

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

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

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

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

Environmental Impact Statements (EISs) are prepared for large-scale projects involving major expansion or new location construction where it is likely that the project will have significant environmental impacts.<sup>1</sup> The EIS entails a study to set forth the Purpose and Need of a project, identify a range of alternatives to address the transportation need(s) in a given study area, and analyze the social, economic, and environmental impacts of the alternatives. A Draft EIS (DEIS) is circulated for comment to the public and to relevant public agencies. This document provides a full

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<sup>1</sup> 40 CFR 1502.1 states, “The primary purpose of an environmental impact statement is to serve as an action-forcing device to insure that the policies and goals defined in the Act [NEPA] are infused into the ongoing programs and actions of the Federal Government. It shall provide full and fair discussion of significant environmental impacts and shall inform decision-makers and the public of the reasonable alternatives which would avoid or minimize adverse impacts or enhance the quality of the human environment.”

description of the proposed project and the existing environment and an analysis of the anticipated beneficial and adverse effects of all reasonable alternatives. Following consideration of comments, a Final EIS (FEIS) is prepared. A Record of Decision (ROD) indicates the alternative selected for the project, including any required mitigation measures. Following the approval of the ROD by FHWA, the project may proceed to its next steps in implementation, such as final design, right-of-way acquisition, and construction. See INDOT's Procedural Manual for Preparing Environmental Documents at [www.in.gov/indot](http://www.in.gov/indot) for more information.

Historically most LPA projects are classified as a Categorical Exclusion (CE). Projects involving a historic bridge must hold a public hearing prior to the completion of NEPA. For CEs (not involving a historic bridge), the LPA will be required to offer the opportunity to request a public hearing or hold a public hearing, prior to the completion of NEPA, when the project meets any of the conditions listed below.<sup>2</sup>

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

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

incorporated or unincorporated or the proposal is for an Interstate System project <sup>3</sup>.

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

If a LPA project does not meet the minimum criteria listed above, please include the following statement in the Public Involvement section of the environmental document: *In accordance with current INDOT Public Involvement Procedures approved by the FHWA, the proposed project does not meet the minimum requirements for public involvement. Therefore, the opportunity for a public hearing will not be offered, and a public hearing will not be held.* This would conclude the public involvement requirements. Once the environmental document is completed it can be submitted for approval to District Environmental Scoping Manager (ESM).

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

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

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

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

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<sup>3</sup> 23 U.S.C. 128(a) states, "Any State transportation department which submits plans for a Federal-aid highway project involving the bypassing of, or going through, any city, town, or village, either incorporated or unincorporated, shall certify...that it has had public hearings, or has afforded the opportunity for such hearings...."

If no requests for a public hearing are received prior to the established deadline date posted in the legal notice, or the required 30-day public comment period for a combined Section 106-Public Hearing Opportunity legal notice, the Public Involvement section of the environmental document will be updated and the LPA's consultant may proceed to submit the final CE to the District ESM to receive environmental approval. However, all public involvement materials will be sent to INDOT's Public Hearings Office to ensure public involvement requirements have been satisfied. The Public Hearings Office will then sign off on the cover sheet of the environmental document to indicate that all public involvement requirements have been met. This signature will occur prior to the formal submission of the environmental document for approval.

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

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

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

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

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

Upon receipt of the signed title page of the environmental document, which will include a signature line indicating the satisfactory completion of the INDOT Public Involvement requirements, the project may proceed to the right-of-way services phase. Please see INDOT/LPA Process Guidance Document for Local Federal-Aid Projects.

