INDIANA DEPARTMENT OF TRANSPORTATION

LOCAL PUBLIC AGENCY
PROJECT DEVELOPMENT PROCESS
GUIDANCE DOCUMENT
FOR
LOCAL FEDERAL-AID PROJECTS

Last Revision: August, 2013

MISSION AND VALUE STATEMENTS

LOCAL PROGRAMS GUIDING PRINCIPLES*:*

The Mission of the INDOT LPA Program *is to empower Local Public Agencies through excellent education and collaborative relationships, to plan, build and maintain a superior transportation system that promotes economic growth, ensures safety, and complies with all local, state, and federal regulations.*

LPA Program Values

- *Ownership*
- *Effective Communication*
- *Customer Service*
- *Education and Training*
- *Empowerment*
- *Compliance*
- *Efficient*
- *Collaboration*
- *Clarity*

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POLICY STATEMENT

The Local Public Agency Project Development Process Policy was developed with the participation of Local Public Agencies (LPA), the engineering consulting industry, the Indiana Department of Transportation (INDOT), and the Federal Highway Administration (FHWA).

The primary objective of this policy is to empower local public agencies in managing their own local transportation projects by:

- Giving the LPA legitimate authority over their projects.
- Providing the necessary knowledge and resources toward the management of transportation projects leading to the active involvement of the Local Public Agency-Employee in Responsible Charge throughout the life of the project.

The purpose of this Guidance Document is to provide information and resources to help all parties involved fully understand the requirements of this program and when there is uncertainty, to be able to locate the appropriate resources such as guidance materials and/or resource people to clarify and ensure accurate understanding and compliance.

This policy is intended to dramatically reduce project development process time for local federal-aid projects. The desired project development process time is **two** years from acceptance into the Local Public Agency program to an INDOT letting.

This policy is also intended to streamline the process from Ready for Contracts (RFC) through Construction and Closeout. It is desirable for all parties that locally developed federal-aid projects for construction occur at the earliest possible date. To expedite construction, it is important that responsibilities and requirements are defined and understood.

CHAPTER ONE

1-1.0 CHAPTER ONE OVERVIEW

It is critically important that all communications include the Local Public Agency's designated **Employee in Responsible Charge (ERC)**.

It is also critical that the appropriate Indiana Department of Transportation (INDOT) and Metro-politan Planning Organization (MPO) staff are notified regarding documents, plans, submittals and other communications.

Each chapter indicates appropriate contacts that shall be included in all communications and submissions within a given topic or set of project develop-ment activities.

Chapter One provides an overview of the Local Public Agency (LPA) Project Development Program, including:

- **Roles and Responsibilities**
- **Employee in Responsible Charge (ERC)**
- **Local Public Agency (LPA) Project Development Training**
- **LPA Documentation Requirements**

Chapter One explains the **LPA Certification Requirements** for the Local Public Agency's **"Employee in Responsible Charge" (ERC)** and for the Consultant Project Manager. This certification is a requirement to be eligible to apply for and to manage a federal-aid project.

Any questions or issues related to this guidance document, discrepancy or disagreement between procedures and requirements listed in other resource manuals or materials, or the LPA Certification Training, may be directed to the LPA Policy and Procedures Leadership Team by contacting the **LPAQuestions@indot.in.gov**.

Acronyms used in this Chapter

ERC – Employee in Responsible Charge
FHWA – Federal Highway Administration
FMIS – Fiscal Management Information System
INDOT – Indiana Department of Transportation
LPA – Local Public Agency
LTAP – Local Technical Assistance Program
NEPA – National Environmental Policy Act
MPA – Metropolitan Planning Area
MPO – Metropolitan Planning Organization
RFP – Request for Proposal
SRTS – Safe Routes to School
TIP – Transportation Improvement Program
USEPA – United States Environmental Protection Agency

1-2.0 ROLES AND RESPONSIBILITIES

1-2.01 Federal Highway Administration (FHWA)

FHWA is responsible for ensuring adequate and proper delivery of federal-aid projects.

1-2.02 Indiana Department of Transportation (INDOT)

INDOT is available to provide technical assistance to LPAs as requested and as needed.

The INDOT is the agency responsible for planning, building, maintaining, and operating Indiana's state and interstate highway system. INDOT is accountable to FHWA to ensure all project elements comply with federal law and regulations. INDOT is required to administer federal transportation funds provided by the U.S. Department of Transportation through its various divisions according to all federal and State laws and as defined by the **FHWA/INDOT Stewardship and Oversight Agreement.**

INDOT ensures that local projects utilizing federal funds made available by INDOT are appropriately utilized in a timely manner and in compliance with all federal and state regulations.

One of INDOT's primary roles is to provide technical assistance to the LPA and their Designer during the project development process and throughout construction.

The **District Local Program Coordinator** is the initial point-of-contact for all local federal-aid projects.

The designated **District Local Project Manager** is the individual responsible for assisting the LPA with project development, schedule changes, and general project support.

1-2.03 Local Public Agency (LPA)

All LPA projects approved for funding on or after April 29, 2009 will be under this INDOT LPA Process Guidance Document.

A LPA is any agency that receives federal transportation funds. The LPA is responsible for managing all aspects of their federal-aid project(s). These responsibilities include financial management of the project(s), and understanding all federal regulations required to construct any local federal-aid project.

The LPA is aware of and accepts their responsibility for ensuring each local federal-aid project complies with all federal laws and regulations. Failure to comply puts the LPA at risk of being required to refund all or a portion of the federal funds expended on the project.

The LPA is also responsible to ensure projects are delivered on time and within approved budget and scope.

Project Sponsor – The project sponsor is the owner of a project, typically a LPA that seeks to use federal-aid funds.

The responsibilities of the LPA will be outlined in the Indiana Department of Transportation – Local Public Agency Project Coordination Contract (**INDOT–LPA Contract**) executed between INDOT and the participating LPA for each project.

Each INDOT–LPA Contract includes the LPA's commitment for:

- The appropriate and legal expenditure of federal-aid transportation funds
- Following all federal, state, and local laws, regulations, and policies applicable to the legal completion of federal-aid projects in Indiana.

Any local money expended by the LPA prior to INDOT's Notice to Proceed for a phase of a project will not be eligible for federal-aid reimbursement, nor will that local money be eligible to be counted as the local match for future federal money utilized on the project.

Each agency that receives federal-aid funds shall designate an employee with the responsibility for ensuring the compliance of all State and Federal-aid regulations related to the project development and construction of locally administrated projects. This individual is referred to as the "Employee in Responsible Charge" (ERC).

Federally funded transportation projects must conform to federal laws, regulations, and Indiana Design Standards in order to remain eligible for federal funding participation.

The ERC acts on the behalf of the LPA as the primary point of contact for the project. The ERC serves as a liaison for the LPA and its Board or administrative body in regards to financial and managerial decisions that affect the project, or be the fiduciary representative of the LPA's board or administrative body.

Before a LPA can apply for a federal-aid project, the LPA's designated ERC must attend LPA Project Development Training to meet **LPA Certification** requirements.

1-2.03 (1) Quarterly Reports and Tracking Meetings

The ERC is responsible for attending Quarterly Tracking Meetings and submitting required **Quarterly Reports** detailing up-to-date cost estimates and schedules through project construction.

For projects located in a **Metropolitan Planning Area (MPA)** of a MPO, quarterly tracking meetings and quarterly reports will be coordinated through the applicable MPO's process and forms.

Projects outside of the MPA will be coordinated through INDOT using the INDOT District's process and forms.

A MPO may coordinate additional projects with the concurrence of the LPA and the appropriate INDOT District. Any projects coordinated through a MPO will follow the MPO's process and forms.

For more information on MPO Project Coordination see **Chapter Six** *of this Guidance Document.*

1-2.04 Other Roles and Responsibilities

1-2.04 (1) Consultants

Consultants are often utilized by LPAs to provide architectural and engineering services to develop their projects. Consultants are responsible for keeping all parties (local and state) involved and informed of project status and costs through frequent communication. Consultants are also responsible for delivering high quality, timely work, on or below budget.

The Consultant, along with the LPA, shall be held accountable for failure to meet any federal and state regulations, deadlines, and cost overruns.

It is the responsibility of the LPA to manage its consultant's performance.

1-2.04 (2) Metropolitan Planning Organizations (MPO)

MPOs are responsible for coordinating transportation planning within their defined MPA**.** MPOs are responsible for managing a fiscally constrained program and air quality conformity for their regions. MPOs are responsible for performing Air Quality Conformity Modeling for air quality non-attainment areas as required by the United States Environmental Protection Agency (USEPA) for compliance with the **Federal Clean Air Act**.

All MPO projects that seek to use federal-aid funding must be included in the MPO's **Transportation Improvement Program (TIP).**

Please refer to **Chapter Six** *for more information on MPO - LPA Coordination and Process.*

1-3.0 EMPLOYEE IN RESPONSIBLE CHARGE (ERC)

The LPA shall designate an ERC for each project. This employee serves as a liaison for the LPA and its Board or administrative body in regards to financial and managerial decisions that affect the project, or is a fiduciary representative of the LPA's board or administrative body.

The LPA must maintain the status of the ERC at all times throughout the project as designated in the project's application and confirmed at the **Early Coordination Meeting.** Any changes in the designated ERC must be updated in the in the LPA's Quarterly Report.

The LPA must maintain the status of the ERC at all times throughout the project as designated in the project's application and confirmed at the Early Coordination Meeting. Any changes in the designated ERC must be updated in the in LPA's Quarterly Report.

The ERC must be certified by attending the **LPA Project Development Training** prior to the LPA applying for a federal-aid project. It is acceptable and recommended that multiple individuals attend the training to meet certification requirements.

All LPA's with active federal-aid projects or seeking approval for new federal-aid projects are required to have at least one certified ERC. If the ERC leaves the organization for any reason, the LPA must designate a new ERC and ensure they successfully complete LPA Project Development Training at the next scheduled training session.

LPAs without a certified ERC will not be eligible for new or additional federal funds. Failure to maintain an ERC could result in the loss of funding or delays in project development.

State agencies acting as a local project sponsor for a Transportation Alternative Project are also required to have a certified ERC, for example, the Indiana Department of Natural Resources.

A certified ERC is also required for all local projects advanced by a MPO.

See **Chapter Six** *for more guidelines on LPA projects within MPO planning areas.*

The only local project type that does not require an ERC is:

- Safe Routes to School (SRTS) - Non-infrastructure Project

However, as with all federally funded local projects, project sponsors of SRTS Non-infrastructure projects are required to complete and submit Quarterly Reports and are subject to required attendance at quarterly tracking meetings as directed by INDOT, the project sponsor, and/or the MPO (if applicable).

1-3.01 Selecting the ERC

The ERC role cannot be filled by a consultant or a contract employee hired by the LPA. The ERC must be an employee of the LPA. However, because many smaller LPAs do not maintain full time staff, the ERC is not required to be a full time employee.

The ERC does not need to be a technical expert but rather someone who can be fully engaged in a project. The ERC is the designated employee responsible for driving completion of the project. The ERC will work closely with their consultant to develop their project and can reach out to other governmental agencies and metropolitan or regional planning agencies for assistance.

The skills and attributes needed to be an effective ERC include:

- Ability to undertake the basic project management tasks including ensuring projects meet deadlines and budgets
- Ability to manage numerous documents with time sensitive submissions and specific requirements
- Communication and relationship building skills

1-3.02 Responsibilities of the ERC

The responsibilities of the ERC include but are not limited to:

- Aid in the preparation of the project application and submit the application as required
- Request the Early Coordination Meeting
- Ensure the INDOT-LPA Contract is signed by the LPA and returned to INDOT
- Work with INDOT District to secure purchase order and submit LPA Voucher Reimbursement Claims for cost incurred after notification of federal authorization
- Prepare Request for Proposal (RFP) to select a consultant
- Ensure and validate that the **Consultant Selection Process** was followed correctly
- Negotiate fees with the consultant
- Ensure the **LPA-Consulting Contract** is executed by the LPA and consultant
- Assure work does not proceed on a project phase prior to INDOT and FHWA approval
- Help coordinate and attend the **Public Hearing** if one is required
- Coordinate the completion of the **Environmental Document** with consultant
- Request INDOT initiate federal project authorization through the **Federal Management Information System (FMIS)** from FHWA for the Right-of-Way Phase of project development. This approval cannot and shall not be requested prior to the approval and certification of the Environmental Document.
- Request and submit the LPA's matching funds at the appropriate time to prevent delay in project construction
- Maintain their LPA Project Development Certification
- Affirm that **Design Documentation** meets INDOT Design Manual Standards
- Oversee **Utility and Railroad Relocation** work
- Ensure the Constitutional Rights of land owners are not violated (compliance with the **Uniform Acquisition and Relocation Act** and associated regulations)
- Certify the **Land Acquisition Package**
- Certify the completeness of **Final Tracings Package Submission**

- Ensure project meets **ALL** State and federal laws
- Develop and retain all project documentation
- Complete the INDOT or MPO Quarterly Project Reports as required, and attend Quarterly Tracking Meetings

1-4.0 LPA PROJECT DEVELOPMENT TRAINING

1-4.01 LPA - Employee in Responsible Charge (ERC)

To apply for and/or manage a project that will use federal-aid funds, the LPA must designate a certified ERC.

Once a project is approved, the LPA's ERC of that project must maintain their Certification throughout the life of the project or risk losing federal-aid funding.

1-4.02 Consultant Project Manager

The Consultant Project Manager for the primary consultant must be certified and maintain their certification throughout the life of the LPA project. If the Consultant Project Manager changes during project development, the new project manager must also be LPA Certified.

If a certified Project Manager is not maintained throughout the project, project development could be stopped and/or all or a part of project funding could be removed.

Consultants that do not require LPA Certification are:

- Consultants providing only **Construction Inspection Services/Construction Engineering Services.**
- Sub Consultants

  For additional information on the requirements for Consultant Inspection Services see **Chapter 7** and **Chapter 14**.

1-4.03 LPA Certification Process

Changed Requirements

The training requirement for LPA Certification has been changed to improve project delivery. New classes are being designed to offer more topical "hands-on" learning, focused on topics most requested and needed.

We encourage your feedback on the new training requirements and classes. Please forward any comments or class ideas to: **LPAQuestions@indot.in.gov**

To become a LPA Certified ERC or LPA Consultant Project Manager, LPAs and Consultants must attend a full day of training that must include the LPA Basic Training Class (3 Professional Development Hours (PDH)/3 Continuing Education Credits (CEU credits) and additional LPA Training classes to equal or exceed a total of 6 PDH/CEU credits.

Once certified, to maintain ERC or Consultant Project Manager certification status, all ERCs and Consultants must attend a variety of offered classes to equal or exceed six (6) PDH/CEU credits each subsequent year following initial certification.

If your certification has expired, you will be required to attend the LPA Basic Training Class and additional classes to equal or exceed 6 PDH/CEU credits to become recertified.

Each year INDOT will offer a variety of classes in central locations throughout the State to ensure full compliance to the new certification requirements.

For more information on the current class schedule or to register for the LPA Certification Training, contact **Indiana LTAP**.

1-4.03 (1) ERC for County Bridge Inspection

New Requirement

All Indiana Counties are now required to designate and maintain a certified ERC to manage their Bridge Inspection Program. This ERC must be an employee of the LPA and can be the same ERC who manages the LPA's other transportation projects. However, the ERC will need to attend the INDOT Introduction to Bridge Inspection ERC Class and maintain LPA certification as described below.

ERCs for Bridge Inspection must fulfill all ERC Certification Requirements as described in **1-4.03**, **and** attend the INDOT Introduction to Bridge Inspection ERC Class.

To maintain certification, the ERC for County Bridge Inspection must take a variety of classes to equal or exceed six (6) PDH/CEU credits each subsequent year following initial certification, of which at least one class must be related specifically to Bridge Inspection.

1-5.0 DOCUMENTATION REQUIREMENTS

The time between the end of construction and project close-out can be lengthy.

A project is not considered closed out until the final audit is complete and the contractor has received final payment.

The LPA is required to maintain complete documentation of all project activities through project development and construction. It is imperative the LPA maintain complete documentation of all required actions as proof of compliance. Failure to maintain complete records may result in the loss and/or repayment of part or all federal-aid spent on the project.

Each chapter in this Guidance document provides a basic list of documentation the LPA is required to maintain.

These records must be made readily available to INDOT and/or FHWA upon request. In addition, documentation must be maintained for a minimum of five-years following the project close out and final audit of the construction phase.

Failure to keep adequate documentation that provides documentable proof of compliance with federal and State requirements puts the LPA at risk of being required to pay back all or a portion of the federal funds expended on the project.

Failure to keep adequate documentation may also result in relinquishment of any and all unused federal funds. Lack of proper documentation may also be considered during future applications for federal-aid programs.

Documentation that shall be maintained by the LPA related to Chapter One includes:

- Proof of ERC Certification prior to project application
- Copy of initial Quarterly Report

1-6.0 CHAPTER CHECK LIST

1-6.01 Critical Elements

Critical Elements are any review item used to verify that Federal and State laws, regulations and directives have been met. Critical Elements are most often identified through reviews scheduled at specific stages of the project development process.

Critical Elements in Chapter One include:

- LPA has designated an ERC
- ERC has successfully completed LPA Project Development Training and is current in their certification.
- Consultant Project Manager for the primary consultant has successfully completed the LPA Project Development Training and is current in their certification.
- LPA has created and maintains a document management system to be maintained at least 5 years after project close-out and final audit has been completed to ensure compliance to all stated regulations. This documentation system includes providing ready access to INDOT and FHWA upon request.

1-6.02 Fatal Flaws

A Fatal Flaw is any problem with a critical project element that has not been, or cannot be resolved. Fatal flaws also include violations of any state or federal law, and any action that compromises safety or the rights of property owners. Fatal flaws may be identified at any stage of the project development process.

Once a fatal flaw has been identified the Project Sponsor shall stop all affected project activity until the fatal flaw is resolved. Unresolved fatal flaws can negatively impact the project schedule, funding, and the project budget. Fatal Flaws may also impact project scope. Unresolved fatal flaws will prevent the project from proceeding to the next stage of project development, including advertisement and letting. Subsequent chapters will list possible fatal flaws related to the topic presented.

CHAPTER ONE APPENDIX

1-7.0 GLOSSARY

Local Public Agency – Any city, county, municipality, or other political subdivision that may be empowered to cooperate with the State transportation department in highway matters. Typically serves as the project sponsor for a non State funded project.

1-8.0 REFERENCES TO GUIDANCE MATERIAL

The FHWA created the **Local Technical Assistance Program (LTAP)** in 1982 to provide local agencies with information and training programs to address the maintenance of local roadway and bridges.

Links

LPA and MPO Webpage

LPA Certification Training Dates and Information

Indiana Local Technical Assistance Program (LTAP)

Consultant Prequalification

INDOT – LPA Contract

Forms

Quarterly Report

1-9.0 IDENTIFICATION OF RESOURCE PEOPLE

The **District Local Program Coordinator** is the initial point-of-contact for all local federal-aid projects.

The designated **District Local Project Manager** is the individual responsible for assisting the LPA with project development, schedule changes, and general project support. The District Project Manager will act as facilitator for the preconstruction development of projects and are responsible for assisting the LPAs in technical problem solving and coordination with stakeholders, as well as facilitating the required reviews during project development and at **Final Tracings Package Submission.**

CHAPTER TWO: INDOT PROGRAM MANAGEMENT

2-1.0 CHAPTER TWO OVERVIEW

All communications shall include the Employee in Responsible Charge (ERC), the designated District Project Manager and the District Local Program Coordinator.

Communications should also include the area Metropolitan Planning Organization (MPO) if applicable.

Chapter Two provides an overview of:

- **Project Element Approvals And Plan Reviews**
- **Fatal Flaw Review**
- **LPA Policy And Procedures Leadership Team**
- **LPA Project Development Process Assessment**

Any discrepancy or disagreement between procedures and requirements listed in this Guidance Document and other resource manuals or materials should be resolved by contacting **LPAQuestions@indot.in.gov**.

Acronyms used in this Chapter

ERC – Employee in Responsible Charge
FHWA – Federal Highway Administration
FMIS – Fiscal Management Information System
IDM – Indiana Design Manual
INDOT – Indiana Department of Transportation
LPA – Local Public Agency
MPO – Metropolitan Planning Organization
PE – Preliminary Engineering
R/W – Right-of-Way
RFC – Ready for Contracts
PS&E – Plan Specifications and Estimate

2-2.0 PROJECT ELEMENT APPROVALS AND PLAN REVIEWS

Federally funded transportation projects must conform to federal laws and regulations in order to be eligible for federal-aid participation. The Indiana Department of Transportation (INDOT) is accountable to the Federal Highway Administration (FHWA) to administer a review and approval process that ensures project compliance with federal and state law, policies, procedures and regulations.

As part of the review and approval process, INDOT will review the critical elements listed at the end of each chapter as well as certain project development milestones that must be approved before federal funds can be allocated to the project.

If federal or state laws, policies, procedures or regulations are not followed at any point in the project development process, federal funds for the project will be in jeopardy.

2-2.01 Project Element Approvals

The Local Public Agency (LPA) and their Consultant have the option to submit project designs to INDOT for technical review throughout the project development process.

The LPA also has the option to include design review deliverables in the LPA-Consulting Contract effectively requiring their Consultant to submit project designs to INDOT for review at additional points than required by this document.

Every effort will be made to complete these reviews promptly.

There are certain project development elements that must be approved prior to **Federal Funding Authorization (FMIS)** per FHWA regulations. These elements require federal certification prior to Federal funding authorization for project fund expenditures (including **match credits** if applicable). These approvals must be conducted by INDOT staff as required by FHWA.

The approvals include, but are not limited to:

- **Consultant Selection (Chapter 7)**

  If the LPA wishes to use federal funds for project development expenses, a critical element review for consultant selection must be conducted in order for expenses to be eligible.

  The LPA's consultant selection process must receive INDOT District approval prior to FMIS authorization for Preliminary Engineering (PE) and the FMIS authorization must be received prior to incurring any project development expenses whether those expenses are used for reimbursement or as match credits.

- **Level 1 Design Exceptions - Stage 1 Design Review (Chapter 9)**

  A **Stage 1 Review Submission** is required for projects with **Level 1 Design Exceptions**.

Whenever a project includes a Level 1 Design Exception, a Stage 1 Review must occur. All Level 1 Design Exceptions must be approved at Stage 1.

If a Level 1 Design Exception is discovered at a later time it must be immediately reviewed and approved by INDOT and it may delay the project.

Level 1 Design Exceptions shall be submitted by the LPA and their Consultant or Designer.

Level 1 Design Exceptions are outlined in the Indiana Design Manual **Chapter 302 (formerly Ch 40)** *and in* Chapter 9 *of this Guidance Document.*

Due to revisions and changes in chapter headings in the Indiana Design Manual (IDM), throughout this Guidance document all references and links to the IDM will include both the new and the old chapter labels.

- **Environmental Approval and Certification (Chapter 8)**

  The Environmental Document must be completed and approved by INDOT (and in some cases by FHWA) prior to initiating any Right-of-Way (R/W) services, or if there are no R/W activities, prior to the Ready for Contracts (RFC) date.

The Environmental Document shall be submitted by the LPA and their Consultant or Designer.

- **R/W Approval and Certification (Chapter 11)**

  R/W must be completed and submitted to the INDOT District no less than 75 days prior to the RFC date. R/W must also be approved prior to the RFC date. A random sample of parcels will be selected by the District Real Estate section to ensure compliance with federal and state guidelines.

  R/W documents shall be submitted by the LPA and their Consultant or Designer.

  > Projects that have a large number of parcels can and should be submitted as sets of parcels are completed. There is no need to wait for all parcels to be completed.

- **Stage 3 – Review Submission (Chapter 9)**

  Submitted 75 days prior to the RFC date.

  The Stage 3 Review Submission shall be submitted by the LPA and their Consultant or Designer.

- **Final Tracings Package Submission (Chapter 9 and Chapter 11)**

  The Final Tracings Package Submission is an accumulation of previous design and project documentation. It shall be submitted at least 30 days prior to RFC.

  The Final Tracings Package Submission shall be submitted by the LPA and their Consultant or Designer.

- **Plan Specifications and Estimate (PS&E) Approval (Chapter 12)**

  Completed by INDOT prior to Federal authorization of construction funds and 7 weeks before letting.

2-2.02 Plan Reviews

With the exception of previously mentioned project milestones that require approval and/or certification, INDOT does not require the submission of project documents at every project development stage.

Typical project development stages and submission requirements are as follows:

- **Stage 1** - To be submitted at 25% level of plan development completion. Stage 1 is required only when the project includes any Level 1 Design Exceptions.

- **Stage 2** (Optional) – Submitted at 55% level of plan development completion. If use of **Proprietary Material** is planned, requests for use shall be submitted prior to or by the Stage 2 level of completion.

- **Stage 3** (Required) – Submitted at 95% level of plan development completion and 75 days prior to RFC date.

- **Final Tracings Package Submission** (Required) – to be submitted 30 days prior to RFC date.

Note: LPA projects that involve or adjoin a state route require INDOT review at all stages.

Note: The LPA and their consultant are held responsible to meet all requirements as described in INDOT's project development and construction manuals, operating procedures, the Indiana Design Manual (IDM), and to comply with all state and federal laws, regulations, etc. INDOT and/or FHWA may request a more detailed assessment at any point in the project development process to verify the LPA and its consultant are in compliance with all project requirements.

Critical element checklists, as defined in each chapter of this guidance document, will be used to review for validation of compliance that all critical elements of the project have met federal and state guidelines.

The final critical element review is completed at the time of **Final Tracings Package Submission.**

The Final Tracings Package Submission is made up of all documentation required to advance the project to RFC and **Plan Specifications & Estimate (PS&E)** approval**,** Construction Contract Development, and Letting the Project.

When the LPA submits the Final Tracings Package Submission, the LPA shall also submit a cover letter indicating the LPA's Financial Commitment for the required Local Match.

Projects will not go to letting without this Financial Commitment Letter.

2-3.0 FATAL FLAW REVIEW

The definition of a Fatal Flaw includes any problem with a critical element that has not been, or cannot be resolved. Fatal flaws also include violations of any state or federal law, and any action that compromises safety or the rights of property owners.

Fatal flaws may be identified at any stage of the project development process.

The fatal flaw review process runs concurrent with critical element reviews. It is intended to be a general review that does not restrict a reviewer to simply reviewing the critical elements of any one project phase or stage.

Once a fatal flaw has been identified all affected project activity shall cease until the fatal flaw is resolved.

Unresolved fatal flaws will prevent the project from proceeding to the next stage and/or phase including advertisement and letting. An unresolved fatal flaw will also stop project advancement and disallow Federal funding authorizations until all fatal flaws are resolved.

2-3.01 Correcting Critical Element and Fatal Flaw Errors

The LPA Policy and Procedures Leadership Team will release Guidance Document updates and new materials related to local projects on a bi-annual basis (around February and August of each year), unless circumstances demand otherwise.

The LPA Leadership Team also serves as a point of contact for questions, concerns, and suggestions regarding possible improvements related to the LPA Guidance Document and related policies or procedures.

Upon completion of the review process by the appropriate INDOT section, the LPA and their consultant will be notified whether the submittal is acceptable or not acceptable.

If the submittal is not acceptable, the LPA and their consultant will be provided with a detailed list of deficiencies and the required corrective measures. The LPA and their consultant will be required to address these issues before the project will be cleared for RFC and federal funding. The LPA may need to provide additional documentation verifying that all deficiencies have been remedied and corrective measures completed. Additional review of the documentation may be required. INDOT District staff will organize the review with the appropriate INDOT department.

Irresolvable issues may be presented to the **LPA Policy and Procedures Leadership Team**.

Note: Local projects are required to conform or be designed according to the IDM. However, there are times in the review process when a project complies with the Design Manual, but the reviewer may include a recommendation without requiring the LPA's consultant to change the issue.

2-4.0 LPA POLICY AND PROCEDURES LEADER-SHIP TEAM

The primary role of the LPA Policy and Procedures Leadership Team is to determine and implement necessary policy and procedural changes to the LPA Project Application and Development Process.

INDOT's LPA Policy and Procedures Leadership Team shall approve any substantial changes to the LPA Project Application and Development Process, the LPA Guidance Document, related training materials, and INDOT Standard Operating Procedures.

2-4.01 LPA Policy and Procedures Leadership Team Responsibilities

- Oversee the project review process as completed by INDOT staff.
- Use INDOT staff assessment results, recommendations, and other pertinent information to update the LPA Guidance Document, training materials, and INDOT Standard Operating Procedures.
- Resolve disputes or issues related to the LPA Guidance Document and other related policies and procedures to improve efficiencies and to adjust for changes in Federal Policies.
- Approve changes to certification policies or process.

2-5.0 LPA PROJECT DEVELOPMENT PROCESS ASSESSMENT

In addition to the process of approvals and reviews, INDOT will periodically conduct in-depth assessments to ensure the LPA project development process is functioning effectively. These assessments will be conducted by INDOT staff through a task force at the direction of the LPA Policy and Procedures Leadership Team.

The results of the assessment will be used as a key resource when determining changes to policy and procedures related to this Guidance Document, the LPA Certification Training, and INDOT Standard Operating Procedures.

2-6.0 DOCUMENTATION REQUIREMENTS

Fundamental to quality assurance and the assessment process is the LPA's responsibility for developing and maintaining complete documentation of all aspects of the project development process for each project. This includes all records of decisions made by the LPA regarding project adherence to applicable federal, state, and local laws and regulations. These records must be made readily available to INDOT and FHWA upon request and be maintained for a minimum of five years following the close-out of the construction project and the final audit.

Failure to keep adequate documentation puts the LPA at risk of federal money being disallowed for the project, and being responsible for repaying all or a portion of any expended federal funds. Failure to keep adequate documentation on a federal-aid project will jeopardize an LPA's ability to be considered for inclusion in future federal-aid programs.

Each chapter in this Guidance Document provides a list of documentation the LPA shall maintain as described above based on the chapter topic. While every attempt was made to ensure a comprehensive list, the LPA should maintain **ALL** relevant documents throughout the project development process.

2-7.0 CHAPTER CHECK LIST

2-7.01 Critical Elements

- Maintain complete documentation of all aspects of the project development process for each project ensuring ready accessibility to INDOT and or FHWA for a minimum of five years from project close-out and final audit.
- The LPA's consultant selection must receive District approval prior to incurring development expenses.
- Whenever a project includes Level 1 Design Exception, a Stage 1 Design Review must occur.
- Environmental Approval and Certification is required before R/W acquisition
- R/W must be certified
- Plan Specifications and Estimate (PS&E) Approval by FHWA

2-7.02 Fatal Flaws

The following items are possible fatal flaws that may, or will, result in the loss of eligibility for federal funds.

- Any problem with a critical element that has not been, or cannot be overcome.

CHAPTER TWO APPENDIX

2-8.0 GLOSSARY

Level One Design Exception - Includes any variation away from the INDOT standard of those highway design elements which are judged to be the most critical indicators of a highway's safety and its overall serviceability. Level 1 design exceptions must be approved at Stage 1 review.

2-9.0 REFERENCES TO GUIDANCE MATERIAL

Links

INDOT LPA Webpage

INDOT Manuals

INDOT Other Publications

LPA-Consulting Contract

Legal Requirements

Quality Assurance and Assessment Procedures

Oversight Roles and Functions
23 USC 106(g)(4)

Supervising Agency
23 CFR 635.105

Procurement
49 CFR 18.36

CHAPTER THREE: PROJECT SELECTION

3-1.0 CHAPTER THREE OVERVIEW

It is critically important that all communications include the LPA's Employee in Responsible Charge (ERC).

Questions regarding Project Application and Selection should be directed to the LPA & Grants Administration Office.

Communications for local projects that fall into the Metropolitan Planning Organization (MPO) planning area should include the appropriate MPO.

Chapter Three provides general information regarding the use of federal-aid for LPA projects. It provides general descriptions of common federal-aid programs available to Local Public Agencies (LPA) with the intent to better equip LPAs in the selection and application process for participation in these programs.

Periodically additional programs may become available. It is important for the LPA to check the Indiana Department of Transportation's (INDOT) web site regularly for such changes.

Topics covered in Chapter 3 include:

- **Project Application and Selection**
- **Project Funding**
- **Urbanized Areas and Metropolitan Planning Areas**

Any discrepancy or disagreement between procedures and requirements listed in this Guidance Document and other resource manuals or materials should be resolved by contacting the **LPA Policy and Procedures Leadership Team**.

Acronyms used in this Chapter

ERC – Employee in Responsible Charge
FHWA – Federal Highway Administration
HSIP/HRRR – Highway Safety Improvement/High Risk Rural Roads
INDOT – Indiana Department of Transportation
LPA – Local Public Agency
MPA – Metropolitan Planning Area
MPO – Metropolitan Planning Organization
NHCBP – National Historic Covered Bridge Preservation
SRTS – Safe Routes to School Program
STIP – Statewide Transportation Improvement Program
STP – Surface Transportation Program
TE – Transportation Enhancement
TCSP – Transportation Community System Preservation
TIP – Transportation Improvement Plan
UA – Urbanized area

3-2.0 PROJECT APPLICATION AND SELECTION

Project application and selection will be carried out according to specific program qualifications as posted on INDOT's website. Because each program has specific documentation requirements, it is very important that LPAs, consultants and INDOT staff refer to **INDOT's web site** for the most up-to-date information regarding specific program descriptions, qualifications, and documentation requirements prior to submitting an application for federal funding.

There are four basic steps to project application and selection:

- Before the LPA can apply for a project that will use federal-aid funds the LPA's ERC must first meet the Local Public Agency Project Development Certification Training requirements.

- The ERC must complete and then submit the project application following the specific guidelines and criteria stated for the specific funding program being applied.

- The ERC will receive a communication from INDOT, Federal Highway Administration (FHWA), or the MPO regarding the selection decision.

- If selected, the ERC must request an **Early Coordination Meeting** with the **District Local Program Coordinator** within 60 days from award notification.

3-2.01 Eligibility

Federal-aid for transportation projects must be received by a city, county, municipality, or other political subdivision that is empowered under Indiana and federal law to cooperate with the State Transportation Department in highway matters.

The only exception to these eligibility criteria is the non-infrastructure Safe Routes to School Program (SRTS).

See website for more information on the **SRTS Program**.

INDOT cannot award funding or let any project for any LPA that is in arrears of sixty (60) days or more of a past due unresolved debt.

3-2.02 Ineligible

In general, selection will be denied for any application that:

1. Does not fit the application criteria listed by the specific program.

2. Is not submitted by a current **Certified ERC**, except for the SRTS Program - non-infrastructure projects.

3. Is received without a Funding Commitment Letter.

3-2.03 Program Descriptions

There are many federal-aid funding programs available to LPAs. Each program has individual eligibility requirements.

Programs include, but are not limited to the following:

3-2.03 (1) Federal Discretionary Programs

- **National Historic Covered Bridge Preservation (NHCBP)**
- **National Scenic Byways Program**
- Federal Lands Highway (Forest Highway)

- Transportation Community System Preservation (TCSP)

For more information concerning Federal Discretionary Programs go to **Federal Surface Transportation Program** web-site.

