

# LPA Design Certification for Non-National Highway System Projects

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*Indiana Department of Transportation*

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## 1 Background

The Indiana Department of Transportation (INDOT) is required to administer federal transportation funds provided by the United States Department of Transportation (U.S. DOT) in accordance with all federal and state laws and regulations. The Federal Highway Administration (FHWA) delegates authority for approving project development and construction administration to INDOT through a Stewardship and Oversight Agreement ([S & O Agreement](#)) between the FHWA and the INDOT.

The [S&O Agreement](#) establishes the roles and responsibilities of the parties with respect to Section 106 of Title 23 of the United States Code ([23 USC 106](#)) project approvals and related responsibilities. The FHWA retains authority for certain activities for federal-aid projects on the National Highway System (NHS). For federal-aid projects off the NHS (non-NHS), INDOT assumes all of FHWA's [Title 23](#) responsibilities for design, plans, specifications and estimates (PS&Es), contract awards, and inspections.

Indiana allocates twenty-five percent (25%) of federal transportation dollars received by the State to cities, towns and county public agencies, collectively known as local public agencies (LPAs). Allocation of the local share of federal funds is managed through the INDOT LPA Program. In order to receive federal funds for transportation projects, LPAs are required to develop and manage federal-aid projects in accordance with all federal and state laws and regulations, and as further required by the [Local Public Agency Project Development Process Guidance Document for Local Federal-Aid Projects](#) (LPA Guidelines).

Federal regulations allow INDOT to delegate activities and approvals to LPAs who have the demonstrated the capability and have been certified to manage certain activities for federal-aid projects (qualified LPAs); however, INDOT remains responsible and accountable for all delegated activities. INDOT has sole discretion to determine which, if any, project development or construction activities or approvals will be delegated to qualified LPAs. INDOT is required to develop policies for and conduct periodic reviews of local agency federal aid projects to ensure that projects are delivered in compliance with applicable federal requirements.

## 2 Purpose

For locally-owned, non-NHS projects, INDOT will delegate all design responsibility to certified LPAs. This policy describes the requirements of and process for local agencies to become certified to manage

design activities for non-NHS federal-aid projects. The Certification Program is voluntary. An LPA may elect to pursue certification at any time.

### 3 Authority

[Section 106\(c\)\(2\) of Title 23](#) of the United States Code requires that for non-NHS projects, the state shall assume the responsibilities delegated by the U.S. Secretary of Transportation to FHWA for design, PS&Es, contract awards, and inspection of projects, unless the state determines that such assumption is not appropriate. The [S&O Agreement](#) designates the extent to which the state assumes the responsibilities of the U.S. DOT for this purpose. Specifically, the [S&O Agreement](#) requires INDOT to assume all of FHWA's [Title 23](#) responsibilities for design, PS&E's, contract awards and inspection for non-NHS federal aid projects.

### 4 Roles and Responsibilities

#### 4.1 Federal Highway Administration

The FHWA administers the Federal-aid Highway Program, which funds eligible highway improvements. Its basic responsibility is to ensure that INDOT complies with all applicable Federal laws and regulations in the expenditure of federal funds and to ensure that INDOT policies and procedures are in compliance with the applicable engineering requirements for each proposed highway project.

The FHWA maintains a Division Office in Indianapolis, Indiana that serves as the primary point of contact for INDOT. Additional information about the FHWA Indiana Division Office is available at <https://www.fhwa.dot.gov/indiv/>.

#### 4.2 Indiana Department of Transportation

The INDOT is the state agency responsible for planning, building, maintaining and operating Indiana's state highway system. INDOT is accountable to FHWA to ensure all federal-aid project elements comply with federal laws 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 [S & O Agreement](#).

INDOT ensures that all 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.

#### 4.3 Local Public Agency (LPA)

LPAs include cities, towns and county public agencies charged with planning, building, maintaining and operating local bridge and road networks across Indiana. Through the INDOT LPA Program, LPAs may request and obtain approval to utilize federal funds to partially pay for a project. In order to receive federal funding for a project, the LPA is responsible for managing and delivering the project in accordance with the project schedule and budget, and in compliance with all applicable federal and state laws, regulations and policies.

## 4.4 Metropolitan Planning Organizations

Metropolitan Planning Organizations (MPOs) 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. An MPO partners with LPAs and INDOT on the planning, funding, programming and delivery of local, multi-modal federal-aid transportation projects in Metropolitan Planning Areas (MPA).

Where LPAs are members of an MPO, the LPA is responsible to consult and verify their given MPO's potential vested interest in design criteria. INDOT respects all MPO jurisdictional boundaries, and this program is not intended to provide any LPA with an exemption from regulations outside INDOT's purview, including the responsibility to consult with the MPO. Any LPA that resides within an MPO that requires a level of design review and approval will still be required to adhere to those policies and procedures.