### **Public Notices of proposed action or projects**

The INDOT Office of Public Involvement publishes a variety of notices in local newspapers and may mail these notices to one or more mailing lists (for state projects), depending on the type of notice (see below) to inform the public of specific actions or information related to transportation projects. INDOT maintains a statewide mailing list of people who have expressed an interest in receiving periodic information and routinely sends copies of legal advertisements to such people. For some projects, INDOT develops a project-based mailing list of individuals and groups who have expressed interest in or may be affected by the particular project. **For LPA projects receiving federal funding as part of the overall funding mechanism**, public notice is part of NEPA required public involvement and is the responsibility of the LPA. Depending on the NEPA documentation, the notices may include:

**Notice of Planned Improvement** (required for CEs that meet the conditions which trigger the offer of a public hearing, listed above). This notice informs the public that INDOT is deciding upon a proposed project; provides a description, type, and scope of the project; requests comments; and offers the public the opportunity to request a public hearing. **A minimum 15 day deadline** in which the public may request a public hearing be held is announced within the public notice. This notice is mailed to adjacent property owners (optional but strongly encouraged), other project stakeholders via electronic notification and is published in local newspaper(s). **Public notice must be published 2 times (at minimum) in the most widely circulated papers within the project area.** A public hearing for a CE may be held at the LPA's discretion if the project meets the minimum criteria (see INDOT public hearings criteria on page 2). Should the LPA elect to offer the opportunity to request a public hearing, comments and concerns from the public will be addressed individually and documented in the project file prior to the certification of public involvement requirements; the LPA should **allow a minimum 30-day period** after publishing the first legal notice to complete this process and to allow LPA or representative the opportunity to contact property owners, project stakeholders, etc to adequately address concerns and document the public involvement process. The Notice of Planned Improvement, and the associated Public Hearing (if required), must be completed prior to approval of the CE.

**Notice of Final Approved CE document** (optional but encouraged for CE level documents when a public hearing was held) A legal notice may be published twice in the most widely circulated newspaper(s) within the project area. Notification /project correspondence may be sent to project stakeholders. The LPA may make final (formally approved) CE document available for public viewing to provide and complete the feedback loop in addition to addressing issues brought forward during public hearing. **LPAs are strongly encouraged to continue stakeholder engagement (if a hearing was held) once the CE has been approved.**

**Notice of Public Hearing including announcement of the availability of the environmental document (required for EAs/EISs).** This notice is issued for an EA after FHWA approval of the EA, but prior to completion of the FONSI. The

notice is issued for an EIS in conjunction with the release to the public of the DEIS. The notice announces the availability of the EA or the DEIS and must be published 15 days in advance of the public hearing at a minimum; public notice must be published 2 times (at minimum) in the most widely circulated papers within the project area; identifies where people can view the document (such as public libraries, public offices, other repositories near the project area, and a website (for EISs and some EAs); and announces a comment period (a minimum of 30 days for an EA and not less than 45 days for a DEIS). Notification is mailed to adjacent property owners, stakeholders may be notified via electronic means and notice published in local newspaper(s). Requirement also applies to CE documents in which a public hearing is held.

**Notice Soliciting Comments on Historic Impacts** (Section 106 of the National Historic Preservation Act) Per the *INDOT Cultural Resources Manual* and the *Programmatic Agreement regarding the Federal Aid Highway Program in Indiana* (Minor Projects PA), Section 106 public notices are required for all projects other than those listed in Appendices A and B of the Minor Projects PA. This notice describes a proposed project, and seeks public comment regarding the presence of historic resources and potential effects to historic resources. This notice is issued during development of a CE, EA, or EIS document and is published in local newspaper(s) by the project sponsor or their consultant. This notice is required to be published one time and can be combined with the planned improvement notice if desired.

**Notice Issued when the Final Environmental Impact Statement is Approved (required for EISs).** This notice is an announcement that the FEIS is approved and available for viewing at public repositories, such as libraries, LPA offices and/or website, etc. Public notice must be published 2 times (at minimum) in the most widely circulated papers within the project area. There is a 30-day period following the publication of the final EIS notice in the *Federal Register*. This notice/correspondence may be mailed to the project mailing/stakeholder list, electronic notification is acceptable.

**Notice Issued when a Finding of No Significant Impacts is issued (required for EAs).** Following the public comment period for the EA and project decision by FHWA, a one-page notice of the FONSI is issued by the LPA on behalf of FHWA. Public notice must be published 2 times (at minimum) in the most widely circulated paper within the project area; the notice of the FONSI does not require a comment period. This notice/correspondence may be mailed to the project mailing/stakeholder list, electronic notification is acceptable.