3-2.03 (2) MPO Programs

- Surface Transportation Program (STP):
- Group I (Urbanized Areas): Population at or greater than 200,000
- Group II (Urbanized Areas): Population at or greater than 50,000 but less than 200,000

Local projects within an **Urbanized Area** are selected and programmed through Metropolitan Planning Organizations (MPOs). Each MPO sets its own guidelines and selection criteria. MPO selected projects will be notified of award through the award notification process employed by that MPO.

More information regarding MPO programs can be found on the individual **MPO Websites** and in **Chapter 6** of this guidance document.

Maps showing urbanized areas for each MPO can be found at:
http://dotmaps.indot.in.gov/apps/uab/HelpInfo.aspx

3-2.03 (3) Statewide Local Programs

- STP for non-MPO area:
  - Group III (urban) Cities and Towns: Populations at or over 5,000 but less than 50,000
  - Group IV (rural) Cities and Towns: Populations under 5,000 and all Counties (except Marion) regardless of population

NOTE: Projects funded by the Statewide Local Programs Group III and Group IV cannot be located within urbanized areas with a population at or greater than 50,000. Projects located within the urbanized areas are selected by MPOs.

- Local Transportation Enhancement (TE)
- Local Bridge Program
- **SRTS**
- **Highway Safety Improvement/High Risk Rural Roads (HSIP/HRRR)**

More information on the project eligibility, purpose of each program and funding type can be found on the **INDOT website**.

3-2.04 Project Funding

The LPA needs to be aware of all federal regulations that will be required to construct any federal-aid project.

Any actions taken without a full understanding and adherence of the federal-aid process may put the LPA at risk of not receiving or losing federal funds.

Available funding for each program category is dependent upon several factors. The Federal Transportation Act that is generally adopted every six years determines the amount of available funds for each program category and can alter program categories as well as eligibility criteria.

Other factors that also may affect available funding include:

- Project timeline and delivery of the projects
- Local projects that have already been selected and are under development may affect funding availability.

When changes occur, alternatives must be considered and solutions found to ensure all LPAs with active projects maintain a reasonable expectation that their projects can be delivered on time. Failure to resolve changes in a timely manner will impact other projects and the State's ability to assure the program is "**fiscally constrained**."

Project stakeholders will communicate the costs and delivery dates of their projects from project application through final construction through **Quarterly Reports** and Quarterly Tracking Meetings. With frequent communication and coordination, INDOT can establish and communicate a clear expectation of what projects can be funded and completed.

3-2.05 Urbanized Areas and Metropolitan Planning Areas

Projects that intend to use federal-aid that are located within the **Metropolitan Planning Area (MPA)** of an MPO must first be included in the **MPO's Transportation Improvement Program (TIP)**. This step is initiated by the LPA submitting a request to the MPO. Once the MPO approves of the request, the MPO transmits their approval to INDOT for INDOT approval. Once INDOT approves, they transmit the approval to FHWA for concurrence and inclusion of the local project in the Statewide Transportation Improvement Plan (STIP). These projects must be included into the TIP before they can be included into the **Indiana STIP**.

Additional information on projects that are located within the MPA of an MPO can be located in **Chapter 6**. *For more information on TIP and STIP requirements see* **Chapter 5**.

Local projects that are located within an **Urbanized Area (UA)** of an MPO are selected and programmed through that MPO. MPOs are also able to select and local fund projects that fall anywhere within their MPA area. Each MPO sets its own guidelines and selection criteria. MPO selected local projects will be notified of award through the award notification process employed by that MPO. This information is posted on each MPO Website.

3-3.0 DOCUMENTATION REQUIREMENTS

It is the LPA's responsibility to develop and maintain complete documentation of all aspects of the project development process for each project. This includes all records of any decisions made by the LPA regarding project adherence to applicable federal, state, and local laws and regulations. These records must be made readily available to INDOT and FHWA upon request and be maintained for a minimum of five years following project close-out and the final audit.

Failure to keep adequate documentation puts the LPA at risk of federal money being disallowed for the project, and could result in the LPA being responsible to repay all or a portion of any expended federal funds.

Further, failure to keep adequate documentation on a federal-aid project will jeopardize an LPA's ability to be considered for inclusion in future federal-aid programs.

Documentation that must be maintained by the LPA for each project shall include the following:

- Copy of Initial Project Application
- Notification Letter of Project Approval from INDOT or MPO
- Supporting documentation regarding MPO coordination for inclusion in the TIP and Air Quality Conformity, as applicable
- Proof of ERC Certification prior to application

3-4.0 CHAPTER CHECK LIST

3-4.01 Critical Elements

Critical Elements are any review item used to verify that Federal and State laws, regulations and directives have been met. Critical Elements are most often identified through reviews scheduled at specific stages of the project development process.

Critical Elements in Chapter Three include:

- Verification of eligibility for federal-aid funds
- Followed Project Application Process
- Application submitted by Certified ERC
- Inclusion in the STIP and TIP as applicable

- Air Quality Conformity Determination (non-attainment and maintenance – Chapter 6)
- Funding Commitment Letter

3-4.02 Fatal Flaws

The definition of a Fatal Flaw includes any problem with a critical element that has not been, or cannot be resolved. Fatal flaws also include violations of any state or federal law, and any action that compromises safety or the rights of property owners. Fatal flaws may be identified at any stage of the project development process.

Once a fatal flaw has been identified stop all affected project activity shall cease immediately until the fatal flaw is resolved. Unresolved fatal flaws can negatively impact the project schedule, funding eligibility, and the project budget. Fatal Flaws may also impact project scope. Unresolved fatal flaws will prevent the project from proceeding to the next stage including advertisement and letting.

The following is a possible fatal flaw that may, or will, result in the loss of eligibility for federal funds.

- LPA does not have matching funds

CHAPTER THREE APPENDIX

3-5.0 GLOSSARY

Fiscally Constrained - FHWA cannot approve a STIP that lists more projects than can be afforded. Projects within the MPA must first be programmed in the TIP prior to programming into the STIP.

Metropolitan Planning Area (MPA) - The MPA is the area, determined by agreement between the Governor and the MPO, in which the MPO will carry out the federally prescribed continuing, cooperative, and comprehensive (3C) multimodal transportation planning process. As a minimum, the MPA must encompass the entire existing UA (as defined by the U.S. Census Bureau) plus the contiguous area expected to become urbanized within the 20 year forecast period for the MTP **(See Example at Figure 6-1).**

Metropolitan Planning Organization (MPO) – MPO'S are organizational entities or units of general purpose local government designated by the Governor to carry out the continuing, cooperative, and comprehensive (3C) multimodal transportation planning process prescribed by 23 U.S.C. 134 and 49 U.S.C. 5303. Each urbanized area with a population of more than 50,000 individuals (as determined by the U.S. Census Bureau during the latest decennial census) is served by one of Indiana's 14 MPOs.

Statewide Transportation Improvement Program (STIP) – The STIP is a 4 year statewide prioritized listing/program of transportation projects expected to be funded in those four years with federal funds and those state and local funded projects that have been deemed regionally significant. For projects to be eligible for federal funding under **Title 23 U.S.C. 134** and **Title 49 U.S.C. Chapter 53**, the STIP must be consistent with both the Long-range Statewide Transportation Plan (LRP) and any applicable MPO Metropolitan Transportation Plans. INDOT develops the STIP in cooperation with the MPOs and in consultation with Rural Planning Organizations (RPOs) and local officials outside MPAs. Prior to approval, INDOT will seek public comment from interested parties and citizens following procedures contained in the INDOT Public Participation Plan.

Transportation Improvement Program (TIP) - The TIP is a 4 year prioritized listing/program of transportation projects in an MPA that are expected to be funded in those 4 years with federal funds and all regionally significant projects, regardless of funding source (i.e. state, local, etc.). For projects to be eligible for federal funding under **Title 23 U.S.C. 134** and **Title 49 U.S.C. Chapter 53**, the TIP must be consistent with the MPO's adopted Metropolitan Transportation Plan (MTP). The MPO develops the TIP in cooperation with INDOT, affected public transportation operators, and LPAs. Prior to approval by the MPO's Policy Committee, all interested parties are afforded a reasonable opportunity to comment on the proposed TIP following procedures contained in the MPO's adopted Public Participation Plan. After approval by the MPO and the Governor, the TIP is included without change, directly or by reference, in the STIP.

Urbanized Area (UA) – UA means a geographic area with a population of 50,000 or more, as designated by the U.S. Census Bureau **(See Example at Figure 6-1).**

3-6.0 REFERENCES TO GUIDANCE MATERIAL

Links

Individual MPO Websites

Maps showing the Urbanized Boundaries

Group III, IV, Local Bridge and Local Transportation Enhancement Guidance

SRTS Guidance

The Highway Safety Improvement Program & High Risk Rural Roads Guidance

Legal References

Cooperative Process with MPOs and Rural Elected Officials
FHWA's Guide to Federal-Aid Projects & Programs

Stewardship and Oversight Program
Sec. 1904(g) of SAFETEA-LU

Primary Federal Requirements Regarding Selection and Management:
23 CFR 450

Public Involvement
Interested Parties, Public Involvement, and Consultation.
23 CFR 450.210
23 CRF 450.318

Air Quality Conformity
23 CFR 450.324

Fiscal Constraint
23 CFR 450.216

State Regulations and Requirements

Indiana Code, Title 4, State Office and Administration

Indiana Code, Title 5, State and Local Administration

Indiana Code, Title 36, Local Government

3-7.0 IDENTIFICATION OF RESOURCE PEOPLE

District Local Program Coordinator

Central Office Contacts

Links to MPO websites

CHAPTER FOUR: PROJECT TIMELINE

This Chapter will be added at a later date.

CHAPTER FIVE: PROJECT PROGRAMMING

5-1.0 CHAPTER FIVE OVERVIEW

All communications shall include the Employee in Responsible Charge (ERC), designated District Project Manager and/or the District Local Program Coordinator.

Because each INDOT District is structured differently, project programming may be completed by either the District Project Manager or the District Local Program Coordinator.

Please check with your District to ensure communications are sent to the appropriate INDOT staff.

Most project programming activities in a Metropolitan Planning Organization (MPO) Planning Area are covered by the MPO.

Chapter Five provides a basic overview of:

- **The Indiana Department of Transportation 's (INDOT's) Project Programming** – the programming steps required for federal-aid project eligibility.
- **Early Coordination Meeting**
- **INDOT – LPA Contract**
- **Project Funding**
- **Fiscal Management Information System (FMIS)**
- **The Use Of Credits For Projects Awarded Prior To April 29, 2009**

Any discrepancy or disagreement between procedures and requirements listed in this Guidance Document and other resource manuals or materials should be resolved by contacting the **LPA Policy and Procedures Leadership Team.**

Acronyms Used in This Chapter

CN – Construction
Des. – Designation Number
ERC – Employee in Responsible Charge
FHWA – Federal Highway Administration
FMIS – Fiscal Management Information System
INDOT – Indiana Department of Transportation
LPA – Local Public Agency
MPO – Metropolitan Planning Organization
NEPA – National Environmental Policy Act
PE – Preliminary Engineering
PO – Purchase Order
R/W – Right-of-Way
RPO – Rural Planning Organization
SPMS – Scheduling Project Management System
STIP – Statewide Transportation Improvement Program
TE – Transportation Enhancement
TIP – Transportation Improvement Program

5-2.0 PROJECT PROGRAMMING

Projects are federally funded from Federal Highway Administration (FHWA) allocations. Awards are based upon expected future funding to be made available by Congress. When it becomes time for funds to be obligated they come from the fiscal year obligations of the current year.

There are several important steps that must be completed to ensure an LPA establishes and maintains eligibility for federal funding for a project. The following sections of this chapter describe some of the required steps related to project programming in more detail.

5-2.01 Notification of Award

Project programming begins with a "Notification of Award." After the project eligibility review and project selection process have been completed, the LPA sponsor for each selected project will receive a "Notification of Award."

LPA's should coordinate with their respective **Metropolitan Planning Organization (MPO)** for project selection and funding. For projects funded through an MPO, each individual MPO has an established internal process for selecting and awarding projects.

Please reference **Chapter 6** *for MPO coordination information.*

5-2.02 Scheduling Project Management System (SPMS)

The project must be proposed and updated into INDOT's SPMS. This system assigns the Designation Number (Des.), which is the number that will be used to monitor projects through the development process including budget, schedule and project close out.

Federally funded transportation projects must conform to federal laws and regulations in order to be eligible for federal funding participation.

The information contained in the LPA application including the distribution of federal funds by phase, will be used by INDOT when programming the LPA project in SPMS. Any changes to how the funds are distributed within a project must be authorized by the LPA's ERC. INDOT will not redistribute funds within a project without the express direction of the LPA. In the case of a local project selected for funding by an MPO, the MPO must also approve changes to funding. This is to ensure proper balance of projects within each federal-aid program.

If an LPA is within an MPO Planning Area, they need to coordinate all financial, scope, and schedule changes with that MPO.

5-2.03 Indiana Statewide Transportation Improvement Program (STIP)

All LPA projects approved for funding on or after April 29, 2009 will be under this INDOT LPA Process Guidance Document.

The Statewide Transportation Improvement Program (STIP) is a capital improvement program that includes all State and Federally funded transportation system improvements expected to be undertaken during a four-year period. The STIP also includes all **Regionally Significant Transportation Projects**, regardless of funding source.

The INDOT develops the STIP in cooperation with the MPOs and in consultation with the Rural Planning Organizations (RPOs) and Non-Metropolitan local officials.

*For more detailed information on the coordination with MPOs please reference **Chapter 6**.*

After the LPA project has been authorized and activated in SPMS, it must be included into the STIP with each phase and estimate listed for the year in which funds are expected to be obligated. Projects listed in the STIP are broken down into 3 phases. These are Preliminary Engineering (PE), Right-of-Way (R/W) and Construction (CN).

Projects located within an **MPO's Planning Area** must first be included in that **MPO's Transportation Improvement Program (TIP)** prior to being included in the STIP. The process for including projects in the STIP/TIP is completed by INDOT in cooperation with the MPO as applicable. The LPA shall request inclusion in the TIP before INDOT will issue a contract. The project is then automatically processed by the MPO and INDOT for inclusion in the STIP.

Each project phase intended to use federal funding must be amended into the STIP.

5-3.0 EARLY COORDINATION MEETING

INDOT is always available to provide technical assistance or review for any element during any part of the project develop-ment process or construction. This includes but is not limited to contracting processes, contracts, design review and construction.

The "Early Coordination Meeting" is a requirement for any LPA selected for a new federally funded project. The ERC must request the early coordination meeting with the **District Local Program Coordinator** within 60 days of receiving the award notification. Failure of the LPA to request the Early Coordination Meeting within 60 days from award may result in the loss of funding.

The purpose of the Early Coordination Meeting is to discuss and review:

- Project requirements
- Consultant selection procedures and the "Request for Proposals" (RFP) process
- INDOT-LPA Contract options; and
- Other relevant topics such as planning and programming, scope, schedule and budget, right-of-way and utilities, and project development.

Note:

As a requirement for use of Federal-aid for PE activities on a project, the LPA shall utilize the FHWA approved Consultant Selection process.

And

Even when the LPA is eligible for match credits, an available balance of federally approved funds must be available in order for the LPA to receive the credit.

This meeting is invaluable to the ERC as it is designed to help them better understand all the requirements of their specific project and to identify key resource people. One of the most important aspects of this meeting is the discussion of the **INDOT-LPA Contract** in preparation for signing.

While it is a requirement of the ERC to request the early coordination meeting, it is the role of the District Local Program Coordinator to coordinate with the LPA to schedule the meeting and to invite relevant INDOT staff. It is suggested for projects that fall in a MPO Planning Area, the ERC should also extend an invitation or provide meeting information to the MPO.

The meeting follows an Early Coordination Meeting Checklist which is a topical list that is signed by both the LPA'S ERC and the District Local Program Coordinator at the close of the meeting to verify all topics were discussed.

5-4.0 INDOT-LPA PROJECT COORDINATION CONTRACT

The Contract for the development of federal-aid local projects between the INDOT and the LPA is commonly referred to as the "INDOT-LPA Contract." This Contract is used to define the specific roles, rights and responsibilities of each agency involved in the development of a federal-aid project.

The contract specifies the maximum amount of federal funds available for the project (*located in Attachment D of the INDOT-LPA Contract*) for all phases of the project (PE, R/W, and CN). The contract also specifies the terms and schedule in which the funds are intended to be obligated for construction (*located in Section V of the INDOT-LPA Contract*).

If the LPA does not sign and return the Contract and supplements within six weeks of receipt, funding for the project may be removed. If the LPA does not sign and return the Contract and supplements within two months of receipt, the project will be rescinded and the project will be eliminated.

Once the Contract is signed by the LPA and returned to the District Local Program Coordinator, it will be routed for required legal signatures (INDOT, Indiana Department of Administration, State Budget Agency and the Attorney General's Office). Once the Contract is fully executed by the Attorney General's Office, the LPA & Grants Administration Office will retain the original Contract and the District Local Program Coordinator will furnish a copy to the LPA.

Timeframe and scheduling information during the prosecution of this contract can be found in "Attachment B – LPA'S Rights and Duties" and "Attachment C – INDOT'S Rights and Duties" of the INDOT-LPA Contract.

5-4.01 Amendments to the INDOT-LPA Contract

Any change in the maximum amount of federal funds and scope may require an Amendment to the INDOT-LPA Contract. Any change in the window the funds are intended to be available will be reviewed by the Director of the LPA & Grants Office to determine if there are funds available in the fiscal year the funding window is moving to. If INDOT approves any changes to the Federal funds on a project, then the District Local Program Coordinator will initiate the amendment to the INDOT-LPA Contract.

The LPA will contact the District Local Program Coordinator if an issue that may require an amendment to the INDOT-LPA Contract occurs. Examples of changes or issues that may necessitate an amendment to the INDOT-LPA Contract include: changes in scope, changes in funding sources, additional award, or a move to the letting date.

LPA's in MPO planning areas should submit proof of adjustment from the MPO (amendment resolution or modification note) to the District Local Program Coordinator to get a revised INDOT-LPA Contract.

If the amendment is for a project funded by an MPO, then proof of the MPO's concurrence in that amendment is required before it can proceed.

5-5.0 PROJECT FUNDING

For projects that are still utilizing match credits to reduce the local match towards construction, pre-authorization of funds must be approved prior to beginning work on any of the phases eligible for credits.

5-5.01 Direct Reimbursement

NEW

For projects that are eligible for direct reimbursement, the INDOT District will issue a Purchase Order (PO) after the INDOT-LPA Contract is fully executed by the Attorney General's Office and a FMIS request has been approved. The LPA can then submit a LPA Invoice Claim Voucher for reimbursement.

5-5.02 Match Credits

On some projects with funds awarded prior to April 29, 2009, developmental credits for PE or R/W were authorized. This includes Group III, Group IV, Local Bridge, and a few Local Transportation Enhancement (TE) projects. The ERC should direct requests for credits to the District Local Program Coordinator who will request the Federal funds through FMIS prior to the start of the PE phase and again at the R/W phase.

On a project that uses match credits, the ERC is still required to request the District Local Program Coordinator initiate approval of funds for the R/W phase and to wait for Notice to Proceed from INDOT prior to any work being done. This request shall not be made until the **Environmental Document** has been approved.

5-5.02 (1) Match Credits – Land Donations

Match Credits, which can be used to reduce the amount of **Local Matching Funds** required for construction, are now only used in the case of land value (e.g., donation). If the LPA chooses to use Land Value as part of their match they must notify the District Local Program Coordinator of that choice in writing.

In addition, all R/W costs will be handled similarly. For R/W activity, the LPA may use either direct Federal reimbursement **or** Match Credits. The LPA may **not** use both direct Federal reimbursement and Match Credits. This choice must be incorporated into the INDOT-LPA Contract.

5-6.0 FISCAL MANAGEMENT INFORMATION SYSTEM (FMIS)

Approval of funds in the FMIS is the federal authorization for the use of federal-aid on a specific project phase. FMIS authorization is not just an authorization for the use of federal-aid funds, but also an authorization of the project phase.

Prior to the start of work on each phase (PE, R/W, CN) of the project, the phase must be authorized and approved in the federal FMIS database.

Before the FMIS authorization can be processed, the following requirements must be fulfilled:

- The project must be listed in the TIP (if applicable) and the **STIP;**
- **Consultant Selection** must be approved (see Chapter 7),
- The LPA – Consulting Contract should be executed by both the LPA and their consultant after INDOT review, and
- The INDOT-LPA Contract must be approved by the Attorney General's office.

If a project requires Railroad or Utility Coordination, a separate FMIS authorization for those activities is required.

See **Chapter 10** of this document for more information on Railroad and Utility Coordination.

The LPA should review the STIP to compare the contract amount with the amount programmed for that phase. Any changes to the distribution of funds within the project must be made by the LPA. Modifications of the STIP may be required.

Any local money expended or costs incurred by the LPA prior to a Notice to Proceed issued by the INDOT District will not be eligible for federal-aid reimbursement, nor will that local money be eligible to be counted as local match for future federal money utilized on the project.

Should the LPA not incur any expenses within six months of the Notice to Proceed, the authorization may be revoked and the LPA will be required to request FMIS authorization for services when they are prepared to move forward.

Should authorization be revoked, expenses that occur during this time will be **ineligible** for federal reimbursement.

*Please refer to **Chapter 7** for more information on Consultant Selection and the LPA-Consulting Contract.*

FMIS – Right-of-Way Services and Land Acquisition

The FMIS request for R/W Services will not be requested until after the INDOT-LPA Contract for R/W has been approved by the Attorney General's Office. The ERC should not request an INDOT-LPA Contract for R/W Services until **after** the environmental document is complete and has **NEPA approval**. The funds request for Land Improvement and Damages should be requested after the INDOT-LPA Contract for R/W Services contract has been approved by the Attorney General's Office.

Funds for R/W cannot be authorized until the NEPA document has been completed and approved and the INDOT-LPA Contract has been approved by the Attorney General's Office.

*Please see **Chapter 8 – Environmental Process** for further information.*

5-7.0 CANCELLED PROJECTS

A city, county, or town may decide to cancel a project. In such event, the city, county, or town shall notify, in writing or by e-mail, the District Local Program Coordinator in its district and shall provide the project description and Des. No. The District Local Program Coordinator shall forward this information to the Director of LPA and Grants Administration.

The Director of LPA and Grants Administration will contact the Procurement & Project Accounting Division to determine how much federal money, if any, was spent on the project. The city, county, or town must repay INDOT all federal money spent on its cancelled project.

If no federal money was spent on the project, the Director of LPA and Grants Administration will approve elimination of the project in SPMS by the District Local Program Coordinator. Otherwise, the Director will inform the District Local Program Coordinator of the amount to be repaid. The District Local Program Coordinator will provide this information to the LPA and ask for confirmation that they still desire to cancel the project.

The LPA and Grants Administration Office will be responsible for approving the initiation of the bill by the District Local Program Coordinator to the city, county or town for the repayment of federal funds on a cancelled project.

5-8.0 DOCUMENTATION REQUIREMENTS

Project programming documents and all other documents must be maintained by the LPA for at least five years after the final closeout of the project.

Documents that must be maintained include but are not limited to:

- Level 1 Certification Certificate for the LPA'S ERC
- Project Application **(Chapter 3)**
- Project Award letter
- Project listed in the **TIP** and **STIP** as required for all phases of a project
- FMIS approval notification for each phase of a project
- **Quarterly Reports** - Required for all federally funded local projects
- Early Coordination Meeting Agenda
- Name, Address, and Phone number of ERC and LPA Project Manager
- INDOT - LPA Contract for the PE, R/W, and CN phases
- INDOT - LPA Supplemental Agreements (if applicable) for the PE, R/W, and CN phases

- Other necessary documentation as may be defined, contained or referenced within the INDOT-LPA Contact.

5-9.0 CHAPTER CHECK LIST

5-9.01 Critical Elements

Critical Elements are any review item used to verify that all applicable Federal and State laws, regulations and directives have been met. Critical Elements are most often identified through reviews scheduled at specific stages of the project development process. These include but are not limited to:

- Project listed in the TIP and STIP as required
- INDOT-LPA Project Coordination Contract signed by LPA within six weeks of receipt from INDOT
- Consultant Selection Process followed and approved by INDOT
- Fully executed INDOT-LPA Project Coordination Contract
- Federal share of project cost does not exceed the maximum amount of federal funds approved
- Project phases have received FMIS Notice of Authorization
- Only expenses incurred after INDOT's Notice to Proceed are eligible for reimbursement

5-9.02 Fatal Flaws

The definition of a Fatal Flaw includes any problem with a critical element that has not been, or cannot be resolved. Fatal flaws also include violations of any state or federal law, and any action that compromises safety or the rights of property owners. Fatal flaws may be identified at any stage of the project development process.

Once a fatal flaw has been identified it shall stop all affected project activity until the fatal flaw is resolved. Unresolved fatal flaws can negatively impact the project schedule, funding, and the project budget. They may also impact project scope. Unresolved fatal flaws <u>will</u> prevent the project from proceeding to the next stage including advertisement and letting.

In project programming the focus on fatal flaws is primarily centered on project scope, proper procedures related to consultant selection, and managing critical documents, however this focus does not exclude other types of fatal flaws. Some of the most common are:

- "Slippery Project Scope": Changes to the scope can result in insufficient approved federal funds needed to construct the project.

- Incorrect Consultant selection (See chapter 7).
- Failure to maintain ERC Certification
- Failure to submit required documents in a timely manner. (e.g., INDOT-LPA Contract, Quarterly Reports, etc.

CHAPTER FIVE APPENDIX

5-10.0 GLOSSARY

Regionally Significant Project - A regional significant project means a transportation project on a facility which serves regional transportation needs and a project that would normally be included in the modeling of the MPA's transportation network by the MPO. At minimum, this includes all principal arterial highways and fixed guide way transit facilities that offer a significant alternative to regional highway travel.

Metropolitan Planning Area (MPA) - The MPA is the area, determined by agreement between the Governor and the MPO, in which the MPO will carry out the federally prescribed continuing, cooperative, and comprehensive (3C) multimodal transportation planning process. As a minimum, the MPA must encompass the entire existing UA (as defined by the U.S. Census Bureau) plus the contiguous area expected to become urbanized within the 20-year forecast period for the MTP (See Example at Figure 6-1).

Metropolitan Planning Organization (MPO) – MPO'S are organizational entities or units of general purpose local government designated by the Governor to carry out the continuing, cooperative, and comprehensive (3C) multimodal transportation planning process prescribed by 23 U.S.C. 134 and 49 U.S.C. 5303. Each urbanized area with a population of more than 50,000 individuals (as determined by the U.S. Census Bureau during the latest decennial census) is served by one of Indiana's fourteen MPOs.

Metropolitan Transportation Plan (MTP) - The MTP is a fiscally constrained 20-year plan for transportation improvements in a MPA. The plan, which is developed by the MPO through a collaborative effort between LPAs, the MPO, INDOT and the public, is based on adopted land use plans and projections for growth in population, housing and jobs. Federal-aid funds cannot be used to advance LPA projects unless those projects are consistent with the adopted MTP, which must be updated every 4-years in air quality non-attainment and maintenance areas and every 5-years in all other areas.

Statewide Transportation Improvement Program (STIP) – The STIP is a 4-year statewide prioritized listing/program of transportation projects expected to be funded in those four years with federal funds and those state and local funded projects that have been deemed regionally significant. For projects to be eligible for federal funding under **Title 23 U.S.C. 134** and **Title 49 U.S.C. Chapter 53**, the STIP must be consistent with both the Long-range Statewide Transportation Plan (LRP) and any applicable MPO Metropolitan Transportation Plans. INDOT develops the STIP in cooperation with the MPOs and in consultation with Rural Planning Organizations (RPOs) and local officials outside MPAs. Prior to approval, INDOT will seek public comment from interested parties and citizens following procedures contained in the INDOT Public Participation Plan.

Transportation Improvement Program (TIP) - The TIP is a 4-year prioritized listing/program of transportation projects in an MPA that are expected to be funded in those four years with federal funds and all regionally significant projects, regardless of funding source (i.e. state, local, etc.). For projects to be eligible for federal funding under **Title 23 U.S.C. 134** and **Title 49 U.S.C. Chapter 53**, the TIP must be consistent with the MPO's adopted Metropolitan Transportation Plan (MTP). The MPO develops the TIP in cooperation with INDOT, affected public transportation operators, and LPAs. Prior to approval by the MPO's Policy Committee, all interested parties are afforded a reasonable opportunity to comment on the proposed TIP following procedures contained in the MPO's adopted Public Participation Plan. After approval by the MPO and the Governor, the TIP is included without change, directly or by reference, in the STIP.

5-11.0 REFERENCES TO GUIDANCE MATERIAL

Links

INDOT Local Public Agency webpage

INDOT-LPA Project Coordination Contract

Legal References

Some of the legal requirements for the INDOT-LPA Contract are set out within the contract itself under the "Recitals" and "General Provisions" sections. LPAs are expected to comply with all state and federal laws and regulations that may be applicable to a project.

Pursuant to **I.C. 4-13-2-14.1**, the Department of Administration, State Budget Agency, and the Attorney General of Indiana must sign all contracts to which INDOT is a party.

5-12.0 IDENTIFICATION OF RESOURCE PEOPLE

All questions and coordination regarding any and all aspects of INDOT-LPA Project Coordination Contract are to be directed to the **District Local Program Coordinator**.

CHAPTER SIX: LPA – MPO PROJECT COORDINATION

6-1.0 CHAPTER SIX OVERVIEW

LPA's that fall outside of the Urbanized Area but within the Metropolitan Planning Area of an MPO, the primary point of contact will be the District Local Program Coordinator.

LPA's that fall within an MPO Planning Area and are receiving funding from an MPO, the primary point of contact for those projects will be the applicable MPO.

Planning, funding, programming, and delivering local multi-modal federal-aid transportation projects in **Metropolitan Planning Areas (MPA)** is a cooperative effort between Local Public Agencies (LPAs), Metropolitan Planning Organizations (MPOs) and the Indiana Department of Transportation (INDOT).

This chapter provides a summary of the requirements and processes used to coordinate LPA projects that fall within MPAs.

This chapter covers:

- **Project Funding & Selection**
- **LPA and MPO Responsibilities**

Acronyms used in this Chapter

CMAQ – Congestion Mitigation Air Quality
CN – Construction
ERC – Employee in Responsible Charge
FHWA – Federal Highway Administration
FMIS – Fiscal Management Information System
HSIP – Highway Safety Improvement Program
INDOT – Indiana Department of Transportation
LPA – Local Public Agency
LRP – Long-Range Plan
MPA – Metropolitan Planning Area
MPO – Metropolitan Planning Organization
MTP – Metropolitan Transportation Plan
NEPA – National Environmental Policy Act
NHCBP – National Historic Covered Bridge Preservation
NSB – National Scenic Byways
PE – Preliminary Engineering
RPO – Rural Planning Organization
R/W – Right-of-Way
SRTS – Safe Routes to School
STIP – Statewide Transportation Improvement Program
STP – Surface Transportation Program
TE – Transportation Enhancement
TIP – Transportation Improvement Program
UA – Urbanized Area

6-2.0 PROJECT FUNDING AND SELECTION

The process of funding and selecting LPA projects in MPA areas is dependent on the project's location in relation to the Urbanized Area (UA) boundary.

UA means a geographic area with a population of 50,000 or more, as designated by the U.S. Census Bureau. See Figure 6-1 on the next page.

MPA is the geographic area determined by agreement between the MPO for the area and the Governor, in which the Metropolitan Transportation Planning (MTP) process is carried out. (**23 CFR 450.104**)

Most LPA Surface Transportation (STP) funded projects located within an UA are funded by the MPO using selection criteria established by the MPO's Policy Committee.

Projects outside the UA, but within the MPA, are generally funded and selected by the LPA & Grants Administration Office with the assistance of the appropriate District. However, LPAs will coordinate these projects through the **applicable MPO**. MPOs may also choose to fund projects that are outside their UA, but within their MPA. If a MPO makes this decision they will also make the project selection decision.

Table 6-1 identifies the various funding programs available to support LPA federal-aid projects and responsibilities for project selection under each program.

Figure 6-1 - Sample Map Depicting a MPA & UA

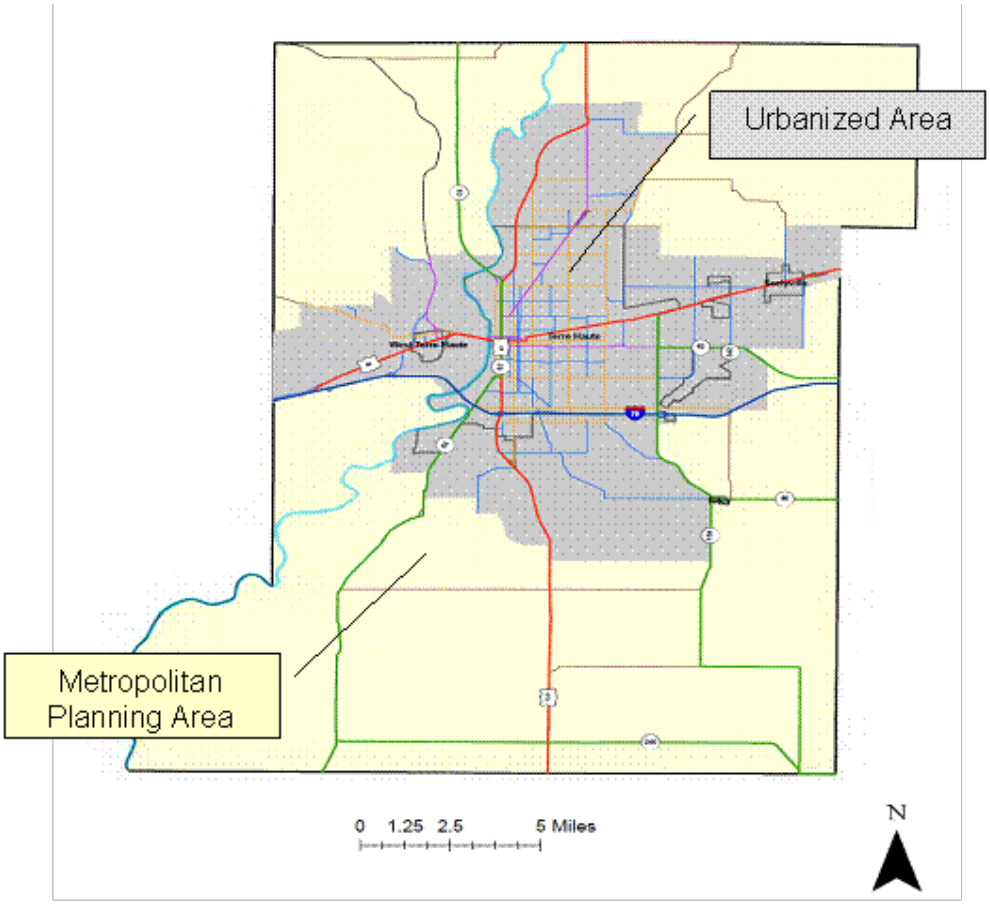

Table 6-1 – Funding & Selection Responsibilities

		Source of Federal Funding			Primary Project Selection Decision Maker			
Program	**Project Location**	**MPO**	**INDOT District**	**INDOT CO**	**MPO**	**INDOT District**	**INDOT CO**	**Remarks**
STP Group I	Inside MPO Urbanized Area	●			●			Program applies to all UAs with populations at, or greater than 200,000.
STP Group II	Inside MPO Urbanized Area	●			●			Program applies to all UAs with population at, or greater than 50,000 but less than 200,000.
STP Group III	Outside MPO Urbanized Area [1]		●			●		Program applies to cities & towns with populations at, or over 5,000 but less than 50,000.
STP Group IV	Outside MPO Urbanized Area [1]		●			●		Program applies to all counties, as well as cities and towns with a population less than 5,000.
Transportation Enhancement (TE)	Inside MPO Urbanized Area	●			●			Project selection requires validation by the Federal Highway Administration (FHWA).
	Outside MPO Urbanized Area [1]		●			●		
Highway Safety Improvement Program (HSIP)	Inside MPO Urbanized Area	●			●			Project selection requires validation by the State Highway Safety Committee.
	Outside MPO Urbanized Area [1]		●			●		
Congestion Mitigation and Air Quality (CMAQ)	Inside MPO Urbanized Area	●			●			Project selection requires validation by FHWA.
	Outside MPO Urbanized Area [1]			●			●	
Local Bridge	Outside MPO Urbanized Area		●			●		Local Bridge Projects inside UAs are funded through the STP Group I or STP Group II Programs and selected by the MPO.
Safe Routes to School (SRTS)	Any Area			●			●	
National Scenic Byways (NSB)	Designated All American Roads/National Scenic Byways						●	Federal funding is provided through INDOT. Project selection done by INDOT and recommendation made to FHWA.
National Historic Covered Bridge Preservation (NHCBP)	Designated National Historic Covered Bridges						●	Federal funding is provided through INDOT. Project selection done by INDOT and recommendation made to FHWA.

[1] A MPO may choose to fund a project under this program that is outside their UA, but within their MPA. If the MPO makes this decision it will also make the project selection decision.

6-3.0 LPA AND MPO RESPONSIBILITIES

LPAs in a MPA should contact their MPO for more detailed information about submission of project applications, project funding eligibility, selection criteria, etc.

Each MPO must verify project eligibility and submit written verification to the LPA and Grants Administration Office. This written verification will normally be completed by electronic submission of a Project Application Form to the appropriate District Local Program Coordinator.

Prior to inclusion or amendment of a selected project into the Transportation Improvement Program (TIP) (regardless of whom selected the project or the project funding source), the MPO must:

- Verify the project is consistent with the latest air quality conformity determination if the MPA is located in an air quality non-attainment or maintenance area.
- Verify the project is consistent with the adopted **Metropolitan Transportation Plan (MTP)**.
- Determine the project does not require re-demonstration of fiscal constraint (MPO funded projects only).
- Follow procedures outlined in the MPO's or INDOT's adopted "Public Participation Plan" as appropriate to provide the public with reasonable opportunity to comment on the project.

The MPO will ensure selected projects and/or project phases are appropriately programmed in the TIP and subsequently will submit a request to INDOT to include the project in the STIP. Projects must be listed individually and programmed by phase (PE, R/W, CN). If a project is not fully funded within the 4-year life of the TIP, the LPA must provide the estimated cost to complete the project to the MPO.

For more information on project programming please see **Chapter 5.**

LPAs also must notify the MPO of any change in project scope, project phase costs, project/phase timelines, funding sources, etc. so that the MPO can appropriately modify or amend its TIP following the procedures contained in the TIP. The MPO will subsequently submit a request to INDOT to appropriately modify or amend the STIP.

LPAs must familiarize themselves with the MPO's established Change Order Policy and comply with that policy. *For more information on Change Orders please see* **Chapter 14.**

The LPA, MPO and INDOT will coordinate all phases of project execution (PE, R/W, CN) through an on-going quarterly project tracking process mutually agreed upon by the MPO and INDOT.

For more information concerning individual MPO's Public Participation Plan, Change Order Policy, and Quarterly Project Tracking please refer to the individual MPO's Website.

6-4.0 DOCUMENTATION REQUIREMENTS

All supporting documentation for the project shall be maintained by the LPA. All documentation must be saved for a minimum of five years after the project closeout and final audit.

- Proof of LPA Training Certification for the designated Employee in Responsible Charge (ERC)
- Project Application
- Copy of the request from the LPA to the MPO to include project in TIP
- TIP/STIP approval
- FMIS Authorization
- Quarterly Reports (required for all federally funded local projects)
- Change Orders including approval by MPO

6-5.0 CHAPTER CHECK LIST

Critical Elements are any review item used to verify that Federal and State laws, regulations and directives have been met. Critical Elements are most often identified through reviews scheduled at specific stages of the project development process.

6-5.01 Critical Elements

- Project is eligible for federal-aid funds
- Project is consistent with the adopted MTP
- Project followed Project Selection process
- Air Quality Conformity Determination (non-attainment and maintenance areas)
- Project included in the TIP/STIP
- Project follows **Consultant Selection** Requirements (Chapter 7)
- LPA received Notice to Proceed from INDOT prior to conducting any work on the project (Expenses incurred prior to INDOT's Notice to Proceed will be paid with 100% local funds. (Chapter 5)).
- INDOT-LPA Project Coordination Contract signed by LPA

6-5.02 Fatal Flaws

The definition of a Fatal Flaw includes any problem with a critical element that has not been, or cannot be resolved. Fatal flaws also include violations of any state or federal law, and any action that compromises safety or the rights of property owners. Fatal flaws may be identified at any stage of the project development process.

Once a fatal flaw has been identified it shall stop all affected project activity until the fatal flaw is resolved. Unresolved fatal flaws can negatively impact the project schedule, funding, and the project budget. They may also impact project scope. Unresolved fatal flaws will prevent the project from proceeding to the next stage including advertisement and letting.

Some of the most common fatal flaws include the following:

- No Designated Employee in Responsible Charge (ERC)
- No LPA Training Certification for the ERC
- Project not eligible for federal-aid program
- Project not consistent with the adopted MTP
- Project not consistent with the latest air quality conformity determination (non-attainment and maintenance areas)
- Not enough federal funds allocated
- LPA does not have required matching funds (Chapter 13)
- Project not included in TIP and STIP
- Fully executed INDOT-LPA Project Coordination Contract

CHAPTER SIX APPENDIX

6-6.0 GLOSSARY

Fiscal Constraint - Under federal regulations, the MTP, TIP, and STIP must be fiscally constrained (estimated year of expenditure costs cannot exceed reasonably expected revenues from all sources) by year and include a financial plan to implement programmed projects.

Metropolitan Planning Area (MPA) - The MPA is the area, determined by agreement between the Governor and the MPO, in which the MPO will carry out the federally prescribed continuing, cooperative, and comprehensive (3C) multimodal transportation planning process. As a minimum, the MPA must encompass the entire existing UA (as defined by the U.S. Census Bureau) plus the contiguous area expected to become urbanized within the 20-year forecast period for the MTP (See Example at Figure 6-1).

Metropolitan Planning Organization (MPO) – MPO'S are organizational entities or units of general purpose local government designated by the Governor to carry out the continuing, cooperative, and comprehensive (3C) multimodal transportation planning process prescribed by 23 U.S.C. 134 and 49 U.S.C. 5303. Each urbanized area with a population of more than 50,000 individuals (as determined by the U.S. Census Bureau during the latest decennial census) is served by one of Indiana's fourteen MPOs.

Metropolitan Transportation Plan (MTP) - The MTP is a fiscally constrained 20-year plan for transportation improvements in a MPA. The plan, which is developed by the MPO through a collaborative effort between LPAs, the MPO, INDOT and the public, is based on adopted land use plans and projections for growth in population, housing and jobs. Federal-aid funds cannot be used to advance LPA projects unless those projects are consistent with the adopted MTP, which must be updated every 4-years in air quality non-attainment and maintenance areas and every 5 years in all other areas.

Regionally Significant Project - A regional significant project means a transportation project on a facility which serves regional transportation needs and a project that would normally be included in the modeling of the MPA's transportation network by the MPO. At minimum, this includes all principal arterial highways and fixed guide way transit facilities that offer a significant alternative to regional highway travel.

Statewide Transportation Improvement Program (STIP) – The STIP is a 4-year statewide prioritized listing/program of transportation projects expected to be funded in those four years with federal funds and those state and local funded projects that have been deemed regionally significant. For projects to be eligible for federal funding under **Title 23 U.S.C. 134** and **Title 49 U.S.C. Chapter 53**, the STIP must be consistent with both the Long-range Statewide Transportation Plan (LRP) and any applicable MPO Metropolitan Transportation Plans. INDOT develops the STIP in cooperation with the MPOs and in consultation with Rural Planning Organizations (RPOs) and local officials outside MPAs. Prior to approval, INDOT will seek public comment from interested parties and citizens following procedures contained in the INDOT Public Participation Plan.

Transportation Improvement Program (TIP) - The TIP is a 4-year prioritized listing/program of transportation projects in an MPA that are expected to be funded in those four years with federal funds and all regionally significant projects, regardless of funding source (i.e. state, local, etc.). For projects to be eligible for federal funding under **Title 23 U.S.C. 134** and **Title 49 U.S.C. Chapter 53**, the TIP must be consistent with the MPO's adopted Metropolitan Transportation Plan (MTP). The MPO develops the TIP in cooperation with INDOT, affected public transportation operators, and LPAs. Prior to approval by the MPO's Policy Committee, all interested parties are afforded a reasonable opportunity to comment on the proposed TIP following procedures contained in the MPO's adopted Public Participation Plan. After approval by the MPO and the Governor, the TIP is included without change, directly or by reference, in the STIP.

Urbanized Area (UA) – UA means a geographic area with a population of 50,000 or more, as designated by the U.S. Census Bureau **(See Example at Figure 6-1).**

6-7.0 REFERENCES TO GUIDANCE MATERIAL

Links

MPO projects are selected and programmed through the MPO. Guidelines and selection criteria for each MPO may be found on individual MPO websites.

Maps Showing Each MPO's Urban Area Boundary

Safe Routes to School Guidance

The Highway Safety Improvement Program and High Risk Rural Roads Guidance

Legal Requirements

Federal laws and regulations require each state to work with local elected officials and MPOs to develop a program of projects that will utilize federal funds in MPAs. In addition, Sec. 1904 (g) of SAFETEA-LU (P.L. 109-59) added a new requirement for states to provide additional attention to project delivery of both state and local projects.

LPA's are legally responsible for the development and administration of their federal-aid projects. Therefore, they must be particularly diligent to ensure compliance with all applicable federal and state requirements, including but not limited to requirements concerning: **Consultant Selection**, the **National Environmental Policy Act (NEPA)**, and **Land Acquisition**.

Non-compliance with applicable laws and regulations could results in partial or complete withdrawal of federal and/or state participation in a project.

General information and regulations related to development of federal-aid projects can be found in **FHWA's Guide to Federal-aid Projects & Programs** and in this guidance document.

The following federal and state laws and regulations provide additional information about selection, programming and management of projects.

State Office and Administration
Indiana Code, Title 4

State and Local Administration
Indiana Code, Title 5

Local Government
Indiana Code, Title 36

Planning Assistance and Standards
23 CFR 450

Statewide Transportation Planning and Programming
23 CFR 450 Sub-Part B

Coordination of Planning Process Activities
23 CFR 450.208

Interested Parties, Public Involvement, and Consultation
23 CFR 450.210

Development and Content of Statewide Transportation Improvement
23 CFR 450.216

Metropolitan Transportation Planning and Programming
23 CFR 450 Sub-Part C

Interested parties, Participation, and Consultation
23 CFR 450.316

Development and Content of the Metropolitan Transportation Plan
23 CFR 450.322

Determining Conformity of Federal Actions to State of Federal Implementation Plans (Air Quality)
40 CFR 93

6-8.0 IDENTIFICATION OF RESOURCE PEOPLE

The **District Local Project Managers** are responsible for coordinating all processes and issues regarding Indiana's MPOs.

Each individual MPO Contact can be found by clicking **MPO Contacts.**

CHAPTER SEVEN: CONSULTANT CONTRACTING

7-1.0 CHAPTER SEVEN OVERVIEW

Chapter Seven establishes the policy for contracting with **professional services** consultants for Local Public Agency (LPA) projects involving Federal-Aid funding. This chapter supersedes the manual entitled, *"Architectural and Engineering Firm Selection Process for Local Public Agencies".*

The District Local Program Coordinator is the primary point of contact for all consultant contracting matters, and is available to provide assistance at any point in the consultant contracting process.

Any apparent discrepancies or disagreements between procedures required in the **LPA-Consulting Contract** and the procedures listed in this guidance document should be resolved by contacting the LPA Policy and Procedures Leadership Team at **LPAQuestions@indot.in.gov.**

Topics covered in this chapter include:

- **Applicability and LPA Responsibilities**
- **Selection Process**
- **Contract Scoping and Negotiation**
- **Contract Administration**
- **Errors and Omissions (E & 0)**

Acronyms used in this Chapter

A&E – Architectural & Engineering
DBE – Disadvantaged Business Enterprise
DOT – Department of Transportation
E&O – Errors and Omissions
ERC – Employee in Responsible Charge
FHWA – Federal Highway Administration
FMIS – Fiscal Management Information System
INDOT – Indiana Department of Transportation
LOI – Letters of Interest
LPA – Local Public Agency
LTAP – Local Technical Assistance Program
PE – Preliminary Engineering
PE/S – Project Engineer/Supervisor
QBS – Qualifications Based Selection
RFC – Ready for Contracts
RFP – Request for Proposals
R/W – Right-of-Way

7-2.0 APPLICABILITY AND LPA RESPONSIBILITIES

The Code of Federal Regulations Title 23 Part 172 **(23 CFR 172)** prescribes policies and procedures for administration of engineering and design related services contracts for transportation projects using federal funds. These regulations require use of a "Qualifications Based Selection" (QBS) process as outlined in **Title 40 United States Code, Chapter 11, Section 1104, paragraph (b)**.

These regulations also require State DOTs, as recipients of Federal funds, to ensure "sub-recipients comply with this part." This means the State must ensure LPAs follow the same Federal requirements as the State. Thus, LPAs are subject to the same procurement requirements as the State DOT.

7-2.01 Applicability

If consultant services are to be funded with federal-aid by either direct reimbursement, or by credits used as a match for construction of the project, the LPA must follow all Federal requirements.

If your project is eligible to use credits, please refer to **Chapter Five** *for details.*

If no Federal dollars are used to pay for professional services and the cost of services will not be used as a match credit for federal project construction funds, the selection portion of this chapter does not apply, even if Federal dollars are to be used for the construction itself.

All professional services leading to federally funded construction must be performed by **INDOT prequalified consultants** or by LPA in-house staff that have been approved by the Indiana Department of Transportation (INDOT) as having the same technical qualifications specified for consultants. This is regardless of whether federal funds for the services are being reimbursed or credits are being accrued.

7-2.02 LPA Responsibilities

Federally funded consultant selection, contracting and contract administration activities shall be performed by or under the supervision of a certified Employee in Responsible Charge (ERC). The ERC shall assure compliance with the policies described in this chapter and is responsible for oversight and management of the consultant in a fiscally responsible manner.

7-3.0 SELECTION PROCESS

If consultant services are to be funded with federal-aid the LPA must:

1) Create and advertise a **Request for Proposals (RFP)** on INDOT's website (Local website posting can be in addition to INDOT's).

2) Evaluate and rank consulting firms using the score sheet that was advertised in the RFP.

7-3.01 Advertisement

The RFP shall include a project description, scope of services, qualification requirements, Disadvantaged Business Enterprise (DBE) goal, selection rating worksheet and a response due date.

The RFP will be reviewed by INDOT and shall be advertised on INDOT's website.

LPA RFP templates along with detailed instructions on how to prepare the RFP and advertise it are available at **http://www.in.gov/indot/2833.htm.**

7-3.01 (1) Project Description and Scope of Services

The RFP must provide a project description and scope of services information such as location, work types and phases of services. This information is important because it defines the service type parameters covered by the selection. If the selection is to cover construction inspection, for example, the RFP must identify it as a planned part of the scope of services; otherwise, a subsequent RFP and selection shall be required.

The LPA and their Consultant have the option to submit project designs to INDOT for technical review throughout the project development process.

The LPA also has the option to include design review deliverables in the LPA-Consulting Contract effectively requiring their Consultant to submit project designs to INDOT for review at additional points than required by this document.

Every effort will be made to complete these reviews promptly.

LPA RFP's typically include plan development, environmental services and permits, right-of-way engineering, right-of-way acquisition services and construction inspection services. A LPA who has included all phases of services in a RFP may later decide to issue a new RFP for phases of services not already included in a contract. The LPA also has the option to advertise separate RFPs for different phases of services in order to contract with firms who specialize in specific types of work.

7-3.01 (2) Prequalification Requirements

INDOT prequalifies consultants for various engineering and design related work types in accordance with the **INDOT Prequalification Manual**. The LPA shall clearly specify appropriate prequalification work types in the RFP advertisement based on a comparison of the nature of services to be performed to the work type descriptions included in the prequalification manual. The advertisement must identify required INDOT Prequalification work types when applicable work types are available. Whenever INDOT prequalification is required, the lead consultant and all sub-consultants must be prequalified. In addition the lead consultant firm must provide a **LPA Certified Project Engineer** to lead the project development process.

7-3.01 (3) Disadvantaged Business Enterprise (DBE) Goal

The DBE Goal Request form is available via a link on the LPA Selection Webpage that will generate an auto-email goal request.

Each advertisement shall have a stated DBE goal.

INDOT is the only entity in the State of Indiana with a Federal Highway Administration (FHWA) approved DBE program. As such, INDOT maintains responsibility for setting all DBE goals and may not delegate any portion of the program administration to the LPA.

The LPA shall complete the **DBE Goal Request form** to obtain the goal value.

7-3.01 (4) Selection Rating Sheet

A copy of the consultant rating sheet must be included within the RFP.

A standard pre-approved LPA score sheet is available in the **LPA RFP Template** as an Excel file.

LPAs may choose to customize the standard LPA score sheet for a particular project advertisement; however, advance INDOT approval of the specific revisions shall be required. All evaluation criteria must be "qualifications-based", location criteria must not exceed more than 5% of the total possible score, and criteria must not introduce bias based on city, county or state boundaries. The INDOT approval process may take up to two weeks depending upon the nature of customization proposed.

7-3.01 (5) Pre-Screening and Interviews

If a LPA desires to use pre-screening or interviews during the selection process, details of the pre-screening and/or interview process must be described in the RFP. The District Local Program Coordinator can assist with suggested text for the RFP.

7-3.01 (6) Minimum Number of Respondents

Competition between multiple qualified firms is a foundational tenet of the federal qualifications based selection process. Whenever the LPA perceives there is a risk that fewer than three Letters of Interest (LOI) may be received, the LPA should undertake recruitment efforts beyond basic website advertisement to obtain competition.

If fewer than three LOI are received, documentation will be required that demonstrates that the LPA made significant recruitment efforts beyond advertisement to create a competitive selection process. If significant recruitment efforts are not documented, the LPA will be required to re-advertise the RFP and make additional efforts to obtain competition.

7-3.01 (7) Due Date

The typical advertisement period for LPA RFP's is one month. Shorter advertisement periods must be justified to the District Local Program Coordinator prior to posting the advertisement.

7-3.02 Evaluation and Ranking

Evaluation of proposals and ranking of consulting firms begins immediately following the receipt of LOIs and the passage of the due date. LOI must contain all of the information specified in the advertisement. LOI that do not meet or address the qualification criteria as of the due date shall not be considered for evaluation.

Firms submitting LOI for engineering and design related services must be evaluated and ranked on their qualifications and not on the cost of proposed services or any other considerations not advertised or prohibited by **Qualifications Based Selection**.

The components of evaluation and ranking include prequalification verification, scoring team selection, scoring and ranking and DBE goal compliance check.

7-3.02 (1) Prequalification Verification

The lead consultant must be INDOT prequalified and the consultant team, including sub-consultants identified in the Letter of Interest, must collectively be INDOT prequalified for all work types specified in the RFP. For example, if an RFP requires multiple prequalification work types the lead firm may provide some work types and utilize sub-consultants to provide the others.

A list of **prequalified firms** is available on the INDOT website.

7-3.02 (2) Past Performance Data

Consultants performing services for INDOT or for LPA federal-aid projects are evaluated by INDOT. INDOT past performance data shall be applied in the scoring process when applicable data is available. Most LPAs are using INDOT historical performance evaluation data in their selections.

7-3.02 (3) Scoring Team

It is strongly recommended that a team of scorers be used (3 to 5 individuals) to evaluate the LOI; however a single technically qualified LPA representative may perform the evaluation. The scorers should be familiar with the proposed project and must be capable of providing unbiased reviews of the qualifications of the submitting consultants.

7-3.02 (4) Scoring

Reminder:

The Consultant Project Manager must be current in their LPA Project Development Training.

Members of the team must be knowledgeable of the project and scoring process. Evaluation factors must be applied to all proposals in a uniform, fair and consistent manner. Scorers shall evaluate LOI using the selection rating sheet advertised in the RFP.

7-3.02 (5) Tabulation of Scores and Ranking

The evaluation factors must result in the scoring and ranking of firms in order from highest to lowest qualified for the specific RFP. If a scoring tie exists among the highest ranked firms, the selecting official shall determine which of the tied firms is to be treated as the most qualified firm and shall provide a documented explanation of the basis for the decision.

A final summary tabulation sheet must be signed by the ERC.

7-3.02 (6) DBE Goal Compliance Check

The DBE Compliance Check must be performed by the **INDOT Economic Opportunity Division**. A DBE Goal Request Form is available at **DBE Goal Request form**.

7-3.02 (7) Consultant Selection Checklist

INDOT has created an LPA Selection Review Checklist that must be completed by the ERC and then submitted to the District Local Program Coordinator for approval. The checklist is available at **http://www.in.gov/indot/2833.htm.**

7-4.0 CONTRACT SCOPING AND NEGOTIATION

After the LPA has received INDOT approvals for the selection and ranking process the LPA may proceed with a scoping meeting and enter into negotiations with the highest ranked firm.

7-4.01 Scoping Meeting

The LPA ERC shall meet with the top-ranked consulting firm to review and discuss the project scope of work. The goals of this meeting are to:

1) Communicate the LPA's expectations for the project

2) Answer questions the consultant may have

3) Set a due date and requirements for the fee proposal package.

The LPA shall require a fee proposal package that includes the following:

- Draft Scope of Work
- Fee Proposal
- Overhead Rate Documentation

7-4.01 (1) Draft Scope of Work

The LPA shall require the consultant to submit a scope of work formatted for inclusion in the LPA-Consulting contract. The LPA shall review and approve this to make sure that project objectives are being met.

7-4.01 (2) Fee Proposal

The LPA shall require the consultant to submit a detailed person-hour breakdown by task element showing hourly classification rates, **Overhead Rate**, profit rate and computation of the total costs.

7-4.01 (3) Overhead Rate Documentation

As part of the consultant prequalification process, the INDOT Prequalification Section notifies consultants of approval of their proposed overhead rates by letter on an annual basis. The LPA shall require the consultant to submit a copy of their prequalification approval letter as documentation of their INDOT approved overhead rates.

7-4.02 Fee Proposal Review

The LPA is responsible for reviewing the consultant fee proposal to determine if the tasks, hours and costs are consistent with the intended project scope.

7-4.02 (1) Overhead Rate

The LPA will need to review the detailed fee proposal submitted by the consultant to verify that the appropriate overhead rate has been applied in the fee calculations. Audited provisional overhead rates are approved by INDOT on an annual basis. In accordance with federal regulations (23CFR 172.7), approved overhead rates are not negotiable and cannot be capped.

Some firms will have field overhead rates in addition to their office rates. Field overhead rates, usually lower than office rates, are applicable for staff that exclusively perform field services and do not have permanently assigned company offices. Field Overhead rates are many times applied for construction inspection personnel, depending upon firm accounting practices.

7-4.02 (2) Escalation

The LPA will need to review escalation rates applied in consultant fee proposal calculations. Escalation rates are applied in fee estimates to provide for labor cost increases in multi-year contracts. INDOT refers to the U.S. Bureau of Labor Statistics Employment Cost Index to determine the appropriateness of proposed escalation rates in consultant fee proposals.

INDOT publishes the applicable escalation rates at:

http://www.in.gov/dot/div/legal/rfp/consultants/Escalation%20Rates%209-6-11.pdf . (The component parameters used by INDOT are Wages and Salaries (not seasonally adjusted), for private industry workers, professional, scientific and technical services.)

7-4.02 (3) Profit Rate

The LPA will need to review the profit rate applied in consultant fee proposal calculations. INDOT uses a profit rate matrix to determine the reasonableness of profit rates. The matrix takes into consideration such things as project complexity and duration. INDOT's profit matrix and complexity level list are available at **http://www.in.gov/indot/2730.htm.**

7-4.02 (4) Contract Compensation Methods

The standard contract compensation methods are lump sum, negotiated labor rate, cost plus fixed fee and unit price.

Cost plus percent of cost contracts are prohibited by Indiana Code and by federal regulations.

Detailed information about compensation methods is available in the INDOT **Professional Services Contract Administration Manual.**
Typical compensation methods for phases of LPA projects are:

- Lump sum for Preliminary Engineering (PE)
- Unit price for Right-of-Way services **(INDOT R/W Fee Schedules)**
- Negotiated labor rate for Construction Inspection *(Construction inspection should not be contracted on a lump sum basis).*

7-4.03 Negotiation

The LPA is responsible for negotiating with the highest ranked consultant to resolve any differences in opinion regarding the scope, level of effort, schedule and cost of the desired services. INDOT is available to provide technical assistance during this process.

The LPA may not negotiate overhead rates in the negotiation process; these are determined by audits performed in accordance with federal acquisition regulations and approved by INDOT in the prequalification process. A lower overhead rate may only be used if the consultant offers a lower rate.

7-4.03 (1) Unsuccessful Negotiations and Move to Next Firm

If the LPA and the highest ranked consultant cannot come to a negotiated agreement, the next ranked firm is notified and the LPA reengages in negotiation with the next ranked firm. If negotiation fails again the LPA shall enter into negotiation with the next firm, etc. Once an LPA discontinues negotiations with a firm and moves to the next firm the LPA cannot reenter negotiations with the higher ranked firm. The LPA must provide INDOT documentation of reasonable negotiation efforts to justify the decision to move to the next ranked firm.

7-4.04 LPA-Consulting Contract Template

The **LPA-Consulting Contract** shall be in accordance with the latest version of appropriate contract located on INDOT's website. INDOT requires this "boilerplate" contract to be used for the appropriate project phases on all projects that will have federal-aid participation.

If the LPA does not utilize the "boilerplate" contract, that phase will not be eligible for federal-aid. Project specific issues can be addressed within this contract by customizing the appropriate Appendices.

7-4.05 INDOT Contract Approval

NEW

As a standard practice with all LPA Projects utilizing federal-aid funds, the LPA-Consulting Contract shall be submitted to INDOT District as described in 7-4.05 of this Guidance document.

A copy of the draft LPA-Consulting Contract and supporting documentation must be submitted to the District Local Program Coordinator for approval before the contract is executed. The supporting documentation must include a copy of the fee proposal and a copy of the prequalification letter showing the overhead rate. INDOT will verify that the contract documentation is in order and that the cost is reasonable. This submission must also include a copy of the **LPA-Consultant Review Checklist** signed by either the LPA's highest elected official or the ERC.

Contracts received without the signed checklist or with signatures for execution will be returned to the LPA for re-submittal following the process as described above.

All contracts shall be reviewed by the LPA or their ERC prior to INDOT approval. INDOT will not approve any LPA-Consulting Contract that has not first been reviewed by the LPA or the ERC.

The District Local Program Coordinator will notify the ERC that they may execute the LPA-Consulting Contract after review by INDOT.

Additional resources to help with consultant selection and contract review can be found on the LPA Consultant webpage.

7-5.0 CONTRACT ADMINISTRATION

The LPA is responsible for cost effective administration of their consultant contracts. Administration activities include Notice to Proceed, invoice review, addressing non-performance, filing for federal reimbursement and record retention.

7-5.01 Notice to Proceed

The LPA may only issue a Notice to Proceed for services to their consultant after receiving Notice to Proceed from INDOT. The LPA-Consulting Contract must also be executed by both parties and INDOT must have a copy of the executed contract.

Expenses incurred prior to receiving Notice to Proceed from INDOT **will not** be reimbursable with federal funds or be eligible to be applied as match credit.

7-5.02 Invoice Review

Invoices are to be reviewed for accuracy and approved by the ERC before payment. The ERC shall verify that the charges are consistent with the contract and not beyond the current level of project completion. The extent of review required is dependent upon the contract compensation method.

INDOT has established invoice review guidelines in the **INDOT Professional Services Contract Administration Manual.**

7-5.03 Non-Performance

The LPA shall respond to consultant performance issues promptly. INDOT has established guidance for handling non-performance issues in the **INDOT Professional Services Contract Administration Manual.**

7-6.0 ERRORS AND OMISSIONS (E&O)

INDOT expects consultants to deliver technical accuracy and quality work; however, project E&O may occur. Some E&O may be within an acceptable level of care while others are not. Depending on their significance, E&O may result in increased design, construction, and maintenance costs. INDOT has a defined procedure for addressing E&O in the **INDOT Professional Services Contract Administration Manual.**

E&O on LPA projects shall be handled following the same procedure, with the ERC responsible for the role of Project Manager. When an E&O is suspected, the ERC will need to coordinate with the District Local Program Coordinator for assistance with this process.

7-7.0 CONSTRUCTION INSPECTION

Construction inspection is required on all federal-aid projects in accordance with **23 CFR 172** and **635.105**.

It is the responsibility of the LPA to conduct consultant selection for **Construction Inspection Services.**

Consultant Selection for Construction Inspection Services may be completed as part of the consultant selection process for Preliminary Engineering (PE) prior to the design of the project, or a consultant may be selected in a separate process prior to start of the Construction Phase.

If the LPA chooses to combine the consultant selection process, each separate service intended to be provided by a consultant (PE, R/W, Construction Inspection Services) must be part of the initial RFP prior to the design of the project, and the activity must have been described in that RFP.

If the LPA chooses to select a consultant in a separate process for Construction Inspection, the LPA must advertise the RFP on INDOT's website at least 6 months **prior to the Ready for Contracts (RFC) date**.

Prior to the **RFC date**, the LPA must:

- Score the LOI from the RFP.
- Submit consultant selection information to the District for certification and receive approval from INDOT.
- Submit the draft LPA-Consulting Contract and supporting documentation to the INDOT District for review and approval.
- Submit a copy of the executed LPA-Consulting Contract to the INDOT District.
- Submit an Engineer's Assignment letter to the District Local Program Coordinator to have the District Construction Engineer approve the PE/S.

Costs for Construction Inspection are authorized through the Fiscal Management Information System (FMIS) for Construction based on the engineer's estimate of inspection costs.

If the above conditions are met when the construction bid is deemed official, the INDOT District will issue Notice to Proceed and an adjusted FMIS request is sent through.

Any Construction Inspection costs incurred prior to the date of INDOT's Notice to Proceed **are not** eligible for federal reimbursement.

7-7.01 Consultant Requirements

A consultant shall be both **pre-qualified** for construction engineering/construction inspection and have assigned a certified Project Engineer/Supervisor (PE/S) to the project.
A letter with the qualifications of the PE/S to be assigned to the project shall be submitted to the District Local Program Coordinator prior to the RFC date. If the PE/S assigned does not meet the requirements outlined in Chapter 13 of the **Consultant Prequalification Manual** the District Construction Director will communicate that information to the LPA and Consultant.

Any changes to the PE/S assigned to the project shall be sent to the District Construction Director before the change is made. Any exceptions to this requirement must be approved by the District Construction Director.

Note: Before any PE/S can begin work, they must be approved by the **District Construction Engineer.**

See **Chapter 14** *of this guidance document for information concerning the qualifications of the* **PE/S** *and the requirements for the* **Certified Technician and Qualified Technician Programs.**

7-7.02 Reimbursement for Construction Inspection

Once the Notice to Proceed has been issued for construction inspection and the FMIS adjustment has been completed, a purchase order will be issued. The LPA will then submit a Voucher for reimbursement of the appropriate portion of funds.

The reimbursement amount is limited to several factors including the federal cap amount on the project and the reimbursement rate as described in the INDOT-LPA contract. Construction inspection is also limited to the following:

- 17% of the final construction cost if the final construction cost is less than or equal to $500,000; or
- 15% of the final construction cost if the final construction cost is greater than $500,000.

INDOT charges a rate of 2.5% for testing and administrative overhead. This amount is subtracted from the percentages listed above.

In extenuating and extreme circumstances, there may be the need to exceed these limitations. If the LPA feels that it is justified to exceed these limitations they may submit the request in writing to the Director of the LPA and Grants Administration Office. The request must include the dollar and percentage amount needed and the justification.

If the Director of the LPA and Grants Administration Office approves the request, the funding amounts will be verified against the federal project cap on the project to determine that federal funds exist for payment. The Director of the LPA and Grants Administration Office will provide a response that includes information on any federal funding caps.

7-8.0 DOCUMENTATION REQUIREMENTS

The following documents related to Consultant Contracting shall be retained by the LPA until 5 years after final acceptance of construction and final audit of consultant contracts, whichever is later.

- Federal-aid Application form
- INDOT-LPA Project Coordination Contract
- DBE goal set email
- RFP Document, final advertised version
- E-mail posting of the RFP
- Affirmative Action Certificate from selected consultant
- DBE compliance documentation as provided by INDOT
- Individual selection score sheets and scoring tabulation sheet with signature of ERC
- Copy of the INDOT Consultant Pre-qualification from website
- LPA Selection Review Checklist
- Consultant Selection approval Email
- LPA-Consulting Contract for PE services
- Consultant contract supporting documentation
- INDOT Notice to Proceed/Notice of Authorization Letters to LPA
- Notice to Proceed from LPA to consultants
- Local Technical Assistance Program (LTAP) web-site ERC Data Base- Copy of the Consultant Project Managers LPA Training certification date
- Consultant Invoices
- Record of Payments to Consultant
- Documentation of any communication regarding E&O

7-9.0 CHAPTER CHECK LIST

7-9.01 Critical Elements

Critical Elements are any review item used to verify that Federal and State laws, regulations and directives have been met. Critical Elements are most often identified through reviews scheduled at specific stages of the project development process.

Critical Elements in Consultant Contracting include but are not limited to:

- Advertised RFP - Include project elements
- DBE Goal
- Prequalified consultant and/or team
- Proper scoring and ranking with signature of ERC
- Boilerplate LPA-Consulting Contract

7-9.02 Fatal Flaws

The definition of a Fatal Flaw includes any problem with a critical element that has not been, or cannot be resolved. Fatal flaws also include violations of any state or federal law, and any action that compromises safety or the rights of property owners. Fatal flaws may be identified at any stage of the project development process.

Once a fatal flaw has been identified it shall stop all affected project activity until the fatal flaw is resolved. Unresolved fatal flaws can negatively impact the project schedule, funding, and the project budget. They may also impact project scope. Unresolved fatal flaws <u>will</u> prevent the project from proceeding to the next stage including advertisement and letting.

While it is impossible to list all possible fatal flaws the following list provides a sample of possible fatal flaws related to Consultant Contracting.

- Consultant Selection procedures not followed
- Using other than standard contract
- Work performed prior to INDOT Notice to Proceed
- LPA ERC not certified or having an expired certification.
- Consultant Project Manager of primary consultant not Certified or having an expired certification.

