority populations as it undertakes public involvement activities in the planning, programming, and project development processes. INDOT seeks ways to reach out to and solicit input from these populations. Such tailored efforts may include:

1. Contacting community leaders to elicit help in reaching low-income and minority community members
2. Holding small-scale meetings or attending existing local meetings in the low-income and minority neighborhoods, hosted by community leaders
3. Translating key public information documents and posters announcing public meetings or hearings into non-English languages
4. Placing notices and advertisements in neighborhood publications and/or non-English newspapers
5. Holding public hearings/meetings in locations and at times that are easily accessible to low-income and minority people
6. Providing translators at public hearings/meetings

VIII. PUBLIC INVOLVEMENT IN THE LOCAL PUBLIC AGENCY (LPA) PROJECT DEVELOPMENT PROCESS

As the Local Public Agency (LPA) makes decisions on transportation projects that utilize federal-aid funding or require a federal action, the LPA must integrate input from the public, local government, resources agencies and others (such as historic resources) while assessing transportation needs, cost, funding availability and engineering constraints. Selection of the appropriate project classification is based on the anticipated level of project development complexity. The project classification identifies the recommended level of analysis, amount of stakeholder involvement and activities performed during each step. There are three types of environmental classifications under NEPA, plus an additional

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classification established by INDOT, and each is accompanied by its own public involvement requirements.

Categorical Exclusions (CEs) include projects which individually or cumulatively produce no significant adverse impacts on the human or natural environment. CEs are typically "simple" projects which have limited scope and one feasible alternative. CEs are generally used for such projects as resurfacing, restoration, and safety projects, and rehabilitation or reconstruction of existing bridges or other infrastructure. Most LPA projects fall under the CE classification. Following the preparation of the CE environmental document, the project may proceed to its next steps in implementation, such as final design, right-of-way acquisition, and construction. See INDOT's CE Manual at www.in.gov/dot for more information.

Environmental Assessments (EAs) include actions in which the significance of the impact on the environment is not clearly established. If there is uncertainty about whether the project will have significant impacts, an EA is prepared, with some analysis to determine whether the project has significant impacts. If the answer is "Yes," then a full Environmental Impact Statement (EIS) is prepared (see below). If the answer is "No," then this decision is formally documented by FHWA with a Finding of No Significant Impacts (FONSI), and the project may proceed to its next steps in implementation, such as final design, right-of-way acquisition, and construction. Major reconstruction and/or minor roadway relocation projects generally fall into this category. See INDOT's Procedural Manual for Preparing Environmental Documents at www.in.gov/dot for more information.

Environmental Impact Statements (EISs) are prepared for large-scale projects involving major expansion or new location construction where it is likely that the project will have significant environmental impacts.²⁵ The EIS entails a study to set forth the Purpose and Need of a project, identify a range of alternatives to address the transportation need(s) in a given study area, and analyze the social, economic, and environmental impacts of the alternatives. A Draft EIS (DEIS) is circulated for comment to the public and to relevant public agencies. This document provides a full description of the proposed project and the existing environment and an analysis of the anticipated beneficial and adverse effects of all reasonable alternatives. Following consideration of comments, a Final EIS (FEIS) is prepared. A Record of Decision (ROD) indicates the alternative selected for the project, including any required mitigation measures. Following the approval of the ROD by FHWA, the project may proceed to its next steps in implementation, such as final design, right-of-way acquisition, and construction. See INDOT's Procedural Manual for Preparing Environmental Documents at www.in.gov/dot for more information.

Historically most LPA projects are classified as a Categorical Exclusion (CE). Projects involving a historic bridge must hold a public hearing prior to the completion of NEPA.

²⁵ 40 CFR 1502.1 states, "The primary purpose of an environmental impact statement is to serve as an action-forcing device to insure that the policies and goals defined in the Act [NEPA] are infused into the ongoing programs and actions of the Federal Government. It shall provide full and fair discussion of significant environmental impacts and shall inform decision-makers and the public of the reasonable alternatives which would avoid or minimize adverse impacts or enhance the quality of the human environment."

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For CEs (not involving a historic bridge), the LPA will be required to offer the opportunity to request a public hearing or hold a public hearing, prior to the completion of NEPA, when the project meets any of the conditions listed below.²⁶

- a. The proposal requires significant amounts [interpreted by INDOT to be more than one-half acre] of permanent right-of-way (r/w). *(Note: Any proposal resulting in the increase in right-of-way due to the factors listed below would be exempt from this requirement).*
 - (1) *The proposal does not involve NEW r/w impacts but rather reacquiring past prescriptions (i.e. existing or apparent existing r/w)*
 - (2) *The proposal involves the acquisition of donated r/w from property owner*
 - (3) *Acquiring r/w presently within INDOT apparent r/w to establish legal documented ownership*
 - (4) *Additional R/W needed for mitigation purposes, for projects where original R/W impacts as described in the environmental document were less than 0.5 acre*
- b. The proposal substantially changes the layout or functions of connecting roadways or the facility being improved.
- c. The proposal may have a substantial adverse impact on abutting property.
- d. The proposal may have a significant social, economic, environmental or other effect.
- e. The proposal is determined by the Federal Highway Administration to warrant a public hearing in the public's interest.
- f. The proposal is for a plan for the location of a Federal-aid highway project involving the bypassing of, or going through, any city, town, or village either incorporated or unincorporated or the proposal is for an Interstate System project²⁷.

A change in project scope may require additional formal public involvement.

If a LPA project does not meet the minimum criteria listed above, please include the following statement in the Public Involvement section of the environmental document: *In accordance with current INDOT Public Involvement Procedures approved by the FHWA, the proposed project does not meet the minimum requirements for public involvement. Therefore, the opportunity for*

²⁶ 23 CFR 771.111(h)(2)(iii) states, "State public involvement procedures... must provide for... One or more public hearings or the opportunity for hearing(s) to be held by the State highway agency at a convenient time and place for any Federal-aid projects which requires significant amounts of right-of-way, substantially changes the layout or functions of connecting roadways or of the facility being improved, has a substantial adverse impact on abutting property, otherwise has a significant social, economic, environmental or other effect, or for which the FHWA determines that a public hearing is in the public interest".

²⁷ 23 U.S.C. 128(a) states, "Any State transportation department which submits plans for a Federal-aid highway project involving the bypassing of, or going through, any city, town, or village, either incorporated or unincorporated, shall certify... that it has had public hearings, or has afforded the opportunity for such hearings...."

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a public hearing will not be offered, and a public hearing will not be held. This would conclude the public involvement requirements. Once the environmental document is completed it can be submitted for approval to District Environmental Scoping Manager (ESM).

Prior to advancing to the Public Involvement phase for LPA projects, the conditional release of the environmental documentation must be authorized by the District Environmental Scoping Manager (ESM) for Level 2 CEs or the INDOT Office of Environmental Services (OES) for Level 3 and 4 CEs and EAs. Once the conditional release of the environmental document is received by the LPA, the LPA is responsible for the preparation and placement of the legal notice(s) in widely circulated project area newspapers. The legal notice will run twice, the second at least 7-days subsequent to the first and no less than 5-days prior to the hearing or the established deadline to request one. The Section 106 legal notice offering the public and consulting parties the 30-day comment period for the Area of Potential Effect (APE), eligibility and effect finding and the legal notice offering the public the opportunity to request a public hearing may be combined in a single advertisement.

A copy of the legal notice(s) should be submitted to the following:

- Legislators / Elected Public Officials in area
- Minority groups and minority media (if any)
- Historical Societies and Historians etc. (if including the Section 106 wording)
- Metropolitan Planning Organization (if any)
- Affected / Impacted Property owners in the project area
- ESM and OES environmental document signature authority
- FHWA Indiana Division Administrator (for hearings only)
- FHWA Indiana Division Administrator (if planned improvement and only if the project is part of the National Highway System)

INDOT should not be listed in the Public Hearings Notice as an available public viewing location for documents of LPA projects. The environmental document and available plans should be sent to locations within or close to the project area. Specifically, copies of these documents should be on display at the LPA's office, a municipal office where documents are routinely displayed, a local library, and/or the offices of the consultant hired by the LPA. All comments, questions, hearing requests and/or public comments submitted as a result of the public hearing are to be sent directly to the LPA or to the consultant.

If no requests for a public hearing are received prior to the established deadline date posted in the legal notice, or the required 30-day public comment period for a combined Section 106-Public Hearing Opportunity legal notice, the Public Involvement section of the environmental document will be updated and the LPA's consultant may proceed to submit the final CE to the District ESM to receive environmental approval. However public involvement requirements will be certified by the INDOT Public Hearings Office.

If a public hearing is required, the LPA is responsible for the preparation and placement of the necessary properly worded legal notice(s) in widely circulated project area newspapers. The LPA is required to coordinate the time and date of the public hearing with the INDOT Public Hearings Office. **A representative of INDOT must attend the public hearing for the LPA to receive hearing certification.**

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At least one representative of the LPA must attend the public hearing. The LPA should also be prepared to explain the Purpose and Need for the proposed project in addition to providing a detailed description of the project, alternatives considered during project development and impacts associated with the proposal. Use the PUBLIC HEARING CHECKLIST FOR LPA PROJECTS prepared by the INDOT Public Hearings Office to ensure that the required documentation for a public hearing is offered. If the LPA is unsure as how to proceed with the public hearing requirements, INDOT's Public Hearings Office should be contacted.

Rickie Clark, INDOT Public Hearings Manager
INDOT Public Hearings Office
Indiana Government Center, Room N642
100 North Senate Avenue
Indianapolis, Indiana 46204-2219
Phone: (317) 232-6601 rclark@indot.in.gov

For public hearing certification the LPA must submit the following items listed on the PUBLIC HEARING CHECKLIST FOR LPA PROJECTS to the INDOT Public Hearings Office for review. The following items must be included in the hearings certification submittal:

- One copy of the public hearing notice or notice of planned improvement
- Copies of the Publisher's Affidavits from the newspaper(s)
- Complete mailing list including the property owners contacted
- Speeches (for hearings only)
- Information packet (for hearings only)
- Verbal statements transcribed (for hearings only)
- Copies of all letters, e-mails, written comments on memos or phone conversations and how each comment/inquiry was addressed must be included in submission for INDOT Public Hearings Certification.

The Public Involvement section of the environmental document must be appropriately updated with a discussion of the steps taken to satisfy the public involvement requirements. The environmental document can then be submitted to the District ESM or the INDOT OES for signature approval.

Upon receipt of the Certification of Public Hearing Requirements and Socio-Economic, Ecological and Environmental Evaluations and the signed title page of the environmental document, the project may proceed to the right-of-way services phase. Please see INDOT/LPA Process Guidance Document for Local Federal-Aid Projects.

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PUBLIC HEARING CHECKLIST FOR LPA PROJECTS

| LEGAL NOTICE CHECKLIST | |
|-------------------------------|--|
| | Date, time and location of hearing (if hearing is needed) |
| | Project description including limits, location, length, and construction to be performed |
| | New permanent right-of-way, easements, and temporary right-of-way in acres |
| | Displacement of residents, businesses etc. |
| | Maintenance of traffic (details not necessary) |
| | Cost estimate for the project |
| | Wetlands involvement (details not necessary) |
| | May combine Section 106 legal notice with public hearing opportunity legal notice |
| | Deadline date (for comments or hearing requests) for a Planned Improvement needs to be at least 15 days from the first advertising date. The second advertising date should be at least one week (seven days) after the first. |
| | To advertise a public hearing, the first ad must appear in the newspaper no less than 15 days prior to the date of the hearing and the second ad no less than five days prior to the hearing. |
| | Public viewing location for environmental documents, plans, and legal notice |
| | Legal ads need to be placed in local paid minority newspapers (if there are any in the area). |

| MAILING OF LEGAL NOTICE CHECKLIST | |
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| | Legislators in area (for hearings only) |
| | Minority groups and minority media (if any) |
| | Historical Societies and Historians etc. (if including the Section 106 wording) |
| | Metropolitan Planning Organization (if any) |
| | FHWA Indiana Division Administrator for hearings |
| | FHWA Indiana Division Administrator, if planned improvement and only if the project is part of the National Highway System) |
| | Affected property owners |
| | Appropriate District ESM and OES Signature authority |

| LOCAL HEARING FOR FEDERAL-AID PROJECT CHECKLIST | |
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| | Displays showing proposed new permanent right-of-way lines and the property(s) that will be affected |
| | Set of preliminary plans with cross-sections |
| | Brochures on "Relocation and You" and "How Land is Purchased by Local Agencies". (These can be found on the FHWA Real Estate Brochure website) |
| | Information packets |
| | Speakers schedule sign-up sheets |
| | Environmental documents with approval sheets |

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| | |
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| | SPEECH |
| | Hearing Process How to comment and deadline for comments Legal Notice of Intent (explain the sign-up sheet) How comments will be addressed in the final environmental document |
| | Location and description of the project |
| | Need for improvement |
| | Alternatives studied including the Do-Nothing Alternate |
| | Amount and description of right-of-way requirements |
| | Right-of-way acquisition process |
| | Costs associated with the project |
| | Environmental document approval (Level) |

| | |
|--|---|
| | FIFTEEN DAYS SUBSEQUENT TO HOLDING THE PUBLIC HEARING |
| | Submit the following: |
| | Legal notice of public hearing or of Planned Improvement |
| | Copies of the Publisher's Affidavits from the newspaper(s) |
| | Complete mailing list including list of property owners |
| | Speeches (for hearings only) |
| | Information Packet (for hearings only) |
| | Verbal statements transcribed (for hearings only) |
| | Copies of all letter, e-mails written comments of memos or phone conversations and how each question or comment was handled |

INDIANA DEPARTMENT OF TRANSPORTATION