**Notice Issued when a Record of Decision is Issued (required for EISs).** Following the FEIS and a project decision by FHWA, a one-page notice of the ROD is issued by the LPA on behalf of FHWA. This notice/correspondence may be mailed to adjacent property owners, the project stakeholders list (sent electronically) and published 2 times (at minimum) in the most widely circulated papers within the project area; the ROD notice does not require a comment period.

**Notice of Additional Information to an Approved Environmental Document**  
**LPA should consult with INDOT, FHWA regarding the scope of the Additional Information and the need for additional public involvement for EISs, EAs, and FHWA approved CEs.** INDOT has the authority to determine the scope of re-evaluation and the need for public involvement for categorical exclusions that have

been delegated to INDOT for approval. Following consultation with FHWA and if determined necessary, a notice is issued when there have been substantive changes to an earlier approved environmental document to let the public know about the changes, inform the public where they can view the modified document, and invite comments during a comment period of at least 15 days. At the LPAs discretion, a notice may be mailed to adjacent property owners, the project mailing list, and/or via electronic notification, a notice may be published in local newspaper(s) or other project correspondence (i.e. a project newsletter) may be mailed to project stakeholders. Electronic notification is acceptable.

## **PUBLIC HEARING CHECKLIST FOR (CE Level) LPA PROJECTS**

**For Coordination purposes, to initiate the public involvement process for LPA projects, please contact INDOT’s Office of Public involvement prior to scheduling your public hearing or offering the public hearings opportunity via the planned improvement notice. When scheduling a public hearing please submit the following to the INDOT Office of Public Involvement:**

1. **Draft legal notice with tentative date(s) for the public hearing or notice of planned improvement (offering hearings opportunity)**
2. **The signature page of the environmental document indicating that the project has been released for public involvement**
3. **Two notices must be published in local newspaper**
4. **Remember that an INDOT employee must attend the LPA public hearing and observe the proceedings. In the event that a member of the Office of Public Involvement is unable to attend, we will coordinate with the appropriate INDOT District to ensure that another representative can attend.**
5. **Conduct public hearing in accordance to INDOT public hearings procedures**
6. **Prepare hearings transcript upon conclusion of public comment period**
7. **Submit transcript to Office of Public Involvement along with environmental document cover sheet to request signature and certification of public involvement requirements**
8. **Finalize environmental document and submit to appropriate INDOT District ESM or Environmental Services Division to request approval**

**As a best practice, it is strongly encouraged that proactive steps be taken by the LPA or consultant to inform project stakeholders of project decisions and/or actions, upon receiving formal approval of the environmental document. The public should be informed of a project decision prior to the start of r/w acquisition activities.**

<b>LEGAL NOTICE CHECKLIST</b>	
	Date, time and location of hearing (if hearing is scheduled)
	Project description including limits, location, length, and construction to be performed
	New permanent right-of-way, easements, and temporary right-of-way in acres
	Displacement of residents, businesses etc. (if applicable)
	Maintenance of traffic ( briefly explain details if known)
	Cost estimate for the project

	Wetlands involvement
	May combine Section 106 legal notice with public hearing opportunity legal notice
	<p>Deadline date (for comments or hearing requests) for a Planned Improvement needs to be at least 15 days from the first advertising date. The second advertising date should be at least one week (seven days) after the first.</p> <p>To advertise a public hearing, the first ad must appear in the newspaper no less than 15 days prior to the date of the hearing and the second ad no less than five days prior to the hearing.</p> <p>At minimum, <b>two notices must be published when advertising a public hearing or offering the public hearing opportunity via the Planned Improvement notice.</b> The advertisement should be published in the most widely circulated paper in/near the project area.</p>
	Public viewing location(s) for environmental documents, plans, and legal notice. A reasonable effort should be made to select viewing locations that are accessible to the public. NOTE: Municipal offices and public libraries are good locations. The LPA may also elect to post information electronically to a website in an effort to allow greater access to project documents.
	Legal ads need to be placed in local paid minority newspapers (if there are any in the area).