CHAPTER SEVEN APPENDIX

7-10.0 GLOSSARY

Disadvantaged Business Enterprise (DBE) - A DBE is a for-profit small business concern that is at least 51% owned and controlled by one or more socially and economically disadvantaged individuals. The DBE program is governed by 49 CFR Part 26. The owner is typically a minority or female and may not have a personal net worth that exceeds $750,000 (excluding primary residence and equity interest in DBE firm). The business may not have gross receipts that exceed Small Business Administration limits.

Prequalification - Prequalification refers to a process whereby consultants are certified to do business with INDOT. The certification process includes verification that the firm is an entity legally eligible to do business with the State, that the firm holds the required professional licenses to perform services in specified categories, that the firm holds minimum levels of liability insurance coverage and that the firm has an accounting system that will properly segregate expenses for determination of eligible costs. Prequalification does not guarantee that the firm does excellent work. A consultant may apply for prequalification at any time. The INDOT Prequalification Manual and the list of INDOT prequalified firms are available at http://www.in.gov/indot/2732.htm .

Professional Services – Professional Services are services that require involvement of licensed professionals such as: engineers, architects, appraisers, surveyors, etc.

Qualifications-Based Selection (QBS) - QBS refers to a procurement process established by the United States Congress as a part of the Brooks Act (**Title 40 United States Code**, Chapter 11, Section 1104, paragraph (b)) and further developed as a process for public agencies to use for the selection of architectural and engineering services for public construction projects. It is a competitive contract procurement process whereby consulting firms submit qualifications to a procuring entity (owner) who evaluates and selects the most qualified firm, and then negotiates the project scope of work, schedule, budget, and consultant fee. 23 CFR 172 prescribes policies and procedures for administration of engineering and design related services contracts for transportation projects using federal funds.

Overhead rate - Overhead rate refers to a factor/ratio computed by adding together all of a firm's costs that cannot be associated with a single cost objective (e.g., general and administrative costs and fringe benefit costs), then dividing by a base value (usually direct labor cost) to determine a rate. This rate is applied to direct labor, as incurred on projects, to allow a firm to recover the appropriate share of indirect costs allowable per the terms of specific agreements. In this document, the terms "indirect cost rate" and "overhead rate" are used synonymously.

Work type – Work type as used in this chapter refers to the categories of service defined in the INDOT prequalification manual such as: Environmental Document Preparation, Non-Complex Roadway Design, Level 1 Bridge Design, etc.

7-11.0 REFERENCES TO GUIDANCE MATERIAL

Links

INDOT's Local Public Agencies – "Consultant Selection" website
Everything an LPA needs for consultant selection is located on this website.

Consultant Prequalification Information

FHWA Website

Disadvantaged Business Enterprise (DBE) and Title VI Resources

FHWA Construction Program Management and Inspection Guide

Forms

On-line DBE Goal Request Form

LPA Selection Review Checklist

LPA - Consulting Boilerplate Contract

Legal References

Administration of Architectural and Engineering contracts (A/E)
23CFR172

Procurement of A/E services based on "Qualification Based Selection" (QBS)
Title 40 USC, Chapter 11, Section 1104 (b)

Contract administration in accordance approved written procedures
23CFR172

Audits and Costs
48 CFR Part 31

Participation by Disadvantaged Business Enterprises
49 CFR Part 26

Construction Engineering (Inspection) Determination

Administration of Engineering and Design Related Service Contracts
23CFR172

Supervising Agency
23 CFR 635.105

7-12.0 IDENTIFICATION OF RESOURCE PEOPLE

All questions and coordination regarding any and all aspects of consultant contracting process are to be directed to the appropriate **District Local Program Coordinator**.

Questions regarding DBE information can be directed to the **Director of INDOT's Economic Opportunity Division.**

CHAPTER EIGHT: ENVIRONMENTAL PROCESS

8-1.0 CHAPTER EIGHT OVERVIEW

All communications and project submittals related to the Environmental Process shall include the Employee in Responsible Charge (ERC), the designated INDOT Project Manager, and the District Environmental Scoping Manager (ESM).

If the project is located within a Metropolitan Planning Organization's (MPOs) planning area, communications should also include the appropriate MPO.

Failure to include all listed parties may result in the rejection of the submittal.

Chapter Eight describes the environmental process required to meet compliance with the **National Environmental Policy Act (NEPA)**. The environmental process is required to study various aspects of social, economic, and natural resource environments.

The NEPA/environmental documentation is essential for meeting the needs of the public by:

- Providing for complete disclosure and transparency, and the opportunity for stakeholder input and comments on proposals, alternatives and environmental impacts.
- Promoting informed decision making by government officials by providing appropriate information regarding compliance with standards for federally funded transportation projects.
- Ensuring compliance required by environmental laws.

Chapter Eight highlights the Environmental Process including:

- **Applicability**
- **Overview of the Environmental process**
- **Document Submission**
- **Impact Areas**
- **Cultural Resources**
- **Public Involvement**

The **"Procedural Manual for Preparing Environmental Studies"** and the **"Indiana Categorical Exclusion Manual"** provide step-by-step processes to assist the preparer in complying with NEPA and related federal laws, executive orders, regulations and policies.

Any discrepancies or disagreements between procedures required in the Procedural Manual for Preparing Environmental Studies and the Indiana Categorical Exclusion Manual with the procedures listed in this guidance document should be resolved by contacting the Local Public Agency (LPA) Policy and Procedures Leadership Team at **LPAQuestions@indot.in.gov**.

Acronyms used in this Section

APE – Area of Potential Effect
CE – Categorical Exclusion
COA – Certificate of Approval
CRO – Cultural Resources Office
DHPA – Division of Historic Preservation & Archaeology
EA – Environmental Assessment
EIS – Environmental Impact Statement
ERC – Employee in Responsible Charge
ES – Environmental Services
ESM – Environmental Scoping Manager
FHWA Federal Highway Administration
FONSI – Finding of No Significant Impact
IDNR – Indiana Department of Natural Resources
IHPAA – Indiana Historic Preservation & Archaeology Act
JD – Jurisdictional Determination
LPA – Local Public Agency
LWCF – Land and Water Conservation Fund
MOA – Memorandum of Agreement
MOU – Memorandum of Understanding
MPO – Metropolitan Planning Organization
NEPA – National Environmental Policy Act
NPS – National Park Service
NRHP – National Register of Historic Places
PA – Programmatic Agreement
SHPO – State Historic Preservation Officer
STIP – Statewide Transportation Improvement Program
TIP – Transportation Improvement Program
USACE – United State Army Corps of Engineers
USDOT – United States Department of Transportation
USEPA – United States Environmental Protection Agency
USFWS – United States Fish and Wildlife Service

8-2.0 APPLICABILITY

Any local project financed, assisted, conducted or approved by a federal agency is subject to compliance with the provisions of NEPA. Any amount of federal involvement in a project requires that the entire project, regardless of phases or segments not funded by FHWA, be included in the process. The scope of NEPA responsibility is not determined by funding source alone. Federal approval, such as for a permit or interstate connection, will also trigger federal requirements.

The LPA shall ensure their in-house staff or their consultant staff has the proper certifications to perform NEPA activities. All NEPA documentation shall be prepared by either the LPA's certified in-house staff or by an Indiana Department of Transportation (INDOT) **Prequalified Consultant** in the categories necessary for completion of the project, depending on its complexity.

Preparers of certain Section 106 documentation must appear on the **DHPA's Qualified Professional Roster**.

Please contact **Environmental Services** *or your* **District Local Program Coordinator** *for any questions regarding professional qualifications.*

8-3.0 OVERVIEW OF THE ENVIRONMENTAL PROCESS

The NEPA document is a summary of the findings made and conclusions reached during the environmental analysis of a project proposal. There are three different classes of environmental documents under the NEPA for federally funded projects.

The class of document required is based on the severity of environmental impacts associated with the proposed project. The class of document determines the level of environmental study required for a particular project, the level of stakeholder involvement, and the level of detail required in field studies.

Because these factors have great impact on the project development timeline it is important to identify the class of report required as early as possible.

All transportation projects with a federal component must have some type of environmental document.

The classes of NEPA environmental documents are:

8-3.01 Categorical Exclusion (CE)

A CE is for projects that do not have a significant effect on the environment either individually or cumulatively.

Categorical Exclusions have four distinct levels.

LEVEL OF CE	AVERAGE COMPLETION TIME	REVIEWED BY
CE Level 1	6 to 8 weeks	District ESM only
CE Level 2	4 to 6 months	District ESM only
CE Level 3	5 to 8 months	District ESM and ES Division
CE Level 4	6 to 12 months	District ESM, ES Division and FHWA

See the **"Indiana Categorical Exclusion Manual"** *for complete descriptions of each Level.*

The Environmental Assessment/Finding of No Significant Impact (EA/FONSI) and the Environmental Impact Statement (EIS) can take 12 – 36 months to complete.

8-3.02 Environmental Assessment (EA)

An EA is for projects where the environmental impacts are not clearly established.

All EA projects are reviewed by the ES Division and FHWA.

If the environmental analysis and review process determines a project has no significant impacts on the quality of the environment an **EA/FONSI** will be issued by the FHWA.

If the environmental analysis and review process does not determine an **EA/FONSI** is appropriate, then an Environmental Impact Statement (EIS) must be prepared.

8-3.03 Environmental Impact Statement (EIS)

The **EIS** is a report prepared when it is known that the project will have a significant effect on the environment. This report provides "full and fair discussion on significant environmental impacts and informs the public and decision-makers of the reasonable alternatives that would avoid or minimize adverse impacts or enhance the quality of the human environment."

All EIS projects are reviewed by the ES Division and FHWA.

8-4.0 DOCUMENT SUBMISSION

Upon completion of the environmental report, the LPA or their consultant shall submit the report to the **District Environmental Scoping Manager (ESM)** for review by the following departments or individuals:

- CE Level 1 and 2 will be submitted and reviewed by the District ESM
- CE Level 3 will be reviewed by both the District ESM and the ES Division
- CE Level 4 will be for reviewed by the District ESM, the ES Division, and FHWA. In some cases FHWA and INDOT will determine that these projects should be elevated to an Environmental Assessment (EA) due to public controversy or unanticipated impacts.

All of the above submissions will be returned with comments within 15 business days of receipt.

- **All** EAs **and** EISs **will be submitted directly to the** ES Division. **They will be reviewed and returned with comments from ES and FHWA.**
- Any other environmental documentation that requires FHWA approval will be submitted to the ES Division for forwarding to the FHWA. The submission will include a copy notice to the District ESM and the District Local Program Coordinator.

If the LPA or Consultant wishes to discuss the resolution of comments on the document, they may contact the INDOT reviewer(s). If it is necessary to involve FHWA as well, the ES Division will be responsible for coordinating the discussion.

All subsequent environmental submittals will follow the same submittal process to INDOT and will be reviewed within another 15 business day period.

Please be aware that INDOT will not approve an environmental document unless the next phase of the project (Right-of-Way) is included in the Statewide Transportation Improvement (STIP) and the Transportation Improvement Plan (TIP), if applicable.

8-4.01 Early Coordination Letters

INDOT Categorical Exclusion Manual
II.A.3. Step 3 - Perform Environmental Analysis
Section K – Early Coordination

A copy of the Early Coordination Letter should be sent to **INDOT's Public Hearing Office** and to the relevant MPO, if applicable.

Early Coordination letters are used to request feedback on potential impacts before significant time or effort has been invested in a project. In accordance with federal requirements, agencies, consulting parties and other stakeholders are given 30 days to provide a response. If responses are not received within the established 30 day period, contact should be made with the non-responding agency to determine whether a response will be received within the next few days (i.e., the response is in the mail). Response dates, as well as any lack of response, should be documented in **Section K – Early Coordination of the Environmental Document**.

Correspondence with the **United States Fish and Wildlife Services (USFWS)** pertaining to **Section 7 of the Endangered Species Act of 1973** must be received and included in the environmental document unless the project meets the criteria of the **September 8, 1993 Memorandum of Understanding (MOU)** between the USFWS and INDOT. If the project meets the requirements of the MOU, please refer to the Indiana Categorical Exclusion Manual for the proper procedures.

Correspondence with the **State Historic Preservation Officer (SHPO)** must also be received and included in the "finding of effect" on historical properties and the environmental document.

8-5.0 IMPACT AREAS

The current Indiana Categorical Exclusion Manual and **Procedural Manual for Preparing Environmental Studies** will be used to document all impacts to the natural and human environment.

It is important for the ERC to have a familiarity of each possible impact area. Because of the length of material and variety of topics this material has been moved to a separate sub-chapter.

8-6.0 CULTURAL RESOURCES

LPA's are responsible for complying with state and federal laws and regulations concerning cultural resources.

Please refer to the INDOT Cultural Resource Manual for more detailed information concerning state and federal laws and regulations pertaining to cultural resources.

Indiana Cultural Resources Manual – Chapter 3

Both federal and state cultural resource compliance processes can be triggered by an LPA project. Section 106 requires all federal agencies to take into consideration the effect of federal undertakings on historic properties that are listed, or eligible for listing in the National Register of Historic Places **(36 CFR 800).**

Qualified professionals:

Individuals must meet the Secretary of Interior's Professional Qualification Standards to produce certain cultural resource documentation for any FHWA-funded project in the State of Indiana. The LPA shall consult the **Qualified Professionals Roster** maintained by the Indiana Department of Natural Resources' (IDNR's) Division of Historic Preservation and Archaeology (DHPA) to ensure they are using consultants who meet the Secretary of the Interior's Professional Qualification Standards

For more information and resources on Cultural Resources see **Chapter Eight B – Cultural Resources.**

8-7.0 PUBLIC INVOLVEMENT

A Public Involvement Plan is required for all federally-funded projects. The plan should describe the timeline and format for communicating project goals and milestones to stakeholders, as well as methods for soliciting feedback on the project.

INDOT Categorical Exclusion Manual
IV.A. Form – Part I

The INDOT has updated the **INDOT Public Involvement Manual** to provide guidance to those who are engaged in providing public involvement opportunities related to federally funded projects. A second resource specifically for LPA projects is outlined in **"Public Involvement in the LPA Project Development Process"**.

8-7.0 (1) For Projects Meeting the Minimum Public Involvement Criteria

Before starting the public involvement process, the draft environmental document has to be "released for public involvement." This release is authorized by the District ESM for Level 1 and 2 CEs or the ES Division for Level 3 and 4 CE's and for EA. Once the cover page of the environmental document has been initialed, indicating that it has been "released for public involvement" the LPA and their consultant can begin the Public Involvement Process or Hearing Process.

The LPA or their Consultant shall send a copy of the "initialed cover page" to the Public Hearing Office requesting authorization to proceed with the Public Hearing portion of project development. The Public Hearing Office will respond with an email that the project can proceed to the Hearing portion. The LPA must determine if they want to 1) hold a Public Hearing or 2) offer the opportunity for a Public Hearing. The Public Hearing Office is available to assist the LPA with this decision.

For additional information or questions regarding public involvement please access **INDOT's Public Involvement Procedures Manual** or the **Office of Public Involvement Web page.**

For Public Hearing Certification

Within 15 days after the established deadline date posted in the legal notice, or after the Public Hearing, the LPA or their consultant must submit documentation and request confirmation from the Public Hearings office showing that all public hearing requirements have been satisfied. If the public involvement requirements have been met, the Hearings Office will sign the cover page of the environmental document, under "Public Involvement Requirements" to denote successful completion of INDOT public involvement procedures.

8-7.0 (2) For Final Environmental Approval

If the offering of an opportunity for a public hearing is required, the Public Involvement Section of the environmental document must be appropriately updated by the consultant with a discussion of the steps taken to satisfy the public involvement requirements.

The LPA or their consultant will submit the revised environmental document along with the CE title page with the certification signature line to the District ESM requesting final approval. The final document will be approved by the District, as well as the ES Division and FHWA depending on the type of document.

The approval will be in the form of a signature on the title page of the environmental document. This title page is added to the environmental document and the date of certification in the Public Involvement section is added.

For more details see **INDOT's Public Involvement Manual**.

The project may proceed to the Right-of-Way Services phase once the Public Hearing Requirements have been fulfilled and confirmed (by the signed title page) and formal approval of the environmental document has been received, and the LPA has received a Notice to Proceed from INDOT.

Click here for the **Public Hearing Checklist for LPA Projects** *to ensure the Public Involvement procedures are followed.*

8-7.0 (3) The Environmental Consultation Form

The Environmental Consultation Form **Attachment 3 - CE Manual** (modified for LPA projects) will be submitted by the Design Consultant at Stage 3 Review Submission. This will provide quality assurance that the environmental document, public involvement, and all required permits have been completed, obtained, and described in the proposed plans.

(*The Environmental Consultation form supersedes and replaces the Environmental Compliance Form*).

8-8.0 IMPACT AREAS

The current Indiana Categorical Exclusion Manual and **Procedural Manual for Preparing Environmental Studies** will be used to document all impacts to the natural and human environment.

The following sections in this guidance document indicate impact areas and have been included to provide supplemental guidance specific to LPA projects.

8-8.01 Karst Studies

INDOT Categorical Exclusion Manual
IV.C.1.e. Section A - Ecological Resources/Karst
South-Central Indiana

Karst is a special type of geological feature found in the south-central portion of Indiana. It is important because pollution in the water that enters the sinkholes and caves of the area can quickly get into groundwater and present a risk to public health. INDOT and the resource agencies have developed a **Memorandum of Understanding** (MOU) for responsibly developing road projects in these areas.

Because LPAs are not signatories to the October 13, 1993, MOU governing the treatment of Karst features, the requirements of the MOU are considered optional for local projects. As a result, Karst features located within or adjacent to LPA projects may not require a Karst study pursuant to the required process outlined in the Karst MOU.

However, the LPA and their Consultant shall ensure all Karst features are identified and accurately located and surface runoff or other potential impacts to the Karst features are treated appropriately. This may include measures similar to what is described in the MOU or, if the LPA chooses, other equally effective measures to demonstrate compliance with the **Clean Water Act**.

If an LPA project causes any impacts to a **Class V injection well** or modifies a Karst feature such that the feature can be classified as a Class V injection well (pursuant to **40 CFR Part 146.5**), the United States Environmental Protection Agency (USEPA) notification requirements shall be followed (refer to the **Waterway Permit Manual**).

8-8.02 Threatened and Endangered Species

INDOT Categorical Exclusion Manual
IV.C.1.f. Section A - Ecological Resources/Threatened or Endangered Species

All projects must involve some level of consultation with the **(USFWS)** (federal species) and the **Indiana Department of Natural Resources' Office of Fish and Wildlife** (state-listed species) regarding the evaluation of impacts to federal and state threatened or endangered species. This may include programmatic coordination, in accordance with the MOU described above, or may be more formalized coordination.

The outcome of this coordination will be a determination by the USFWS as to whether a project will have an effect on a protected species.

If, in the opinion of USFWS, the LPA project is "likely to adversely affect" any federally listed or proposed endangered species or critical habitat, formal consultation is required. All formal consultation will involve FHWA**.**

If the USFWS responds indicating that formal consultation will be required, INDOT and FHWA should be contacted to participate and facilitate the discussion.

8-8.03 Sole Source Aquifers

INDOT Categorical Exclusion Manual
IV.C.2.a. Section B - Other Resources/Drinking Water Resources

All CEs, Level 2 and above, for LPA projects located in counties within the **St. Joseph Aquifer System** will include the USEPA on the list of early coordination letter recipients. If the USEPA identifies human health concerns associated with the project, further coordination will be necessary to minimize or eliminate those concerns.

8-8.04 Section 4(f) & 6(f)

INDOT Categorical Exclusion Manual
IV.C.4. Section D - Section 4(f) and Section 6(f) Resource

INDOT Procedural Manual for Preparing Environmental Documents
II.B.14 Section 4(f): Historic Sites, Publicly Owned Lands, Wildlife and Waterfowl Refuges;
II.B.4 Section 6(f): Public Outdoor Recreation Land

8-8.04 (1) Section 4(f)

Section 4(f) - (Protection of Publicly Owned Park, Recreation Area, Wildlife or Waterfowl Refuge, or Land from Historic Sites)

The Section 4(f) process, of the USDOT Act of 1966, gives certain protections to publicly owned public parks, recreational areas, wildlife and waterfowl refuges, and historic sites of national, state or local significance. Section 4(f) requires that the LPA must show there are no feasible or prudent alternatives to the use of these areas. If Section 4 (f) land is required, a Section 4(f) avoidance alternative is required. If acquisition from Section 4(f) land is still required, all possible planning must be taken to minimize the impact and provide mitigation for the impacts.

8-8.04 (2) Section 4(f) Process

The preparer must search for Section 4(f) resources on all projects and resolve or document any Section 4(f) "use." If a Section 4(f) resource will be impacted by a project, the preparer shall refer to the **Procedural Manual for Preparing Environmental Documents** for detailed information on how to proceed. The ES Division may also be consulted to interpret the regulations, assess impacts to properties and provide advice on appropriate minimization and mitigation measures.

If impacts to a Section 4(f) resource cannot be avoided, the impacts may be evaluated in one of three ways. The first type of evaluation is called a "Programmatic" evaluation, which follows a standardized process for managing common types of impacts, the allowed types of programmatic evaluations are:

1. Public parks, recreation lands, and wildlife and waterfowl refuges
2. Historic sites
3. Historic bridges
4. Bikeways and walkways (see the **INDOT CE Manual**)
5. Projects that provide a net benefit to the protected resource

The second type of evaluation is a **de minimis finding.** This type of evaluation is appropriate when the impacts to the protected site are minor and the use does not adversely affect the activities, features, and attributes that qualify the resource for protection under Section 4(f).

The third type of evaluation is an individual Section 4(f) evaluation, for when relatively large impacts to the protected resource are necessary and unavoidable. This type of evaluation requires the greatest effort in terms of addressing alternatives to avoid impacts, as well as demonstrates that measures have been taken to reduce harm to the resource.

Guidance on each of the types of evaluation may be found in the **Procedural Manual for Preparing Environmental Documents** *and on the* **FHWA's Section 4(f) web site.**

All Section 4(f) evaluations must be reviewed and approved by ES Division and the FHWA.

8-8.04 (3) Section 6(f)

Cultural resource compliance documents must be submitted to the Cultural Resources Office (CRO) prior to submitting to resource agencies or any consulting parties. The ES Division will review documents for technical adequacy.

Section 6(f) resources are lands that were purchased with or improved using funds from the Land and Water Conservation Fund (LWCF). Section 6(f) of the act prohibits the conversion of LWCF lands unless the National Park Service (NPS) approves substitution property of reasonably equivalent usefulness and location and of at least equal fair market value. Section 6(f) regulations may be found at 36 CFR 59.

Please refer to the **INDOT Cultural Resource Manual** *for more detailed information concerning state and federal laws and regulations pertaining to cultural resources.*

8-8.04 (4) Section 6(f) Process

All publicly owned land in or adjacent to the project area should be examined for LWCF involvement. Projects that take land from a Section 6(f) property must meet certain prerequisites before a conversion request will be considered by the NPS. The ES Division should be contacted for additional guidance if a Section 6(f) conversion is proposed. It is at the NPS discretion to approve or deny conversion of LWCF property.

8-8.05 Noise Analysis

INDOT Categorical Exclusion Manual
IV.C.6. Section F – Noise

LPAs are responsible for completing a noise study for their projects during the NEPA phase. Noise analyses are required for Type I projects. **Type I projects** include projects that result in a new alignment, added travel lanes, (including restriping existing pavement), new interchanges/ramps, or high-occupancy vehicle or climbing lanes, or involve a significant change in horizontal or vertical alignment. **(23 CFR 772)**

It is recommended that noise analyses and abatement recommendations be submitted to the ES Division prior to submitting the CE to reduce potential delays during the CE review and approval process. The ES Division will review the report for technical adequacy, but will not approve or deny any recommendations or decisions regarding abatement.

Please refer to **INDOT's Traffic Noise Analysis Procedure** *for guidance or direct questions to the ES Division's Air and Noise Specialist.*

8-8.06 Hazardous Materials & Regulated Substances

INDOT Categorical Exclusion Manual
IV.C.8. Section H - Hazardous Materials & Regulated Substances

The LPA's Consultant is responsible for preparing a Red Flag Investigation on every federally funded LPA project which may involve excavation. Copies of the Red Flag investigation for LPA projects will not be submitted to INDOT for review, approval, or distribution.

Based on the results of the Red Flag Investigation and any additional information collected during a site visit, the LPA and their Consultant will determine whether they believe additional investigation is warranted. This could include searches of historical environmental records or even on-site soil and water sampling. INDOT will review the results of any of these investigations that are carried out for technical adequacy but will not approve the reports or give an opinion on any recommendations for further action.

8-8.07 Permits

INDOT Categorical Exclusion Manual
IV.C.9. Section I – Permits Checklist

For all LPA projects, the LPA's consultant is responsible for preparing the Waters Report**.** The LPA may then determine whether it is prudent to submit the waters report to the United States Army Corps of Engineers (USACE) and request an approved Jurisdictional Determination (JD) to verify the location of jurisdictional waters.

Without an approved JD, the LPA or their consultant should prepare a preliminary JD to submit to the USACE at the time of permitting. The preliminary JD is signed by the land owner, and the land owner assumes jurisdiction over all water features for the purposes of calculating impacts and permitting. All required permits are to be applied for and obtained prior to **Final Tracings Package Submission.**

More information is available in the **Waterway Permits Manual.**

8-8.08 Summary of Commitments

INDOT Categorical Exclusion Manual
IV.C.10. Section J – Environmental Commitments

It is important to track all commitments that are made as part of project development, through the environmental process as well as design and coordination with stake holders. This improves compliance and maintains a good working relationship with the various project partners. Toward this goal, INDOT has developed a process to formalize these commitments and monitor their implementation.

Project commitments that are identified in the environmental stage will be listed in the commitments portion of the CE. In addition, a spreadsheet will be submitted at the same time as the environmental document, for inclusion in the department's internal database.

If a response from a permitting agency is not received during the early coordination phase of the environmental process and a permit will be required from that agency, the Summary of Commitments will include:

1. A list of the permits required for the project
2. All the stipulations listed in the permits

The LPA's Consultant is responsible for ensuring all stipulations are forwarded to the designated District Project Manager for inclusion into **INDOT's Commitment Database.**

8-9.0 SECTION 106 – NATIONAL HISTORIC PRESERVATION ACT

8-9.01 The Section 106 Process

Timelines

Cultural resource review is often completed at the end of the NEPA process and therefore may be the key step in completing NEPA. Therefore, adequate time should be allowed. Processing time for completing the cultural resources portion of an environmental document depends on what resources are in the project area how they may be affected. The compliance process may take a few weeks for routine projects or up to 18 months for projects with adverse effects on cultural resources.

8-9.02 Basic Steps - Section 106 Consultation Procedures:

- Establish that the project is a federal undertaking
- Check whether one of the Section 106 Programmatic Agreements (PAs) applies
- Identify consulting parties and invite to participate in consultation

- Establish an Area of Potential Effect (APE). For major projects, may hold consultation meeting at this stage.

- Identify Historic Properties within the APE. For major projects, may hold consultation meeting at this stage.

- Evaluate effects on historic properties within the APE.

- Resolve adverse effects, if any, on historic properties (this can entail the preparation of a Memorandum of Agreement (MOA). May hold consultation meeting at this stage.

Each of these steps should be accompanied by appropriate documentation outlined in the Section 106 regulations which are available at: **http://www.achp.gov/regs-rev04.pdf**

8-9.02 (1) Establish Project is a Federal Undertaking

The Section 106 process is triggered by a federal undertaking, i.e. one that involves one or more of the following conditions:

- You are using federal funds for part or all of your project funding; or

- Your project is located on federal or state property; or

- You require a federal license or permit in order to accomplish your project.

8-9.02 (2) Check for PA Applicability

Two Indiana Section 106 PAs provide ways to streamline certain projects and should be consulted prior to initiating Section 106:

- The Minor Projects Programmatic Agreement in the **Indiana Cultural Resources Manual (Appendix R);** the LPA's Consultant should consult this PA before beginning the Section 106 process. Many CE Level 1 projects are exempt from the full Section 106 process under the Minor Projects Programmatic Agreement.

- The **Indiana Historic Bridge Minor Projects Programmatic Agreement** and **Indiana Historic Bridge Inventory;** for any project which involves a historic bridge, the LPA's Consultant should consult this PA for the streamlined historic bridge project development process.

8-9.02 (3) Invitation of Consulting Parties and Early Coordination Letters

Consultation is the process of seeking, discussing and considering the views of other participants and where feasible, seeking agreement with them regarding matters arising in the Section 106 process. The **Cultural Resources Office (CRO)** and the SHPO will automatically be included as consulting parties on every project. A list of required and recommended consulting parties can be found in the **Indiana Cultural Resources Manual**.

For minor projects, consultation may address multiple steps (from initiation of the Section 106 process, defining the APE, identification of historic properties, assessment of effects, and resolution of adverse effects) in one consulting party meeting. If a project does not result in an adverse effect to a historic property, the entire consultation process may be done in writing.

Publication of a legal notice in a widely-circulated local newspaper in the project area satisfies Section 106's public notice requirements for small projects. More complex or controversial projects may have additional requirements such as information meetings or other public involvement, which will be managed on a project-by-project basis.

To streamline the process, the LPA and/or their consultant may include with the Early Coordination Letter:

- Historic Property Report
- Summary of the Archaeological Report
- Preliminary APE
- Preliminary Identification of Historic Properties
- Recommended Finding of Effect

Note: The locations of archaeological sites are confidential and must not be shared with consulting parties (other than the SHPO).

8-9.02 (4) Establish an Area of Potential Effect (APE)

The APE is the geographic area or areas within which an undertaking may directly or indirectly cause alterations in the character or use of any historic properties present. The LPA's consultant is responsible for appropriately determining the APE.

8-9.02 (5) Identify Properties within APE and Evaluate Historic Significance

The consultant will also indentify properties eligible for inclusion on the **National Register of Historic Places (NRHP)**. Data should be collected and documentation prepared to assist in identifying historic properties within the APE, including any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the NRHP. The results of identification efforts must accompany all **36 CFR 800.11(d) or (e)** submissions to INDOT to document recommended findings.

An appropriate historic properties report must be produced for the project area. The format and length of the report shall be dictated by the size and magnitude of the project and the number of properties in the project area. At the same time, archaeological investigations should be conducted within the project footprint (also known as the archaeological APE).

8-9.02 (6) Findings of Effect

Once identification is complete, the consultant will recommend a finding of the effect the project may have on any historic properties. INDOT will review the finding ("No Historic Properties Affected" or "No Adverse Effect") and will respond to the LPA's consultant within ten business days from receipt with a signed finding, unless INDOT requests corrections or

revisions. If the finding is "Adverse Effect.", INDOT will submit the finding to FHWA, who will review and sign the finding, if approved.

The LPA and their Consultant will submit the signed finding to consulting parties and place a legal ad in a newspaper local to the project for a 30-day comment period.

- **No historic properties affected, or no adverse effect**

  For findings of no historic properties affected or of no adverse effect, typically, the Section 106 process is finalized by submitting the finding to the consulting parties and placing a legal notice in a newspaper local to the project for a 30 day comment period.

  If no comments are received by the end of the comment period, the Section 106 process has been completed and the responsibilities of the FHWA under Section 106 have been fulfilled.

  The results of the 30 day comment period and the publisher's affidavit are then placed in the environmental document, which is submitted to the District ESM for review.

Only FHWA can make a finding of adverse effect.

- **Adverse effect**

  A finding of adverse effect is appropriate when an undertaking may alter, directly or indirectly, any of the characteristics of a historic property that qualify the property for inclusion in the National Register. Adverse effects may include "reasonably foreseeable effects caused by the undertaking that may occur later in time, be farther removed in distance or be cumulative."

  Only one adverse effect on one historic property is enough for the whole project to have an adverse effect to historic resources. However, a finding of "adverse effect" **does not** mean that the project is a "bad project" or that a project cannot proceed; it simply means that avoidance and minimization alternatives must be considered. Ultimately, the decision to proceed rests with the FHWA. If the LPA project will result in an adverse effect, the **36 CFR 800.11(e)** documentation shall be submitted to INDOT for review and forwarding to FHWA, to make the finding.

- **Memorandum of Agreement**

  Once a finding of adverse effect is made, Consulting Parties should identify ways to achieve the project purpose and need while avoiding, minimizing, or mitigating adverse effects. This consultation should result in a MOA, which outlines agreed-upon measures that the agency will take to avoid, minimize, or mitigate adverse effects upon historic properties. The MOA serves as a legally binding document that holds parties responsible to commitments stipulated. Once the issues have been resolved, the MOA will be drafted and circulated by the LPA or their Consultant to the signatories for final review and comment. After all comments have been finalized, the MOA will be submitted to all signatories for execution and included in the environmental document.

See the **INDOT Cultural Resources Manual** for 36 CFR 800.11 templates and legal ad templates.

8-9.03 State Law: Certificate of Approval, Cemetery Development Plan; Accidental Discovery

Interim Section

Indiana Historic Preservation and Archaeology Act (IHPAA)
(IC 14-21-1)

The Indiana Historic Preservation Review Board and Certificates of Approval

The IHPAA requires that a state Certificate of Approval (COA) be obtained before using state funds to alter, demolish, or remove an historic site or historic structure, if it is owned by the state or if it is listed in either the Indiana Register of Historic Sites and Structures or the National Register of Historic Places. As the Review Board process may take many months, adequate planning is necessary.

Cemetery Development Plans and Other Laws Regarding Burial Grounds

The IHPAA also provides protection for archaeological sites which date on or before December 31, 1870, and also human burial sites which date before January 1, 1940. The law sets forth several requirements, including that any person planning to disturb the ground within 100 feet of a burial ground or cemetery for the purpose of erecting, altering, or repairing a structure must submit a development plan to the DHPA.[1] This law does not prohibit construction near a cemetery, nor does it prohibit moving cemeteries if the proper permits are acquired.

Other sections of the IHPAA address the removal of grave memorials and the buying and selling of items removed from a cemetery, and recording interests in real estate containing a burial ground or cemetery.[2]

State Law Regarding Accidental Discovery

Under **IC 14-21-1-29**, if a person accidentally discovers a burial object or artifact while disturbing the ground for another purpose (such as construction or utility excavation), the person shall immediately stop work within 100 feet of the discovery and notify DHPA within two business days. Following notification, the DHPA will decide if:

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[1] IC 14-21-1-26.5 does not apply to the following: (1) a public utility (as defined in IC 8-1-2-1(a)); (2) a corporation organized under IC 8-1-13; (3) a municipally owned utility (as defined in IC 8-1-2-1(h)); and (4) a surface coal mining and reclamation operation permitted under IC 14-34.

[2] Indiana cultural resources laws may be accessed online at the Indiana Administrative Code website (http://www.in.gov/legislative/iac/title312.html) and Indiana Constitution website (http://www.in.gov/legislative/ic/code/)

1. the ground disturbing activity may continue with or without conditions, or in accordance with an approved, systematic plan for scientific recovery, analysis, and disposition of the material;

2. the situation may be resolved under another law; or

3. the area requires protection and avoidance

8-10.0 DOCUMENTATION REQUIREMENTS

Environmental documents and all other documents must be maintained by the LPA for a period of five years after the final closeout of the project and final audit.

Documents that are required to be maintained in the LPA office include but are not limited to:

- Early consultation request letter from Consultant
- Environmental Study (NEPA Document)
- Copy of each Permit
- Public Hearing Advertisement
- Public Hearing Certification
- Environmental Consultation Form
- Environmental Commitments Summary
- Red Flag Survey

As Applicable

- USFWS Decision emails or letters and notes
- USEPA Notifications
- Karst Study and MOU
- Copy of Noise Wall Decision Letter
- All MOAs
- Waters Report

8-11.0 CHAPTER CHECK LIST

8-11.01 Critical Elements

Critical Elements are any review item used to verify that Federal and State laws, regulations and directives have been met. Critical Elements are most often identified through reviews scheduled at specific stages of the project development process.

All requirements of the NEPA process must be met. Some critical elements necessary for successful completion of a NEPA document include but are not limited to:

- Consultant maintaining certification in appropriate environmental prequalification categories
- Adequate information contained in the early coordination packet
- Planning adequate time for cultural resources investigations and coordination (Section 106)
- Proper resolution of Section 4(f) or Section 6(f) impacts (if required)
- Planning adequate time for noise and air analyses (if required)
- Wetland delineations and Waters Reports (if required)

8-11.02 Fatal Flaws

The definition of a Fatal Flaw includes any problem with a critical element that has not been, or cannot be resolved. Fatal flaws also include violations of any state or federal law, and any action that compromises safety or the rights of property owners. Fatal flaws may be identified at any stage of the project development process.

Once a fatal flaw has been identified it shall stop all affected project activity until the fatal flaw is resolved. Unresolved fatal flaws can negatively impact the project schedule, funding, and the project budget. They may also impact project scope. Unresolved fatal flaws <u>will</u> prevent the project from proceeding to the next stage including advertisement and letting.

In the environmental process the focus on fatal flaws is primarily centered on NEPA requirements however this focus does not exclude other types of fatal flaws. Some of the most common may include the following:

- Project not included in the appropriate TIP if applicable, and STIP
- Permits not obtained in a timely manner
- Environmental document not matching the plans
- Scope changes after the environmental document is approved
- Determining the need for mitigation too late in the environmental process

CHAPTER EIGHT APPENDIX

8-12.0 GLOSSARY

Area of Potential Effect (APE) – Under the 36 CFR Part 800.16(d) "the geographical area or areas within which an undertaking may directly or indirectly cause alterations in the character or use of historic properties, if any such properties exist."

Consulting Parties – Individuals or entities identified in the Section 106 process that has expressed an interest in the effects of the undertaking on historic resources. Consulting parties are invited to participate in the consultation process.

De Minimis Finding – A determination by FHWA under Section 4(f) of the Transportation Act that impacts to a protected property are minor and inconsequential.

National Environmental Policy Act (NEPA) – The federal legislation requiring states to document the environmental impact of transportation projects. The NEPA process is enforced by regulations of the Council on Environmental Quality (CEQ)

Section 4(f) - The provision of the US Department of Transportation Act of 1966 (Title 49, USC, Section 303) that requires special considerations be made regarding the "use" of any publically owned park, recreation area, wildlife/waterfowl refuge or historic property that is listed in or eligible for the National Register of Historic Places.

Section 6(f) – The provision of the federal Land and Water Conservation Fund Act of 1965 that protects public recreational properties developed or enhanced using federal funding supplied to states or municipalities under the act by requiring replacement of lands converted to non-recreational uses.

Section 106 Process - The provision of the National Historic Preservation Act of 1966 that requires federal agencies to take into account the effect of their undertakings on properties included in or eligible for inclusion in the National Register of Historic Places, and to afford the Advisory Council on Historic Preservation a reasonable opportunity to comment on such undertakings.

8-13.0 REFERENCES TO GUIDANCE MATERIAL

Links

INDOT Environmental Services Division Webpage

Public Involvement / Media Webpage

Indiana Categorical Exclusion Manual

Indiana Waterway Permits Manual

Procedural Manual for Preparing Environmental Studies

Indiana Cultural Resources Manual

INDOT Noise Traffic Procedure

INDOT Public Involvement Procedures

Indiana Historic Bridge Inventory

Indiana Historic Bridge Programmatic Agreement

Minor Projects Programmatic Agreement

IN DHPA Qualified Professionals Roster

National Register of Historic Places (NRHP)

Forms

INDOT Cultural Resources Manual

36 CFR 800.11 Templates and Legal Ad Templates

Environmental Consultation Form (Attachment 3 – CE Manual)

Summary of Commitments Form

Public Hearing Procedures for LPA Projects

Legal References

All LPA projects utilizing federal funds for the implementation of transportation-related projects within their jurisdiction of government are required to follow the NEPA. This Act is defined specifically in 42 U.S.C. Section 4332 (NEPA Section 102).

National Environmental Policy Act (NEPA) - Congressional Declaration of Purpose
42 U.S.C. Section 4321

National Environmental Policy Act (NEPA)
42 U.S.C. Section 4332 (NEPA Section 102)

Protection of Historic Properties
36 CFR 800

Class V Injection Well

40 CFR Part 146.5

Procedures for Abatement of Highway Traffic Noise and Construction Noise

23 CFR 772
SAFETEA-LU

8-14.0 IDENTIFICATION OF RESOURCE PEOPLE

The main contact for environmental questions/answers or comments/reviews of a LPA project should be the **District ESM** of the appropriate District office. However, the **District Local Program Coordinator** should be copied on all environmental correspondence submitted to the District ESM.

CHAPTER NINE: PLANS PREPARATION

9-1.0 CHAPTER NINE OVERVIEW

This chapter establishes the plan development process for federal-aid Local Public Agency (LPA) projects.

All communications and project submittals shall include the Employee in Responsible Charge (ERC), the designated INDOT Project Manager and the Designer.

All submittals must include the District Electronic Records Management System (ERMS) Coordinator.

Failure to include all listed parties may result in the rejection of the submittal.

In addition, unless otherwise stated, when the Indiana Department of Transportation (INDOT) makes a request for additional project information the request will be directed to the ERC. The ERC will be responsible for forwarding the request to the Designer and other relevant parties.

Chapter Nine highlights the Plan Development process including:

- **Adherence to Design Criteria**
- **Field Survey**
- **Hydraulic Design Approval**
- **Field Checks**
- **Geotechnical Investigation Approval**
- **Pavement Design Submission**
- **The use of Proprietary Materials**
- **Unique Pay items and Special Provisions**
- **Stage 3 Review Submission**
- **Final Tracings Package Submission**
- **Plans Revision Prior to Letting**

Completing the plan development process in accordance with applicable federal and state laws and regulations is required in order to use federal funds for any phase of a federal-aid project.

The Indiana Design Manual (IDM), Indiana Manual of Uniform Traffic Devices (MUTCD), Design Memos, Geotechnical Manuals, INDOT design standards and specifications, Low Volume guide, or the American Association of State Highway Transportation Officials (AASHTO) requirements have precedence over this Guidance Document. In case of conflict contact the **LPA Policy and Procedures Leadership Team**.

Whenever a LPA project involves a State Highway, the guidelines and submission requirements for State projects shall apply, not the LPA Guidance Document.

Acronyms used in this Chapter

AADT – Annual Average Daily Traffic
AASHTO – American Association of State Highway Transportation Officials
A/E – INDOT District Construction Area Engineer
ERC – Employee in Responsible Charge
ERMS – Electronic Records Management Systems
FHWA – Federal Highway Administration
IDM – Indiana Design Manual

Acronyms used in this Chapter (continued)

INDOT – Indiana Department of Transportation
LCCA – Life Cycle Cost Analysis
LPA – Local Public Agency
MOT – Maintenance of Traffic
MUTCD – Manual on Uniform Traffic Control Devices
P.E. – Professional Engineer
PS&E – Plans, Specifications & Estimate
RFC – Ready for Contracts
USFWS – United States Fish and Wildlife Service

9-2.0 PLAN DEVELOPMENT

The **District ERMS Coordinator** is the initial point-of-contact for all plan submissions. However, this is a generic title as the roles and responsibilities delegated to this position may be performed by a variety of INDOT District staff.

The LPA and the Designer are responsible for the preparation of all plans sheets, design computations, quantity computations, contract documents, cost estimates, and other pertinent project documentation necessary to certify the LPA project is ready to go to construction.

The process of plan development for a federal-aid project begins at the inception of the project.

Plan development activities are intertwined with all of the other project development activities including preparation of the environmental document and permitting, utility and railroad coordination, and land acquisition.

The plan development process is intended to be performed concurrently with the other project development activities.

INDOT will review all project plans at the **Stage 3 Review Submission**. Stage 3 Review is submitted at ninety-five percent level of completion and a minimum of 75 days prior to the scheduled Ready for Contracts (RFC) date. However, the LPA may also request an INDOT review at Stage 1 and/or Stage 2 by submitting plans to the District ERMS Coordinator and requesting a review.

See **Chapter 4** *for more information on Stage 1, 2 and 3 Design Milestones and for a complete timeline of project development process.*

9-2.01 Adherence to Design Criteria

Each project will be designed in accordance with the IDM. If no reference to a specific design element is made in the IDM, the appropriate Federal Highway Administration (FHWA) and American Association of State Highway Transportation Officials (AASHTO) requirements shall be referenced.

Submittals will be reviewed by the appropriate staff at both District and Central Office for the IDM requirements.

Reminder:

There are no Design Exceptions for ADA require-ments.

Part V (Road Design) of the IDM *provides information on geometric design criteria for application to each individual project.*

While all LPA projects shall be developed according to the IDM, when a project cannot meet Level 1 or Level 2 Design criteria as described in **IDM Section 40-8.02**, a request for a Design exception will be necessary.

9-2.01 (1) Level 1 Design Criteria

Level 1 Design Criteria are those design elements that have been deemed most critical for safety and serviceability. A complete list of all Level 1 Design Criteria can be found in the **IDM Section 40-8.02(01)**. The formal documentation and approval process for a design exception or waiver is described in **Section 40-8.04.** These guidelines must be followed anytime these criteria are not satisfied.

The need for design exceptions must be identified very early in the project development.

Each design element that does not satisfy the Level 1 Design Criteria will require a formal written exception request and approval signed by INDOT. To request a formal Level 1 Design Exception all necessary documentation will be submitted in accordance with **Section 40-8.04** of the IDM including the following:

The LPA and their Consultant have the option to submit project designs to INDOT for technical review throughout the project development process.

Every effort will be made to complete these reviews promptly.

- All projects requiring a Level 1 Design Exception must submit the **Design Exception Request Form** and a **Stage 1 Review Submittal** to the District Local Program Coordinator for review and approval as defined in **IDM Chapter 14**.
- The submission requires that all plans and design calculations be prepared for the Stage 1 Plan level of completion (approximately twenty-five percent project design completion) in accordance with **IDM Chapter 14**.
- The Stage 1 Review Submission will be reviewed and approved by the District for Level 1 conformance in accordance with the **Stage 1 Review Checklist.** It will then be forwarded to INDOT Roadway Services or Structural Services as appropriate for final concurrence and signature.

If additional information is required for the Stage 1 Plans Submission, the District ERMS Coordinator will notify the LPA. Comments will be summarized and returned to the LPA and their Designer as soon as possible.

For more information on the procedures to obtain a Level 1 Design Exception see **Section 40-8.04** *of the IDM.*

For more information concerning the process for identifying, justifying, and processing exceptions to the geometric design criteria see Section 40-8.03 of the IDM.

9-2.1 (1) Level 2 and Level 3 Design Criteria

Level 2 Design Criteria are also design elements deemed to be important indicators of safety and serviceability, but are not considered as critical as the Level 1 criteria. A complete list of all Level 2 Design Criteria can be found in the **IDM Section 40-8.02(02)**.

If a Level 2 criterion is not satisfied, the Designer will document in the project file the specific criterion that has not been satisfied and provide a brief rationale for why it was not satisfied. The rationale shall be signed by the highest elected official of the LPA and shall be submitted for review at the Stage 3 Review submittal. For more information on this process please refer to **IDM Chapter 40**.

Level 3 Design Criteria includes the design criteria not listed in Level 1 or 2. If a Level 3 criterion is not satisfied the Designer should inform the designated District Project Manager.

9-3.0 FIELD SURVEY

Most LPA projects require a Field Survey or a Field investigation. To determine if your project requires a field survey please contact the designated District Project Manager.

Additional resources for the LPA and the Designer may include an initial site investigation and if the property has an existing facility, the as-built plans or the final design plans may be an important resource.

Questions regarding the Field Survey should be directed to the designated District Project Manager.

Chapter 22 and **Chapter 14-3.0** *of the* IDM *discuss general survey drafting standards and how to incorporate the survey data into the construction plans.*

9-4.0 HYDRAULIC DESIGN APPROVAL

Hydraulic Design is completed very early in the project design process, approximately 5% – 10% completion and prior to the Stage 1 Review Submission.

Hydraulic Design shall be prepared in accordance with the IDM Chapters 201-205.

The LPA Hydraulic Modeling Checklist will be submitted through the District ERMS Coordinator.

LPAs and/or their Designer are also required to submit the **Hydraulics Q & A Checklist** (Figure 203-3C Indiana Design Manual) for each bridge and culvert within the limits of the project as applicable.

Note: The Hydraulics Q & A Checklist replaces the Bridge Hydraulics Checklist and the Culvert Hydraulics Design Checklist.

For additional information on guidelines and requirements for project Hydraulics see **Indiana Design Manual Chapter 201-205.**

9-5.0 FIELD CHECKS

Field checks provide opportunity for involved parties to review design plans, ensure all railroad, utility and right-of-way issues are addressed, and help prevent unnecessary change orders during the construction phase.

All projects will have a Preliminary Field Check. Some projects will also have a final field check. Many factors determine whether a final field check is required, such as the need for additional clarification, the amount of time between the preliminary field check and completion of the project development stage and the complexity of the project. The LPA and the Designer should clarify with the District Local Program Coordinator the type of field checks required for their specific project.

The preliminary field check occurs after the Designer has reached the Stage 1 level of completion but before the Stage 2 level of completion.

The Designer is responsible for preparing and distributing plans and notifying all relevant parties of the pending field check. Involved parties include but are not limited to LPA officials, the ERC, all involved utilities and railroads, INDOT District staff, and the United States Fish and Wildlife Service (USFWS).

To ensure all required parties are notified please contact your designated **District Local Project Manager** *for a District specific Field Check Distribution List.*

The process consists of the following steps:

- **Schedule the Field Check**

  The Designer is responsible to work with the District Construction Area Engineer (A/E) to set the field check date and time. The designated District Program Manager, the LPA's ERC, and relevant others from the INDOT District Office will be invited to the field check, but it is not a requirement that they attend.

- **Notification and Plan Distribution**

  The Designer is responsible for preparing the **Field Check Notification Letter** and submitting electronic plans on the distribution list at least two weeks prior to the field check.

  - For INDOT staff, the plans should be submitted through ERMS and the Designer should notify the District ERMS Coordinator of the submission to ensure all relevant INDOT staff receives a copy.

  - For parties outside of INDOT, the Designer should strive to deliver all plans to them electronically; however, some utilities or other parties may not be able to accept electronic plans. The Designer may be required to transmit to scale paper copies to those parties who need them.

- **Field Check Report (Meeting Minutes)**

  After the field check has been completed, the Designer will be responsible for preparing a report of the meeting and listing the comments from all individuals involved in the field check. Copies of this report will be electronically distributed to all the individuals listed in the distribution list in the Field Check Notification Letter, the LPA, as well as anyone involved in the field check.

  For more information on field checks, see **IDM 14-1.02(02)**.

9-6.0 GEOTECHNICAL INVESTIGATION APPROVAL

Geotechnical reports must be emailed directly to **Jean Hiadari** or **Jackie Barnes** in the Geotechnical Section at Materials and Tests with a "cc" to the District Local Project Manager.

The Designer is responsible for the preparation of a complete Geotechnical Investigation and report in accordance with INDOT guidelines. The purpose of the Geotechnical Investigation is to evaluate the subsurface conditions in order to provide recommendations to design and construct the project. This typically occurs after the preliminary field check.

The Geotechnical Report will be submitted for approval at approximately 30% through project design completion (or directly after the timing of the Stage 1 Review Submission), and **never** later than 50% through design completion.

The report or approved waiver signed by the Geotechnical Division must also be submitted with the Stage 3 Review Submission.

For more information see the **Geotechnical Manual and Guidelines Webpage** *and the* **Indiana Design Manual - Geotechnical Waiver**.

9-7.0 PAVEMENT DESIGN SUBMISSION

Pavement Design technology has changed notably making pavement design a much more precise and technical endeavor.

LPAs and Consultants should expect this guidance material to change as INDOT works toward adjusting policies and procedures to meet these new standards.

LPAs and consultants should also note the importance of effective communication during the change process. If you have comments or questions regarding this process or any other process within the scope of this Guidance document, please submit your questions though the **LPA Policy and Procedures Leadership Team**.

The Project Designer is responsible for the design of the appropriate pavement section for the project.

Pavement designs shall be prepared in accordance with **Chapter 304 of the Indiana Design Manual**. Pavement designs shall follow sound pavement engineering principles and concepts. Designs shall clearly identify:

- Anticipated pavement life and type
- Extent & severity of failure mechanisms at the end of the pavement's life
- Delineate anticipated pavement maintenance work and timelines
- Approximate the cost/lane-mile year of life implied by the pavement design and pavement work delineated
- And note significant construction concerns and areas of potential, high risk constructability issues

Reminder:

Because the Pavement Engineering Office does not receive notice of plans when they are submitted into ERMS, it is critical that you copy the ERC, the designated INDOT Project Manager, the INDOT District Pavement Engineer and the District ERMS Coordinator at the time you submit your pavement design.

INDOT does not approve of pavement design submittals but reviews them for compliance to IDM Chapter 304 requirements and adherence to technically sound pavement design practices. If the pavement design does not meet IDM Chapter 304 requirements, INDOT will notify the LPA and the Designer through the District Local Program Coordinator and will provide suggestions or guidance in the issues that must be resolved.

The pavement design shall be stamped with the Pavement Designer's Professional Engineer (P.E.) stamp, and shall be checked by a second P.E competent in pavement design prior to submittal. In addition, the Pavement Designer may be directed to brief or explain the pavement design in person to the Pavement Engineering Office staff.

The Pavement Design Submittal must be reviewed by the ERC prior to submittal. The **Pavement Design Submission** accompanied by the appropriate supporting data and information shall be submitted through ERMS directly after the Geotechnical Report has been approved.

At the time of submission the Designer shall copy the District Pavement Engineer, the designated District Project Manager, the Pavement Engineering Office, and the ERC to ensure an effective line of communication.

The submission shall occur within 2 weeks of Geotechnical Report approval, and absolutely no later than the timing of the Stage 2 Submission. (*Stage 2 Submission is an optional submission occurring at 55% of plan development completion.)* This submission shall be submitted in time that all necessary corrections and approvals can be made and the plans considered complete by the timing of the Stage 2 submission as described above.

Once the pavement design has been reviewed and determined in compliance with IDM Chapter 304, a letter of pavement acceptance will be sent to the LPA and the Project Designer.

Include the letter of Pavement Design Acceptance with Final Tracings Package Submission.

IMPORTANT: It is no longer acceptable to submit the pavement design with or right before the Stage 3 Review Submission. Late submissions do not allow for needed reviews, communications and corrections. Late submissions add unnecessary time to the project schedule and may prevent the project from going to letting as scheduled. Any Stage 3 Review Submission received by INDOT before the Pavement Design Letter of Acceptance has been sent to the LPA and their Designer will not be processed and may be returned for resubmission once the pavement design review process has been completed.

9-7.01 Alternate Pavement Bid

This policy is in effect and impacts all LPA projects that have not yet submitted a pavement design, those that have submitted but have not yet received a letter of pavement compliance by the Pavement Engineering Office and those projects whose final pavement design approval is dated before January 1, 2011.

An Alternate Pavement Design is required for a new pavement, pavement replacement, or major rehabilitation project with mainline pavement of more than 10,000 yd^2. A **Life Cycle Cost Analysis (LCCA)** utilizing **FHWA RealCost, version 2** (downloadable) or higher software is required to evaluate the alternate pavements.

The LCCA is also required to include treatments identified in **Section 52-11.0** of the IDM (unless the local government has a maintenance schedule that provides equal or better effectiveness of pavement maintenance) to compare preventive maintenance preservation treatments with differing design lives.

If the LCCA indicates a cost difference within 10%, an Alternate Pavement Bid is required.

The Alternate Bid approval authority is the INDOT Pavement Type Selection Committee. This committee may consider unique and significant factors when making this determination. The designer and LPA will be required to explain and justify with a detailed verification of the need to alter from the alternate bid requirement.

The following list represents a few technically sound justifications that could be considered valid in articulating a case against the alternate bid requirement:

- Constructability issues – if the LCCA cost data does not reflect projected actual construction costs because a specified issue, perhaps like the number of driveway entrances greatly complicates construction, or some other documentable issue.
- Project site elements – if the project has curves and numerous turnout lanes and that greatly complicates asphalt or concrete construction.
- Unique and extraordinary maintenance concerns – Projects that contain elements that would make maintenance of one type of pavement over another excessively expensive or difficult.
- Unusual or site specific geotechnical concerns.
- Articulate maintenance plan - LPAs **do not** have to follow the state prescribed maintenance schedule in their LCCA; however, the maintenance plan presented must be articulate and adequate to maintaining each specific pavement type referenced.

9-8.0 PROPRIETARY MATERIAL

In 2011 INDOT revised the process for approval of proprietary materials.

Ensure you follow the revised approval process for any and all proprietary materials used in your project prior to submitting the Final Tracings Package.

Unapproved proprietary materials **will** increase the Local share of project cost.

If FHWA finds non approved proprietary materials during a later review or audit the LPA will be required to refund the federal dollars paid for this expense.

One of the most important and basic tenets of the federal-aid construction program is open competition. Specifications that restrict product selection to a specific or single product or set of products restrict competition. These are known as proprietary specifications. To ensure open competition the Designer should constrain the use of proprietary specifications on a project.

Federal funds generally cannot be used to pay for proprietary materials unless given prior approval.

Proprietary materials are a result of proprietary (brand or manufacturer specific) specifications. There are limited circumstances where proprietary materials are needed. Guidance on the use of proprietary materials including acceptable use and the approval process is detailed in the IDM, **Chapter 17-1.5**

Note: The approval process for proprietary materials may take 2-3 months and should begin as early in the project as feasible to avoid delays.

All proprietary materials must be certified by the State or have a Public Interest Finding approved by the State. If your request for proprietary materials use is rejected or is not approved prior to contract letting, Federal Funds cannot be used to pay for the materials. By proceeding to letting you are acknowledging that 100% local funds will be used for the proprietary materials.

Key steps in the proprietary material approval process include:

- All requests must be made through the **District Local Program Coordinator.**
- All requests for the use of proprietary materials shall be submitted by Stage 2 level of completion (Stage 2 Submission is an optional submission at approximately 55% project design completion).
- All requests must include a **Proprietary Materials Transmittal Letter, IDM Form 17-1A**, and the appropriate **Proprietary Material Use Certification Form** or a **Public-Interest Finding** as described in the **IDM 17-1.05**.
- The Proprietary Material Use Certification Form will be reviewed and approved or rejected by the Production Management Division Director**.** The review process normally takes about 2 months. Confirmation of approval or rejection will be communicated to the LPA and their Designer through the District Project Manager.

9-9.0 UNIQUE PAY ITEM AND UNIQUE SPECIAL PROVISIONS

Reminder:

Whenever a submittal is made through ERMS, please notify the District ERMS Coordinator.

Unique Pay Items and Unique Special Provisions must be submitted to INDOT for approval prior to the Stage 3-Review Submission. These items will be submitted to the **District ERMS Coordinator** who will manage all distribution of appropriate material. The ERMS coordinator will forward the unique pay items to the **Construction Estimates Manager** and the unique special provisions to the INDOT Specification Engineer. Unique special provisions regarding liquidated damages must be approved by the District Construction Area Engineer.

The District ERMS Coordinator will return the documentation for unique pay items and unique special provisions to the LPA and the Designer for use on the project once approved by INDOT.

9-9.01 Non-Participating Pay Items (Often Called Z-Items)

A non-participating pay item is any pay item that cannot use Federal-Aid on an otherwise federally funded project. Any non-participating item will be documented and paid 100% by local funds.

Non-participating items must be documented on the project cost estimate by adding a supplemental description to the item description line. Non-participating items are paid with 100% local funds.

An example of a non-participating pay item (Z-item) would include pipe materials not included in the **INDOT Approved Materials List**, or specifying that only one type of pipe from the approved list may be used. FHWA will not participate in proprietary requirements for pipe types as there are many pipe materials a Design can choose from included in the INDOT approval materials lists. Any variation in pipe material from the INDOT approved materials list would be considered a non-participating pay item (Z-item). The Design would have to create a special provision for acceptance and the cost would be paid 100% by local funds.

9-10.0 STAGE 3 REVIEW SUBMISSION

Reminder:

Not having all or the proper Environ-mental Permits and Right-of-Way permits will halt the project development process at the Stage 3 Review Submission.

Stage 3 Review Submission shall be submitted at least 75 days prior to the Ready for Contracts (RFC) date.

The Stage 3 Review Submission is the point where INDOT provides a thorough review of the entire set of plans and supporting documentation.

The Designer is responsible for preparing the Stage 3 Review Submission for INDOT. Plans and design calculations will be prepared to a final plan level of completion (95% project design completion level) in accordance with **IDM Chapter 14**. For a complete list of documentation required, the Designer should reference IDM Chapter 14.

For projects that require only the Stage 3 Submission (if not previously submitted), all previous documentation required for Stage 1 and Stage 2 must be included in this submittal. Documentation will include the following, Abbreviated Engineer's Assessment, Geotechnical Report and Pavement Design Approval.

The Designer will electronically transmit the Stage 3 Review Submission through **ERMS** and notify the District ERMS Coordinator at least 75 days prior to the RFC date. The ERC shall be copied on the notification.

The Stage 3 Review Submission will be reviewed by the INDOT District for Level 1 and Level 2 Design Criteria, Permits, Geotechnical, Pavement, and Hydraulics approval letters, Maintenance of Traffic (MOT) and other items as indicated in the IDM for conformance and for Fatal Flaws.

INDOT will review the Stage 3 Review Submission within one month of receipt and will forward the results of the review to the Designer and notify the LPA.

Technical assistance may be requested at any time from the INDOT Central Office as needed.

If a technical assistance review has been completed prior to the Stage 3 Review Submission, INDOT will determine the level of additional review required. However, the design plans and the pavement design must ensure no changes in scope have taken place.

All Stage 3 Review Submissions will be signed and dated by the INDOT reviewer to show the required reviews were completed.

9-11.0 FINAL TRACINGS PACKAGE SUBMISSION

Reminder:

At the time of Final Tracings Package submission, the LPA should have the RFP for Construction Inspection advertised consultant selection approved by INDOT, the LPA-Consulting Contract approved by INDOT and a copy of the fully executed LPA-Consulting Contract to the District Local Program Coordinator.

The Final Tracings Package Submission will be accomplished after the Stage 3 Review Submission has been reviewed and no fatal flaws have been found. The Final Tracings Package Submission shall be submitted at least 30 days prior to the RFC date.

The Final Tracings Package Submission includes but is not limited to: Environmental Document approval, Final Plans, Specifications, and Estimate, Final Tracing Approval letter, Right-of-Way Certification, Permits, Consultant Selection Certification for Construction Inspection Services (also called Construction Engineering Services), and the **Contract-Preparation Documents (IDM Chapter 14 figure 1-C)**.

The Designer should reference the **Final Tracings Checklist**, which can also be found in Chapter 14 (Figure 14-1E) of the Indiana Design Manual, for a complete listing of all documentation required for the Final Tracings Package Submission.

The Final Tracings Package Submission will be submitted to the District ERMS Coordinator where it will be reviewed prior to transmitting the Final Tracing Submittal to the Contract Administration Office. The Designer will copy the LPA in the transmission as part of the District Final Tracings Package Review; the entire submission is reviewed for conformity and compliance to reduce questions during the bidding process.

Before federal-matched funds are allocated, INDOT will review the submission to approve the critical elements where federal certification is required or where federal funds are allocated as outlined previously in **Chapter 2** of this Guidance Document. This review is also based on the critical element checklists identified at the end of in each chapter to ensure the project meets state and federal requirements.

All other project elements will be reviewed for validation of compliance, primarily focusing on verifying that all required documents, development certifications, approvals and permits as depicted on the project development process certification checklist have been obtained and are in order before authorizing federal money expenditure.

If additional information is required, the District ERMS Coordinator will notify the LPA.

No project will receive federal funding until all critical element errors and fatal flaws are corrected.

9-11.0 (1) FHWA-Indiana PS&E Checklist

The **FHWA-Indiana PS&E Checklist** was added as a required document to the Final Tracings Checklist effective April 15, 2012. This checklist is completed by INDOT staff and uploaded into ERMS as each section is completed, with the total completion of the checklist prior to RFC.

There are three sections to the FHWA-Indiana PS&E Checklist:

- **Section 1** – Design Quality – completed by the INDOT Plan Reviewer
- **Section 2** – Project Manager Review – completed by the INDOT Project Manager
- **Section 3** – Contracts Review – Completed by INDOT Contracts Section

The purpose of the FHWA-Indiana PS&E checklist is to ensure a complete Final Tracings Package Submission and a more efficient PS&E approval process.

What is important for the LPA to note concerning this checklist is if there are any missing documents or required reviews, the PS&E will not be accepted and the project will not go to letting.

While this checklist is an internal INDOT form, the LPA and/or Designer can view the FHWA-Indiana PS&E Checklist once it has been uploaded to ERMS by INDOT to ensure all required documents have been submitted and reviewed.

The checklist can be found in ERMS under the naming convention: FT FHWA-Indiana PSE Checklist [Des No.]

All the forms related to the FHWA-Indiana PS&E Checklist can be found at the following link on INDOT's Website: **http://www.in.gov/dot/div/contracts/design/dmforms/index.html.**

For more information related to the Plans, Specifications & Estimate (PS&E) see **Chapter 12-2.0 (3)** *of this Guidance Document.*

9-12.0 PLAN REVISIONS PRIOR TO LETTING

Plan Revisions are the changes made to a set of plans and contract documents up to one week prior to letting. The letting date (not the plan signing date) controls when and how revisions can be made to the plans and contract documents.

Plan revisions shall be handled in accordance with section **14-1.02(04)** of the IDM. This section covers how and when sheets can be replaced, proper numbering for replaced sheets, and rules regarding the placement revision notes. Once the District Construction Engineer approves the revisions they are sent to Central Office Contract Administration for posting.

9-13.0 DOCUMENTATION REQUIREMENTS

Plan preparation documents must be maintained by the LPA for a period of five years after final closeout of the project and final Audit.

- Field Check Notification Letter
- Field Check Report
- Stage 1 Plans along with checklist and Review comments (if required)
- Level 1 Design Exception Request
- Level 1 Design Exception Approval
- Stage 2 Plans with Checklist and Review Comments (submission optional)
- Geotechnical Report
- Pavement Design Request & Approval Letter
- Estimates: Standard Provisions, Unique Pay Items & Special Provisions
- Proprietary Material Use Justification Form & Approval Letter (INDOT approval letter or FHWA approval if required)
- Bridge or Culvert Hydraulic Modeling Checklist (if required)
- Final Engineer's Estimate
- Buy America Waiver

- All Relevant Permits
- **Traffic Control Plan**
- Documentation of Project in MPO and/or Statewide Architecture Plan (ITS Projects only)
- Stage 3 Review Submission, Check List, **Project Commitments**, and Review Forms

9-14.0 CHAPTER CHECK LIST

Change

9-14.01 Critical Path Elements

Critical Path Elements are any action that ensures full compliance to all Federal and State laws, regulations and directives. Critical Path Elements also include any action that may not be "legally" defined but are necessary to ensure to public safety and the rights of property owners, as well as any process, procedure or requirement determined by INDOT to ensure the effectiveness and efficiency of the LPA project development process.

Critical Path Elements are commonly identified through the INDOT review process as defined in Chapter 2, but can also be identified at any stage in the project development process.

Once non-compliance to a Critical Path Element has been identified, the Project Sponsor shall stop all affected project activity until the non-compliance has been resolved.

Unresolved Critical Path Elements can negatively impact the project schedule, funding, and the project budget. Non-compliance to Critical Path Elements may also impact the project scope. Unresolved Critical Path Elements will prevent the project from proceeding to the next stage of project development, including advertisement and letting.

Critical Path Elements in Chapter Nine include:

- Field Check
- Geotechnical Investigation
- Pavement Design
- Construction Time Set
- Cost Estimate
- Proprietary Material Approval

- Design Documentation
  - Level 1 Design Exceptions - Signed by Highest Elected Local Official
  - Level 2 Design Exceptions - Signed by Highest Elected Local Official
- Bridge Hydraulics
- Culvert Hydraulics

Level 1 Design Exception Missed

- Actions or design that compromises public safety
- Actions or design that compromises property rights

CHAPTER NINE APPENDIX

9-15.0 GLOSSARY

Contract Information Book (CIB) – The purpose of the CIB review is to ensure the Designer and LPA acknowledge that what is in the book is correct. The CIB is a compilation of all the bids and relevant information organized in book format.

ERMS – Electronic Records Management System

Field Survey – The Field Survey is conducted at the beginning of a project and identifies the topography of the project area.

Proprietary Material – Proprietary Material is defined through specifications that are so detailed that only one product will satisfy the requirements, or that the name of the product is actually specified.

INDOT Level One Controlling Design Criteria – Highway design elements which are judged to be the most critical indicators of a highway's safety and its overall serviceability. Each Level One criterion must be satisfied for the entire project length, including all paving exceptions. If a criterion is not satisfied, the Designer must apply for a design exception or revise the plans.

INDOT Level Two Design Criteria – Highway design elements which are judged to be important indicators of a highway's safety and serviceability, but are not considered as critical as the Level One criteria. If a Level Two criterion is not satisfied, the Designer will document in the project file that the criterion has not been satisfied and will provide a brief rationale for not satisfying it. However, it is not necessary to prepare an in-depth documentation to justify the decision.

9-16.0 REFERENCES TO GUIDANCE MATERIAL

Links

Indiana Manual of Uniform Traffic Devices (MUTCD) Reference Material

Geotechnical Manuals and Guidelines

INDOT Approved Materials List

INDOT Webpage - Standards & Specifications

Bridge and Structure Design Examples

Practice Pointers

Forms & Checklists

All forms referenced in this Chapter can be found at the following link:

http://www.in.gov/dot/div/contracts/design/dmforms/index.html

Legal Requirements

Oversight Roles and Functions for State and LPA (Sub-Recipients)
23 USC 106(g)(4)

Design Standards for Highways
23 CFR 625 – Part 625

Application of Design Standards, Uniform Federal Accessibility Standards, and Bridges
Supplements to 23 CFR 625

Pavement Design Policy
23 CFR 626

Project conformity with State or Regional ITS Architecture, and based on systems engineering analysis
23 CFR 940

Transportation Management Plan
23 CFR 630.1012 (c) & 630.1010

FAA permit or Approval Date
23 USC 318
23 CFR 620.103 (c) & 620A

Value Engineering Implementation Letter
23 USC 106 (e)
23 CFR 627

Initial Financial Plans (IFP)
23 USC 106 (h)

9-17.0 IDENTIFICATION OF RESOURCE PEOPLE

All questions and coordination regarding the following topics should be directed to the **District Project Manager.**

- Plan Development Process for Local Federal-Aid Projects
- Level 1 Design Exceptions
- Proprietary Material Justifications
- Geotechnical Investigations
- Contract Document Preparation
- Bridge and Culvert Hydraulics
- Pavement Design

Questions regarding:

- **Contract Document Preparation** – Directed by the **District Local Project Manager** to the **Contract Administration Division.**

- **Pavement Design** – Directed by the **District Local Program Coordinator** to the **Pavement Engineering Office**.

- **Geotechnical Investigations** – Directed by the **District Local Program Coordinator** to the **Geotechnical Section of the Materials and Test Division**.

- **Bridge and Culvert Hydraulics** – Directed by the **District Local Program Coordinator** to the **Hydraulic Engineering Division**.

- **Level 1 Design Exceptions and Proprietary Material Justifications** that cannot be answered by the **District Local Program Coordinator** or other District Staff should be directed to **Highway Design & Technical Services Division**.

CHAPTER TEN: UTILITY/RAILROAD COORDINATION

10-1.0 CHAPTER TEN OVERVIEW

To ensure effective communication all submittals and communications related to Utility or Railroad Coordination shall include the Employee in Responsible Charge (ERC), and the Designer.

Project critical information and communications should also include the designated INDOT Project Manager.

If the project is located within an MPO Planning Area, communications should also include the relevant MPO.

Chapter Ten provides an overview of the Utility and Railroad Coordination process that must be followed for all federal-aid highway improvement projects.

This chapter outlines the responsibilities of the Local Public Agency (LPA) and describes the required documentation the LPA must maintain to ensure eligibility for federal-aid reimbursement. This chapter also provides the LPA with links to resource documents and resource people that can assist the LPA with the Utility and Railroad Coordination process.

Completing Utility and Railroad Coordination in accordance with applicable federal and state laws and regulations is required in order to utilize federal-aid for utility and railroad reimbursable expenses. If additional federal funding is needed due to utility or railroad conflicts, a determining factor for the use of federal funds for those costs will be whether or not the correct procedures were followed on coordination efforts.

Chapter Ten covers the following topics:

- **Utility and Railroad Coordination Fundamentals**
- **Responsibilities for Utility Coordination**
- **Responsibilities for Railroad Coordination**
- **Utility Coordination Process**
- **Railroad Coordination Process**

Any discrepancies or disagreements between procedures required in this document and any other manual or specification including but not limited to Indiana Administrative Code (IAC) rules and the Indiana Design Manual (IDM) should be resolved by contacting the **LPA Policy and Procedures Leadership Team**.

Acronyms used in this Chapter

ERC – Employee in Responsible Charge
FMIS – Fiscal Management Information System
IAC – Indiana Administrative Code
IDM – Indiana Design Manual
IC – Indiana Code
INDOT – Indiana Department of Transportation
LPA – Local Public Agency
MPO – Metropolitan Planning Organization
NTP – Notice to Proceed
PE – Preliminary Engineering
RFC – Ready for Contracts

10-2.0 UTILITY AND RAILROAD COORDINATION FUNDAMENTALS

Roadway agencies, utility companies and railroad companies are each generally responsible for constructing, maintaining, and operating their own facilities. Close coordination and cooperation between each entity is required where they interact to ensure the design, construction, operation, and maintenance of all networks are compatible both during and after the highway improvement project is completed.

The process of utility and railroad coordination for a federal-aid project begins at the inception of the project and continues until all work by utility companies is complete and/or all work on the railroad right-of-way is complete. It is essential for utility and railroad coordination activities to be performed in the proper order and in the proper manner to ensure federal money is available and can be utilized where appropriate for a specific project.

Utility and Railroad Relocation Costs:

Railroads typically operate on their own property or on an easement. Therefore the work they perform for a project is generally reimbursable and the anticipated cost must also be factored in to the overall project expense.

Utility facilities may on the public right-of-way, on their own property or on an easement. If the utility facilities are on the public right-of-way, generally the utility is responsible for adjusting their facilities to accommodate a public improvement project at their own expense.

If the utility is on an easement or on their own property, the relocation costs are generally reimbursable and the anticipated cost must be factored in as a project expense.

Utility Coordination for federally funded projects shall follow the rules in **105 IAC 13**.

For LPA projects, Railroad Coordination activities are handled by the **District Railroad Coordinators**.

- Aspects of Utility and Railroad Coordination services required by the LPA should be included in the **LPA-Consulting Contract**.
- Utility cost responsibilities in general will be addressed in the Utility Agreement.
- Railroad cost responsibilities in general will be addressed in the Railroad Agreement.

10-3.0 RESPONSIBILITIES

The LPA is managerially and financially responsible to ensure that all utility and railroad coordination efforts are being accomplished. Typically the LPA should ensure that all responsibilities they want their Design Consultant/LPA Utility Coordinator to be accountable for are spelled out in the LPA-Consulting Contract. The responsibilities not assigned in the LPA-Consulting Contract remain with the LPA to complete.

Utility and Railroad Coordination work can be accomplished by multiple participants, each of which may perform different roles during the coordination process. Most of the Railroad Coordination efforts are accomplished by INDOT staff. The Utility Coordination responsibilities are typically accomplished by consultant.

The participants normally involved in the Utility and Railroad Coordination process include:

- ERC
- LPA's Designer
- Surveyor
- LPA's Utility/Railroad Coordinator
- The Utility/Railroad Company's Authorized Representative
- District Utility/Railroad Coordinator
- Designated District Project Manager

The following list show the typical responsibilities of these participants based on their title.

10-4.0 RESPONSIBILITIES FOR UTILITY COORDINATION

10-4.01 LPA's Designer's Responsibility

Legal requirements for utilities and railroad coordination are set out in federal and state laws and regulations, as well as local government ordinances.

In general, if federal money is involved in a project, federal law and regulations must be used in conjunction with state and local law, regulations and ordinances.

1. List and maintain the utility companies' names and contact information on the plans for the project. [**105 IAC 13-3-1(f)**]
2. Record and maintain the measurements and locations of all utility facilities on the plans. [105 IAC 13-3-1(f)]
3. Record the results of subsurface utility-engineering investigations (if performed) on the plan and profile sheets and cross-sections sheets.
4. Notify the LPA's Utility Coordinator once the locations of utility facilities are shown on one or more plan and profile sheets. [**105 IAC 13-3-1(f)**]
5. Record and maintain all corrections to the utility facilities' locations on the plans. [**105 IAC 13-3-2(b)(3)**]
6. Notify the LPA's Utility Coordinator once the preliminary plans are available. [**105 IAC 13-3-3(a)**]
7. Review the potential conflicts and consider all recommended changes to the plans and implement the changes where appropriate. [**105 IAC 13-3-3(a)(3)(B)**]
8. Notify the LPA's Utility Coordinator of the recommended changes that were and were not implemented and the reasons why they were not implemented. [**105 IAC 13-3-3(a)**]

9. Notify the LPA's Utility Coordinator once the preliminary plans are available. [**105 IAC 13-3-3(b)**]

10. Identify to the LPA's Utility Coordinator all revisions to the plans that can affect the relocation of utility facilities. [**105 IAC 13-3-5**]

11. Provide the plans with a cover letter to the Utility Companies in scaled hard copy or in a manner acceptable to them when requested by the LPA Utility Coordinator.

12. Assist the LPA's Utility Coordinator in interpreting the design plans or explaining construction methods, which may be used in completing the improvement project.

13. Attend Utility Coordination meetings and utility conflict-resolution meetings. [**105 IAC 13-3-3(b)**]

14. Perform all of the surveyor's responsibilities if the Design Consultant has not selected a sub-consultant to perform such responsibilities.

15. Perform all of the LPA's Utility Coordinator's responsibilities if the Design Consultant has not selected a sub-consultant to perform such responsibilities. *These responsibilities are described in* **Section 10-4.03** *of this Guidance Document.*

10-4.02 Surveyor's Responsibility

The surveyor's full responsibilities are outlined in **IDM Chapter 104**. Responsibilities that relate to the Utility Coordination process are as follows.

1. Submit requests to Indiana 811 for utility companies to locate and mark their facilities within the project limits. [**105 IAC 13-3-1(e)**]

2. Measure and record the locations of all above ground utility facilities that are apparent within the project limits.

3. Measure and record the locations of all field markings made by the utility companies regarding their underground facilities. [**105 IAC 13-3-1(f)**]

4. Provide all of the utility facilities' measurements, locations, and all other field information to the Designer.

10-4.03 LPA's Utility Coordinator

The LPA's Utility Coordinator's responsibilities are as follows:

1. Determine by conducting utility research the name of each utility with facilities within the project limits. [**105 IAC 13-3-1(b)**]

2. Determine and provide to the Designer the name and contact information of the authorized representative for each identified utility facility.

3. Prepare, sign and, send an initial notice to each such authorized representative.

4. Inform the Designer and surveyor of the names of utilities within the project area and general locations of utility facilities provided in the response to the initial notices.

5. Prepare, sign, and send each utility company a letter requesting them to verify the facility information shown on the plans. [**105 IAC 13-3-2(a)**]

6. Notify the Designer of all inaccuracies in the utility facilities information recorded on the plans. [**105 IAC 13-3-2(b)(3)**]

7. Prepare, sign, and send to each utility company a letter requesting them to identify the conflicts between its facilities and the project work. [**105 IAC 13-3-3(a)**]

8. Notify the Designer of all conflicts. [**105 IAC 13-3-3(a)**]

9. Prepare, sign, and send to each utility company a letter requesting it to prepare and submit its facility's relocation work plan. [**105 IAC 13-3-3(b)**]

10. Review each utility company's relocation-work plan to ensure that it is compatible with the project and reasonable. [**105 IAC 13-3-3(e)**]

11. If necessary, prepare, sign, and send to each utility company a letter notifying it that its relocation-work plan is not compatible or reasonable and the reasons why not. [**105 IAC 13-3-3(f)**]

12. If necessary, review each revised utility-facility relocation-work plan to ensure that it is compatible and reasonable. [**105 IAC 13-3-3(f)**]

13. If necessary, prepare and provide each utility company with an alternative utility-facility relocation-work plan. [**105 IAC 13-3-3(f)**]

14. If necessary, review all requested changes to the alternative utility-facility relocation-work plan. [**105 IAC 13-3-3(f)**]

15. Prepare a letter approving each final relocation-work plan and provide the letter and plan to the LPA to review and sign. [**105 IAC 13-3-3(f)**]

16. Prepare a letter notifying each utility company to implement the final relocation-work plan and provide it to the local public agency to review and sign. (**105 IAC 13-3-4(a)**)

17. Prepare a transmittal letter and utility agreement for work that it is reimbursable, or for work that is to be included in the contract and send it to the LPA to review and sign. [**105 IAC 13-3-3(h)**] The agreement will be reviewed by INDOT prior to being sent to the utility for signature.

18. Send the Utility Agreement and transmittal letter to the utility for signature.

19. Coordinate with the designated **District Local Project Manager** to secure federal funding through the Fiscal Management Information System (FMIS) for the reimbursable work.

20. Coordinate and attend utility coordination meetings and utility conflict resolution meetings as required. [**105 IAC 13-3-3(b)**]

21. Provide to the LPA, the LPA Project Manager, and the **Contract Administration Division** the utility-coordination special provisions prior to the Ready for Contracts (RFC) date.

22. Provide to the LPA, the District Local Project Manager, and the Contract Administration Division, the Utility-Coordination Certificate prior to the RFC date.

23. Provide to the Contract Administration Division a copy of each signed utility relocation-work plan prior to the RFC date.

24. Receive and review all letters from each utility company and inform the Designer and LPA of relevant information.

10-4.04 LPA ERC

The LPA's ERC responsibilities are as follows:

1. Review and approve or deny each Utility Company's request for an extension to the allotted time to prepare a relocation-work plan. [**105 IAC 13-3-3(b)**]

2. Review each Utility Company's final relocation-work plan and sign the letter that approves such plan. [**105 IAC 13-3-3(f)**]

3. For reimbursable utilities, review the transmittal letter and utility agreement and if acceptable, sign the letter and return the letter and agreement to the LPA's Utility Coordinator. [**105 IAC 13-3-3(h)**]

4. Issue a permit that includes the Notice to Proceed (NTP) for each approved relocation-work plan.

5. Review Utility Consultant and Contractor selection documents for reimbursable utilities to concur with or deny their selection.

6. Review each Utility Agreement for accuracy and completeness and sign it or forward it to an individual that has the authority to sign on behalf of the LPA.

7. Determine the project limits for the requirements of utility coordination. [**105 IAC 13-3-1(c)(2)**]

8. Notify INDOT and Utilities if the project schedule or scope changes.

9. Secure Local Match

10-4.05 Utility Company's Authorized or Designated Representative

The utility company's authorized or designated representative's responsibilities are as follows:

1. Locate and mark utility facilities within the project limits when requested by Indiana 811.

2. Alternatively, provide the Designer with another mutually-acceptable format or schedule to identify the utility facilities' locations. [**105 IAC 13-3-1(e)**]

3. Respond to the initial notice, request for verification, request for conflict analysis, and request for relocation-work plan in the time specified.

4. If work is reimbursable, the LPA shall provide easements and cost estimates for work to be done.

10-4.06 INDOT LPA Project Manager

The INDOT Project Manager's responsibilities are as follows:

1. Determine if the project is a minor project or a major project for the requirements of utility coordination. [**105 IAC 13-3-1(c)(7)**]

2. Review utility reimbursable agreement and easement documents prior to the LPA sending agreement to utility.

3. Secure the required federal funds for reimbursable utility relocation work prior to NTP given.

10-5.01 LPA's Designer

The Designer's responsibilities are as follows:

Any Railroad Coordination work done prior to FMIS authorization will not be eligible for reimbursement.

1. Evaluate project during initial design phase to determine if a railroad is in the vicinity of the project or if maintenance of traffic has potential to affect a crossing or increase traffic significantly at a crossing. If there is a railroad in the vicinity the LPA or his Designer should contact the Railroad Coordination to ensure there are no unforeseeable problems.

2. Contact the District Railroad Coordinator to request assistance in determining what impact the project has, if any, on the railroad. (If no impact, no further action is necessary.)

3. Submit preliminary engineering plans to the District Railroad Coordinator for submittal to the railroad for review along with the FMIS authorization for preliminary engineering (PE) for Railroad/Utility coordination once the funding has been secured.

4. Coordinate with INDOT to arrange a diagnostic field check with railroad once the funding has been secured.

5. Prepare and sign utility agreements using INDOT form or LPA Utility form for the LPA Utility coordination.

6. Address railroad's comments and provide final design matching up to railroad modifications.

7. Review railroad's force account estimate for accuracy and approval.

10-5.02 Local Public Agency – ERC

The LPA's ERC responsibilities are as follows:

1. Determine the funding source for the project. If it is 100% local funds, no federal or state funds, INDOT will not be involved in the project coordination.

2. Secure the LPA's share of preliminary engineering funding at Stage 1 Plans development to allow authorization to be given by INDOT to the railroad allowing the railroad to begin preliminary engineering review.

3. Attend diagnostic field check with Designer, INDOT, and the railroad.

4. If an existing at-grade crossing is being modified, or a new crossing is being proposed, submit Petition to the State's Rail Office for approval. This usually will take approximately 3 months to complete.

5. Secure construction funding to cover the railroad's reimbursable force account estimate.

6. Execute an agreement with the railroad.

10-5.03 INDOT Railroad Coordinator

The INDOT Railroad Coordinator's responsibilities are as follows:

1. Confirm if railroad coordination is/is not necessary.

2. Secure federal share of funding for preliminary engineering by railroad.

3. Give the railroad authorization to begin preliminary engineering.

4. Meet with the railroad for a preliminary field check. Most commonly this is set up specifically with the railroad.

5. Provide assistance as needed to advance coordination between the LPA and railroad.

6. Prepare railroad force account agreement and route for signatures.

7. Secure the required federal funding for reimbursable railroad force account work included in the agreement.

8. District Railroad Coordinator provides NTP letter to the railroad.

10-5.04 Railroad's Designated Representative

The Railroad's designated representative's responsibilities are as follows:

1. Attend diagnostic field check.

2. Provide plan review comments on engineering plans.

3. Prepare engineering drawings for the improvements to the railroad's facilities.

4. Provide a railroad force account estimate inclusive of all reimbursable costs that are as a direct result of the highway project.

5. Execute the railroad force account agreement.

For more information on the Railroad Coordination Process see **IDM Chapter 105.**

10-6.0 THE UTILITY COORDINATION PROCESS

The rules for Utility Facility Relocation can be found in Indiana Code (IC) **105 IAC 13**. The rules give time frames that must be followed as information is exchanged between the LPA and the utilities. Total duration for the utility coordination process is still dependent upon the number of utilities, extent of existing and proposed right-of-way, and the complexity of each project. Estimated timeframes are given in the steps listed below.

Note: A local project that is going to be let by the LPA without the use of federal money must not reference the 105 IAC 13 rules for utility coordination.

An overview of the Utility Coordination Process consists of the following activities.

For detailed information on the Utility Coordination process, please refer to **Chapter 104** *of the IDM.*

1) **Identification of Utilities Within Geographical Limits of Improvement Project**
Duration: 1 to 2 weeks

Research is done on existing records to determine the names of utility companies with facilities in or near the project limits.

2) **Initial Notice of Improvement Project**
Duration: 1 to 2 months

Initial notice letters are prepared and sent to utilities. The utility company has 30 days to respond to the initial notice letter with a description of their facilities within the project area or telling you they have no facilities in the area.

3) **Survey**
Duration: Depends on the Size of Project

Indiana 811 is contacted and utilities mark their underground facilities in the field. The surveyor needs to record all above ground and the marked underground utility information for placement on the project plans.

4) **Verification of Existing Facilities**
Duration: 2 to 4 months

Project plan sheets are sent to each utility with facilities in the project area. The utility must verify that their facilities are shown correctly or supply information concerning what is incorrect. Designer must correct plan sheets if needed.

NOTE: Design decisions to minimize utility impacts on a project can best be made once all utility facilities are shown correctly on the plans.

5) **Conflict Review and Analysis**
Duration: 2 to 4 months

Once all utility facilities are shown correctly on the plans each utility is sent a set of plans to review. The utility reviews the plans and determines the conflicts they have with the project. The utility can recommend design changes to the project to avoid conflicts. This is **NOT** the time when the utility does a relocation plan. This is a time when a high level review is done to see if design changes can be made to minimize the impacts to utilities and still maintain the scope, timeframe and cost of the project. The Designer must implement the changes where appropriate or communicate with the utility the reasons the changes cannot be made.

At this point the LPA should have an indication of which utilities are reimbursable and should create a list of those utilities along with estimated costs that may impact the budget of the project.

6) **Work Plan/Relocation Plan Development**
Duration: 1 to 12 months

Utility companies are sent project plans to review and use to develop work/relocation plans. Work-relocation plans are sent in and then reviewed by the LPA for acceptability. The IAC rules dictate that the utilities are given 60 days for minor projects and 120 days for major projects to review improvement plans and develop their work-relocation plans. Time is also needed to review the work plans and additional coordination when the initial plans are not acceptable.

7) **Utility Reimbursement Agreements**
Duration: 2 to 4 months

If work within a utility work plan is reimbursable, easements are also identified and reviewed. Cost estimates are developed by utilities for reimbursable work. Utility Reimbursement Agreements are prepared for any utilities that have reimbursable rights. An agreement is signed for the reimbursable work by both the Utility and the LPA. This agreement must be reviewed by INDOT prior to being submitted to the utility for signature.

8) **Permits and Construction**

Duration: Dependent on the duration of time Utilities need to complete their work plan.

Once work plans are acceptable each utility that must do work needs to be given back an approved work plan along with a notice to proceed or permit letter to begin their work.

Note: Any work completed prior to receiving the FMIS NTP is not eligible for reimbursement and must be paid 100% by the Local.

Work plans include the number of days needed for the utility to complete their relocation work. The number of days needed should be taken into consideration as the improvement project construction duration and time frames are established. The work plans/relocation plans need to be submitted to the Contract Administration Division with project information so they are available to the Contractor.

NOTE: Having right-of-way acquired and cleared of obstructions/trees needs to be considered as the schedule of the project is set. This can affect utility relocation timeframes.

The Utility Coordinator should attend the **Preconstruction Conference** to discuss the utility relocation items with the INDOT Project Engineer/Supervisor and Contractor. The utility coordinator should be available during construction to resolve conflicts between the Contractor and the utilities.

- The LPA shall submit a letter to the INDOT District Office that no utilities are involved, that all utilities have been relocated or their timeframes have been incorporated into the project schedule. (*See* **INDOT LPA Utilities Webpage** for form letter).

10-7.0 THE RAILROAD COORDINATION PROCESS

Railroad coordination can take up to 18 to 24 months to complete for complex projects that involve significant modifications to the existing railroad facilities or operations, or those including new grade separation structures.

It typically requires from 6 to 12 months from the initial contact with the railroad to complete the railroad coordination on projects with relatively minor railroad involvement. The exact sequencing and time needed to complete each step is dependent upon the complexity of the project and on the responsiveness of the particular railroad.

Therefore at the earliest possible date, the LPA should determine if the proposed highway improvement project will impact any railroad facilities or railroad operations. This determination should include both obvious impacts (railroad right-of-way is within project construction limits) and not-so-obvious impacts (maintenance of traffic plan diverts traffic across tracks or Contractor work activities may impact the operations of the rail line during construction).

If the LPA anticipates railroad involvement on the project, they must notify the **District Railroad Representative**. The District Railroad Representative will address coordination activities with the affected railroad, including reimbursement to the railroad and construction inspection related to the railroad. They are also available to provide technical assistance to LPA during project development and construction.

For additional information on the Railroad Coordination Process, please refer to **Chapter 11** *of the IDM.*

Generally the Railroad Coordination Process consists of the following activities:

1) **Identify Railroad Impacts and inform INDOT District**

   Early in the project development (before Stage 1 plans are developed) the LPA will:

   - Develop an anticipated scope of work for all railroad related items.
   - Develop sketch showing the concept for the proposed improvement project.
   - Notify the District Railroad Representative of the anticipated railroad involvement on the project. Copy the District Project Manager on this notification.

2) **Initiating Contact with the Railroad**
   Duration: 2 Weeks to 2 months

   The District Railroad Representative will review the sketch, discuss the project scope with the consultant, and discuss the scope with the affected railroad/s. They will then advise the LPA of the comments made by the Railroad and any applicable specifications they determine need to be considered as project plans are developed.

3) **Preliminary Engineering**
Duration: 4 to 7 months

- The LPA must submit their share of the railroad preliminary engineering cost to INDOT and INDOT must request and get approval for the federal match (if applicable) before INDOT authorizes the railroad to begin preliminary engineering.

    - Railroad reimbursement costs for construction, which are requested later, are in addition to other project preliminary engineering and construction costs. Typically eighty percent of the preliminary engineering costs related to railroad review are eligible for federal funding with the cost generally in the range of $10,000 to $25,000.

- INDOT should authorize railroad preliminary engineering prior to the Preliminary Field Check Meeting. *(The preliminary field check meeting normally occurs approximately 35 percent of the way through project development).*

- Review of the preliminary project plans can then be completed by the railroad. Revisions requested by the railroad may require re-submittal of plans to the railroad prior to final approval by the railroad.

4) **The Agreement and Reimbursement Process**
Duration: 3 to 6 months

- Once Stage 3 plans are nearing completion, a railroad agreement needs to be completed. This agreement is between the railroad and the LPA to cover the costs associated with the necessary railroad work for the project. INDOT also signs the agreement to show concurrence.

  If the railroad cost estimate is satisfactory to the LPA, the District Railroad Representative will prepare the agreement and transmit it to the railroad for signature.

  The LPA will also request the corresponding authorization for federal funds needed to cover the federal share of the cost.

- After the agreement is executed by the railroad, the **District Railroad Representative** will forward the agreement to the LPA for signature.

- After the agreement is executed by the LPA and forwarded to INDOT, it will be signed by INDOT.

- After the District receives the fully executed agreement, the LPA's share of the match funds related to railroad reimbursement will be requested. These funds include the costs of project-related expenses, including additional preliminary engineering and construction.

5) **Construction**
Duration: Depends on the project complexity

- A NTP will be issued to the railroad by INDOT after INDOT confirms:
  - LPA and federal funding is in place for the project
  - Related purchase orders are in place

  The average lead time for the railroad to order and stockpile critical material needed for construction is 60 to 90 days after NTP is issued, however, it may take up to six months.

- After Federal authorization (FMIS) of funds has been received, the District Railroad Representative will process invoices from the railroad and make payments to the railroad. Any costs incurred before Federal Authorization are not eligible for federal reimbursement and will be paid 100% by the LPA.

10-8.0 DOCUMENTATION REQUIREMENTS

The following documents shall be turned in to the INDOT District for incorporation with Final Tracings Package Submission to the **Contract Administration Division** on each project prior to the RFC date:

- Utility Work Plans
- Utility Coordination Certificate Waiver Form or Utility Coordination Certification Form
- Utility Special Provisions

All Utility and Railroad Coordination documents must be maintained by the LPA for a period of five years after the final closeout of the project and the final audit.

The list of required documentation below is presented by each stage of project development. It is very important to maintain all of these documents as they are required for audits, for review if utilities or railroads request additional money or if either utilities or railroads are listed as a reason for construction delay claims.

By Stage 1 Submittal

- List of Utilities identified during research stage
- 811 Contact Notes or email

Utility Initial Notice of Improvement Letters

- Railroad Involvement notification email or letter
- Utility Verification Letters
- Letter or e-mail notification that the District Railroad Coordinator was notified of project
- Utility Coordination Certification Waiver

By Stage 2 Submittal

- Utility Conflict Review Letters
- Reimbursable Utility List
- Petition to Rail office if railroad crossing is altered or new

By Stage 3 Submittal

- Utility Work Plan/Relocation Plans from each Utility or letter of no conflict
- LPA /Utility Reimbursement Agreement for each reimbursable Utility
- Utility FMIS Authorization Letter or E-mail
- Utility Certification
- Utility special provisions
- Railroad Executed Agreement

By Start of Construction

- Railroad FMIS Authorization Letter or E-mail
- Documentation that utility relocation work is complete or timeline has been coordinated with the project construction

10-9.0 CHAPTER CHECK LIST

10-9.01 Critical Elements

Critical Elements are any review item used to verify that Federal and State laws, regulations and directives have been met. Critical Elements are most often identified through reviews scheduled at specific stages of the project development process.

This list is being developed.

10-9.02 Fatal Flaws

The definition of a Fatal Flaw includes any problem with a critical element that has not been, or cannot be resolved. Fatal flaws also include violations of any state or federal law, and any action that compromises safety or the rights of property owners. Fatal flaws may be identified at any stage of the project development process.

Once a fatal flaw has been identified it shall stop all affected project activity until the fatal flaw is resolved. Unresolved fatal flaws can negatively impact the project schedule, funding, and the project budget. They may also impact project scope. Unresolved fatal flaws will prevent the project from proceeding to the next stage including advertisement and letting.

Some of the most common fatal flaws include the following:

This list is being developed.

CHAPTER TEN APPENDIX

10-10.0 REFERENCES TO GUIDANCE MATERIAL

Indiana Code

105 Indiana Administrative Code 13 for Utility Coordination

Indiana Design Manual

Chapter 104 Utility Coordination

Chapter 105 Railroad Coordination

FHWA Websites

Program Guide: Utility Relocation and Accommodation on Federal-Aid Highway Projects

Utilities

Railroads

Forms

INDOT LPA Utilities Webpage
This link will take you to a web page that includes example letters to use as utility coordination is performed.

United States Code

The United States Codes that apply to federal-aid utilities and railroad coordination process are as follows:

Title 23 – Highways

Chapter 1 – Federal Aid Highways

Subchapter I – General Provisions

Section 123 - Relocation of Utility Facilities

Section 130 - Railroad-Highway Crossings

Code of Federal Regulations

The federal regulations that apply to the federal-aid utilities and railroad coordination process are as follows:

Title 23 – Highways

Chapter I – Federal Highway Administration, Dept. of Transportation

Sub-Chapter G – Engineering and Traffic Operations

Part 645 – Utilities, Part 646 - Railroads

23 CFR 645 (Utilities)

23 CFR 645 (Railroads)

10-11.0 IDENTIFICATION OF RESOURCE PEOPLE

All project specific questions regarding aspects of Utilities and Railroad coordination for local federal-aid projects are to be directed to the appropriate **District Utility and Railroad representatives**. **Central Office Railroad and Utility Representatives** are also available to answer general questions regarding utility and railroad coordination.

CHAPTER ELEVEN: LAND ACQUISITION

11-1.0 CHAPTER ELEVEN OVERVIEW

The acquisition of property is one of the most important and complex aspects in the development of federal-aid transportation projects.

Completing the land acquisition function in accordance with applicable federal and state laws and regulations is essential in order to use federal money for any aspect of a federal-aid project.

The Employee in Responsible Charge (ERC) is responsible for requesting Indiana Department of Transportation (INDOT) initiate federal project authorization through the Fiscal Management Information System (FMIS) from the Federal Highway Administration (FHWA) for the Right-of-Way (R/W) phase of project development. This approval cannot and shall not be required prior to the approval and certification of the **Environmental Document**.

This chapter describes and provides guidance on the federal-aid land acquisition process including:

- **Land Acquisition Activities**
- **Land Acquisition Process**
- **Steps for Land Acquisition**

All communications and Land Acquisition submittals shall include the ERC, the District Real Estate Manager and the Designer.

Failure to include all listed parties may result in the rejection of the submittal.

If the project is located within an MPO planning area, communications should also include the appropriate MPO.

Land Improvement and Damages (LID) are paid after R/W service and/or acquisition are paid. All claims will require proof of payment made by the Local Public Agency (LPA).

Procedures and activities required in the R/W Acquisition process for LPAs are described fully in various manuals including: Appraisal, Buying, Relocation, Property Management and INDOT's Right-of-Way Engineering Manual. These manuals take precedence over this Guidance Document and are to be used by the LPA to ensure compliance to all Federal and State laws, directives and requirements.

If a LPA discovers any conflict between manuals or procedures set forth in this guidance document please contact the **LPA Policy and Procedures Leadership Team** for additional guidance and clarification.

Acronyms used in this Chapter

APA – Appraisal Problem Analysis
CFR – Code of Federal Regulations
ERC – Employee in Responsible Charge
FHWA – Federal Highway Administration
FMIS – Fiscal Management Information System
IAC – Indiana Administrative Code
INDOT – Indiana Department of Transportation
LID – Land Improvement and Damages
LPA – Local Public Agency
MPO – Metropolitan Planning Organization
NEPA – National Environmental Policy Act
PE – Preliminary Engineering
RFC – Ready for Contracts
R/W – Right-of-Way

11-2.0 LAND ACQUISITION ACTIVITIES

Acquiring property on federal-aid transportation projects or programs in general is referred to as the **Land Acquisition Process**. An entity must have the adequate rights-of-way to build, operate and maintain a facility. The following is a brief description of the requirements to ensure legal and adequate Right-of-Way (R/W).

A detailed description of land acquisition procedures is available online at **http://www.in.gov/indot/2493.htm**

There are two fundamental requirements that underpin the acquisition of property for federal-aid transportation projects:

- Every person is entitled to **"Just Compensation"** for his or her property rights under federal law.
- **The Uniform Act** shall be followed during land acquisition if there is federal-aid funding on any aspect of a project.

Land acquisition consists of most, if not all, of the following activities.

- **Assurance Letter** - before beginning land acquisition phase of a project, the LPA shall send to the appropriate INDOT District, written assurance stating it will comply with the *Uniform Relocation & Real Property Acquisition Act of 1970*, *as amended*, as well as all other current Indiana and federal regulations.

- **Land Acquisition (R/W) Management** – The coordination, technical direction, review, and reporting of the following R/W services activities, on each parcel to be acquired, abstracting, R/W Engineering, Appraising, Buying, Condemnation. Reports shall be made monthly.

Warning:

Any contact with property owners prior to the approval of the environmental document and FMIS authorization for R/W services is not only non-reimbursable, but also illegal.

- **Title Research** – Research of title records to establish ownership for property and other interests in the property impacted by a project to be acquired by the LPA. This is also often referred to as abstracting. Abstracting for INDOT projects is defined as a search of the public records for a period of no less than 20-years or to the last recorded transfer by a warranty deed, whichever is longer. This includes judgments, bankruptcy, divorce, easements, with miscellaneous record searches for mechanics liens, mortgages, or other encumbrances.

- **R/W Engineering** – Preparation of legal descriptions (for all interests being acquired by the LPA, including but not limited to fee simple, temporary rights of way and clearance of other property interests) acquired from each property owner.

R/W parcel plats are to be prepared in accordance with the R/W Engineering Manual and Indiana Administrative Code (IAC) Title 865.

- **Scope of Work and Appraisal Problem Analysis (APA)** – The defining of the appraisal problem, appraisal scope of work, and establishing the appropriate valuation form type (waiver valuation, value finding, short form appraisal, etc.) to be completed.

An APA shall be completed by the project's review appraiser for each parcel. The APA process provides the LPA the first estimate of what purchasing the R/W will cost. If the APA is completed using owner contact, the APA preparation is considered R/W Services. The APA must be accepted/signed by the LPA.

- **Appraising** – Establishing an Opinion of Just Compensation. Determining the value of the acquisition (land, improvements, cost to cures, interests and/or damages) through appraisal or waiver valuation, as well as the review of appraisals. The appraisal, through an attached Statement for the Basis of Just Compensation, must be accepted/signed by the LPA.

- **Buying** – Presenting a written offer to purchase land or interests therein to the property owner and executing all documents required to transfer the necessary property rights or interests from each owner for each parcel on a project.

- **Relocation** – Determining and paying relocation entitlement when people, businesses, and/or personal property are displaced by the acquisition of property for a project.

- **Condemnation** – Applying a governmental agency's right of "eminent domain" to acquire property for a project. This does not apply to voluntary acquisitions. Court documents (Order of Appropriation, Award, Agreed Finding and Judgment, etc.) shall be submitted for review to INDOT District, before R/W Certification can be completed.

- **Property Management** – After the rights to a property are acquired, that property must be cared for until it is utilized for the project. Even after the project is constructed, there may be a remnant containing facilities that require on-going up-keep.

- **R/W Certification** – Before a project can go to a construction letting, the LPA and their Consultant must certify that all parcels necessary to construct the project have been acquired and cleared in accordance with federal and state regulations.

Reminder:

Any form documents used from INDOT Manuals must be revised to reflect the LPA rather than INDOT.

The District Real Estate Office will review parcels as received. The last parcel on a project should be received by the district at least 75 days before the project Ready for Contracts date (RFC).

- **R/W Certification (when no new R/W is required)** – If the project to be certified requires no additional R/W for construction, the LPA shall submit the appropriate existing R/W documentation and the LPA must submit the appropriate certification letter for the project, at least 75 days before the project RFC date.

WARNING: If all R/W documentation is not submitted to the District Real Estate Office at least 75 days prior to the RFC date, the letting date will be delayed.

It is essential all Land Acquisition activities are performed in the proper order and in the proper manner to ensure federal money can be used for any aspect of a project.

Additional guidance and direction regarding Land Acquisition Activities are provided in the **Chapter Eleven Appendix**.

For information regarding specific question related to asbestos, exceptions or letting with exceptions or of any other nature please contact the **District Real Estate Manager.**

11-3.0 LAND ACQUISITION PROCESS

The process of land acquisition for a federal-aid project begins at the inception of the project. During the project programming the need to purchase additional right of way for a project shall be identified and budgeted. The budget must include the property and relocation benefits costs, as well as land acquisition services, such as R/W management, title work, R/W engineering, appraising, buying, and relocation services.

Land acquisition responsibilities in general will be addressed in the INDOT-LPA Contract. Also, all aspects of land acquisition services shall be included in the LPA-Consulting Contract.

In general, parcels on a project can be processed concurrently and the total duration of the land acquisition process from the approval of the NEPA document could be less than one year but typically no longer than two years.

The land acquisition process consists of two major parts, R/W Engineering and R/W Services.

11-3.01 R/W Engineering

R/W Engineering and Title Research are the only R/W elements that can be accomplished prior to the completion of the NEPA document.

Approval of funds in the **Fiscal Management Information System (FMIS)** is required before the LPA and/or Consultant can engage in any R/W Engineering activities. In addition, Federal authorization for R/W Engineering may be included with the Preliminary Engineering (PE) authorization.

PE includes:

- **Environmental**
- **Geotechnical**
- **Design**
- **Hydraulics**
- **R/W Engineering**
  - Title Search
  - Plat #1
  - R/W Plans

- Legal Descriptions and parcel plats

- LPA must coordinate with the INDOT District to schedule a R/W Coordination meeting to occur after the **Preliminary Field Check**. The LPA shall submit Preliminary R/W Plans to the District Real Estate Office **before** beginning the acquisition process.

— **Other Plan Development Issues**

11-3.02 R/W Services

Once the **National Environmental Policy Act (NEPA) Document** is approved by INDOT, FMIS authorization for R/W services may be requested.

> **NOTE: R/W Services** can begin only after the NEPA Document has been approved and certified by INDOT and a Notice to Proceed from INDOT has been sent to the LPA.
>
> APAs, if approved under the Preliminary Engineering (PE) FMIS authorization, are the only part of the appraising process that can begin prior to NEPA approval and FMIS authorization for R/W Services, provided there is no owner contact during the APA preparation.

R/W Services include:

a. APA's - If the APA is completed with any owner contact, the APA preparation is considered R/W Services

b. Appraisals

c. Buying

d. Right-of-Way Services Administration

e. Relocation

f. Compensation and land purchase issues

11-3.02 (1) Letter of Owner Contact & Owners Rights Booklet

The Federal Highway Administration (FHWA) requires that a letter of owner contact be sent to the owner at first contact and a copy be retained in the project documentation. At first contact, the owner shall be given the booklet "Acquiring Real Property for Federal and Federal-Aid Programs and Projects." This booklet provides the owner with information concerning owner's rights. The owner should sign the receipt of the booklet and this receipt should be collected and retained in the project documentation. A copy of the letter and the booklet receipt shall be submitted with the completed parcel packets.

Examples of the booklet and the letter can be found in the Chapter 11 Appendix**.**

> NOTE: The rule says "first contact" so be safe and always assume that you are the first to contact the owner, appraiser or buyer.

For more specific guidance the LPA should contact the **District Real Estate Manager.**

11-3.01 STEPS FOR LAND ACQUISITION

The following is a guideline that breaks down estimated duration for each step in the land acquisition process. This guideline should be applied to projects of 20 parcels or less. Larger projects will require more time to complete each step.

Initial Property Research, Owner identification
Duration: Approximately 10 days

This consists of collecting the no less than 20 years and last deed of record, whichever is longer for all parcels of property adjacent to the project. This should be performed in conjunction with, and included in the Topographic Survey for the project.

Abstracting and Property Line Determination
Duration: Approximately 30 days

Early in preliminary design, after the initial alignments and typical cross-sections are determined, parcels that will be affected by the project will be known. Abstracts of title/title reports can then be compiled for those affected parcels.

R/W Engineering
Duration: Approximately 45 days

Can commence after the Preliminary Field Check meeting and all issues addressed from the PFC and specific right-of-way lines are determined.

Preliminary R/W Plans submitted to the District Real Estate Manager.

Scope of Work and APA
Duration: Approximately 30 days

Establishes the type of appraisal valuation form (waiver, value finding, short form appraisal etc.) to be completed and establishes the cost of the valuation services. R/W engineering must be complete for this activity to commence.

Establishing Market Value, commonly referred to as Appraising
Duration: Approximately 120 days

This step includes appraising and review appraising and can be completed after R/W engineering and APA is completed for each parcel.

Further, unless land acquisition is being pursued "at risk", there can be no direct owner contact take place prior to the approval of the NEPA document.

The approval of the NEPA document must be obtained in order for Land Acquisition costs to be authorized in FMIS. No Land Acquisition costs, including appraising services are eligible for federal reimbursement or local match without FMIS authorization.

Please note that any appropriate relocation benefits must be coordinated during the appraisal process to avoid conflicting payments to a property owner.

Further guidance regarding appraising can be found in the **INDOT Appraising Manual**.

Buying
Duration: Approximately 180 days

Can be done upon completion of appraising and review appraising on each parcel but only after the requirements of the NEPA have been satisfied**.**

Further guidance regarding buying can be found in the **INDOT Buying Manual**.

Relocation
Duration: Approximately 90 days, concurrent with buying

Relocation should be done in conjunction with buying of each parcel. INDOT must review and approve with each relocation claim as submitted.

Further guidance regarding Relocation can be found in the **INDOT Relocation Manual**.

Condemnation
Duration: Approximately 6 months to 1 year

If eminent domain proceedings are necessary, an additional six months to one year could be added to the R/W acquisition process. During the condemnation process, a parcel is clear for letting with the deposit of money with the Clerk's Office; however, title is not conveyed until the court passes judgment.

Right-of-Way Certification
Duration: Approximately 75 days

The LPA will include the R/W Certification Letter with the final parcel packets in the project's **Final Tracings Package Submission**. The LPA shall include the District Real Estate Manager. INDOT will certify to FHWA that the R/W is clear based on the INDOT Approval Protocol described in Chapter 2.

11-4.0 DOCUMENTATION REQUIREMENTS

The land acquisition documents and all other documents must be maintained by the LPA for a period of five years after final closeout of the project.

As part of the project's **Stage 3 Review Submission** to INDOT, the LPA must include all completed parcel packets. The parcel packets are hand delivered or mailed to the District Right-of-Way Office.

In coordination with INDOT, the LPA may elect to submit completed parcel packets before the Final Tracings Package Submission to expedite the processing and review of land acquisition materials.

INDOT will review the completed parcel packets for every project. If, during this review of the parcel packets INDOT District personnel find significant quality issues, those parcel packets with significant quality issues will be returned to the LPA for remediation before the project can be certified by INDOT and move forward to a construction letting.

Due to the nature and complexities of the relocation process, all relocations will be forwarded by District personnel to the **Real Estate Division** for review.

11-5.0 CHAPTER CHECK LIST

11-5.01 Critical Elements

Critical Elements are any review item used to verify that Federal and State laws, regulations and directives have been met. Critical Elements are most often identified through reviews scheduled at specific stages of the project development process.

- Assurance Letter
- Public Hearing Certification [**23 CFR 710.305**]
- Environmental Approval [**23 CFR 635.309.d**]
- FMIS Authorization
- Completed Parcel Packet for all parcels
- Certification Letter signed by a LPA official

11-5.02 Fatal Flaws

The definition of a Fatal Flaw includes any problem with a critical element that has not been, or cannot be resolved. Fatal flaws also include violations of any state or federal law, and any action that compromises safety or the rights of property owners. Fatal flaws may be identified at any stage of the project development process.

Once a fatal flaw has been identified it shall stop all affected project activity until the fatal flaw is resolved. Unresolved fatal flaws can negatively impact the project schedule, funding, and the project budget. They may also impact project scope. Unresolved fatal flaws will prevent the project from proceeding to the next stage including advertisement and letting.

In Land Acquisition, the focus on fatal flaws is primarily centered on ensuring all activities protect the rights of property owners as set forth by the Uniform Act. However this focus does not exclude other types of fatal flaws.

While it is impossible to list all possible fatal flaws the following list provides a sample of possible fatal flaws related to land acquisition.

- Coercion of property owners to donate or forego required procedures/receive full payment.
- Quid pro quo.
- Letting with Exception without the approval required from **District Real Estate Manager** and FHWA
- Property owners not properly informed of acquisition procedures
- Incorrect R/W Engineering
- Incorrect Method of establishing just compensation (Appraising)
- Conducting appraisals and making offers before Public Hearing Certification completed
- Offers made (Buying) before environmental approval
- Relocation not approved at Central Office
- Relocation Assistance not handled properly
- False Information
- Violation of nondiscrimination and Title VI protections

CHAPTER ELEVEN APPENDIX

11-6.0 GLOSSARY

This list to be completed at a later date.

11-7.0 REFERENCES TO GUIDANCE MATERIAL

Links

INDOT's Real Estate Manuals Webpage

INDOT Buying Manual

INDOT Relocation Manual

INDOT Property Management Manual

FHWA Webpage – Realty

At this time the following manuals are only available through the District Real Estate Manager:

- INDOT Right-of-Way Engineering Manual

Forms

This list to be completed at a later date.

Legal Requirements

Legal requirements for property acquisition are set out in federal and state laws and regulations, as well as local government ordinances. If federal money is involved in any part of a project or program, federal law and regulations must be used in conjunction with state and local law, regulations, and ordinances. Those acquiring property for federally funded projects must be familiar with the requirements of these laws. Failure to acquire property in accordance with these laws puts any federal funding for a project at risk.

For your convenience some of the Federal and State laws and regulations that apply to the federal-aid land acquisition process are listed below:

US Constitution
5th Amendment
14th Amendment

Indiana Constitution
Article 1, Section 21

Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended

Domestic Security
Title 6

Aliens and Nationality
Title 8

Highways
Title 23

Land Acquisition for Governmental Agencies
Title 32

Transportation
Title 49

Uniform Relocation Act & Real Property Acquisition
Title 42, Chapter 61

The State of Indiana codes
IC-32-24

11-8.0 IDENTIFICATION OF RESOURCE PEOPLE

Please direct questions and other coordination regarding aspects of land acquisition for local federal-aid projects to the **District Real Estate Manager**.

CHAPTER TWELVE: PREPARATION FOR LETTING

12-1.0 CHAPTER TWELVE OVERVIEW

To ensure clear and appropriate communication, all submittals and other communications must include the LPA's ERC, the Designer and the District Project Manager.

If the project is located within a Metropolitan Planning Organization (MPO) Planning Area, communications should also include the relevant MPO.

Failure to include all listed parties may result in the rejection of the submittal.

Chapter Twelve discusses the preparation for the letting process up to the advertisement.

Preparation for letting occurs between the Ready for Contracts (RFC) date and the contract letting. This process normally takes 60 days. At this point in the project, the **Contract Administration Division** will prepare the project documents to let the project for construction. All of these steps will be done in coordination and concurrence with the LPA.

The Local Public Agency (LPA) and their Employee in Responsible Charge (ERC) need to understand the following elements of the letting process:

- **Equal Employment Opportunity (EEO)/DBE Goal Setting**
- **Contract Information Book (CIB) Preparation**
- **Plans, Specifications, and Estimate (PS&E) Approval**

Acronyms used in this Chapter

CE – Construction Engineering (includes Construction inspection)
CIB – Contract Information Book
DBE – Disadvantaged Business Enterprise
EEO – Equal Employment Opportunity
EOD – Economic Opportunity Division
ERC – Employee in Responsible Charge
ERMS – Electronic Records Management System
FHWA – Federal Highway Administration
FMIS – Fiscal Management Inventory System
IDM – Indiana Design Manual
INDOT – Indiana Department of Transportation
LPA – Local Public Agency
MPO – Metropolitan Planning Organizations
PS&E – Plans, Specifications and Estimate
RFC – Ready for Contracts
R/W – Right-of-Way
STIP – State Transportation Improvement Program
TIP – Transportation Improvement Program

12-2.0 PREPARATION FOR LETTING PROCESS

It is the responsibility of the Contract Administration Division to prepare the project documents for letting once the **Final Tracings Package Submission** for a project has been submitted and the project is deemed RFC by the District Office.

Once the project is deemed ready for contracts, the Contract Administration Division will prepare, print and advertise the Contract for letting.

The Contract Administration Division will also verify that all documents are present and properly entered into the Electronic Records Management System (ERMS).

12-2.0 (1) Disadvantaged Business Enterprise (DBE) Goal

The Contract Administration Division will create a Disadvantaged Business Enterprise (DBE) Interest Report. This report is sent to the **Economic Opportunity Division (EOD)** for use in setting the DBE goal (for construction) for each project.

The DBE goal establishes the target percent of work that is expected to be completed by DBE subcontractors. The DBE goal is part of the bid documents, and requires the Contractor to specify DBE utilization plans in their submitted bid for the construction contract.

Please refer to **Chapter 13** *for more information on the DBE Goal.*

12-2.0 (2) Contract Information Book Preparation (CIB)

The preliminary Contract Information Book (CIB) is created by the Contract Administration Division using project information from **Electronic Records Management System (ERMS)**. The CIB contains the pay items, contract special provisions, and the contract completion date.

- **CIB Certification Sent to Designer/Consultant**

  Seven weeks prior to letting, the CIB will be forwarded to the Designer/Consultant and the LPA's ERC to certify that what has been prepared is what they want advertised.

  After receipt from the Contract Administration Division, the LPA and Designer/Consultant will have two business days to consult and return the Contract Information Book Certification Form to the contact person identified on the form, with any comments or revisions and/or certified draft CIB. If no response is received within two business days, the project may be removed from the scheduled letting.

  The process will be certified in accordance with section **14-1.02(05) of the Indiana Design Manual (IDM)**.

- **CIB Certification Received from Designer/Consultant**

  Once comments are received and addressed by the District Construction Area Engineer and the Designer/Consultant has certified the draft CIB, the District Construction Area Engineer will sign and stamp the CIB.

12-2.0 (3) Plans, Specifications and Estimate (PS&E)

To avoid any unnecessary delays, the LPA should appropriate adequate funding for their match prior to letting.

Match funds are required to be paid to INDOT prior to giving the Notice to Proceed to the winning contractor.

If the LPA cannot provide the LPA Match, the contract may be cancelled.

For more information regarding the LPA Match please see **Chapter 13**.

A preliminary detail estimate is sent to the Contract Administrator in the Contract Administration Division, who will use it to compile the PS&E letter to be approved by the Contract Administration Division Estimating Administrator. The PS&E letter is a prerequisite for receiving Federal-aid. The Federal Highway Administration (FHWA) may also review the PS&E package.

The PS&E package includes but is not limited to the following information:

- CIB
- Project Plans
- Funding Breakdown
- Contract Description
- Right-Of-Way (R/W) Certification
- Environmental Information
- Utility Information
- Proprietary Materials Approvals
- Other Project Specific Information

12-2.0 (4) Request for Funds through FMIS to FHWA

After the Contract Administration Division Estimating Administrator approves the PS&E package, the PS&E letter is written by INDOT and transmitted to FHWA. The request for funds for construction and construction inspection is submitted to FHWA by the Contract Administration Division via the Project Budgeting Office for the obligation of funds in the FMIS.

Costs for construction inspection are authorized with the construction FMIS approval. This is an initial estimate of inspection costs that shall be adjusted after the construction contract is awarded.

Note: Construction Engineering (CE) is initially authorized based on the construction estimate, but the cost will be adjusted after award not to exceed the total approved federal allocation.

Please refer to **Chapter 7A** *and* **Chapter 14** *for more information on Construction Inspection.*

For more information on the process of obligating funds through FMIS, please refer to **Chapter 5**.

— **FMIS Approval**

Once the funds are authorized in FMIS, the project is ready for advertisement.

For information on advertisement, please see **Chapter 13**.

12-3.0 DOCUMENTATION REQUIREMENTS

The consultant selection documents and all other required documentation must be maintained by the LPA for a period of five years after the final closeout of the project and the final audit.

All associated documentation with applicable bidding laws are required including but not limited to:

- Schedule and Copy of Pay items
- DBE Interest Report for construction contract by the Contract Administration Division
- DBE Goal
- PS&E Letter
- PS&E Approval by the Contract Administration Division
- Letting advertisement
- Contract Bid Documents
- CIB and CIB Certification by Designer
- Approved CE Consultant Selection checklist
- LPA-Consultant Contract for CE
- CE FMIS Notice to Proceed Letter/email
- NTP for CE issued from LPA to Consultant

12-4.0 CHAPTER TWELVE CHECK LIST

12-4.01 Critical Elements

Critical Elements are any review item used to verify that Federal and State laws, regulations and directives have been met. Critical Elements are most often identified through reviews scheduled at specific stages of the project development process.

Critical elements are listed below but are not limited to the following:

- Complete Final Tracings Package Submission Documents
- DBE goal for construction provided and correct
- Approval for Consultant selection for CE (if using a consultant for CE services)
- Notice to Proceed for CE
- Notice to Proceed for CE from LPA to Consultant
- RFP issued for CE
- Copy of executed LPA-Consulting Contract for CE prior to the RFC date
- Certified CIB (Certified by Consultant and LPA)

12-4.02 Fatal Flaws

The definition of a Fatal Flaw includes any problem with a critical element that has not been, or cannot be resolved. Fatal flaws also include violation of any state or federal law, and any action that compromises safety or the rights of property owners. Fatal flaws may be identified at any stage of the project development process.

Once a fatal flaw has been identified it shall stop all affected project activity until the fatal flaw is resolved. Unresolved fatal flaws can negatively impact the project schedule, funding, and the project budget. They may also impact project scope. Unresolved fatal flaws <u>will</u> prevent the project from proceeding to the next stage including advertisement and letting.

The following list provides a sample of possible fatal flaws related to preparation for letting:

- FMIS approval not made for Construction and Construction Inspection
- PS&E approval denied
- The LPA funding not provided
- Failure to include construction phase in the current year STIP/TIP

CHAPTER TWELVE APPENDIX

12-5.0 GLOSSARY

This list to be completed at a later date.

12-6.0 REFERENCES TO GUIDANCE MATERIAL

Links

Contract Letting Prep Schedule

INDOT Web Portal (design submissions – login required)

Forms

Contract Information Book Certification Form

Legal Requirements

Estimates

Authorization to Proceed and Project monitoring – Estimates
23 CFR 630.106 (3) (4)

Plans, Specifications & Estimates (PS&E)

Project Authorization and Agreements
23 CFR 630A

Plans, Specifications, & Estimates (PS&E)
23 CFR 630B

Approve plans, specifications and estimates
23 CFR 630.205

Authorize advance construction and conversions
23 CFR 630.703
23 CFR 630.709

Required Contract Provisions
23 CFR 633A

Construction and Maintenance
23 CFR 635

Project Approval and Oversight
23 USC 106

FHWA Contract Administration Core Curriculum Participant's Manual and Reference Guide

FMIS Authorization

Fed-Aid Billing Reimbursement of Eligible Expenditures
23 CFR 140
635.122
635.123

Federal Share Payable
23 USC 120

Payments to States for Construction
23 USC 121

EEO

Equal Employment Opportunity on Federal and Federal-Aid Construction Contracts (Including Supportive Services)
23 CFR 230 Subpart A, Subpart B

State Internal EEO Affirmative Action Plan (Title VII) Accomplishments and Goals
23 CFR 230.311
23 CFR 230.313

State's DBE Program Goals
49 CFR 26.41

Contract Information Book

Required Contract Provisions
23 CFR 633.102
633.207

12-7.0 IDENTIFICATION OF RESOURCE PEOPLE

Contract Administration Division

Economic Opportunity Division

CHAPTER THIRTEEN: LETTING

13-1.0 CHAPTER THIRTEEN OVERVIEW

All communications throughout the letting process shall include the Employee in Responsible Charge (ERC), the designated INDOT Project Manager and the Designer.

If the project is located within a Metropolitan Planning Organization (MPO) planning area, communications should also include the MPO.

Failure to include all listed parties may result in the rejection of the submittal.

The Contract Administration Division processes all federally funded Local Public Agency (LPA) projects for bid letting. All projects must be properly advertised to the public, processed, and awarded in order to receive a "Notice to Proceed" (NTP) from the Indiana Department of Transportation (INDOT) to begin construction.

Chapter Thirteen discusses the process for bidding projects that are developed using the LPA federal-aid process. Traditionally this step is called the **Letting**. Letting is the opening of bids and awarding of the construction contract. It is the step between the completion of project plans and bid documents and when construction is started on the project.

This chapter discusses the letting process including the following elements:

- **Shop Drawings and Falsework - Review Procedure**
- **Advertisement of the Contract for Bids**
- **Contract Questions And Answers**
- **Contract Revisions**
- **Evaluation of Bids and DBE Compliance**
- **Award of the Contract – LPA Concurrence of the Award**
- **LPA Submission of Funds for Construction Match**
- **Credits for Projects Selected prior to April 29, 2009**
- **Contractor Financial Liability Coordination**
- **Notice To Proceed (NTP) for Construction**
- **Purchase Order**

Any discrepancies or disagreements between procedures required in the Indiana Design Manual (IDM), Indiana Manual of Uniform Traffic Devices (MUTCD), Design Memos, Geotechnical Manuals, INDOT Design Standards and Specifications, Low Volume guide, or American Association of State Highway Transportation Officials (AASHTO) requirements with the procedures listed in this Guidance Document that cannot be solved by the District Construction Area Engineer should be resolved by contacting the **LPA Policy and Procedures Leadership Team**.

Acronyms used in this Chapter

AASHTO – American Association of State Highway Transportation Officials
CE – Construction Inspection Services
DBE – Disadvantaged Business Enterprise
ERC – Employee in Responsible Charge
FMIS – Fiscal Management Information System
IAC – Indiana Administrative Code
IDM – Indiana Design Manual
INDOT – Indiana Department of Transportation
LPA – Local Public Agency
MPO – Metropolitan Planning Organization
MUTCD – Indiana Manual on Uniform Traffic Control Devices
NTP – Notice to Proceed
PE – Preliminary Engineering
PO – Purchase Order
RFC – Ready for Contracts
R/W – Right-of-Way

13-2.0 THE LETTING PROCESS

Letting dates are generally scheduled well in advance and are associated with a specific Ready for Contracts (RFC) date.

It is important to check the **Contracts Letting Dates Webpage** frequently as these dates are occasionally supplemented or altered. Special lettings, meaning any letting that was not scheduled in advance, may be allowed if approved by the Contract Administration Division's Bid Review Manager. Emergency lettings, as defined by statute **IC 8-23-11**, may be used if approved by FHWA.

An **"18-month letting list"** provides a general view of projects that are scheduled to be let in the next 18 months. This list is updated on a monthly basis as projects are often moved for various reasons. Contracts and their associated letting dates are shown in the 18 month letting list for informational purposes. LPA projects are identified in the project description.

In addition to identified critical elements and Fatal Flaws, many things can impact the project schedule. It is important to note the following activities have the potential to create significant delays and may negatively impact project funding and the project budget.

- Failure to meet the Disadvantaged Business Enterprise (DBE) Goal
- LPA fails to provide Concurrence of Award
- Delay in Submission of Matching Funds

13-2.01 Shop Drawings and Falsework-Review Procedure

Review of all project shop drawings will be the responsibility of the LPA and their Designer. All reviews shall be in accordance with section 14-1.02(07) of the IDM.

When applicable, **Section 14-1.02(07)** of the IDM implies the review responsibility of shop drawings as INDOT or INDOT's shop drawing review consultant, it will be understood that it is the responsibility of the LPA and their Designer.

A Recurring Standard Special Provision for Review of Shop Drawing shall be added to the contract documents to establish the proper submittal procedure for the contract. Documentation of Shop Drawings and Approvals shall be included in the Final Construction Record.

13-2.02 Advertisement of the Contract for Bids

Once a project has been authorized in the Fiscal Management Information System (FMIS), it is eligible for advertisement in the **"Notice to Highway Contractors."**

Once advertised, contract documents are available for viewing and downloading from the **INDOT Letting Information website.**

The advertisement is posted on the website, a minimum of three weeks prior to the letting, unless a special exception is provided by the Federal Highway Administration (FHWA).

Bids from Contractors are typically accepted only electronically through **Bid Express** by the required date and time specified in the advertisement.

All bidders must have a **Certificate of Qualification**.

Information on qualification is located at: **http://www.in.gov/indot/2740.htm**

Instructions for using Bid Express can be found at: **https://www.bidx.com/in/main** *and on the* **INDOT Letting Information webpage**.

105 IAC 11 *of the Indiana Administrative Code (IAC) discusses the State requirements for prequalification and bidding.*

13-2.03 Contract Questions and Answers

The LPA or the Project Designer shall not answer questions from Contractors directly. All questions from Contractors must go through proper channels. Questions must not be answered directly by either the LPA or the LPA's Consultant.

FYI:

Davis Bacon wage rates are subject to change.

Bidders should check their wages to ensure their bids reflect the most current wage decisions.

Contractors must be referred to the **Contractor's Question Form** on the INDOT website for the submission of questions. Questions will be answered in a timely manner and answers will be distributed uniformly to all Contractors to avoid giving any Contractor an unfair advantage. If additional clarification is needed the District Construction Area Engineer will contact the LPA's consultant and LPA's ERC.

While the LPA or the Project Designer may need to answer some specific project questions, Federal and State policies require all questions and answers be made available to all bidders.

STOP

Violation of these policies could result in a fatal flaw of the bidding process and cause the project to be removed from a letting and/or jeopardize federal funding.

13-2.04 Contract Revisions

Credits are only available for projects that were selected prior to April 29, 2009.

Occasionally it is necessary to issue addendums to contracts that are advertised for bid. Request for revisions can come from many sources including the LPA, the Contractor, INDOT, or the Project Designer.

When a revision is issued a notice is sent by list server email. Revisions are also available at: **http://netservices.indot.in.gov/.**

It is important to note late revisions and/or large revisions may place your letting date at risk for rescheduling for a later letting.

13-2.05 Evaluation of Bids and DBE Compliance

After the cut-off time for bid submittal, bids are opened and read in a meeting open to the public in accordance with the **Notice to Highway Contractors**. Electronic bids are read in view of those in attendance. The Engineer's Estimate will be read if at least one bidder is below the Estimate. As bids are read, the results are typically viewable as the "Apparent Bid Results" on the **Bid Express website**.

13-2.05 (1) Post-Letting Review of DBE Good Faith Efforts

If the lowest qualified bidder meets all other requirements and Good Faith Efforts have been taken toward meeting the **DBE goal** (if a DBE goal was required), the contract may be awarded.

Contracts whose apparent low bidder has not achieved the contract DBE goal are marked "award pending." The Contract Administration Bid Review Manager will then request the Bidder's good faith efforts following the procedures cited in the Contract's Special Provisions.

For more information on DBE Goals and Good Faith Efforts please see **http://www.in.gov/indot/2392.htm.**

13-2.06 Award of the Contract

Bids are awardable if the following conditions are met:

- The low bid is less than $1 million, or;
- There are four or more bidders or;
- The bids are within 15% of the engineer's estimate

The bids are validated by the Bid Tab Edit process, after which the Bid Tab Analysis report is produced. This provides bid tab listings and compares the prices to the engineer's estimate.

A contract shall not be awarded until all proposal items are validated, the DBE goal is met, the Central Office Program Funds Manager and the District Local Program Coordinator concur in the award, LPA concurrence is received, and the bid analysis has been completed without a finding of **Materially Unbalanced Bids**.

For LPA concurrence, the ERC will be contacted by email with the unofficial bid results. The ERC should concur with the award within 2 business days. It is the responsibility of the ERC to review available federal funds in comparison with the low bid.

The contracts are awarded when the Official Tabulation of Bids is signed by the INDOT Commissioner or his delegate.

See **IC 8-23-9-4** *for additional information on award of contracts***.**

13-2.07 LPA Matching Funds for Construction

Local funds are generally required for construction of federal-aid projects. The amount of funds required of the LPA is generally referred to as the "match." INDOT will invoice the LPA for the amount due after the bid award. The match is required to be paid to INDOT **prior** to INDOT issuing the Notice to Proceed for construction to the winning Contractor. Both the matching funds and the federal funds are encumbered on a purchase order to pay for the Contractor's construction work.

This process is different than for Preliminary Engineering, Right-of-Way, Construction Inspection or other phases of the project where the costs are incurred by the LPA and then reimbursed either through a voucher as described in **5-8.01** or through credits as described in Section 13-2.08 of this Chapter.

Prior to the RFC date, the LPA must have returned the INDOT-LPA Contract (see **Chapter 5)** and the executed LPA-Consulting Contract for construction inspection (if a consultant is being utilized) committing the LPA to fund the LPA's cost of the project. After the award, the local match is calculated.

The local match is calculated based upon various information including **non-participating items**, credits, and the funding split conveyed in the INDOT-LPA Contract. Upon approval, a Fiscal Specialist in the Contract Administration Division prepares the billing and forwards it to Accounts Receivable for billing to the LPA.

The amount of federal funds remaining after construction award may be utilized for other eligible costs throughout the life of the project.

It is the responsibility of the LPA to know the current amount of federal funds remaining for their project and the federal requirements for **Construction Inspection**. There may be a situation where the federal funds are exhausted and the LPA will be responsible for 100% of any remaining costs.

If the LPA cannot provide the LPA Match, the contract may be cancelled, or the LPA may have the project re-scoped and rebid. An awardable construction contract may not be rebid with the current scope.

If federal funds are utilized to pay for Preliminary Engineering (PE) costs and the project does not move to the Right-of-Way (R/W) phase or into construction within 10 years, then the federal funds must be repaid.

If federal funds are utilized for R/W costs and the project does not go to construction within 20 years, then federal funds must be repaid.

For more details see **23 CFR 630.112.**

13-2.08 Credits for Projects Selected Prior to April 29, 2009

Credits were abolished for new projects selected on or after April 29, 2009 in accordance with the announcement that funds were available for all project development phases.

However, credits from PE, R/W and other phases of development to be applied to the construction phase are allowed for certain LPA projects selected prior to April 29, 2009.

Credits are only allowable if requested and approved prior to the LPA incurring any eligible expenses, utilizing the Reverse Taper Match Process.

For those projects with development credits (this does not apply to land donations), the LPA shall fund the development phases with 100% local funds. After the construction contract is awarded, the LPA can utilize 80% of its eligible expenses from development (not to exceed 50% of the LPAs match for construction and construction inspection) as federal "credits", provided that the LPA has complied with all federal and state requirements. These credits are applied towards the local match to reduce this cost.

Supporting documentation for credits, if any, shall be sent in by the LPA to the **District Local Program Coordinator** no later than the RFC date in order to calculate the reduced match. Failure to submit credit documentation at this time will result in an inability to count the credits. Supporting documentation should include invoices and proof of payment and a summary sheet of all costs.

Any invoices or supporting documentation for credits submitted after the RFC date will not be included in the match calculation.

Once the District Project Manager approves the credit documentation, the District Local Program Coordinator will send the summary sheet to the LPA & Grant Administration Office to apply them to the match calculations.

In order to use Match Credits, the consultant selection process for professional services must be used if Federal aid funds are involved in the Construction phase.

13-2.09 Submission of the LPA Matching Funds

It is vital to the continuation of the project and the issuance of the NTP that the LPA matching funds for federal participation be submitted in a timely manner. According to the Standard Specifications, a time extension to the completion date will be given if the NTP is not issued within 30 days. If the delay is not caused by the Contractor, the Contractor may withdraw its bid if the NTP is not issued within 60 days of the bid opening. This can cause added expense and delay to the LPA's project. Any cost incurred as a result of the delay will be paid 100% by the LPA.

Submission of the LPA matching funds is a time sensitive process. Delays in the issuance of the NTP are frequently encountered due to the untimely submission of the LPA match. Below are recommendations for reducing this delay.

13-2.09 (1) Recommended Procedures to Reduce Delay of the LPA Match

- The Designer should estimate the amount of funds that will be required from the LPA Match. This fund calculation shall be submitted to the LPA with the INDOT District copied prior to the RFC date.

- In accordance with local procedures, the LPA should then advertise the amount of funds needed for the match prior to the letting date.

- After advertisement, the estimated funds for the match should be approved by the appropriate governing body prior to the letting date.

- As soon as the LPA receives the invoice for the LPA Match, the LPA can then submit funds to the appropriate individual at INDOT as identified on the invoice up to the preapproved amount.

13-2.10 Contractor Financial Liability Coordination

Financial verification is completed by INDOT and includes Contractor financial liability.

The **INDOT Standard Specification Section 103.04** lists the minimum insurance coverage that Contractors are required to carry when awarded Federal funded LPA contracts.

(Insurance Required From the Contractor Prior to Issuance of the NTP)

A recurring special provision, **103-C-036**, is also included in all contracts that require the LPA to be named as an additional insured on these contracts.

Contractors submit insurance certificates by email to the Contract Specialist in the Document Control Section of the Contract Administration Division prior to issuance of the Notice to Proceed.

13-2.11 Notice to Proceed (NTP) for Construction

In order for INDOT to issue the NTP for construction, the following conditions shall be completed:

- Contract forms must be properly signed and notarized by all parties to the construction contract.
- LPA Match must be received by INDOT Accounts Receivable.
- Proper insurance from the winning Contractor must be received by Document Control.
- All administrative checks (tax clearance, pre-qualification, etc.) must be completed by INDOT.

Adjustment to scheduled completion dates are sometimes necessary if the NTP is not issued within 30 days from letting. Delay(s) caused by the Contractor do not warrant the adjustment to completion dates. Adjustment to the completion date shall be concurred by the District Construction Director, the District Local Project Manager and the ERC.

13-2.12 Purchase Order

After the LPA Match has been received, Fiscal Specialists in the Contract Administration Division will develop a requisition to secure a Purchase Order (PO) number.

The requisition is processed electronically through several budget checks. The Fiscal Specialist then dispatches the purchase order obligating the funds. The Contract Administration Estimating Administrator signs the purchase order. The purchase order data is then entered into the INDOT SiteManager Construction Management Software.

Completing this process allows the Project Engineer/Supervisor to begin processing progress estimates for construction work completed. The signed paper copy of the purchase order is filed in the contract files maintained by the Final Records Section of the Construction Management Division.

13-3.0 DOCUMENTATION REQUIREMENTS

The bid and letting documentation and any other required documentation must be maintained by the LPA for a period of five years after the final closeout of the project and the final audit.

All associated documentation with applicable bidding laws are required, including but not limited to:

- Advertisement - Notice to Highway Contractors web-link – Copy
- Issued Revisions
- Contract Questions and Answers
- Bid Analysis (tabulation)
- Summary Results of the Unbalanced Bid analysis
- Copy of the Official Awards signed by the INDOT Commissioner or delegate
- Concurrence of Award (Award Concurrence letter or email from LPA to INDOT)
- Notice to Proceed to the LPA for CE (letter or email)
- Notice to Proceed from the LPA to the consultant for CE (letter or email)
- Construction Contract
- Match Calculations
- Local Match Billing
- Final Detailed Estimate
- Insurance Certificates (if applicable)
- Construction Contract Purchase Order
- Contractor Notice to Proceed (letter or email)

13-4.0 CHAPTER CHECK LIST

13-4.01 Critical Elements

Critical Elements are any review item used to verify that Federal and State laws, regulations and directives have been met. Critical Elements are most often identified through reviews scheduled at specific stages of the project development process.

There are many critical elements contained within the bidding process. The most critical issue relates to timely responses when required.

Other critical elements are listed below but <u>are not limited</u> to the following:

- DBE Requirements met
- Timely response to revisions
- LPA Award Concurrence
- LPA Match submitted
- Notice of Authorization for Construction Inspection
- Notice to Proceed for Construction Inspection issued

13-4.02 Fatal Flaws

The definition of a Fatal Flaw includes any problem with a critical element that has not been, or cannot be resolved. Fatal flaws also include violations of any state or federal law, and any action that compromises safety or the rights of property owners. Fatal flaws may be identified at any stage of the project development process.

Once a fatal flaw has been identified it shall stop all affected project activity until the fatal flaw is resolved. Unresolved fatal flaws can negatively impact the project schedule, funding, and the project budget. They may also impact project scope. Unresolved fatal flaws will prevent the project from proceeding to the next stage including advertisement and letting.

In letting the focus on fatal flaws is primarily centered on fairness and equality in the bidding process. However this focus does not exclude other types of fatal flaws.

There are many fatal flaws that can be associated with the bidding process itself. The following list provides a sample of possible fatal flaws related to letting that could cause a project not to receive a Notice to Proceed to construction:

This Section is under development.

CHAPTER THIRTEEN APPENDIX

13-5.0 GLOSSARY

Engineer's Estimate – Final Estimate made by INDOT prior to letting to estimate the cost of construction based on the Contract. This estimate is used to evaluate the bids received.

Reverse Taper Match Process – When PE and/or R/W for projects awarded prior to April 29, 2009 are used for match credits the Reverse Tapered Match Process must be followed. RTM is the process where prior to incurring PE/R/W development cost, a request for federal authorization must be approved through FMIS.

Materially Unbalanced Bidding – A bid is materially unbalanced when the cost of an item is included in such a way that the order of bidders (highest to lowest) bidders does not reflect the actual cost.

13-6.0 REFERENCES TO GUIDANCE MATERIAL

Links

Contracts Available For Bid

Bid Documents

Bid Express

Standard Specifications

Submitting and Answering Contract Questions

Revisions and Addendums

Indiana Code

EEO Website

Legal Requirements

For your convenience many of the Federal and State regulations and statues related to this chapter have been organized and presented below. This list is not exhaustive.

Advertisement

Implementation of specific EEO requirements
23 CFR 230.109

Advertising for bids
23 CFR 635.112

Authorization to Advertise
23 CFR 630.106
23 CFR 635.309

Bid Evaluation/EEO Review

Equal Employment Opportunity on Federal and Federal-Aid Construction Contracts
23 CFR 230.107
23 CFR 230.109

Bid Opening/Tabulations
23 CFR 635.113

Competitive Bidding
23 CFR 635.104

Emergency Repair/Projects
23 CFR 635.204

Approve Cost Effectiveness and Emergency Determinations for Contracts Awarded by Other Than Competitive Bidding
23 CFR 635.104
23 CFR 635.204

Concur in Rejection of All Bids
23 CFR 635.114

Letting of Contracts
23 USC 112

Contract Award

Award of the Contract and Concurrence in Award
23 CFR 635.114

Concur in Termination of Contracts
23 CFR 635.125

Match

Federal Share Payable
23 USC 120

Contractor Financial Liability Coordination

Subcontracting and Contractor Responsibilities
23 CFR 635.116

Notice to Proceed

Award of the Contract and Concurrence in Award
23 CFR 635.114(b)

Indiana Codes

Contracts must be let in accordance with the IAC. Title 105 Indiana Department of Transportation contains Rules for Prequalification of Contractors and Bidding.

Requirements For Prequalification And Bidding
105 IAC 11

Department Powers - Confidential Records
IC 8-23-2-6

Qualifications of Bidders for Contracts
IC 8-23-10

State Highway Contracts - General Powers
IC 8-23-9

Parameters on Awardability
IC 8-23-9-4

Emergency Bidding
IC 8-2311

Tax Liability
IC 6-8.1-2

Drug Testing of Employees of Public Works Contractors
IC 4-13-18

13-8.0 IDENTIFICATION OF RESOURCE PEOPLE

Contract Administration Division

District Local Program Coordinators

District Local Project Managers

District Construction Directors

CHAPTER FOURTEEN: CONSTRUCTION & PROJECT CLOSE-OUT

14-1.0 CHAPTER FOURTEEN OVERVIEW

Chapter Fourteen provides an overview of the role of the Local Public Agency's Employee in Responsible Charge (LPA ERC) in Construction and Project Close-Out.

Topics covered in this chapter include:

- **A general Description of the Construction Phase**
- **The role and qualifications for Construction Inspection**
- **The role and qualifications of the Project Engineer/Supervisor (PE/S)**
- **A description and requirements related to the Preconstruction Conference**
- **A general description of Construction Administration including Change Orders, Project Funding and the Final Construction Record.**

All communications shall include the Employee in Responsible Charge (ERC), the designated District Construction Area Engineer (A/E), and the Project Engineer/Supervisor (PE/S).

Communications for projects that fall into a Metropolitan Planning Area (MPA) should also include the appropriate Metropolitan Planning Organization (MPO).

Any discrepancies, disagreements or questions concerning specifications or contract special provisions with the procedures listed in this Guidance Document should be resolved by contacting the **LPA Policy and Procedures Leadership Team**.

Any questions concerning procedural instructions that appear to conflict with specifications or contract special provisions should be directed to the designated **District Construction Area Engineer (A/E)**

Acronyms used in this Chapter

A/E – District Construction Area Engineer
CI – Construction Inspection
ERC – Employee in Responsible Charge
GIFE - **General Instructions to Field Employees (GIFE)**
IA – Independent Assurance
IDM – Indiana Design Manual
INDOT – Indiana Department of Transportation
LPA – Local Public Agency
MPA – Metropolitan Planning Area
MPO – Metropolitan Planning Organization
NOA – Notice of Authorization
NTP – Notice to Proceed
PE/S – Project Engineer/Supervisor

14-2.0 GENERAL DESCRIPTION OF THE CONSTRUCTION PHASE

The Indiana Department of Transportation (INDOT) is charged with oversight responsibility for all Federal-Aid projects. INDOT provides oversight through the District Construction A/E assigned to the project.

The LPA must maintain an **ERC** who provides managerial and financial guidance during the construction process.

The ERC must be certified as described in **Chapter One** of this Guidance Document.

The construction phase begins after:

- The LPA submits their matching funds.
- The construction contract has been awarded and the Contractor is issued the NTP for the construction contract. (The District Construction A/E, LPA, and the Contractor will receive a copy of the NTP from the Contract Administration Division).
- The NTP for Construction Inspection Services has been issued to the LPA from the District Local Program Coordinator. The LPA then must issue a Notice to Proceed to the Construction Inspection Consultant.

The Construction Inspection Consultant will provide a qualified **PE/S** who will act as the LPA's representative and who will administer the project on a day-to-day basis. The PE/S will supervise the project and the construction inspectors during the construction phase.

The Construction Inspection Consultant will also provide qualified **Construction Inspectors**.

See **Chapter 7** *for more information regarding selecting a consultant firm***.**

Once the construction phase begins the Contractor will be instructed to notify the ERC that it is time to schedule the **Pre-Construction Conference**. It is the responsibility of the ERC to contact the District Construction A/E who will coordinate with the ERC to schedule the Pre-Construction Conference. *See Section* **14-2.03** in this Guidance Document**.**

14-2.01 Construction Inspection

All professional services leading to federally funded construction must be performed by INDOT **prequalified consultants** or by LPA in-house staff that have been approved by INDOT as having the same technical qualifications specified for consultants. This is regardless of whether federal funds for the services are being reimbursed or credits are being accrued.

PE/S and Construction Inspectors oversee all phases of the construction process including maintaining a daily account of time worked, documentation of the type of work performed, and jobsite testing as required.

All PE/S's and Construction Inspectors must be trained and certified through the **INDOT Certified Construction Technician Training** and **INDOT Quality Assurance Training Programs**.

PE/S's and Construction Inspectors who perform tests must also be certified, and maintain their certification, in the **INDOT Independent Assurance (IA) Program**. This certification requirement also applies to any sub-consultants that perform any tests. The IA Program is administered through the District Testing Office.

Additional information regarding procedural instructions for construction administration can be found in the General Instructions to Field Employees (GIFE).

The GIFE provides guidance to the PE/S and Construction Inspectors but are not contractual documents or intended to be used as specifications.

Any questions concerning procedural instructions that appear to conflict with specifications or contract special provisions should be directed to the District Construction A/E.

All testing must be performed by **Qualified Technicians** and in accordance with the Indiana Test Methods. Laboratory testing needed for acceptance of construction materials will be provided through the **District Testing Office.**

See **Chapter 7(a)** *for more information on Qualifications for Construction Inspection*.

If construction inspection is completed by hired consultants, the LPA's ERC is responsible to review and approve consultant invoices and to submit those claims for reimbursement on a monthly basis.

Any interest fees that are as a result of a late claim for reimbursement submission will be billed to the LPA at 100% local funds.

Construction Inspection can be provided by contracting with a prequalified consultant firm or the LPA may use its own full-time forces provided those forces meet all certification and qualification requirements to conduct Construction Inspection.

Note: Part of Construction Inspection costs include up to 2.5% of the total cost of Construction Inspection for material and testing and INDOT oversight. This rate allocates the operating costs of the Geotechnical Engineering Division among all projects that incur construction activity expenses during a calendar year. This rate is calculated and audited each year based on the current year's Geotechnical Engineering Division's operating expenses.

This cost is a federal local match. Payment occurs in conjunction with the final audit of all phases.

14-2.02 Project Engineer/Supervisor (PE/S)

It is the responsibility of the PE/S to oversee the construction inspection, testing, and documentation of all construction activity. The PE/S is also responsible for ensuring that the project is constructed in accordance with the contract documents, standard specifications, permit requirements and other contract specific requirements. The PE/S is also responsible for ensuring the Construction Inspectors who perform tests are qualified per **14-2.01**.

Daily work reports, testing reports, progress estimates, change orders and all other documentation will be submitted in INDOT's SiteManager program by the PE/S. It is the responsibility of the PE/S to insure all reports are accurate and kept current as construction progresses.

The PE/S must be trained and certified through **INDOT Certified Construction Technician Training** and the **INDOT Quality Assurance Training Programs**. The PE/S should also have demonstrable experience.

The PE/S must be trained and certified through INDOT Certified Construction Technician Training and the INDOT Quality Assurance Training Programs. The PE/S should also have demonstrable experience.

The PE/S will be approved by the District Construction A/E prior to the Ready for Contracts date.

14-2.03 Preconstruction Conference

During the construction phase, traffic must be maintained in a safe manner in accordance with the Manual on Uniform Traffic Control Devices and INDOT Standards.

It is the responsibility of the ERC to coordinate with the **District Construction A/E** in scheduling the Preconstruction Conference. The District Construction Office will provide a checklist of standard items to cover in the Preconstruction Conference.

It is the responsibility of the PE/S to send invitations to:

- District Local Project Manager
- District Testing Engineer
- District Utility Coordinator
- All utilities identified in the contract documents
- Any local political office and emergency responders that may be affected by the project
- The Contractor - The Contractor will be responsible for notifying subcontractors.

The PE/S is responsible for providing the meeting agenda, preparing the meeting minutes, and collecting an attendance list to be distributed with the minutes.

It is the responsibility of the ERC to ensure that both 1) the NTP has been received by the LPA from INDOT and 2) the NTP for Construction Engineering has been issued to the consultant prior to the Preconstruction Conference in order for the PE/S to be reimbursed for expenses associated with the Preconstruction Conference.

14-3.0 CONSTRUCTION ADMINISTRATION

14-3.01 Construction Change

A **Construction Change** is made to a set of plans or contract documents following the project letting and subsequent awarding to a Contractor.

Construction changes shall be prepared and distributed in accordance with section **14-1.02(06) of the Indiana Design Manual (IDM**).

14-3.02 Change Orders

During the life of a project issues arise that require the processing of change orders, time extensions and/or claims. It is the responsibility of the PE/S to document all communications and construction activities that will affect any of these items.

For change orders and claims approvals, the PE/S must maintain communication with and obtain the approval of both the LPA's ERC and the District Construction A/E. LPAs should make it very clear to their consultant PE/S the extent they want approval over change orders.

Change Orders do not alter the amount of funds available to pay the Contractor. When additional funds are required to process progress payments, the PE/S will request additional funds from the District Construction Department. It is this request that will generate an invoice to the LPA. The PE/S will notify the LPA's ERC prior to the request in order for the ERC to approve and begin steps to acquire funds to pay. **Note:** the request for additional funds is not required to be related to a change order.

If there is a disagreement in the scope of work needed between the District Construction A/E and the LPA's PE/S, the issue will be resolved by the **District Construction Director**. It is the responsibility of the PS/E to notify the LPA's ERC of all construction changes and engage them in such conversations.

Procedures for time extensions and change orders are explained in the **current Change Order Policy effective January 1, 2010**.

The procedure for administering claims is detailed in Section 105.16 of the INDOT Standard Specifications Book. INDOT will administer the claim through final resolution.

Note: If claims occur because the LPA failed to properly coordinate utility or railroad relocation, failed to secure all Right-of-Way required for the project completion, or if the claim occurred due to gross plan error, the claim will not be eligible for Federal funding. The payment of the claim will be a non-participating item and will be funded with 100% local funds.

14-3.03 Shop Drawings and Falsework-Review Procedure

Review of all project shop drawings will be the responsibility of the LPA and their Designer. All reviews shall be in accordance with section **14-1.02(07) of the IDM.** Where section 14-1.02(07) implies the review responsibility of shop drawings as INDOT or INDOT's shop drawing review consultant, it will be understood that it is the responsibility of the LPA and their Designer.

14-3.04 Funding

It is the responsibility of the PE/S and the LPA to know the current status of their funding. The PE/S must maintain a running total of all contract costs showing the remaining balance of the federal allocation.

Because the allocation of federal funds for each project is limited, change orders and claim costs may exceed the federal allocation. In this case, the LPA will be responsible for providing 100% of any additional funding required. Certain types of extra work may not be eligible for Federal Funding even if there are unused federal funds left on the project. One common example is a change from standard lighting fixtures to decorative fixtures.

If there are questions related to remaining federal funds please contact your **District Local Program Coordinator.**

A sample spreadsheet for tracking the remaining federal allocation can be found under the Program Information section at: **http://www.in.gov/indot/2390.htm.**

If the project is in a MPO planning area and funded all or in part by MPO allocations, the LPA's ERC must notify the MPO of any change orders and/or changes in the scope of work.

See **Chapter 6** for additional information on MPO-LPA projects.

14-3.05 Final Construction Record

Once the contract is complete and meets acceptance the INDOT District will send **Form IC-639 (Report of Final Inspection & Recommendation for Acceptance)** for the LPA to sign.

The LPA shall sign and return Form IC-639 within ten business days.

All Federal-Aid projects require a Final Construction Record. Preparing the Final Construction Record is the responsibility of the PE/S. The Final Construction Record must be completed within 45 days of acceptance of the contract's completion. Any exceptions must be approved by the District Construction Director.

The Final Construction Record will include:

- A detailed accounting of the work performed
- The payment quantities
- The materials incorporated in the project
- Any additional INDOT District requirements will be identified at the Preconstruction conference

The Final Record is submitted and maintained in the SiteManager System.

By the time the Final Construction Record is complete, all monies due the Contractor must be paid with the exception of any disputed quantities. The PE/S is responsible for follow-up of all unresolved issues until completed.

The Final Construction Record will be reviewed in INDOT's District Office and then forwarded to INDOT's Central Office for verification and approval.

After the Final Construction Record has been approved in the Central Office, final payment made and billing received from the Contractor, the contract purchase orders will be closed out.

The final record procedures are detailed in the **"Final Construction Record & Contract Finalization Procedures For SiteManager Contracts".**

See **Final Construction Record for Site Manager Contracts** *for a final record checklist.*

14-3.06 Final Audit

All contracts will be audited by the INDOT Finance Office. The final audit is intended to balance all claims, invoices, billings, etc., between INDOT and the LPA. INDOT will notify the LPA once the final audit has been completed.

The consultant PE/S is responsible for providing all necessary and required documentation for the audit of their contract with the LPA.

Contact the **District Final Review Officer** *for guidance or assistance.*

14-4.0 DOCUMENTATION REQUIREMENTS

The PE/S must maintain all documentation throughout the life of the project. This includes but is not limited to field notes, measured quantities, material records, daily reports and progress estimates.

Most documentation will be maintained within the SiteManager program.

All other supporting documentation in the project file shall be maintained by the LPA. All documentation must be saved for a minimum of five years after the final audit.

Final Construction Record

- Notice to Proceed letter from INDOT to Contractor
- Notice of Preconstruction Conference
- Preconstruction Conference Minutes and Checklist
- Documentation of Shop Drawing Approvals
- Documentation of all Claims
- All Testing Reports
- All Change Orders and associated DBE Good Faith Efforts
- Signed Copy of the Construction Contract Purchase Order
- Notice of Preliminary Final Inspection
- Minutes of Preliminary Final Inspection (Punch List)
- All Additional Work Authorizations
- Notice of Final Acceptance to Contractor from INDOT

14-5.0 CHAPTER FOURTEEN CHECK LIST

14-5.01 Critical Elements

Critical Elements are any review item used to verify that Federal and State laws, regulations and directives have been met. Critical Elements are most often identified through reviews scheduled at specific stages of the project development process.

- INDOT approves qualifications of PE/S.
- Construction Inspectors need to be certified and qualified.
- PE/S maintains documentation of work performed in daily work records and material reports as the work is performed.
- PE/S maintains accurate records of quantities of work completed and completes prompt progressive estimates.
- PE/S provides inspection of all work activities that affect quality, safety and pay quantity items.
- PE/S notifies the INDOT District Office and the LPA when contract changes will result in a need for increased funds.
- Hold Pre-Construction Conference and distribute minutes
- Prepare change orders in a timely manner
- Maintain documentation of Contractor claims
- Making payments on theoretical quantities that are less than the actual measured quantities (refers to items measured differently than as specified in the contract. For example: B-borrow is paid for on the basis of a theoretical quantity while the actual quantity delivered may be much larger than the theoretical quantity.)
- There is continuity in the individual who serves as the PE/S to ensure accurate and up-to-date record keeping.
- Hold Pre-Final and Final Inspections
- Complete Final Construction Record
- Shop Drawing Review

14-5.02 Fatal Flaws

The definition of a Fatal Flaw includes any problem with a critical element that has not been, or cannot be resolved. Fatal flaws also include violations of any state or federal law, and any action that compromises safety or the rights of property owners. Fatal flaws may be identified at any stage of the project development process.

Once a fatal flaw has been identified it shall stop all affected project activity until the fatal flaw is resolved. Unresolved fatal flaws can negatively impact the project schedule, the eligibility for use of federal funds, and the project budget. They may also impact project scope. Unresolved fatal flaws will prevent the project from proceeding.

In construction and project close-out the focus on fatal flaws are primarily centered on contract specifications, payments, accurate documentation, and safety. However this focus does not exclude other types of fatal flaws.

While it is impossible to list all possible fatal flaws the following list provides a sample of fatal flaws related to construction and project close-out.

- No inspection presence when materials to be paid for by direct measurement are delivered to the site and incorporated in the work
- Authorizing materials that do not meet specifications
- Authorizing work to be constructed that does not comply with the specifications, standard drawings or contract plans
- Authorizing extra work to be performed without proper approvals
- Failing to maintain Daily Work Records and processing progressive estimates
- Failing to complete the Final Construction Record
- Failing to maintain a project file
- Not having funds available for added work
- Work occurs before the Notice to Proceed is issued to the Contractor by INDOT Contract Administration.
- Subcontractors start work before Notice of Authorization for construction has been issued.
- Work occurs before the R/W clear date

CHAPTER FOURTEEN APPENDIX

14-6.0 GLOSSARY

Construction Change – A modification to the construction plans, which is then uploaded into ERMS and documented for the as-built plans.

Construction Time Set – The timing of the construction time project is based on a variety of factors including but not limited to need, weather, the Final Tracings Package submission, etc. The time set is set by the District Construction A/E.

Change Order - The addition or subtraction from items in the contract that were missed or not needed.

14-7.0 REFERENCES TO GUIDANCE MATERIAL

Links

Federal Regulations

INDOT Website

Standard Specifications and Drawings

Consultant Prequalification Criteria

Certified Technician Training Program

Quality Assurance Technician Training Program

SiteManager User Manual

Final Record Procedure and Checklist

Indiana Test Methods

Manual on Uniform Traffic Control Devices

Forms

Form IC-639 – Report for Final Inspection & Recommendation for Acceptance

Legal Requirements

For convenience many of the legal requirements related to this chapter have been organized and presented here. This list is not exhaustive.

Certification/Training and Pre-qualification of Inspectors

Local Public Agency Oversight Policies & procedures
23 CFR 635.105

Independent Assurance System
23 CFR 635.207

Construction Monitoring Federal-aid Policy Guide
FAPG G 6042.8

Oversight – Area Engineers Role and Responsibility

Supervising Agency
23 CFR 635.105

Concur in Use of Mandatory Borrow/Disposal Sites
23 CFR 635.407

Public Agency Furnished Materials
23 CFR 635.407

Buy America
23 CFR 635.410
IC-5-16-8

Waive Buy America Provisions
23 CFR 635.410

Proprietary Materials
23 CFR 635.411

Construction Inspection and Approval
23 CFR 637

Approve Performance Related Provisions
23 CFR 637.207

Materials Acceptance and Certification
23 CFR 637.207

Quality Control/Quality Assurance Programs
23 CFR 637.207

Sampling and Testing of Materials
23 CFR 637.207

Construction Inspection
Indiana Code Title 8 Article 23, INDOT Business Rules

http://www.in.gov/legislative/ic/code/title8/ar23/

Change Orders

Changed Conditions
23 CFR 635.109

Changes and Extra Work
23 CFR 635.120

Approve Changes and Extra Work
23 CFR 635.120

Approve Contract Time Extensions
23 CFR 635

Final Evaluation

Final Inspection/Acceptance of Completed Work
23 USC 114(a)

23 USC 121

Project Closeout/Audit

Adequate Maintenance Federal-Aid Roads
23 CFR 1.27
23 USC 116

Participation in Contract Claim Awards and Settlement
23 CFR 635.124

State Regulations

Indiana Code, Title 8, Article 23

14-8.0 IDENTIFICATION OF RESOURCE PEOPLE

The primary resource for the construction phase will be the **District Construction A&E** and the **District Testing Offices**. The assigned District Construction A/E will be directly responsible for project oversight and answering questions. District Construction A/E's operate under the supervision of their District Construction Directors.

CHAPTER FIFTEEN:
WORK COMPLETED BY LPA EMPLOYEES

This Chapter is being developed.

CHAPTER SIXTEEN: COUNTY BRIDGE INSPECTION

16-1.0 CHAPTER SIXTEEN OVERVIEW

The material in this chapter is interim guidance. Readers should expect amendments to this guidance in future revisions of the LPA Guidance Document.

The purpose of the Bridge Inspection program is threefold:

1. Ensure public safety
2. Provide for the efficient use of resources in maintaining the serviceability of Indiana's bridges and small structures
3. Comply with all federal and state laws, rules, and policies

Bridge Inspections are required on all bridges meeting the **National Bridge Inspection Standards (NBIS).**

Any bridge not inspected and inventoried in compliance with NBIS may be ineligible for federal bridge replacement funding.

All communications shall include the Employee in Responsible Charge (ERC) and the designated District Local Program Coordinator.

Communications should also include the area Metropolitan Planning Organization (MPO) if applicable.

For more information regarding the inspection program, see chapter one of the **INDOT Bridge Inspection Manual**.

One of the primary changes in the County Bridge Inspection Program is the added requirement of an assigned Local Public Agency's (LPA) **Employee in Responsible Charge (ERC).** This **requirement of an ERC** was noted in the April 2012 revision of this Guidance Document and is in effect immediately.

The role of the ERC includes but is not limited to: managing the LPA's County Bridge Inspection Program, ensuring timely inspections and reports, reviewing and submitting related invoices, and ensuring any and all required actions are completed as directed in the INDOT Bridge Inspection Manual and as described in this chapter.

Please refer to **Chapter 1** *for specific information regarding the role of an ERC and the certification requirements.*

Chapter Sixteen provides an overview of:

- **The Role of the ERC in Managing County Bridge Inspection**
- **Contracts and Supplemental Contracts**
- **Inspection Schedule**

Any discrepancy or disagreement between procedures and requirements noted in this chapter and the **INDOT Bridge Inspection Manual** , and any other resource manual or materials should be resolved by contacting the **LPA Policy and Procedures Leadership Team.**

Acronyms used in this Chapter

BIAS – Bridge Inspection Application System
ERC – Employee in Responsible Charge
FMIS – Fiscal Management Information System
INDOT – Indiana Department of Transportation
LPA – Local Public Agency
MPO – Metropolitan Planning Organization
NBIS – National Bridge Inspection Standards
RFP – Request for Proposals
STIP – Statewide Transportation Improvement Program
TIP – Transportation Improvement Program

16-2.0 THE ROLE OF THE ERC IN BRIDGE INSPECTION

As a requirement of any project located within the planning area of an MPO including bridge inspection contracts, the project must be listed in both the **TIP** and **STIP.**

The role of an ERC is new for Bridge Inspection and has been instituted based on the need for more effective communication and controls over the bridge inspection schedule.

The ERC acts on behalf of the LPA as the primary point of contact to ensure full compliance to all federal and state regulations and requirements related to bridge inspection and the bridge inspection contract. The ERC also acts as the fiduciary representative for the LPA's Board or administrative body in relationship to all elements of bridge inspection.

The ERC is responsible for ensuring all inspections and reports are completed and submitted on time, and for ensuring there is always a current Bridge Inspection Contract in place without any gaps in coverage.

The ERC is responsible for submitting a **Bridge Inspection Quarterly Report** to the District Local Program Coordinator.

16-2.01 Consultant Selection

Consultant selection is a critical component in the Bridge selection process. It is vital for the safety of the driving public that qualified personnel are selected to inspect county bridges. Bridge inspectors are required to render judgments regarding the safety and integrity of the structures they inspect. Inspectors have critical input on many issues, including the decision to close or limit loads on bridges.

The ERC is responsible for ensuring the consultant selection process adheres to all Federal and State regulations and requirements as outlined in **Chapter 7** of this guidance document.

A step in the consultant selection process is the creation and advertisement of a **Request for Proposals (RFP)**.

16-2.02 LPA-Consultant Bridge Inspection Contract

Bridge Inspection contracts typically are in place for four (4) years and all county bridges shall be included in the same contract.

In general, most bridges are inspected every two (2) years. However some bridges may be on a shorter inspection cycle depending on various factors such as bridge type, load rating, previous inspections, and/or deterioration.

> The ERC is responsible for ensuring a new Bridge Inspection Contract is in place prior to the expiration of the previous contract. As a matter of risk management, it is critical the LPA avoid any lapse in inspection coverage.

The process for initiating a new LPA Consultant Bridge Inspection Contract should begin approximately one year prior to the expiration of the current Bridge Inspection Contract. These contracts will be reviewed in a similar process as described in **Chapter 7** of this Guidance Document.

16-2.03 Indiana Department of Transportation – County Bridge Inspection Contract

A contract between INDOT and the County is necessary in order for the LPA to use Federal-aid funds. The INDOT-LPA Contract will be prepared after the District Local Program Coordinator receives a copy of the executed LPA-Consulting Contract from the ERC. The INDOT-LPA Contract is prepared by the LPA & Grants Administration Office. The INDOT-LPA Contract is prepared using 80% of the amount from the LPA-Consulting Contract. The federal funds for Phase I **only** of the inspections will be requested through the Fiscal Management Information System (FMIS) by the District Local Program Coordinator.

NEW

> Before beginning Phase II of the Bridge Inspection work, the ERC is responsible for contacting the District Local Program Coordinator to inform them they will be beginning work on Phase II of the inspections and ask that the funds be required for Phase II. No work will be reimbursable if any work was completed prior to INDOT's Notice to Proceed for Phase I or Phase II. **Notice to Proceed for Phase I or Phase II will not be given by INDOT until the INDOT – LPA Contract has been executed by the Attorney General's Office and the funds are authorized in FMIS.**

16-2.04 Bridge Inspection Schedule

All bridge inspections shall be maintained on schedule and completed in the month they are due.

If an inspection is anticipated to be more than 30 days beyond the scheduled inspection due date, the ERC shall write a written explanation of the delay.

This letter shall be submitted to the **District Local Program Coordinator** with a "cc" to the **Bridge Inspection Manager** as soon as the LPA knows there is a potential scheduling problem and within 30 days beyond the originally scheduled due date.

> It is important to note late inspections do not change the schedule of any future inspections. For example, if a bridge is on a 2 year inspection schedule and is scheduled to be inspected in July, even when the current inspection is delinquent, the following two year inspection will remain in July.

Any LPA bridge inspection that is more than 30 days beyond the due date and which has not submitted a written explanation, is at risk for losing part or all of the federal funds provided within the contract.

16-3.0 TECHNICAL ISSUES

Detailed information on every aspect of bridge inspection is fully explained in the INDOT Bridge Inspection Manual. However the ERC should be aware of the most common issues presented below.

16-3.01 Scour Monitoring

The LPA's consultant is required to develop a **Scour Monitor Action Plan** for all scour critical bridges. It is the responsibility of the LPA ERC to know the plan and ensure the plan is followed during flood events. For further information regarding the scour plan, see Part 4, Section 7.4 of the INDOT Bridge Inspection Manual.

16-3.02 Load Posting Signs

It is the responsibility of the LPA to install and maintain load posting signs in accordance with the load posting recommendations made by the LPA's consultant within 90 days of the consultant's recommendations.

To ensure load posting signs are installed as required, the LPA ERC or his consultant is responsible to upload a picture of the posted sign in the Bridge Inspection Application System (BIAS) database.

The necessity to post a structure will cause the bridge inspector to notify the ERC and the Bridge Inspection Program Manager of the critical finding. This event will be recorded and monitored until the critical finding can be closed out by proper actions being taken. For additional information regarding critical findings see Part 1, Section 7.2 of the INDOT Bridge Inspection Manual.

16-3.03 Critical Findings

The LPA's consultant is responsible for communicating any and all critical findings immediately to the ERC and the Bridge Inspection Program Manager.

The LPA ERC is responsible to ensure these findings are acted upon within 30 days from notification. Actions will vary depending on the critical finding but may include but are not limited to immediate repairs, closing the bridge or additional inspection.

The action decided on by the LPA shall be communicated by the bridge inspector in the formal notification of the critical finding.

16-3.04 New Bridges

New bridges built in a county shall be added to the NBIS database. In accordance with 23 CFR 650.315, for new bridges, SI&A data is to be entered within 180 days after the completion of work.

16-4.0 DOCUMENTATION REQUIREMENTS

Consultants must submit all approved data to INDOT within 60 days of an inspection.

Data generated when a bridge is closed after damage or disaster inspection must be uploaded to the Central Database as soon as possible, but not later than seven days after the damage inspection.

Fundamental to quality assurance and the assessment process is the LPA's responsibility for developing and maintaining complete documentation of all aspects of bridge inspection for each bridge.

This includes all records of decisions made by the LPA regarding project adherence to applicable federal, state, and local laws and regulations.

These records must be made readily available to INDOT and FHWA upon request and shall be maintained for the life of the bridge.

Failure to keep adequate documentation puts the LPA at risk of federal money being disallowed for the project, and being responsible for repaying all or a portion of any expended federal funds. Failure to keep adequate documentation on a federal-aid project will jeopardize an LPA's ability to be considered for inclusion in future federal-aid programs.

16-5.0 CHAPTER SIXTEEN CHECK LIST

16-5.01 Critical Elements

Critical Elements are any review item used to verify that Federal and State laws, regulations and directives have been met. Critical Elements are most often identified through reviews scheduled at specific stages of the inspection schedule.

This list is being developed.

16-5.02 Fatal Flaws

The definition of a Fatal Flaw includes any problem with a critical element that has not been, or cannot be resolved. Fatal flaws also include violations of any state or federal law, and any action that compromises safety or the rights of property owners. Fatal flaws may be identified at any time during the bridge inspection contract.

Once a fatal flaw has been identified it shall stop all affected project activity until the fatal flaw is resolved. Unresolved fatal flaws can negatively impact the inspection schedule, the eligibility for use of federal funds, and the project budget. They may also impact project scope. Unresolved fatal flaws will prevent the project from proceeding.

This list is being developed.

CHAPTER SIXTEEN APPENDIX

16-6.0 GLOSSARY

National Bridge Inspection Standards (NBIS) – The NBIS are federal guidelines pertaining to bridge inspection frequency, inspector qualifications, report formats, inspection and rating procedures, and the maintenance of a state bridge inventory. These standards were created in an effort to make bridge inspections thorough and consistent nationwide. The NBIS are minimum standards, and states may elaborate on these guidelines to clarify them or to make them more stringent. The NBIS led to the National Bridge Inspection Program which mandated that all states maintain an up-to-date inventory of all bridges over 20 feet in span and inspect them at regular intervals using the NBIS criteria.

Statewide Transportation Improvement Program (STIP) – The STIP is a 4-year statewide prioritized listing/program of transportation projects expected to be funded in those four years with federal funds and those state and local funded projects that have been deemed regionally significant. For projects to be eligible for federal funding under **Title 23 U.S.C. 134** and **Title 49 U.S.C. Chapter 53**, the STIP must be consistent with both the Long-range Statewide Transportation Plan (LRP) and any applicable MPO Metropolitan Transportation Plans. INDOT develops the STIP in cooperation with the MPOs and in consultation with Rural Planning Organizations (RPOs) and local officials outside MPAs. Prior to approval, INDOT will seek public comment from interested parties and citizens following procedures contained in the INDOT Public Participation Plan.

Transportation Improvement Program (TIP) - The TIP is a 4-year prioritized listing/program of transportation projects in an MPA that are expected to be funded in those four years with federal funds and all regionally significant projects, regardless of funding source (i.e. state, local, etc.). For projects to be eligible for federal funding under **Title 23 U.S.C. 134** and **Title 49 U.S.C. Chapter 53**, the TIP must be consistent with the MPO's adopted Metropolitan Transportation Plan (MTP). The MPO develops the TIP in cooperation with INDOT, affected public transportation operators, and LPAs. Prior to approval by the MPO's Policy Committee, all interested parties are afforded a reasonable opportunity to comment on the proposed TIP following procedures contained in the MPO's adopted Public Participation Plan. After approval by the MPO and the Governor, the TIP is included without change, directly or by reference, in the STIP.

16-7.02 REFERENCES TO GUIDANCE MATERIAL

Links

INDOT Bridge Inspection Manual

INDOT Bridge Inspection Webpage

INDOT LPA Webpage

LPA-Consulting Contract

Legal Requirements

Inspection Report

Inspection Report
NBIS 23 CFR 650.309

16-8.0 REFERENCES TO RESOURCE PEOPLE

Bridge Manager

CHAPTER SEVENTEEN: EMERGENCY RELIEF

This Chapter is being developed.

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