## 5 Project Design for Certified Agencies

Certified LPAs have the option of utilizing local standards and criteria for project design for locally-owned, non-NHS projects. The Certified LPA can utilize the [Indiana Design Manual](#) standards and processes, or select its own, or other industry recognized design criteria. The LPA is responsible and accountable for satisfying any applicable federal and state laws and regulations, as well as employing generally accepted industry practices in designing a project; however as a Certified LPA, the LPA will designate the processes, criteria and standards it wants to utilize in designing the project and retain all responsibility for design reviews, oversight and approvals.

### 5.1 Plan Development

The LPA and its designer are responsible for the preparation of all plans sheets, design computations, quantity computations, contract documents, cost estimates, obtaining all necessary permits (including environmental permits and approvals), and other pertinent project documentation necessary to certify the LPA project is ready to go to construction. The LPA shall ensure that all final design plans are signed, sealed and dated by an engineer licensed in Indiana (i.e., Professional Engineer).

### 5.2 Design Review

Certified LPAs do not have to submit project designs to INDOT for review and approval for work on locally-owned, non-NHS routes.

Certified LPAs are not required to submit Stage 1, Stage 2 or Stage 3 designs to INDOT for review and comment for non-NHS projects. Rather, the LPA shall prepare all plans and other documentation necessary for a Final Tracings Submission and provide that information to the District ERMS Coordinator prior to transmitting the Final Tracings Submittal to the Contract Administration Office. The LPA is solely responsible for ensuring the quality of the design for its project.

Designs for any project that includes work on a state route or NHS route must still be reviewed and approved by INDOT as required by the [LPA Guidelines](#) and [Indiana Design Manual](#). Coordination with the

applicable INDOT District is required when a project ties into or crosses an NHS route, or when proposed improvements may have an effect on existing improvements within INDOT rights-of-way.

For Certified LPAs, INDOT will not review and approve any design for non-NHS route projects. INDOT will remain available for consultation with respect to non-NHS route design questions, but if the LPA requests INDOT review for a non-NHS route project, INDOT will review and provide comment, but will not issue formal approval, acceptance or denial. Only general observations and comments will be provided and the LPA and their designer will maintain the ownership and responsibility of considering and/or addressing any such observations or comments.

### 5.3 Design Quality and Oversight

Certified LPAs will be solely responsible for the design and performance of all assets on locally-owned, non-NHS assets. LPAs are responsible for ensuring that projects are designed in accordance with the selected standards and criteria, and in compliance with all applicable state and federal laws and regulations.

The LPA shall ensure that all final design plans are signed, sealed and dated by a Professional Engineer. When preparing final tracings, the Professional Engineer shall also submit a Final Design Standards Report detailing the design criteria used to develop the project plans, as well as identifying any deviations from that criteria and the justification for doing so. The Final Design Standards Report shall be signed, sealed and dated by the Professional Engineer, the LPA's Employee in Responsible Charge (ERC) and the LPAs highest elected official. A sample template for the Final Design Standards Report is included as [Attachment 2](#) to this guidance.

## 6 Design Certification Benefits

Design Certification provides LPAs with more decision-making authority and control over managing project design for federal-aid, non-NHS projects. Certified LPAs can select the standards it will utilize to design a project and manage all aspects of design for non-NHS projects. The design certification process provides LPAs with greater flexibility to utilize design standards that best meet the needs of the local community, while ensuring accountability for design decisions. LPAs are still required to comply with applicable federal and state laws and regulations when delivering a project.

Design Certification allows the LPA to deliver projects with a reduced level of INDOT oversight and more local control of the means and methods for design and allows INDOT to greatly reduce the level of project design oversight required by INDOT district staff over local agencies for non-NHS projects.

## 7 Design Certification Exceptions and Exclusions

The Design Certification program is available to all LPAs. Certified LPAs must comply with the requirements of the Design Certification Program, and are still required to comply with certain processes and procedures in the [LPA Guidelines](#) as briefly outlined within this Section.

### 7.1 Environmental Review – NEPA Process

This process will remain consistent with the current processes and procedures as currently adhered to for any federally funded project as required by the [LPA Guidelines](#).

## 7.2 Purchase of Right of Way

INDOT will continue to review the purchase of Right of Way and the LPA shall follow all current processes and procedures as required by the [LPA Guidelines](#).

## 7.3 Select Bridges

Any Select Bridge projects, as defined by the Historic Bridge Programmatic Agreement (dated July 17, 2006), to be delivered and constructed as a federal-aid project will not be qualified to participate in this program.

## 7.4 Load Rating

For all New Bridge, Bridge Replacement, or Bridge Rehabilitation projects, a Bridge Load Rating shall be performed and submitted to the INDOT Bridge Load Rating Engineer prior to the project letting. The Load Rating should be performed in accordance with the Indiana Bridge Inspection Manual, Part 3 “Load Rating” chapter.

NOTE: The FHWA and AASHTO require all new bridges (including bridge replacements) to be designed using Load and Resistance Factor Design (LRFD) in order to be eligible for federal-aid highway funds.

## 7.5 INDOT Pay Items

LPAs are required to utilize INDOT pay items for all federal-aid, non-NHS projects regardless of the LPA’s certification status because these projects still utilize federal funds and full time construction oversight, including INDOT contracting and oversight.

# 8 Certification Process

To become certified to manage all aspects of design for non-NHS projects, LPAs must complete a Certification Application (Application). Through its Application, the LPA must demonstrate that it meets the requirements as further outlined in this policy.

## 8.1 Certification Application

The Application is completed by the LPA and reviewed by the INDOT LPA Office. The Application is attached to this guidance as [Attachment 1](#). After INDOT receives the completed Application, a member of the LPA Program staff will review the Application to determine whether the LPA meets the requirements for Design Certification. If INDOT determines that the LPA satisfies the certification requirements, it will provide the LPA with a Certification Approval Letter. The LPA will be notified regarding the status of its Application within thirty (30) days of submitting a complete Application.

## 8.2 INDOT / LPA Contract Agreement

When an LPA is selected for a new federal-aid project, INDOT and the LPA will enter into an INDOT-LPA Project Coordination Contract as further described in Section 3-3.0 of the [LPA Guidelines](#). This Contract is used to define the specific roles, rights and responsibilities of each agency involved in the development of the federal-aid project.

## 9 Certification Requirements

Only LPAs that are eligible to receive a federal funding allocation may pursue Design Certification. To obtain certification, the LPA must meet the following minimum requirements:

### 9.1 Employee in Responsible Charge

The LPA is responsible for appointing at least one full-time employee as the Employee in Responsible Charge (ERC) as required by the [LPA Guidelines](#). Additional information regarding the requirements and responsibilities of the ERC are further detailed in Section 1-1.03 and 1-1.04 of the [LPA Guidelines](#).

### 9.2 Design Liaison

The LPA shall designate a primary contact for design. The Design Liaison shall be the individual responsible for oversight on behalf of the LPA of all design activities and approvals, and shall serve as the LPA's Professional Engineer and designee for all design related questions. The Design Liaison is a project specific designation and may differ from project to project.

The Design Liaison shall have sufficient expertise and capability to perform and/or supervise the design phase of the project. The ERC may serve as the Design Liaison. The Design Liaison can be an LPA employee or fulfilled by the LPA's outside design consultant.

### 9.3 Documented Standards and Criteria for Design

The LPA must designate as a part of its Application, the standards and criteria it intends to use for project design. The LPA may utilize the [Indiana Design Manual](#), the AASHTO Policy on Geometric Design of Highways and Streets (AASHTO "Green Book"), local ordinances or standards, or other industry-accepted and locally-adopted design criteria for non-NHS project design. The LPA shall identify where its selected standards and processes are documented.

Realizing that every project is different and the standards initially set forth during the LPA's Certification Application may not cover all circumstances, the Design Liaison shall prepare a Final Design Standards Report for each project that documents all of the design standards utilized for the project. INDOT reserves the right to require the LPA to update its Certification Application to reflect changes in design standards identified in the Final Design Standards Report.

### 9.4 Documented Processes for Design Review and Quality Assurance

The LPA must have a documented process for design review, oversight, approval and quality assurance. The process should, at a minimum, identify who is responsible for oversight of project design, the overall design review process, evaluation and approval of design deviations, and quality management processes to ensure designs are developed according to designated standards. The LPA is solely responsible for developing and implementing its own processes for design review, oversight, approval and quality assurance.

## 10 Maintaining Certification

Certification is contingent upon the LPA continuing to meet certification requirements and maintaining qualified, experienced staff. The LPA shall notify INDOT immediately if there is any change in the ERC.

INDOT reserves the right to audit projects at any time to ensure compliance with all state and federal requirements, including, but not limited to these Certification guidelines.

INDOT retains the right to audit compliance with the Certification Approval Letter and INDOT-LPA Contract(s), including the LPA's use of local standards or processes in designing non-NHS projects. A failure on the part of the LPA to comply with the terms of the Certification Approval Letter, INDOT-LPA Contract, or other state and federal guidelines may result in the LPA being ineligible to seek reimbursement for project expenses and/or losing its Certification.

### 10.1 Contractual Obligations

All normal contractual obligations that pertain to the usage of federal funds will remain in effect for all projects delivered within this program. All processes and procedures as it pertains to including but not limited to; proprietary materials, Buy America regulations, DBE participation, INDOT Letting schedules, Consultant Selection, full time Construction Inspection, etc., shall be adhered to.

### 10.2 Program Review and Evaluation

INDOT will review a sample of projects completed by certified LPAs. These projects will be evaluated for compliance with this policy and to ensure proper documentation of design standards utilized and any design exceptions that were implemented. The observations from the review will help INDOT demonstrate its oversight of the LPA Design Certification program, and to update this policy, as needed.