	<b>MAILING OF LEGAL NOTICE CHECKLIST (mailings to supplement legal notices are strongly encouraged but are not required as a condition of public involvement certification)</b>
	Legislators / elected public officials in area
	Minority groups and minority media (if any)
	Historical Societies and Historians etc. (if including the Section 106 wording)
	Metropolitan Planning Organization (if any)
	FHWA Indiana Division Administrator for hearings
	FHWA Indiana Division Administrator, if planned improvement and only if the project is part of the National Highway System)
	Affected property owners
	Appropriate District ESM and ES Signature authority

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

	<b>SPEECH / SPEAKING NOTES (power-point presentation preferred)</b>
	Hearing Process

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

	<b>FIFTEEN DAYS SUBSEQUENT TO HOLDING THE PUBLIC HEARING</b>
	Submit the following:
	Legal notice of public hearing or of Planned Improvement
	Copies of the Publisher's Affidavits from the newspaper(s)
	Complete mailing list including list of property owners (if a mailing was used)
	Speaking notes/presentation (for hearings only)
	Information Packet (for hearings only)
	Verbal statements transcribed (for hearings only)
	<b>Copies of all letter, e-mails written comments of memos or phone conversations and how each question or comment was handled.</b> A transcript is required when a public hearing is held. For projects where a public hearing has not been held, include correspondence noted above in formal submittal to the Office of Public Involvement for certification of public involvement requirements. For LPA projects, additional public involvement activities are strongly encouraged once the environmental document has been formally approved for CE projects when a public hearing has been held. For EAs when a FONSI is issued and EIS projects at FEIS and ROD issuance, additional public involvement is required.

## INDOT Office of Public Involvement Guidance

### 5 STEP PROCESS FOR COMPLETING PUBLIC INVOLVEMENT REQUIREMENTS FOR LPA PROJECTS

1. Coordinate public hearing offering or public hearing with INDOT Office of Public Involvement (if hearings criteria is triggered). Two legal notices are required, INDOT must attend the hearing (if held) mailing a notice to property owners/ project stakeholders is encouraged.
2. LPA Consultant completes the public involvement process and modifies the environmental document accordingly.
3. LPA Consultant submits the necessary public involvement documentation (legal notices, publisher's affidavits, any comments received, or if held, a public hearings transcript and the CE title page with the certification signature line to the INDOT Office of Public Involvement for certification.

4. INDOT Office of Public Involvement reviews public involvement documentation and if complete, signs the certification signature line.
5. INDOT Office of Public Involvement returns the signed CE title page to the LPA Consultant.
6. LPA Consultant adds the CE title page with public involvement signature line signed in CE document indicating that public involvement requirements have been satisfied. Consultant submits final CE to the District ESM or INDOT ES for environmental document approval.

## **Environmental Assessment (EA) and Environmental Impact Statement (EIS) Level Projects**

1. Formal public hearings phase begins once EA/EIS document has been released for public involvement. FHWA, through coordination with INDOT Environmental Services (ES) will initial coversheet of the document indicating that public involvement may begin.
2. The LPA will coordinate with its project management team and schedule a public hearing. A public hearing must be held for all EA and EIS projects. The LPA will prepare copies of the draft EA/EIS document and make copies available for public viewing locations/repositories, draft and arrange publishing of the required legal notice, mail/contact property owners and stakeholders within project area, and other activities to engage the public. A public hearing is then held. An official hearings transcript is prepared following the hearing and if all documentation is in order, then INDOT Office of Public Involvement (OPI) signs off on the EA/EIS coversheet indicating completion of INDOT public involvement requirements. See page 68 of PI Manual
3. Upon formal issuance of the Finding of No Significant Impact (FONSI), the Final Environmental Impact Statement (FEIS), the Record of Decision (ROD), the LPA will publish legal notice in the local newspaper, make the document (FONSI, FEIS, ROD) available to public viewing locations/repositories and notify impacted property owners as well as interested project stakeholders of the project decision and the availability of the FONSI, FEIS or ROD. See page 68 of PI Manual

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2012 INDOT Public Involvement Procedures

# **INDIANA DEPARTMENT OF TRANSPORTATION**

ONCE THE CE HAS BEEN INITIALED FOR ADVANCEMENT TO THE PUBLIC HEARING PHASE, PROCEED AS FOLLOWS:

