INDIANA DEPARTMENT OF TRANSPORTATION

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

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INTRODUCTION

MISSION AND VALUE STATEMENT

LOCAL PROGRAMS GUIDING PRINCIPLES:

The Mission of the Indiana Department of Transportation (INDOT) Local Public Agency (LPA) Program is to provide Stewardship and Technical Assistance to 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:

- Stewardship and Technical Assistance
- Effective Communication
- Customer Service
- Education and Training
- Empowerment
- Compliance
- Efficient
- Collaboration
- Clarity

This Guidance Document is intended to be a living document and as such is expected to undergo regular updates and revisions as determined by INDOT. Changes to this document will be made only in the on-line version located on the INDOT Web site and it is the LPA's responsibility to follow the most current version of this Document. When updates are made to this Document, notices will be sent through the State of Indiana's GovDelivery subscription service with a description of each update. Instructions for subscribing to GovDelivery notices can be found at http://www.in.gov/indot/files/LPA_HowtoSignUpforINDOTsGovDeliverySubscriptionService.pdf.

QUESTIONS

If there are questions concerning this Document or the Employee in Responsible Charge (ERC) training requirements, please contact the Local Public Agency Programs Office at LPAQuestions@indot.in.gov.

FEDERAL-AID PROGRAM OVERVIEW

The Indiana Department of Transportation (INDOT) provides assistance to Local Public Agencies (LPAs) by providing financial resources in constructing, preserving and improving transportation on the Nation's roads. The INDOT is held accountable in ensuring the highway projects approved for federal funding are consistent with all applicable laws, regulations and policies. In 1991, Legislation made the Federal-Aid Program a Federally Assisted, State Administered program, delegating responsibility to the State Departments of Transportation. The law allows INDOT to act on behalf of the Federal Highway Administration (FHWA) by taking responsibility for project development, as well as administering the construction and inspection of many federal-aid projects. Each State Department of Transportation has an agreement with FHWA called a "Stewardship-Oversight Agreement." Information and links to stewardship-oversight agreements by State can be found at

http://www.fhwa.dot.gov/indiv/fhwa_indot_stewardship_agreement_final.pdf

As part of the Stewardship-Oversight Agreement, each LPA is required to have at least two full-time LPA employees assigned as an Employee in Responsible Charge (ERC). Roles and responsibilities of the ERC are outlined in **Chapter One** of this Document. The Stewardship-Oversight Agreement also describes INDOT's approval and responsibilities regarding locally administered federal-aid projects.

The primary objective of this Document is to empower the LPA's in managing and developing a local federal-aid project by:

- Empowering the LPA's through Stewardship and Technical Assistance to have legitimate authority over their projects.
- Providing the necessary knowledge and resources toward the management of transportation projects leading to the active involvement of the LPA ERC throughout the life of the project.
- Identifying the important and the required legal, primary and process elements.

Two important characteristics of federal-aid are that it is both a reimbursable and a matching program.

Reimbursable means that FHWA pays grantees and sub-recipients the actual eligible expenses incurred on a progress payment basis. Money is not provided in advance, so the LPA must initially finance the project. The LPAs incur project costs and are reimbursed.

A matching program means that the federal funds are matched with state or local resources to cover the total project cost.

Federal funds typically provide 80 percent of the project's eligible cost, with the remaining 20 percent provided by State or local agency funding.

For more information concerning the federal-aid program, visit FHWA's Federal-Aid Essentials for Local Public Agency's Web site at **http://www.fhwa.dot.gov/federal-aidessentials/.**

CHAPTER ONE: ROLES AND RESPONSIBILITIES

Acronyms used in this Chapter

ERC – Employee in Responsible Charge
FHWA –Federal Highway Administration
INDOT – Indiana Department of Transportation
ITAP – INDOT Technical Application Pathway
LPA – Local Public Agency
LPA ERC – Local Public Agency Employee in Responsible Charge
MPO – Metropolitan Planning Organization

Chapter One discusses the roles and responsibilities of the persons involved in the federal-aid program and the required training of those persons.

1-1.0 PRIMARY PARTIES

1-1.01 Federal Highway Administration (FHWA)

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

1-1.02 Indiana Department of Transportation (INDOT)

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 stewardship and technical assistance to the Local Public Agency (LPA) and their Designer during the project development process and throughout construction.

1-1.02 (1) District Local Program Director

The District Local Program Director responsibilities are varied. Below are just a few of the responsibilities:

- Reviewing submitted project applications during a Call for Projects.
- Checking Request for Proposals (RFP) and approves consultant selection.
- Coordinating projects being in the Transportation Improvement Program (TIP) and the Statewide Transportation Program (STIP).

- Programming projects into INDOT's Scheduling Project Management System (SPMS)
- Scheduling and holding Early Coordination meetings
- Coordinating Change Management

1-1.02 (2) District Local Project Manager

The District Local Project Manager is the individual responsible for the following:

- Assisting the LPA with project development, schedule changes and general project support.
- Acting as a facilitator for the preconstruction development of projects.
- Assisting the LPAs in technical problem solving and coordination with stakeholders.
- Facilitating the required reviews during project development and at Final Tracings Submission.

1-1.03 Local Public Agency (LPA)

The LPA is responsible for the following:

- Managing all aspects of their federal-aid project(s), including financial management of the project(s) and understanding all federal regulations required to construct any local federal-aid project.
- Accepting 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.
- Ensuring projects are delivered on time and within the approved budget and scope.
- Appointing at least one full-time employee as the Employee in Responsible Charge (ERC).

1-1.03 (1) Considerations in choosing an ERC

Considerations in choosing an ERC include, but are not limited to, the following:

- The ERC role **cannot** be filled by a consultant or a contract employee hired by the LPA.
- The ERC does not need to be a technical expert, but rather someone who can be fully engaged in a project and have an understanding of the project goals and milestones.
- 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.

1-1.04 Employee in Responsible Charge (ERC)

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

- 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.
- Maintaining the ERC status at all times throughout the project. Please see **Section 1-1.04 (2)** of this Chapter for guidelines on how to become certified as an ERC.
- Maintaining the log-in credentials for the INDOT Technical Application Pathway (ITAP) on behalf of the LPA.
- Aiding in the preparation of the project application through ITAP and submitting the application as required.
- Requesting the Early Coordination Meeting.
- Ensuring the INDOT-LPA Contract is signed by the LPA and returned to INDOT.
- Working with the INDOT District to secure a Purchase Order and submit the LPA Invoice-Voucher claim for costs incurred after notification of federal authorization.
- Preparing the Request for Proposal to select a consultant.
- Ensuring and validate that the **Consultant Selection Process** was followed correctly.
- Negotiating fees with the consultant.
- Ensuring the LPA-Consulting Contract is executed by the LPA and consultant.
- Assuring work does not proceed on a project phase prior to INDOT and FHWA approval.
- Helping coordinate and attend the Public Hearing if one is required.
- Coordinating the completion of the Environmental Document with the consultant.
- Requesting INDOT initiate federal project authorization through the Fiscal 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.**

- Requesting and submit the LPA's matching funds at the appropriate time to prevent delay in project construction.

- Maintaining their LPA Project Development Certification.

- Affirming that **Design Documentation** meets INDOT Design Manual Standards.

- Overseeing **Utility and Railroad Relocation** work.

- Ensuring 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.**

- Certifying the completeness of **Final Tracings Submission.**

- Ensuring project meets **ALL** State and federal laws.

- Developing and retaining all project documentation.

- Completing the INDOT or the Metropolitan Planning Organization's (MPO) **Local Quarterly Reports** and attend **Tracking Meetings**.

- Managing its consultant's performance.

- Maintaining 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. This documentation must be maintained by the LPA for 5 years after project completion. Please refer to Appendix D of this Document for a list of required documentation.

1-1.04 (1) Skills and attributes of an effective ERC

Skills and attributes of an effective ERC include, but are not limited to, the following:

- 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.

- Ability to communicate and build relationships.

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.

1-1.04 (2) LPA ERC Project Development Certification Training

If an ERC's certification has lapsed, the LPA may continue work on any phase of a project as long as there is an active Purchase Order. Any work on that phase will not be reimbursable until the LPA has a recertified ERC. If the LPA has completed work on a phase and is ready to begin the next phase, funds will not be requested until the LPA has a certified ERC. This includes the Construction phase.

To become an LPA Certified ERC – The nominated ERC must attend the Local Public Agency Employee in Responsible Charge (LPA ERC) Basic Project Development Training class to become certified. This certification is valid for **1 year**.

To maintain the annual certification requirement – An ERC must attend either the LPA ERC Basic Project Development Training class or the LPA ERC Recertification Training class within **1 year** of attending their last training.

If an ERC's certification has expired – The ERC will have to complete either an ERC Recertification Class or an ERC Basic Project Development class to become recertified.

For more information on the current class schedules, please visit: http://www.in.gov/indot/3241.htm.

To register for the LPA ERC Project Development Certification Training, please click the following link: LPAQuestions@indot.in.gov.

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 session.

1-1.04 (3) Role of the ERC in Bridge Inspection

The role of the ERC in Bridge Inspection includes, but is not limited to, the following:

- Contacting the District Local Program Director to create a project schedule in INDOT's Scheduling Project Management System (SPMS) to obtain a Designation Number for the bridge inspection.
- Acting 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.
- Acting as the fiduciary representative for the LPA's Board or administrative body in relationship to all elements of bridge inspection.

- Responsible for ensuring all inspection reports and load ratings completed and submitted on time, and for ensuring there is always a current Bridge Inspection Contract in place without any gaps in coverage.

- Responsible for submitting a **Bridge Inspection Local Quarterly Report** to the District Local Program Director.

- Managing the LPA's County Bridge Inspection Program.

- Ensuring timely inspections and reports.

- Reviewing and submitting related invoices.

- Ensuring any and all required actions are completed as directed in the INDOT Bridge Inspection Manual and as described in this chapter.

- Completing the INDOT or MPO Local **Quarterly Reports** and attend **Tracking Meetings.**

- Managing its consultant's performance.

All Indiana Counties are 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.

To become an LPA Certified Bridge Inspection ERC – The nominated ERC must attend the Bridge Inspection Training class to become certified. This certification is valid for **1 year**.

To maintain the annual certification requirement – An ERC must attend the Bridge Inspection Training class within **1 year** of attending their last training.

If an ERC's certification has expired – The ERC will have to complete a Bridge Inspection Training class to become recertified.

For more information on the current class schedules, please visit: http://www.in.gov/indot/3241.htm.

To register for the LPA ERC Project Development Certification Training for county bridge inspections, click the following link: LPAQuestions@indot.in.gov.

1-1.05 Consultants

Consultants are often utilized by LPAs to provide architectural and engineering services to develop their projects and are responsible for:

- Keeping all parties (local and state) involved and informed of project status and costs through frequent communication.

- Delivering high quality, timely work, on or below budget.

- Held accountable, along with the LPA, for failure to meet any federal and state regulations, deadlines, and errors and omissions.

1-1.06 Metropolitan Planning Organizations (MPO)

MPOs are responsible for:

- Coordinating transportation planning within their defined Metropolitan Planning Area.

- Managing a **fiscally constrained** program and air quality conformity for their regions.

- Performing Air Quality Conformity Modeling for air quality non-attainment areas as required by the United States Environmental Protection Agency 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 Four** for more information on MPO - LPA Coordination and Process.

MPOs are not required to attend the LPA ERC Project Development Certification Training.

1-2.0 CRITICAL ELEMENTS

Critical Elements are listed below, but are not limited to, the following:

- The LPA has appointed an ERC.

- The ERC has successfully completed LPA Project Development Training and is current in their certification.

- The LPA has created and maintains a document management system to be maintained at least 5 years after project closeout 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.

1-3.0 FATAL FLAWS

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.

- The project funding.
- The project budget.
- The project scope.

Unresolved fatal flaws will prevent the project from proceeding to the next stage of project development, including advertisement and letting.

1-4.0 REFERENCES TO GUIDANCE MATERIAL

Links

LPA Web page

Consultant Prequalification

INDOT – LPA Contract

1-5.0 IDENTIFICATION OF RESOURCE PEOPLE

District Local Program Director

Communications regarding documents, plans, submittals and any miscellaneous items should include the:

- ***LPA's designated ERC***
- ***appropriate INDOT staff***
- ***MPO staff (if project is within a MPO area)***

CHAPTER TWO: PROJECT SELECTION

Acronyms used in this Chapter

ADA – Americans with Disabilities Act
ER – Emergency Relief
ERC – Employee in Responsible Charge
FEMA – Federal Emergency Management Agency
FHWA – Federal Highway Administration
INDOT – Indiana Department of Transportation
LPA – Local Public Agency
MPO – Metropolitan Planning Organization

2-1.0 CHAPTER TWO OVERVIEW

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

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

2-2.0 PROJECT APPLICATION AND SELECTION

Project application and selection will be carried out according to program qualifications (i.e. Rural Road, Bridge, Transportation Alternatives) as posted on INDOT's Web site. 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:

1. Before the LPA can apply for a project that will use rural federal-aid funds the LPA's Employee in Responsible Charge (ERC) must first meet the **LPA Project Development Certification Training** requirements.

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

3. The ERC will receive email communications from INDOT for any or all of the following: acceptance of the application, return of the application for additional information and the selection status.

4. If selected, the ERC must request an **Early Coordination Meeting** with the **District Local Program Director** within 30 days from award notification.

2-2.01 Ineligible

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

- Is not compliant with the Americans with Disabilities Act (ADA).

- Does not fit the application criteria listed by the specific program.
- Is not submitted by a current **Certified ERC**.
- Is received without a financial commitment letter.
- The LPA is in arrears of 60 days or more of a past due resolved debt.

2-2.02 Program Descriptions

With the passage of MAP-21, specific programs no longer exist separately as they did in the past (i.e. Safe Routes to School, Bridge, Safety, etc.).

The project application process now calls for all LPA projects at one time regardless of their project type.

2-2.03 Emergency Relief Program

During disaster events, an Emergency Relief Program is available to affected LPAs. These Programs are:

Federal Highway Administration (FHWA) Emergency Relief (ER) – a program to supplement state and local resources resulting from a disaster. The disaster must be:

- A Governor or Presidential disaster declaration
- At least $700,000 in statewide damage ($5,000 per site)
- On a Federal-Aid Highway

Local roads and rural minor collectors are not eligible for FHWA ER funding.

Federal Emergency Management Agency (FEMA) Public Assistance (PA) – a program to supplement state and local resources resulting from a disaster. The disaster must be:

- A Presidential disaster declaration
- "Off-System" (publicly owned)

Local roads and rural minor collectors are eligible for FEMA PA funding.

In case of an emergency event, the District Local Program Director will send an email to the LPA, including the Emergency Management Agencies and Highway Superintendents within the LPA's jurisdiction that may have damage to their roads or bridges. The email will include either the Emergency Relief Reimbursement Checklist if the event qualifies as a FHWA ER event or a Preliminary Damage Assessment Worksheet if the event qualifies for FEMA PA event.

Please keep in mind that in order to seek reimbursement for an emergency event, you must follow all the criteria for the normal Federal-aid process.

A completed Emergency Repairs Checklist should be sent to the District Local Program Director with each Des. No.

2-2.04 Project Funding

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

Available funding is dependent upon several factors. The Federal Transportation Act that is generally adopted every six years determines the amount of available funds the State receives for the LPA 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.

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 could impact future 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 **Local Quarterly Reports** and **Local Quarterly Tracking Meetings**. With frequent communication and coordination, INDOT can establish and communicate a clear expectation of what projects can be funded and completed.

2-2.04 (1) 2 CFR (Code of Federal Regulations) 200

Due to requirements from 2 CFR 200, INDOT will require that a Purchase Order (PO) for any phase of a project indicate the project/phase end date. The project end date is defined based upon the phase and what is considered to be a reasonable amount of time to complete the phase and move the project on to the next phase. The project end date is the last date eligible costs against the phase will be eligible for reimbursement. A project end date may be moved out, but the LPA will need to submit a full justification that will either be rejected or accepted by FHWA.

No more than 90 days may lapse from the end date for final reimbursement for a phase. The 90 days includes submission of the invoice to the District and payment to the LPA. If the LPA waits until the 90th day, there will be no reimbursement.

When federal funds have been requested, but have sat dormant for 9 months, the project will become inactive. These are considered improper obligations where a decision by the Federal government can be made to remove the federal obligation.

If the federal obligation is removed, the LPA can no longer seek reimbursement. The LPA can either:

- stop work on that phase of the project and attempt to receive more federal funds, or
- pay for the rest of the project with 100% Local funds.

2-3.0 CRITICAL ELEMENTS

Critical Elements are listed below but are not limited to the following.

- The project has received verification of eligibility for federal-aid funds.
- The project application process was followed.
- The project application was submitted by the LPA's Certified ERC.
- The project is ADA compliant.
- The financial commitment letter has been received.

2-4.0 FATAL FLAWS

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

- The LPA does not have matching funds.
- The project is not ADA compliant.
- The LPA's project does not meet the contracted funding window.

2-5.0 REFERENCES TO GUIDANCE MATERIAL

Links

Individual Metropolitan Planning Organization Web sites

Maps showing the Urbanized Boundaries

Federal Highway Administration

Special Federal Aid Funding – Emergency Relief Program

A Guide to the Federal-aid Highway Emergency Relief Program

MAP-21 - Moving Ahead for Progress in the 21st Century

Federal Emergency Management Agency

Public Assistance: Local, State, Tribal and Non-Profit

Public Assistance: Policy and Guidance

Contacts/Maps

Functional Classification Maps

State of Indiana City/Counties Emergency Management Directors

Legal References

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

Stewardship and Oversight Program – http://www.fhwa.dot.gov/indiv/fhwa_indot_stewardship_agreement_final.pdf

Primary Federal Requirements Regarding Selection and Management - 23 CFR

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

2-6.0 IDENTIFICATION OF RESOURCE PEOPLE

District Local Program Director

Links to MPO Web sites

Central Office Contacts

All communications regarding project application and selection should be directed to the:

- ***Local Public Agency Programs Office***
- ***District Local Program Director***
- ***Applicable MPO (if project is within a MPO area)***

CHAPTER THREE: PROJECT PROGRAMMING

Acronyms used in this Chapter

ADA – Americans with Disability Act
CN – Construction
FHWA – Federal Highway Administration
FMIS – Fiscal Management Information System
INDOT – Indiana Department of Transportation
ITAP – INDOT Technical Application Pathway
LPA ERC– Local Public Agency Employee in Responsible Charge
MPA – Metropolitan Planning Area
MPO – Metropolitan Planning Organization
NTP – Notice to Proceed
PE – Preliminary Engineering
R/W – Right-of-Way
SPMS – Scheduling Management Project System
STIP – Statewide Transportation Improvement Program
TIP – Transportation Improvement Program

3-1.0 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 a Local Public Agency (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.

The LPA must have a certified Employee in Responsible Charge (ERC) prior to applying for federal-aid funds.

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

3-1.01 Call for Projects

In order to apply for federal-aid funds, the Local Public Agency's Employee in Responsible Charge (LPA ERC) must be enrolled in the INDOT's Technical Applications Pathway (ITAP) located at **https://itap.indot.in.gov/.** If assistance is needed in obtaining a user account, please contact the **District Local Program Director**. The LPA ERC will receive a user identification number to log in to request the necessary applications.

Applications from cities who owe the Indiana Department of Transportation (INDOT) money which is more than 60 days past due will not be considered for federal-aid funds. If the LPA resolves its past due account, they will be eligible for an award. Contact the District Local Program Director concerning any past due accounts.

The LPA ERC must certify to INDOT during the project application process that they are compliant with the Americans with Disabilities Act (ADA) and Title IV before they can receive federal-aid funds. Completion of the ADA Self-Assurance Survey is required every year and is accessed through ITAP. The time period for completion of the ADA survey is normally July 1st through September 1st of each year. The ERC must also request access to the Local Quarterly Report in order to meet reporting requirements.

3-1.02 Electronic Application Process

The Local Call Application can be found under the Scheduling Project Management System (SPMS) logo in ITAP. There are tabs along the top of the screen for each section of the application. Mandatory fields that are required to be completed in the application are shown in a peach color. After the application is submitted, it is reviewed by the District Local Program Director for completeness. The application will then be either accepted for consideration or returned for additional information.

3-1.03 Selection Process

Project applications will be scored by a team of INDOT experts in their related fields. The scoring team will be represented by the District Local Program Director and staff, a member from INDOT's Pavement Engineering, Bridges and Highway Design and Technical Support offices. Once all scores are compiled, an executive review team will review all final scores for accuracy and will determine funding types and awards for projects.

3-1.04 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." A "Notification of Award" letter is sent to the ERC listing the federal amount that was awarded.

3-1.05 Indiana Statewide Transportation Improvement Program (STIP)

The 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.

INDOT develops the STIP in cooperation with the Metropolitan Planning Organizations (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 Four**.

After the LPA project has been authorized in SPMS, it must be included in the STIP with each phase and estimate listed for the year in which funds are expected to be obligated prior to requesting federal funds authorization. Projects listed in the STIP are broken down into three phases. These phases are Preliminary Engineering (PE), Right-of-Way (R/W) and Construction (CN). The STIP Web site can be accessed at **http://www.in.gov/indot/2348.htm**.

Projects located within an **MPO's Planning Area** (MPA) 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.

3-2.0 EARLY COORDINATION MEETING

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 Director** within 30 days of receiving the award notification. Failure of the LPA to request the Early Coordination Meeting within 30 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.
- Other relevant topics such as planning and programming, scope, schedule and budget, right-of-way and utilities, and project development.

This meeting is invaluable to the ERC as it is designed to help him or her better understand all of 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 Director to coordinate with the LPA to schedule the meeting and to invite relevant INDOT staff. For projects within an MPO Planning Area, the ERC should also extend an invitation or provide meeting information to the MPO.

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

3-3.0 INDOT-LPA PROJECT COORDINATION CONTRACT

The Contract for the development of federal-aid local projects between 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 includes appendices titled "Attachment A – Project Description," "Attachment B – LPA'S Rights and Duties" and "Attachment C – INDOT'S Rights and Duties."

The Contract specifies the maximum amount of federal funds available for the project located in "Attachment D – Project Funds" of the INDOT-LPA Contract. The Contract also specifies the terms and schedule in which the funds are intended to be obligated for construction which is located in Section V of the INDOT-LPA Contract.

If the LPA does not sign and return the Contract and supplements within 6 weeks of receipt, funding for the project may be removed. If the LPA does not sign and return the Contract and supplements within 2 months of receipt, the funds will be rescinded and the project will be eliminated.

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

Please note the following:

- Return only the original signed INDOT-LPA Contract to the District Local Program Director for further processing.
- The INDOT-LPA Contract must have at least two handwritten signatures and an attest signature affixed to the signature page. No hand stamps or copied signatures will be accepted.
- Each signature of the LPA must have the date the INDOT-LPA Contract was signed.

If 30 days have lapsed from the date of the LPA signatures when the INDOT-LPA Contract is received by INDOT, the Contract will be rejected and another INDOT-LPA Contract will be sent to the LPA for signatures.

3-3.0 (1) Audits

The LPA acknowledges that it may be required to submit to an audit of funds paid through the INDOT-LPA Contract. Any such audit shall be conducted in accordance with IC §5-11-1, *et seq.*, and audit guidelines specified by the State.

The State considers the LPA to be a "sub-recipient" for purposes of the INDOT-LPA Contract. However, if required by applicable provisions of the Office of Management and Budget Circular A-133 (Audits of States, Local Governments, and Non-Profit Organizations), following the expiration of the INDOT-LPA Contract, the LPA shall arrange for a financial and compliance audit of funds provided by the State pursuant to this Contract. Such audit is to be conducted by an independent public or certified public accountant (or as applicable, the Indiana State Board of Accounts), and performed in accordance with Indiana State Board of Accounts publication entitled "Uniform Compliance Guidelines for Examination of Entities Receiving Financial Assistance from Governmental Sources," and applicable provisions of the Office of Management and Budget Circulars A-133 (Audits of States, Local Governments, and Non-Profit Organizations). The LPA is responsible for ensuring that the audit and any management letters are completed and forwarded to the State in accordance with the terms of this Contract.

For audits conducted pursuant to Indiana Code 5-11-1, and audited by the Indiana State Board of Accounts on the time schedule set forth by the Indiana State Board of Accounts, the LPA shall provide to the Indiana State Board of Accounts, all requested documentation necessary to audit the LPA in its entirety.

If the audit is conducted by an independent public or certified public account and not the Indiana State Board of Accounts, the LPA shall submit the completed audit to the Indiana State Board of Accounts within 10 days of the completion of the audit.

The audit shall be an audit of the actual entity, or distinct portion thereof that is the LPA, and not of a parent, member, or subsidiary corporation of the LPA, except to the extent such an expanded audit may be determined by the Indiana State Board of Accounts or the State to be in the best interests of the State.

3-3.01 Amendments 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 Local Public Agency Programs 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 Director will initiate the amendment to the INDOT-LPA Contract.

The LPA will contact the District Local Program Director 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 funding award or a move of the letting date.

A LPA in an MPO Planning Area should submit proof of adjustment from the MPO in the form of an amendment resolution or modification note to the District Local Program Director in order to receive 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.

3-4.0 LOCAL QUARTERLY REPORTS AND TRACKING MEETINGS

The ERC is responsible for submitting the required Local Quarterly Reports through **ITAP** and attending Local Quarterly Tracking Meetings and detailing up-to-date cost estimates and schedules through the time the final voucher is presented for the construction phase. Local Quarterly Reports are required to be submitted by the 21st day of the months of January, April, July and October.

- For projects located in a **Metropolitan Planning Area (MPA)** of an MPO, Local Quarterly Tracking meetings and Local Quarterly Reports will be coordinated through the applicable MPO's process and forms.

- Projects outside of the MPA will utilize INDOT's electronic Local Quarterly Report through the INDOT Technical Application Pathway (ITAP).

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

3-5.0 PROJECT FUNDING

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 Request for Funds has been approved. See Section 3-6.0 below for information on the FMIS. Work can begin when Notice to Proceed (NTP) has been given to the LPA from INDOT and the LPA notifies the Consultant that they may begin work.

See **Appendix C** of this Document for guidelines in completing a LPA Invoice-Voucher and the specific documents needed to accompany the LPA Invoice-Voucher.

3-6.0 FISCAL MANAGEMENT INFORMATION SYSTEM (FMIS)

Approval of funds in 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**.
- The **Consultant Selection** must be approved as described in Chapter Five.
- The LPA–Consulting Contract should be executed by both the LPA and their consultant after INDOT review.
- The INDOT-LPA Contract must be approved by the Attorney General's office.

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 (NTP) issued by the INDOT District will not be eligible for federal-aid reimbursement.

Should the LPA not incur any expenses within 6 months of the NTP, 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.

FMIS – Right-of-Way Services and Land Acquisition

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

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

3-7.0 CANCELLED PROJECTS

A city, county, or town may decide to cancel a project. In such event, the highest ranking official from the city, county, or town shall notify, in writing or by e-mail, the District Local Program Director in its District and provide the project description and Designation Number (Des. No.). The District Local Program Director shall forward this information to the Director of the Local Public Agency Programs Office.

The Director of the Local Public Agency Programs Office 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 may be required to repay INDOT all federal money spent on its cancelled project depending on FHWA's determination.

An environmental document may still need to be completed if federal funds were used.

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

The Local Public Agency Programs Office will be responsible for approving the initiation of the bill by the District Local Program Director to the city, county or town for the repayment of federal funds on a cancelled project.

3-8.0 CRITICAL ELEMENTS

Critical Elements are listed below but are not limited to the following.

- The project is listed in the **TIP** and **STIP** as required.
- The INDOT-LPA Project Coordination Contract is signed by the LPA and returned to INDOT within 6 weeks of receipt.
- The consultant selection process is followed and approved by INDOT.
- There is a fully executed INDOT-LPA Project Coordination Contract.

- The federal share of the project cost does not exceed the maximum amount of federal funds approved.
- All project phases have received FMIS Authorization.
- Only expenses incurred after INDOT's NTP are eligible for reimbursement.

3-9.0 FATAL FLAWS

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 fatal flaws are listed below.

- Changes to the scope, "scope creep," can result in insufficient approved federal funds needed to construct the project.
- The consultant selection process was not followed as discussed in Chapter Five.
- Failure to maintain ERC Certification.
- Required documents (e.g., INDOT-LPA Contract, Local Quarterly Reports, etc.) are not submitted in a timely manner.

3-10.0 REFERENCES TO GUIDANCE MATERIAL

Links

INDOT Local Public Agency Programs Web page

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 **IC 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.

3-11.0 IDENTIFICATION OF RESOURCE PEOPLE

District Local Program Director

- ***Persons who should receive copies of communications pertaining to project programming include the:***

  - ***Designated ERC***
  - ***District Local Project Manager***
  - ***District Local Program Director***

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

CHAPTER FOUR: LPA – MPO PROJECT COORDINATION

Acronyms used in this Chapter

CN – Construction
ERC – Employee in Responsible Charge
INDOT – Indiana Department of Transportation
LPA – Local Public Agency
MPA – Metropolitan Planning Area
MPO – Metropolitan Planning Organization
MTP – Metropolitan Transportation Plan
NTP – Notice to Proceed
PE – Preliminary Engineering
R/W – Right-of-Way
STP – Surface Transportation Program
TIP – Transportation Improvement Program
UA – Urbanized Area

4-1.0 CHAPTER FOUR OVERVIEW

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.

4-2.0 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. After each Census, INDOT consults with the LPAs statewide to update the adjusted urbanized boundaries. These boundaries can be found on the INDOT Functional Classification Maps at **http://dotmaps.indot.in.gov/apps/PlanningDataViewer/FC_Maps/FC_listing.asp**. The Large Urban Areas are the limits where MPOs usually utilize their funds although they are free to fund any project within their MPA. The population in the rural area outside the Large Urban Areas statewide is the population that is used to determine the share of Federal-aid funds that go to rural areas.

Most LPA Surface Transportation Program (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 Local Public Agency Programs 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 an MPO makes this decision they will also make the project selection decision.

Table 4-1 identifies the various funding programs available to support LPA federal-aid projects and responsibilities for project selection under each program.

Figure 4-1 - Sample Map Depicting a MPA & UA

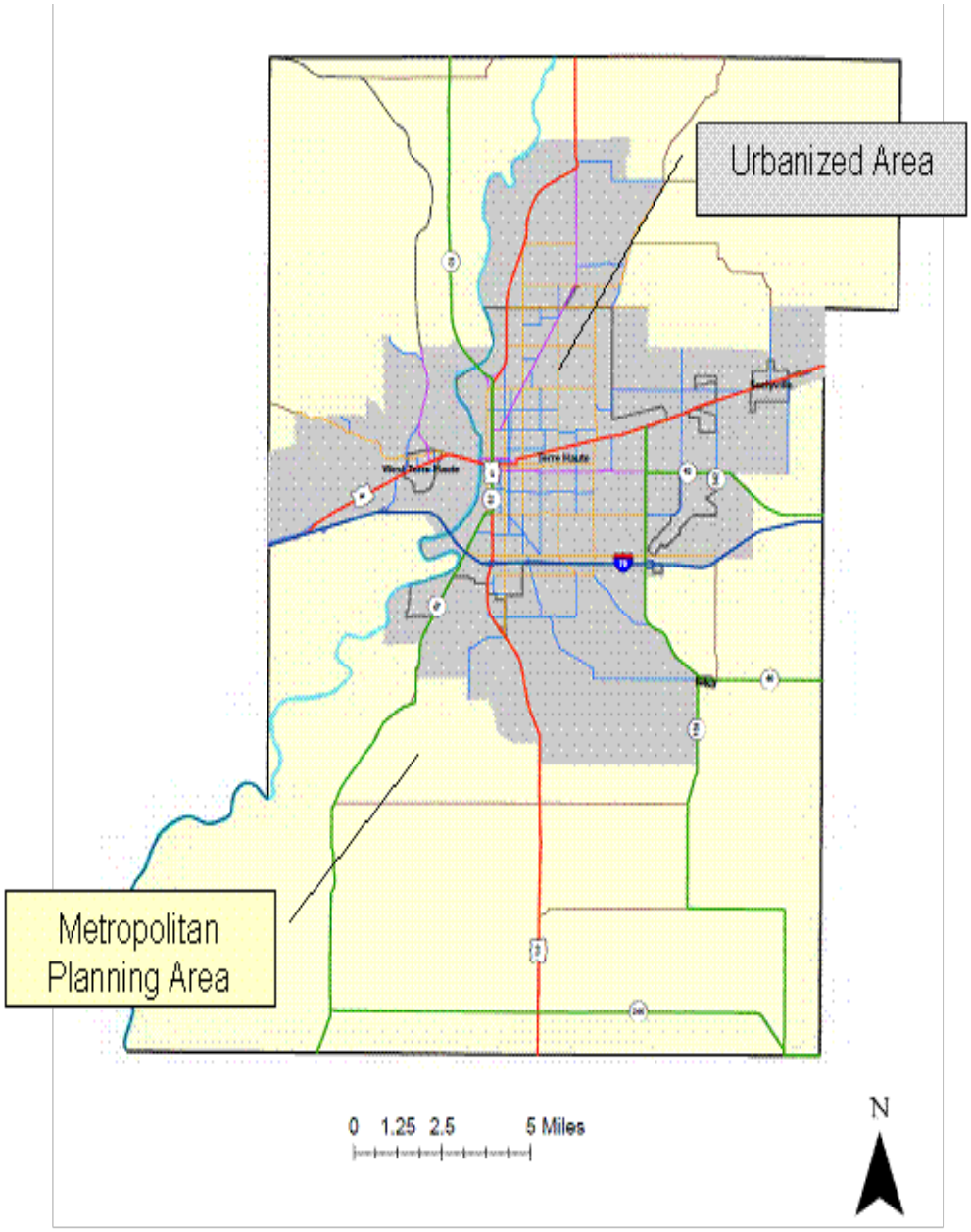

Table 4-1 – Funding & Selection Responsibilities

		Source of Federal Funding		Primary Project Selection Decision Maker		
Program	**Project Location**	**MPO**	**INDOT**	**MPO**	**INDOT**	**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 Rural	Outside MPO Urbanized Area [1]	●	●	●	●	Program applies to cities & towns with populations 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 Alternatives	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]		●		●	

[1] An 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.

4-3.0 LPA AND MPO RESPONSIBILITIES

LPAs in an **MPA** should contact their MPO for 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 Local Public Agency Programs Office. This written verification will normally be completed by electronic submission of a Project Application Form to the appropriate **District Local Program Director**.

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 do the following.

- 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)**.
- For MPO funded projects, determine the project does not require re-demonstration of fiscal constraint.
- Provide the public with reasonable opportunity to comment on the project by following the procedures outlined in the MPO's or INDOT's adopted "Public Participation Plan" as appropriate.

The MPO will ensure selected projects and/or project phases are appropriately programmed in the TIP and subsequently will submit a request to the District Local Program Director to include the project in the STIP. Projects must be listed individually and programmed by phase (Preliminary (PE), Right-of-Way (R/W), Construction (CN)). If a project is not fully funded within the four 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 Three.**

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 per 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 **Section 12-3.02** of this Document**.**

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

4-4.0 INDOT RESPONSIBILITIES

INDOT District personnel are required to attend various MPO meetings. Meetings and persons responsible are listed below:

- MPO Local Quarterly Tracking Meeting - The District Local Program Directors and the District Local Project Managers who are assigned to each project are required to attend the MPO Local Quarterly Tracking meeting.

- MPO Technical Meeting - All Capital Program Managers are required to attend the MPO Technical Meetings.

- MPO Policy Board Meeting - All District Deputy Directors are required to attend the Policy Board Meetings.

In the event that the Capital Program Managers or District Deputy Directors cannot attend the MPO Technical Meetings or the MPO Policy Board Meetings, they should send a designee or proxy. The MPO should be notified of who the designee or proxy will be prior to the meetings.

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

4-5.0 CRITICAL ELEMENTS

Critical Elements are listed below, but are not limited to, the following:

- The project is eligible for federal-aid funds.

- The project is consistent with the adopted **MTP**.

- The project selection process was followed.

- There was an Air Quality Conformity Determination (non-attainment and maintenance areas).

- The project is included in the TIP/STIP.

- The project follows the **Consultant Selection** requirements as discussed in Chapter Five.

- The LPA received Notice to Proceed (NTP) from INDOT prior to conducting any work on the project (Expenses incurred prior to INDOT's NTP will be paid with 100% local funds as discussed in Chapter Three).

- The INDOT-LPA Project Coordination Contract is signed by the LPA.

- Project Closeout.

4-6.0 FATAL FLAWS

Some of the most common fatal flaws include the following.

- There is no Designated Employee in Responsible Charge (ERC).

- The LPA does not have a certified ERC or the ERC certification has lapsed.
- The project is not eligible for the federal-aid program.
- The project not consistent with the adopted MTP.
- The project is not consistent with the latest air quality conformity determination (non-attainment and maintenance areas).
- There are not enough federal funds allocated.
- The LPA does not have the required matching funds as discussed in Chapter Eleven.
- The project is not included in TIP and STIP.
- Not having a fully executed INDOT-LPA Project Coordination Contract.

4-7.0 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 Web sites.

Maps Showing Each MPO's Urban Area Boundary

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 result 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 **Federal Highway Administration'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 - IC Title 4

State and Local Administration - IC Title 5

Local Government - IC Title 36

Planning Assistance and Standards - 23 CFR 450

Statewide Transportation Planning and Programming - 23 CFR 450 Subpart 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 Part 450, Subpart 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

4-8.0 IDENTIFICATION OF RESOURCE PEOPLE

For a list of resource persons, please refer to the Planning Roles, Responsibilities, & Cooperative Operation Manual located on INDOT's website at http://www.indianampo.com/PDF/Roles_Responsibilities_Manual.pdf.

CHAPTER FIVE: CONSULTANT CONTRACTING

Acronyms used in this Chapter

CFR – Code of Federal Regulations
CI – Construction Inspection
DBE – Disadvantaged Business Enterprise
DOT – Department of Transportation
E&O – Error and Omissions
ERC – Employee in Responsible Charge
FMIS – Fiscal Management Information System
INDOT – Indiana Department of Transportation
LOI – Letters of Interest
LPA – Local Public Agency
NTP – Notice to Proceed
PE – Preliminary Engineering
PE/S – Project Engineer/Supervisor
PO – Purchase Order
RFC – Ready for Contracts
RFP – Request for Proposals
R/W – Right-of-Way

5-1.0 CHAPTER FIVE OVERVIEW

Chapter Five establishes the policy for contracting with **professional services** consultants for Local Public Agency (LPA) projects involving federal-aid funding.

5-2.0 APPLICABILITY AND LPA RESPONSIBILITIES

The Code of Federal Regulations (CFR) 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" process as outlined in **Title 40 United States Code, Chapter 11, Section 1104, paragraph (b).**

These regulations also require State Departments of Transportation (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.

5-2.01 Applicability

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

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 Indiana Department of Transportation (INDOT) **prequalified consultants**.

5-2.02 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. Some responsibilities of the ERC for consultant services include, but are not limited to:

- Administering government duties including contract negotiation, payment, evaluation of compliance, performance and quality of services.
- Be familiar with the contract requirements, scope of services and products to be produced.
- Be familiar with the qualifications and responsibilities of the consultants' staff.
- Schedule and attend progress and project meetings.
- Ensure consultant costs billed are allowable
- Evaluation and participate in decisions for contract modifications.
- Document monitoring activities.

Refer to 23 CFR 172.9(d) for further information.

5-3.0 CODE OF ETHICS AND CONFLICTS OF INTEREST

5-3.01 LPA Personnel Shall:

- Abide by the ethical requirements set forth in 49CFR18.36 and 23 CFR 172.7(b) which, in part, prohibit State employees, officers or agents from participating in decision making in circumstances in which the employee any member of their immediate family, or an organization that employs or is about to employ any of the above would have a potential financial interest in the outcome.
- Consider the interests of the State of Indiana and LPA first when contracting for professional services.
- Seek to obtain the maximum value for each dollar spent for professional services.
- Demand honesty and truth in contracting.
- Accept nothing of monetary value from the potential consultants or parties to an agreement.
- Request removal from any situation in which a personal relationship may affect judgment in selection, administration or performance evaluation activities.
- Avoid unnecessary sharing of internal information, including project or program information that may result in giving a competitive advantage to a select firm or firms.

When a conflict of interest is known, it must be promptly disclosed to INDOT and the FHWA.

5-3.02 Consultants

The INDOT Consultant Conflict of Interest Policy is available at **http://www.in.gov/indot/2730.htm**.

5-4.0 SELECTION PROCESS

If consultant services are to be funded with federal-aid, the LPA must comply with the following.

- Create and advertise a **Request for Proposals (RFP)** on INDOT's Web site. A local Web site posting can be in addition to INDOT's posting.

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

5-4.01 Advertisement

The RFP shall include a project description, scope of services and deliverables, schedule, qualification requirements, **Disadvantaged Business Enterprise** (DBE) goal, selection rating worksheet and a response due date. The RFP must specify the contract type, identify any special provisions or requirements, disallow any disclosure of cost.

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

The "**Standard Request for Proposal Template**" and the "**LPA Consultant Selection Toolkit – Step by Step**" are available on **INDOT's Web site.**

5-4.01 (1) Project Description and Scope of Services

The LPA can advertise one RFP for the Preliminary Engineering (PE), Right-of-Way (R/W) Engineering, R/W Services or R/W Acquisition phases. The LPA also has the option to advertise these phases separately in order to contract with firms who specialize in specific types of work. INDOT highly recommends that the LPA advertise a separate RFP for Construction Inspection (CI).

The RFP must provide a project description and information such as scope of services and location, **work types** and phases of services. This information is important because it defines the service type parameters covered by the selection.

5-4.01 (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. All professional services that require prequalification according to the INDOT Prequalification Manual must be performed by prequalified consultants.

5-4.01 (3) DBE Goal

Each advertisement shall have a stated DBE goal. The DBE Goal Request form is available via a link on the LPA Selection Web page that will generate an auto-email goal request.

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.

5-4.01 (4) Selection Rating Sheet

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

A standard preapproved 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 is required. All evaluation criteria must be "qualifications-based," location criteria must not exceed more than 5% of the total possible score and the criteria must not introduce bias based on city, county or state boundaries. The INDOT approval process may take up to 2 weeks depending upon the nature of customization proposed.

5-4.01 (5) Prescreening and Interviews

If an LPA desires to use prescreening or interviews during the selection process, details of the prescreening and/or interview process must be described in the RFP. The District Program Director can assist with suggested text for the RFP. A minimum of three qualified firms must receive the RFP when prescreening is used. Similarly, when interviews are conducted they must be held with a minimum of three qualified firms.

5-4.01 (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 Web site advertisement to obtain competition. Recruitment efforts may include sending letters or making phone calls to firms who are qualified to do the work, but may not submit a LOI due to the size of the project.

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.

5-4.01 (7) Due Date

The typical advertisement period for a LPA RFP is 1 month. RFP advertisements of less than 14 days are not allowed.

5-4.02 Evaluation and Ranking

Evaluation of proposals and ranking of consulting firms begins immediately following the receipt of the LOI and the passage of the due date. The 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.

5-4.02 (1) Prequalification Verification

The lead consultant must be INDOT prequalified and the consultant team, including sub-consultants identified in the LOI, 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 Web site.

5-4.02 (2) Past Performance Data

Consultants performing services for INDOT or for LPA federal-aid projects are evaluated by INDOT. The LPA requests INDOT past performance data from the appropriate District or Central Office and the past performance scores hall be applied in the scoring process when applicable data is available. Most LPAs are using INDOT historical performance evaluation data in their selections.

5-4.02 (3) Scoring Team

A team of scorers comprised of no less than 3 individuals should evaluate the LOI;with one of the individuals acting as the leader of the team. The scorers should be familiar with the proposed project and must be capable of providing unbiased reviews of the qualifications of the submitting consultants

5-4.02 (4) Scoring

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.

5-4.02 (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.

5-4.02 (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**.

5-4.02 (7) Consultant Selection Checklist

An **LPA Selection Review Checklist** must be completed by the ERC and then submitted to the District Local Program Director for approval. The checklist lists each item that the ERC is responsible to submit to INDOT with the checklist in order to obtain INDOT approval of the consultant.

5-5.0 CONTRACT SCOPING AND NEGOTIATION

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

5-5.01 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:

- Communicate the LPA's expectations for the project.
- Answer consultant questions.
- Set a due date and requirements for the cost proposal package.

The LPA shall require the consultant to submit a cost proposal package that includes the following:

- A draft scope of work.
- A cost proposal.
- **Overhead rate** documentation.

5-5.01 (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.

5-5.01 (2) Cost 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, non-salary direct costs (mileage, per diem, etc.) and computation of the total costs.

***The LPA will only be reimbursed for the consultant's non-salary direct costs as listed in the State's Travel Policy located at* http://www.in.gov/sba/files/FMC_2014-1.pdf.**

5-5.01 (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.

5-5.02 Independent Estimate

Prior to receipt or review of the selected consultant's cost proposal, the LPA shall prepare a detailed independent estimate with an appropriate breakdown of the work by labor hours, types or classifications of labor required, other direct costs, and consultant's fixed fee for the defined scope of work. The independent estimate shall serve as the basis for negotiation.

5-5.03 Cost Proposal Review

The LPA is responsible for reviewing the consultant cost proposal to determine if the tasks and hours are reasonable for the project scope and to determine if the cost elements are compliant with INDOT policies and federal regulations.

5-5.03 (1) Scope Task Breakdown

The LPA will need to review the proposed scope of work documentation and task breakdown to verify that the consultant's understanding of the scope is correct and to verify that the tasks are appropriate for the scope.

5-5.03 (2) Labor Hours

The LPA will need to review the proposed labor hours and classifications of labor in comparison to the LPA's independent estimate to determine if they are reasonable for the required tasks.

5-5.03 (3) Overhead Rate

The LPA will need to review the detailed cost proposal submitted by the consultant to verify that the appropriate overhead rate has been applied in the cost calculations. Audited provisional overhead rates are approved by INDOT on an annual basis. In accordance with federal regulations, 23 CFR 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, may be applicable for staff that exclusively perform field services and do not have permanently assigned company offices. Field rates are sometimes applied for construction inspection personnel, depending upon firm accounting practices.

5-5.03 (4) Escalation

The LPA will need to review escalation rates applied in consultant cost proposal calculations. Escalation rates are applied in cost 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 cost proposals.

INDOT publishes the "Escalation Values for INDOT Consultant Contracts" at **http://www.in.gov/indot/files/DBWI_ProposalsContracts_EscalationRates.pdf**.

The component parameters used by INDOT are Wages and Salaries (not seasonally adjusted), for private industry workers, professional, scientific and technical services.

5-5.03 (5) Profit Rate

INDOT's Profit Matrix is not a requirement. INDOT's profit matrix and complexity level list are available at **http://www.in.gov/indot/2730.htm** for review and use by the LPA if so desired.

5-5.03 (6) 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 as follows:

- Lump sum for PE.
- Unit price for R/W Services per the **INDOT R/W Fee Schedules**.
- Negotiated labor rate for Construction Inspection (CI).

The CI contract should not be written as a lump sum.

5-5.04 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.

The LPA shall retain documentation of negotiation activities and resources used in the analysis of costs to establish elements of the contract.

5-5.04 (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.

5-5.05 LPA-Consulting Contract Template

The **LPA-Consulting Contract** shall be in accordance with the latest version of the appropriate contract located on INDOT's Web site. INDOT requires this "boilerplate" contract to be used for all project phases (PE, R/W and CI) on all projects that will have federal-aid participation. R/W Engineering work may be included in the LPA-Consulting Contract for PE, but R/W Services requires a separate contract be prepared.

See **Section 9-3.01** of Chapter Nine of this Guidance Document for further information on the type of R/W Engineering work that can be included in the LPA-Consulting Contract for PE.

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.

5-5.06 INDOT Review of Draft LPA-Consulting Contract

A copy of the draft LPA-Consulting Contract and supporting documentation must be submitted to the District Local Program Director to forward to the District Local Project Manager for review before the contract is executed. The supporting documentation must include a copy of the fee proposal and manhours and a copy of the prequalification letter showing the **overhead rate**. INDOT will verify that the contract documentation is in order, that the cost is reasonable, and that all required contract provisions are included. This submission must also include a copy of the **LPA Selection Review Checklist** signed by the LPA's the ERC.

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

- ***As a standard practice with all LPA projects utilizing federal-aid funds, the LPA-Consulting Contract shall be submitted to the INDOT District as described above.***

The District Project Manager will provide any comments and the District Program Director 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 Selection Web page.**

5-6.0 CONTRACT ADMINISTRATION

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

5-6.01 Notice to Proceed

The LPA may only issue a NTP for services to their consultant after receiving NTP 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 NTP from INDOT will not be reimbursable with federal funds or be eligible to be applied as match credit.

5-6.02 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. **LPA Invoice-Voucher instructions** are outlined in Appendix C of this Document for reference. INDOT also has established invoice review guidelines in Chapter 4 of the **INDOT Professional Services Contract Administration Manual**.

5-6.03 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.

5-7.0 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 Program Director for assistance with this process.

5-8.0 CONSTRUCTION INSPECTION (CI)

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

INDOT highly recommends that the RFP for CI be advertised separately from the PE and R/W phases. The RFP for CI must be advertised on the INDOT Web site at least 6 months prior to the Ready for Contracts (RFC) date.

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

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

- Score the LOI from the RFP.
- Submit the consultant selection information to the District for certification and receive approval of consultant selection from INDOT.
- Submit the draft LPA-Consulting Contract and supporting documentation to the District for review.
- Submit a copy of the executed LPA-Consulting Contract to the INDOT District.
- Submit an **Engineer's Assignment letter** for CI work to the District Project Manager to have the District Construction Engineer approve the Project Engineer/Supervisor (PE/S) prior to the scheduled letting date.

Costs for Construction Inspection are authorized through the FMIS for Construction based on the **engineer's estimate** of construction costs prior to the construction contract advertisement

When the bids have been opened, the INDOT District will request a portion of the CI funds through FMIS and a Purchase Order (PO) is opened. Once the bid has been deemed official, the non-participating items have been deducted from the Contract and the Local's match has been calculated, INDOT Finance will adjust the PO accordingly. The District will issue NTP and work may begin after NTP is received.

5-8.01 Consultant Requirements

A consultant shall be both **prequalified** for 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 Director 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.

See **Chapter Twelve** of this Guidance Document for information concerning the qualifications of the **PE/S** and the requirements for the **Certified Technician and Qualified Technician Programs.**

5-8.02 Reimbursement for Construction Inspection

Once the NTP has been issued for CI and the FMIS adjustment has been completed, a PO 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.

INDOT charges a rate of 2.5% for testing and administrative overhead.

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 Local Public Agency Programs Office. The request must include the dollar and percentage amount needed and the justification.

If the Director of the Local Public Agency Programs 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 Local Public Agency Programs Office will provide a response that includes information on any federal funding caps.

5-9.0 CRITICAL ELEMENTS

Critical Elements are listed below but are not limited to the following.

- The DBE goal must be requested from the Economic Opportunity Division.
- The advertised RFP includes the correct project elements.
- Prequalified consultant and/or team.
- Proper scoring and ranking of the LOI with signature of ERC on the LPA Selection Review Checklist.
- The boilerplate LPA-Consulting Contract was utilized from INDOT's Web site.

5-10.0 FATAL FLAWS

Fatal flaws in Chapter Five include:

- The consultant selection procedure was not properly followed.
- The boilerplate LPA-Consulting Contract from INDOT's Web site was not used.
- The work was performed prior to INDOT issuance of the NTP.
- The LPA does not have a certified ERC or the ERC's certification has expired.

5-11.0 REFERENCES TO GUIDANCE MATERIAL

Links

INDOT's Local Public Agencies – "Consultant Selection" Web site

Consultant Prequalification Information

Federal Highway Administration Web Site

Disadvantaged Business Enterprise (DBE) and Title VI Resources

Forms

On-line DBE Goal Request Form

LPA Selection Review Checklist

LPA - Consulting Boilerplate Contract

Legal References

Administration of Architectural and Engineering (A&E) contracts - 23 CFR 172

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 - 23 CFR 172

Audits and Costs - 48 CFR Part 31

Participation by Disadvantaged Business Enterprises - 49 CFR Part 26

Construction Inspection Determination

Administration of Engineering and Design Related Service Contracts - 23 CFR 172

Supervising Agency - 23 CFR 635.105

Construction Monitoring (Inspection) Federal-Aid Policy Guide - FAPG G 6042.8.5-7

5-12.0 IDENTIFICATION OF RESOURCE PEOPLE

District Program Director

District Project Manager

Director of INDOT's Economic Opportunity Division

CHAPTER SIX: ENVIRONMENTAL PROCESS

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

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.

The environmental process for local projects follows the same process as state projects.

The following sections list the Critical Elements, Fatal Flaws, References to Guidance Material (with links) and Identification of Resource People (with links) to aid you in the preparation of the NEPA document.

6-1.0 CRITICAL ELEMENTS

Some **critical elements** necessary for successful completion of a NEPA document include but are not limited to:

- The consultant maintains certification in appropriate environmental prequalification categories.
- Adequate information is 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).
- Preparing Wetland delineations and Waters Reports (if required).

6-2.0 FATAL FLAWS

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:

- The project is not included in the appropriate Transportation Improvement Program (TIP) if applicable, and the Statewide Transportation Improvement Program (**STIP**).
- The permits are not obtained in a timely manner.
- The Right-of-Way (R/W) covered by the environmental document being less than that indicated by the design plans.
- An increase in impacts after the environmental document is approved.
- Determining the need for mitigation too late in the environmental process.

6-3.0 REFERENCES TO GUIDANCE MATERIAL

Links

Procedural Manual for Preparing Environmental Documents

INDOT Categorical Exclusion Manual

INDIANA DEPARTMENT OF TRANSPORTATION – CULTURAL RESOURCES MANUAL – Chapter 3

INDOT's Public Involvement Policies and Procedures Manual

Division of Historic Preservation and Archaeology's (DHPA's) Qualified Professional Roster

Office of Public Involvement Web page

Clean Water Act

Waterway Permit Manual

Federal Highway Administration's Section 4(f) Web site

INDOT's Traffic Noise Analysis Procedure

Advisory Council on Historic Preservation Section 106 regulations

Indiana Historic Bridge Minor Projects Programmatic Agreement

Indiana Historic Bridge Inventory

6-4.0 IDENTIFICATION OF RESOURCE PEOPLE

District Environmental Section

Environmental Services Division

INDOT's Public Hearing Office

United States Fish and Wildlife Services (USFWS)

State Historic Preservation Officer (SHPO)

- ***Persons who should receive copies of communications regarding environmental matters include the:***

  - ***Designated Employee in Responsible Charge***
  - ***District Local Project Manager***
  - ***District Environmental Manager***
  - ***MPO (if project is within an MPO area)***

CHAPTER SEVEN: PLAN PREPARATION

Acronyms used in this Chapter

AASHTO – American Association of State Highway Transportation Officials
ADA – Americans with Disabilities Act
A/E – District Construction Area Engineer
BRFPS – Bridge Final Plans Submission
CPD – Contract-Preparation Document
ERC – Employee in Responsible Charge
ERMS – Electronic Records Management System
FHWA – Federal Highway Administration
IAC – Indiana Administrative Code
IDM – Indiana Design Manual
INDOT – Indiana Department of Transportation
LCCA – Life Cycle Cost Analysis
LPA – Local Public Agency
P.E. – Professional Engineer
PS&E – Plan Specifications and Estimates
RFC – Ready for Contracts

7-1.0 CHAPTER SEVEN OVERVIEW

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

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, Indiana Department of Transportation (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.

7-2.0 PLAN DEVELOPMENT

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 or as described below for bridge rehabilitation projects. Stage 3 Review is submitted at 90% 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 Electronic Records Management System (ERMS) Coordinator and requesting a review.

If the project involves utility relocation, appropriate time must be given to the Utility to develop their work plans per 105 IAC 13. The Stage 3 submittal date may be adjusted to coincide with the development time provided to the Utility in 105 IAC 13, which will allow for the utility work plans to be complete and included with the Final Tracings submittal. Final Tracings submittals that do not include the Utility Work Plans or the Utility Certification will be considered "Unsatisfactory" for the purposes of rating the Consultant's performance.

A Stage 1 submission is recommended if there is a Level One design exception or if the project involves an Americans with Disabilities Act (ADA) component.

Bridge rehabilitation projects must follow the development process outlined in IDM Chapter 14, 14-2.05 Bridge Plans, Rehabilitation Project. LPA projects will not require Preliminary Plan Review. If the project has an ADA component, a preliminary plan review is recommended. The LPA may also request an INDOT review of Preliminary Plans as described above for Stage 3 Review. Submittal of Bridge Final Plans Submission (BRFPS) shall be submitted in place of Stage 3 Submittal in accordance with INDOT's Letting Preparation Schedule or sooner. All items required for Stage 3 Review not specified in IDM 14-2.05(4) shall be provided with BRFPS.

7-2.01 Adherence to Design Criteria

Each project will be designed for project intent. The Designer should use a design up philosophy, i.e., design for project intent then design exception out appropriate elements as necessary. Other elements should only be considered if crash history or future development need to be addressed. The designer then may use the IDM, AASHTO Green Book, AASHTO Low Volume Guide or any other publication that may be appropriate. The design should check with INDOT for concurrence prior to using other publications. Documentation is required.

Submittals will be reviewed by the appropriate staff at both the District and Central Office for the design requirements. "Open Roads" ideas should be presented to the District Local Project Manager and the INDOT Design Reviewer, with the pros and cons identified, before incorporating them into the submittal.

While all LPA projects shall be developed according to the selected document, when a project cannot meet Level 1 or Level 2 Design criteria as described in **IDM Chapter 302 (Chapter 40-8.02),** a request for a Design exception will be necessary. Design exception requests should be submitted for review as soon as possible.

A determination of technical infeasibility in accordance with 40-8-04 is required for any Design Exceptions for ADA requirements.

7-2.01 (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 Chapter 302 [Chapter 40-8.02(01)]**. The formal documentation and approval process for a design exception or waiver is described in **Chapter 302 (Chapter 40-8.04).** These guidelines must be followed anytime these criteria are not satisfied.

The LPA and their consultant have the option to submit project designs to INDOT for technical review throughout the project development process. INDOT encourages Stage 1 submittals for all complex projects; waiting until Stage 3 may risk revisions that could jeopardize the letting date. Every effort will be made to complete these reviews within 30 days.

The need for design exceptions must be identified as early as possible 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 **Chapter 302 (Chapter 40-8.04)** of the IDM including the following:

- All projects requiring a Level 1 Design Exception must submit the **Design Exception Request Form** and a Stage 1 Review Submittal via the ERMS to the District Local Project Engineer for review and approval as defined in **IDM Chapter 103 (Chapter 14)**.
- The submission requires that all plans and design calculations be prepared for the Stage 1 level of completion (approximately 30% project design completion) in accordance with **IDM Chapter 103 (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 the INDOT Highway Design and Technical Support Division or the Bridges Division 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 concerning the process for identifying, justifying and processing exceptions to the geometric design criteria, see **Chapter 302 (Chapter 40-8.03)** of the IDM.

7-2.01 (2) 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 Chapter 302 [Chapter 40-8.02(01)]**.

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 who has jurisdiction of the road or project and shall be included with the Stage 3 Review submittal. For more information on this process, please refer to **IDM Chapter 302 (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 will document in the project file via ERMS the specific criterion that has not been satisfied. The Designer shall inform the Local Public Agency Employee in Responsible Charge (LPA ERC) of the Level 3 criterion not satisfied.

7-3.0 FIELD SURVEY

Most LPA projects require a Field Survey or a Field investigation.

Chapter 103 (Chapter 14-3-0) of the IDM discuss general survey drafting standards and how to incorporate the survey data into the construction plans.

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.

Aerial and Ground Survey information is also available in Chapter 106 (Chapters 22-26) of the IDM. Questions regarding the Field Survey should be directed to the designated District Local Project Manager.

7-4.0 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** (IDM Figure 203-3C) for each bridge and culvert within the limits of the project as applicable.

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 **IDM Chapters 201-205 (Chapters 29 through 37)**.

7-5.0 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 Project Manager the type of field checks required for each project.

The preliminary field check occurs after the Stage 1 but before the Stage 2 submission.

The Designer is responsible for preparing and distributing plans and notifying all relevant parties of the pending field check. The distribution list can be found in IDM figure 14-1B.

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

For more information on field checks, including scheduling, notification, plan distribution and generating the Field Check report, see Chapter 103 (Chapter 14-1.02(03)).

7-6.0 GEOTECHNICAL INVESTIGATION APPROVAL

Per IDM Chapter 107-3.0, the designer of a LPA project will submit the draft Geotechnical Report to the Office of Geotechnical Services via ERMS for approval. Notify the District Coordinator, Office of Geotechnical Services and designated District Local Project Manager, via email, that the submission has been made.

The Designer should refer to IDM Chapter 107 to determine if the project will need a geotechnical investigation. If a geotechnical investigation is not needed or if it is difficult for the designer to make a judgment, the designer shall contact the INDOT Office of Geotechnical Services for clarification. The question should be directed to the Office of Geotechnical Services when the Stage 1 plan is ready. If a project is qualified for a soil waiver, the designer shall make a formal request to the Office of Geotechnical Services with proper documentation as described under Section 107 of the IDM for approval.

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 consultant is not required to submit the investigation plan to the Office of Geotechnical Services for review and approval at each step of the investigation, but is strongly encouraged to do so.

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 Office of Geotechnical Services must also be submitted with the Stage 3 Review Submission.

For more information see the **Geotechnical Manual and Guidelines Web page** and the **IDM - Geotechnical Waiver (Figure 107.1A)**.

7-7.0 PAVEMENT DESIGN

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.

The Project Designer is responsible for pavement design.

7-7.01 Design Criteria

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

- Anticipated pavement life and type.
- Extent and 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.
- Note significant construction concerns and areas of potential, high risk constructability issues.
- A pavement treatment and cost must be identified during early stages of development of a LPA project. A preliminary pavement design may be required without the available data like cores, FWD and soils information. The need for testing (cores, FWD, soils information) should be identified and be requested well in advance.
- The pavement design shall be designed by a Professional Engineer (P.E.) and checked by a second P.E. both competent in pavement design. The Pavement Designer shall affix his or her PE stamp to the design prior to submittal. In addition, the Pavement Designer may be requested to brief or explain the pavement design in person to the Pavement Engineering Office staff.

7-7.02 Pavement Design Submission

It is no longer acceptable to submit the pavement design with or right before the Stage 3 Submission. Late submissions add unnecessary time to the project and may prevent the project from going to letting as scheduled.

The pavement design submission shall occur after the pavement and geotechnical investigation is complete. 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 (Stage 2 submission is an optional submission occurring at 60% of plan development completion).

The Pavement Design Submittal must be reviewed by the Employee in Responsible Charge (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 Local Project Manager, the Pavement Engineering Office, and the ERC to ensure an effective line of communication.

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 Pavement Engineering Office, the designated District Local Project Manager, the INDOT District Pavement Engineer and the District ERMS Coordinator at the time you submit your pavement design.

7-7.03 Pavement Design Review

INDOT does not approve of pavement design submittals but reviews them for compliance to the 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 Project Manager and will provide suggestions or guidance in the issues that must be resolved. Once the pavement design has been reviewed and determined in compliance with IDM Chapter 304, a pavement design acceptance letter will be sent to the LPA and the Project Designer.

The Pavement Design provided will have a validity of no more than 2 years. If the pavement design acceptance letter is over 2 years old, the LPA Pavement Design Engineer will need to review and revise accordingly. In addition, any project changes prior to construction, including but not limited to scope, pavement treatment, geometry, paving locations must be sent to the Pavement Engineer who stamped the pavement design. The Pavement Engineer is the only competent authority to authorize a change with review from INDOT Pavement Division.

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

7-7.04 Alternate Pavement Bid

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. An example and major Portland Cement Concrete Pavement (PCCP) and Hot Mix Asphalt (HMA) unit prices are available on the Pavement Engineering Section of the Standards and Specification Web site at **http://www.in.gov/dot/div/contracts/standards/11PvmtPrices.pdf.**

The LCCA is also required to include treatments identified in **Chapter 304-19** 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.

7-8.0 PROPRIETARY MATERIAL

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 108, (Chapter 17-1.5).

All proprietary materials require approval regardless of whether the work is participating or non-participating. Ensure the request for use of Proprietary Materials is submitted by Stage 2 level of development. Incorporation of non-approved proprietary materials may result in repayment of partial or all project federal-aid funds by the Federal Highway Administration (FHWA). 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.

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

The review and approval process for proprietary materials takes 4 to 6 weeks.

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. The project will not be allowed to proceed to letting with non-approved proprietary materials specified.

Key steps in the proprietary material approval process include:

- All requests must be made through the **District Local Project Manager** and the District ERMS 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 60% project design completion).
- All requests must include a **Proprietary Materials Transmittal Letter**, **IDM Form 17-1C** and the appropriate **Proprietary Material Use Certification Form** or a **Public-Interest Finding** as described in **Chapter 108, (Chapter 17-1.5)** of the IDM.
- The Proprietary Material Use Certification Form will be reviewed and approved or rejected by either the Highway Design and Technical Support Director or the Bridges Director. The review and approval process takes about 4 to 6 weeks. Confirmation of approval or rejection will be communicated to the LPA and their Designer through the District Local Project Manager.

7-9.0 UNIQUE PAY ITEM AND UNIQUE SPECIAL PROVISIONS

Unique Pay Items and Unique Special Provisions must be submitted to INDOT for approval prior to the Stage 3 Submission. These items will be submitted to the **District Local Project Manager** who will manage all distribution of appropriate material. Unique special provisions regarding liquidated damages must be approved by the District Construction Area Engineer (A/E).

The District Local Project Manager 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.

7-9.01 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. For a better explanation of non-participating items, please see **Construction Memorandum 12-3**.

7-10.0 STAGE 3 SUBMISSION

The Stage 3 Submission is the point where INDOT provides a thorough review of the entire set of plans and supporting documentation. Section 1 of the FHWA-Indiana PS&E Checklist is completed by the INDOT Plan Reviewer at this stage.

The Designer is responsible for preparing the Stage 3 Submission for INDOT. Plans and design calculations will be prepared to a final plan level of completion (90% project design completion level) in accordance with **IDM Chapter 103 (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. Any Stage 3 Submission received by INDOT before the Pavement Design Acceptance Letter has been sent to the LPA and their Designer will be rejected. The Stage 3 Submission may be resubmitted once the pavement design review process has been completed.

The Designer will electronically transmit the Stage 3 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 Submission will be reviewed by INDOT for Level 1 and Level 2 Design Criteria, Permits, Geotechnical, Pavement, and Hydraulics approval letters, Maintenance of Traffic and other items as indicated in the IDM for conformance and for **fatal flaws**.

INDOT will review the Stage 3 Submission within 1 month of receipt and will forward the results of the review to the Designer and notify the LPA.

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

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 Submission, INDOT will determine the level of additional review required. However, the design plans and the pavement design must reflect no changes in scope have taken place.

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

7-11.0 FINAL TRACINGS SUBMISSION

At the time of Final Tracings submission, the LPA should have completed their Consultant Selection and an executed LPA-Consulting CI contract should have been submitted to the District Local Program Director.

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

In accordance with Design Memorandum 15-08, the title sheet for an LPA set of plans submitted with the Final Tracings Submission must include the following signatures:

- ***The LPA's board or administrative body. The minimum number of signatures is that which represents a quorum. The LPA's fiduciary representative may sign in lieu of the board members or administrative body.***

- ***The LPA's ERC.***

The person's name and title should be printed below the signature. The respective signatures must be obtained prior to the Final Tracings submittal. Questions should be directed to the appropriate INDOT LPA Project Manager.

The Final Tracings Submission includes but is not limited to: Environmental Document approval, Final Plans, Specifications, Estimate, Final Tracing Approval letter, Right-of-Way Certification, Permits, and the Contract-Preparation Documents (CPD) in the IDM **Chapter 103 (Chapter 14 Figure 14-C).**

The Designer should reference the **Final Tracings Checklist**, which can also be found on the Design Manual Editable documents Web site at http://www.in.gov/dot/div/contracts/design/dmforms/(Checklist 14-1E) for a complete listing of all documentation required for the Final Tracings Submission.

The Final Tracings Submission will be submitted to the District ERMS Coordinator where it will be reviewed prior to transmitting the Final Tracings 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.

The District Local Project Manager provides the plans, specifications and estimate to the Area Engineer to complete the "time set" portion of the CPD. After this section is complete, the District Local Project Manager will send the CPD back to the Consultant so it can be uploaded into ERMS. If the LPA or their Consultant would like to discuss the construction time set before it is set, they should work with the District Local Project Manager to schedule a meeting with the District Construction A/E.

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.

7-11.0 (1) FHWA–Indiana PS&E Checklist

The **FHWA-Indiana Plans, Specification & Estimates (PS&E) Checklist** was added as a required document to the Final Tracings Checklist effective April 15, 2012. The purpose of the FHWA-Indiana PS&E Checklist is to ensure a complete Final Tracings Submission and a more efficient PS&E approval process.

The 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.

While this checklist is an internal INDOT form, the LPA and/or Designer should view the FHWA-Indiana PS&E Checklist once it has been uploaded to ERMS to ensure all required documents have been submitted and reviewed.

The checklist can be found in ERMS under the naming convention: FT FHWA-Indiana PS&E Checklist[DesNo.]

If there are any missing documents or required reviews, the PS&E will not be accepted and the project will not go to letting.

All the firms related to the FHWA-Indiana PS&E Checklist can be found at the following link on INDOT's Web site: **http://www.in.gov/dot/div/contracts/design/dmforms/index.html**.

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 the Contract Administration Division

For more information related to the PS&E, see **Chapter 10-2.0 (3)** of this Guidance Document.

7-12.0 PLAN REVISIONS PRIOR TO LETTING

Plan Revisions are the changes made to a set of plans and contract documents 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 **Chapter 103 [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 the Contract Administration Division for posting.

7-13.0 CRITICAL ELEMENTS

Critical Elements in Chapter Seven include, but are not limited, to:

- Field Check
- Geotechnical Investigation
- Pavement Design
- Construction Time Set
- Cost Estimate

- **Proprietary Material** approval
- Design Documentation
  - Level 1 Design Exceptions approved by INDOT
  - Level 2 Design Exceptions - Signed by the 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

7-14.0 FATAL FLAWS

- The Field Check was not held in a timely manner.
- The Geotechnical Report was not submitted on time or not provided to the correct persons.
- Pavement Design submittal was not reviewed by correct persons.
- The Proprietary Material approval was not received prior to the submission of the Final Tracings Package.

7-15.0 REFERENCES TO GUIDANCE MATERIAL

Links

Indiana Manual of Uniform Traffic Devices (MUTCD) Reference Material

Geotechnical Manuals and Guidelines

INDOT Approved Materials List

INDOT Web page - Standards & Specifications

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

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) and **23 CFR 630.1010**

FAA permit or Approval Date - 23 USC 318 - 23 CFR 620.103 (c) - 23 CFR 620 Subpart A

Value Engineering Implementation Letter - 23 USC 106 (e) and **23 CFR 627**

Initial Financial Plans (IFP) - 23 USC 106 (h)

7-16.0 IDENTIFICATION OF RESOURCE PEOPLE

All questions and coordination regarding the following topics should be directed to the **District Local 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 to the **Pavement Engineering Office**.

- **Geotechnical Investigations** – Directed to the **Office of Geotechnical Services Section of the Materials and Test Division.**

- **Bridge and Culvert Hydraulics** – Directed to the **Hydraulic Engineering Division**.

- **Level 1 Design Exceptions and Proprietary Material Justifications** that cannot be answered by the **District Local Project Manager** or other District Staff should be directed to **Highway Design & Technical Services Division.**

Communications and project submittals shall include the:

- ***ERC***
- ***District Local Project Manager***
- ***Designer***
- ***District ERMS Coordinator***

CHAPTER EIGHT: UTILITY & RAILROAD COORDINATION

Acronyms used in this Chapter

FMIS – Fiscal Management Information System
INDOT – Indiana Department of Transportation

If utility coordination is needed on a project, a firm cannot submit a Request for Proposal unless they have an Indiana Department of Transportation (INDOT) certified utility coordinator. This certification began on January 1, 2014. To become an INDOT certified utility coordinator, the person must successfully complete the INDOT utility coordinator training and certification program. The INDOT training and certification program is 2 days of training on utility coordination related subjects and includes a 100 question test offered in 4 parts as 25 question quizzes. A score of 75% or better on the test is required to successfully complete the training and become certified. The INDOT utility coordinator training and certification program is offered infrequently as demand dictates.

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.

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.

The following sections list the Critical Elements, Fatal Flaws, References to Guidance Material (with links) and Identification of Resource People (with links) to aid you in the preparation of the National Environmental Policy Act (NEPA) document.

8-1.0 CRITICAL ELEMENTS

Critical Elements in this chapter include but are not limited to:

- The Railroad agreement is prepared.
- The funds being authorized in the Fiscal Management Information System (FMIS).
- Contacting Indiana 811 for location of utilities.
- Obtaining the name, address and contact information for each utility.

- A Relocation Workplan is in place.
- A Utility agreement is prepared.

8-2.0 FATAL FLAWS

- The Railroad agreement is not executed.
- The Utility agreement is not executed.
- Indiana 811 was not contacted for location of the utilities.
- The funds were not authorized in FMIS.

8-3.0 REFERENCES TO GUIDANCE MATERIAL

Links

INDOT Utility Coordination Homepage
http://www.in.gov/indot/2389.htm

INDOT Utility Coordination Standard Documents (Forms)
http://www.in.gov/indot/3269.htm

INDOT Utility Coordination – Prequalification of Utility Coordinators
http://www.in.gov/indot/3268.htm#

INDOT Utility Accommodation Policy
http://www.in.gov/indot/files/UC_UtilityAccommodationPolicy_061214.pdf

INDOT Utility Facility Relocations on Construction Contracts (105 IAC 13)
http://www.in.gov/indot/div/public/utilities/pubs/105-IAC-13.pdf

INDOT - Indiana Design Manual Chapter 104 Utility Coordination
http://www.in.gov/indot/design_manual/files/Ch104_2013.pdf

FHWA Web site – Utilities Program
http://www.fhwa.dot.gov/utilities/

FHWA Web site – Safety
http://safety.fhwa.dot.gov/xings/

http://www.fhwa.dot.gov/legsregs/title23.pdf

Indiana Code - 105 Indiana Administrative Code 13 for Utility Coordination

Indiana Design Manual - Chapter 104 Utility Coordination

Chapter 105 Railroad Coordination

FHWA Web Sites

Program Guide: Utility Relocation and Accommodation on Federal-Aid Highway Projects

Utilities

Railroads

Forms

INDOT Utilities Web page - 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, Department of Transportation

Sub-Chapter G – Engineering and Traffic Operations

Part 645 – Utilities, Part 646 – Railroads

23 CFR 645 (Utilities)

23 CFR 645 (Railroads)

8-4.0 IDENTIFICATION OF RESOURCE PEOPLE

Project specific questions regarding aspects of Utilities and Railroad coordination for local federal-aid projects are to be directed to the **District Utility and Railroad representatives.**

Central Office Railroad and Utility Representatives are also available to answer general questions regarding utility and railroad coordination.

All critical information and communications regarding Utility or Railroad Coordination should include the:

- ***District Local Project Manager***
- ***Metropolitan Planning Organization (MPO) (if project is within an MPO area)***

CHAPTER NINE: RIGHT-OF-WAY

Acronyms used in this Chapter

APA – Appraisal Problem Analysis
ERC – Employee in Responsible Charge
ERMS – Electronic Records Management System
FHWA – Federal Highway Administration
FMIS – Fiscal Management Information System
INDOT – Indiana Department of Transportation
LPA – Local Public Agency
NEPA – National Environmental Policy Act
NTP – Notice to Proceed
PE – Preliminary Engineering
PFC – Preliminary Field Check
RFC – Ready for Contracts
R/W – Right-of-Way

If an ERC's certification has lapsed prior to the Right-of-Way phase, work cannot begin and funds cannot be requested until the LPA has a certified ERC.

9-1.0 CHAPTER NINE 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.

Land Improvement and Damages (LID) is paid after R/W Services 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 the Indiana Department of Transportation's (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.**

The Employee in Responsible Charge (ERC) is responsible for requesting the INDOT initiate federal project authorization through the Fiscal Management Information System (FMIS) from the Federal Highway Administration (FHWA) for the R/W phase of project development. This approval cannot and shall not be requested prior to the approval and certification of the Environmental Document.

9-2.0 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 R/W.

Land Acquisition will not be reimbursed if any contact with property owners is made prior to the approval of the National Environmental Policy Act (NEPA) document FMIS authorization for R/W Services.

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 or may have federal-aid funding at a later date for 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 LPA R/W Supervisor, 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. The letter shall be on the LPA's letterhead and signed by the ERC. The letter shall reference the des number and location of the project. A copy of the letter shall be sent to the District Local Project Manager. The body of the letter shall state the following:

  > In compliance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, the following assurance is made:
  >
  > Where federal funds are involved in any project or program which results in real property acquisition or displacement, the (name of LPA) will comply with said Act and Regulations.

- **LPA Project Scope Meeting Summary** – Assists the INDOT reviewers with scheduling and prioritizing their assignments. The **form** identifies the R/W clear date, property owners and tenants and shall be sent to the LPA R/W Supervisor with the Assurance Letter.

- **R/W Services, Management and Relocation** – The coordination, technical direction, review, and reporting of R/W service activities for each parcel to be acquired. These services include abstracting, R/W Engineering, Appraising, Buying, Relocation and Condemnation. Reports shall be made monthly or as required by the District Local Project Manager.

- **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. For temporary acquisitions, the research needs only to go back to the last deed of record.

- **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 the 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 INDOT shall certify that all parcels necessary to construct the project have been acquired and cleared in accordance with federal and state regulations.

  The LPA R/W Supervisor will review the parcels as they are received. The last parcel on a project must be received by the LPA R/W Supervisor at least 75 days before the project's Ready for Contracts (RFC) date for the R/W Certification to be issued prior to the RFC.

Any form documents used from INDOT Manuals must be revised to reflect the LPA rather than INDOT.

- **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 to the Electronic Records Management System (ERMS) and the LPA must submit the appropriate certification letter for the project, at least 75 days before the project RFC date.

If all R/W documentation is not submitted to the LPA R/W Supervisor at least 75 days prior to the RFC date, the letting date may 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.

Links to guidance and direction regarding Land Acquisition Activities are provided at the end of this Chapter titled **References to Guidance Material**.

For information regarding specific question related to asbestos, exceptions or letting with exceptions or of any other nature, please contact the **LPA R/W Supervisor.**

9-3.0 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 1 year but typically no longer than 2 years.

The land acquisition process consists of two major parts, R/W Engineering and R/W Services.

9-3.01 R/W Engineering

R/W Engineering and Title Research can be accomplished prior to the completion of the National Environmental Policy Act (NEPA) document. The APA may also be completed so long as the property owner is not contacted. These are the only R/W activities that can be included in the Preliminary Engineer (PE) contract.

Approval of funds in the Fiscal Management Information System (FMIS) **and** approval of the INDOT-LPA Contract by the Attorney General's Office is required before the LPA will receive a Notice to Proceed (NTP) from INDOT. In addition, federal authorization for R/W Engineering may be included with the PE authorization.

PE typically includes:

- Environmental
- Geotechnical
- Design

- Hydraulics
- R/W Engineering
    - Title Search
    - Plat #1
    - R/W Plans (The LPA shall submit the Preliminary R/W Plans to ERMS before beginning the acquisition process).
    - Legal Descriptions, parcel plats and APA
    - Other Plan Development Issues

9-3.02 R/W Services

R/W Services can begin only after the NEPA Document has been approved and certified by INDOT and a NTP from INDOT has been sent to the LPA.

Once the NEPA Document is approved by INDOT, FMIS authorization for R/W services may be requested.

APAs (if approved under the 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:

- APA's - <u>If the APA is completed with any owner contact, the APA preparation is considered R/W Services</u>
- Appraisals
- Buying
- R/W Management
- Relocation
- Compensation and land purchase issues

9-3.02 (1) Letter of Owner Contact & Owners Rights Booklet

The 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" and if applicable, the FHWA Relocation booklet "Your Rights and Benefits as a Displaced Person under the Federal Relocation Assistance Program" dated October 2014. These booklets provide 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.

For more specific guidance the LPA should contact the **LPA R/W Supervisor**.

9-4.0 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 may 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 (PFC) meeting and all issues addressed from the PFC and specific right-of-way lines are determined.

Preliminary R/W Plans submitted to ERMS.

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.

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 90 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 to the LPA R/W Supervisor after all buying is complete and 75 days prior to the RFC date. After all of the parcels are reviewed and approved, INDOT will issue a R/W Clear Certification to the LPA. The LPA shall upload as a single document, the LPA R/W Clear Certification and the INDOT R/W Clear Certification as part of this project's Final Tracings Submission.

Reimbursement

After payment is made to the property owner for property acquisition, the invoice-voucher forms submitted to the LPA to INDOT for reimbursement shall include:

1. The property owner's name
2. The property owner's address
3. The amount paid for land, improvements and damages
4. A copy of the cancelled check

9-4.01 Encroachments

Situations may arise where the LPA may wish for an encroachment to remain in place. This request will be considered provided the following conditions are satisfied and the following information provided:

- Determine that it is in the public interest to remain, or the removal would post an extreme hardship on the property owner.
- The encroachment must not impair the highway or interfere with the free and safe flow of traffic, and must be located outside the clear zone as defined in the most recent edition of the American Association of State Highway and Transportation Officials (AASHTO) Roadside Design Guide.
- All property owners of those allowed encroachments will be notified by the LPA that in the event that the encroachment needs to be replaced, upgraded, refurbished for any reason, including an act of God, it must be relocated and installed outside of the right-of-way.
- The encroachment does not create a safety hazard, does not create additional maintenance requirements and does not restrict the current or future use of the rights of way for transportation purposes.
- The encroachment is not located within the right-of-way of a State Route or NHS Route.

The request to allow the encroachment to remain must come from the highest elected LPA official on LPA letterhead and addressed to the District Local Project Manager. The request must include the following:

- Explain why it is in the public interest for the encroachment to remain.
- Acknowledge that if the encroachment must be removed during construction, the work will not be eligible for participation.
- Verify the encroachment is not on State right of way.
- Property owner name and address.
- Stationing of the encroachment.
- Plan sheet where the location of the encroachment can be identified.
- Description of the encroachment.

This request will be included with the R/W Clear Certification as an exception and must be approved by the District Local Project Manager and the LPA R/W Supervisor. All encroachments need to be specifically identified and shown on the project plans.

9-5.0 CRITICAL ELEMENTS

Critical Elements in Chapter Nine include but are not limited to:

- Assurance Letter
- Public Hearing Certification [**23 CFR 710.305**]
- Environmental Approval [**23 CFR 635.309.d**]
- FMIS Authorization
- Completed Parcel Packet for all parcels
- R/W Clear Certification Letter signed by an LPA official

9-6.0 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 the District Local Project Manager and LPA R/W Supervisor.
- The 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.

9-7.0 REFERENCES TO GUIDANCE MATERIAL

Links

INDOT's Real Estate Manuals Web page

INDOT Buying Manual

INDOT Relocation Manual

INDOT Property Management Manual

INDOT Local Public Agency Right-of-Way

FHWA Web page – Realty

At this time the following manuals are only available through the LPA R/W Supervisor:

- INDOT Right-of-Way Engineering Manual

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** and **14th Amendment**

Indiana Constitution - **Article 1, Section 21**

Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended

Domestic Security - CFR Title 6

Aliens and Nationality - CFR Title 8

Highways - CFR Title 23

Land Acquisition for Governmental Agencies

Transportation - Title 49

Uniform Relocation Act & Real Property Acquisition - Title 42, Chapter 61

The State of Indiana codes - IC 32-24

9-8.0 IDENTIFICATION OF RESOURCE PEOPLE

LPA R/W Supervisor

Communication regarding land acquisition should include the:

- ***ERC***
- ***Designer***
- ***Metropolitan Planning Organization (MPO) (if project is within an MPO area)***
- ***LPA R/W Supervisor***
- ***District Local Project Manager***

CHAPTER TEN: PREPARATION FOR LETTING

Acronyms used in this Chapter

CI – Construction Inspection
CIB – Contract Information Book
DBE – Disadvantaged Business Enterprise
ERMS – Electronic Records Management System
FHWA – Federal Highway Administration
FMIS – Fiscal Management Information System
INDOT – Indiana Department of Transportation
LPA – Local Public Agency
PS&E – Plan Specifications and Estimate
RFC – Ready for Contracts

10-1.0 CHAPTER TEN OVERVIEW

Chapter Ten discusses the preparation for the letting process up to the advertisement.

Preparation for letting occurs between the Ready for Contracts (RFC) date and the advertisement. At this point, the **Contract Administration Division** will prepare the contract documents to advertise the contract for construction letting. All of these steps will be done in coordination and concurrence with the Local Public Agency (LPA).

If an ERC's certification has lapsed prior to the Letting phase, the project will not be advanced to Letting until the LPA has a certified ERC.

10-2.0 PREPARATION FOR LETTING PROCESS

It is the responsibility of the Contract Administration Division to prepare the project documents for letting once the **Final Tracings 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).

10-2.0 (1) Disadvantaged Business Enterprise (DBE) Goal

The Contract Administration Division will create a **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 **Section 11-2.05** of this Document for more information on the DBE Goal.

10-2.0 (2) Contract Information Book (CIB) Preparation

The preliminary **CIB** is created by the Contract Administration Division using project information from the **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 to certify that what has been prepared is what they want submitted at RFC. As a courtesy, a copy of the CIB should be forwarded to the **LPA's** Employee in Responsible Charge (ERC) to review.

- ***After receipt from the Contract Administration Division, the LPA and Designer/Consultant will have 5 business days to consult and return the CIB Certification Form to the contact person identified on the form, with any comments or corrections and/or certified draft CIB. If no response is received within 2 business days, the project may be removed from the scheduled letting.***

  The process will be certified in accordance with section **Chapter 103 (Chapter 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 (A/E) and the Designer/Consultant has certified the draft CIB, the Contract Administration Coordination Engineer will sign and stamp the CIB.

10-2.0 (3) Plans, Specifications and Estimate (PS&E)

A preliminary detail estimate is sent to the Project Coordination Engineer 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 and PS&E approval 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 and Railroad Statements
- **Proprietary Materials** Approvals
- Other Project Specific Information, such as the PS&E Checklist

10-2.0 (4) Request for Funds through the Fiscal Management Information System (FMIS) to FHWA

For more information regarding the LPA Match, please see **Chapter Eleven**.

After the Contract Administration Division Estimating Administrator approves the PS&E package, the PS&E letter is written by the Indiana Department of Transportation (INDOT). The letter is transmitted to FHWA only if there is federal oversight on the project. 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.

Construction Inspection (CI) 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 **Section 12-2.01** of this Document for more information on CI.

For more information on the process of obligating funds through FMIS, please refer to **Chapter Three**.

- FMIS Approval

  Once the funds are authorized in FMIS, the project is ready for advertisement.

  For information on advertisement of the contract for bids, please see **Section 11-2.02** of this Document.

10-3.0 CRITICAL ELEMENTS

Critical Elements are listed below but are not limited to the following:

- Request for Proposals advertised for consultant to provide CI.
- Complete Final Tracings Package Submission Documents.
- Executed LPA-Consultant Contract for CI.
- **DBE** goal for construction provided and correct.
- Certified CIB (Certified by Consultant and LPA).

10-4.0 FATAL FLAWS

The following list provides a sample of possible **fatal flaws** related to preparation for letting:

- No FMIS approval for Construction and Construction Inspection.
- PS&E approval denied.
- No financial commitment letter from the LPA.
- The LPA-Consulting Contract for CI was not executed and received by INDOT.
- Failure to include construction phase in the current year Statewide Transportation Improvement Program/Transportation Improvement Program (**STIP**/**TIP**).

10-5.0 REFERENCES TO GUIDANCE MATERIAL

Links

INDOT Letting Preparation Schedule 2013 - 2020

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 and **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, 23 CFR 635.122 and **23 CFR 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 and **23 CFR 230.313**

State's DBE Program Goals - 49 CFR 26.41

Contract Information Book

Required Contract Provisions - 23 CFR 633.102 and **23 CFR 633.207**

10-6.0 IDENTIFICATION OF RESOURCE PEOPLE

Contract Administration Division

Economic Opportunity Division

All submittals and other communications must include the:

- ***ERC***
- ***Designer***
- ***District Local Project Manager***
- ***Metropolitan Planning Organization (MPO) (if project is within an MPO area)***

CHAPTER ELEVEN: LETTING

Acronyms used in this Chapter

CI – Construction Inspection
DBE – Disadvantaged Business Enterprise
EEO – Equal Employment Opportunity
ERC – Employee in Responsible Charge
FHWA – Federal Highway Administration
IAC – Indiana Administrative Code
IDM – Indiana Design Manual
INDOT – Indiana Department of Transportation
LPA – Local Public Agency
NTP – Notice to Proceed
PE – Preliminary Engineering
PO – Purchase Order
RFC – Ready for Contracts
R/W – Right-of-Way

11-1.0 CHAPTER ELEVEN OVERVIEW

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 Eleven discusses the process for bidding projects that are developed using the LPA federal-aid process. Traditionally this step is called the letting. The letting is the opening of bids from interested contractors and award of the construction contract to a contractor.

11-2.0 THE LETTING PROCESS

The Local Public Agency Program Office is fiscally constraining local projects. In order to do so, INDOT highly recommends that there be no LPA projects advertised for lettings in the months of April and May.

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 Web page** 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 the Federal Highway Administration (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.

11-2.01 Shop Drawings and Falsework-Review Procedure

Review of all project shop drawings will be the responsibility of the LPA. The LPA can make arrangements with their designer to perform shop drawing review, but the overall responsibility is the LPA's. All reviews shall be in accordance with section 14-1.02(07) of the Indiana Design Manual (IDM).

Where **Chapter 103 [Chapter 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. The procedure is also outlined in Construction Memorandum 13-13.

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.

11-2.02 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 Web site.**

The advertisement is posted on the Web site, 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 Web page**.

105 IAC 11 of the Indiana Administrative Code (IAC) discusses the State requirements for **prequalification** and bidding.

11-2.03 Contract Questions and Answers

All questions from Contractors must go through proper channels and must not be answered directly by either the LPA or the LPA's Consultant.

Contractors must be referred to the **Contractor's Question Form** on the INDOT Web site 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 (A/E) will contact the **LPA's** consultant and LPA's Employee in Responsible Charge (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.

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.

11-2.04 Contract Revisions

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 the letting date at risk for rescheduling for a later letting.

11-2.05 Evaluation of Bids and Disadvantaged Business Enterprise (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 Web site**.

11-2.05 (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 Effort, please visit the following Web site: **http://www.in.gov/indot/2674.htm.**

11-2.06 Award of the Contract

Bids are awardable if the following conditions are met:

- The low bid is less than $1 million,
- 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 Director 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 Employee in Responsible Charge (ERC) will be contacted by email with the unofficial bid results. The ERC should concur with the award within **24 hours**. 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.

11-2.07 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 NTP 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 (PE), Right-of-Way (R/W), Construction Inspection (CI) or other phases of the project where the costs are incurred by the LPA and then reimbursed either through a voucher as described in **Appendix C** of this Document or through credits as described in Section **11-2.08** of this Chapter.

Prior to the RFC date, the LPA must have returned the INDOT-LPA Contract (see **Chapter Three**) 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.

Please see **Section 12-3.05** of this Document in regard to leftover federal funds after project letting.

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 additional LPA Match is needed, and the LPA cannot pay the match, the contract will be cancelled. Any Construction (CN) contract that is not awardable under State law, may be rebid with a change in scope.

If federal funds are utilized to pay for PE costs and the project does not move to the 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**.

11-2.08 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, 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 Director** 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 Director will send the summary sheet to the Local Public Agency Programs Office to apply them to the match calculations.

- ***If local funds are used to pay for the PE and R/W phases and are to be used as Match Credit toward the LPA's match in the construction phase, the LPA must follow consultant selection procedures as outlined in Chapter Five of this Document.***

11-2.09 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.

11-2.09 (1) Recommended Procedures to Reduce Delay of the LPA Match

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.

- 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 approach their Board or Council with the amount of the 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.

11-2.10 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 federally funded LPA contracts.

Insurance is required from the Contractor prior to the 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 Contract Management Section of the Contract Administration Division prior to issuance of the NTP.

11-2.11 NTP for Construction

In order for INDOT to issue the NTP for construction, the following tasks shall be completed:

- Contract forms must be properly signed and notarized by all parties to the construction contract
- LPA Match must be received by Accounts Receivable
- Proper insurance from the winning Contractor must be received by Contract Management
- All administrative checks (tax clearance, **prequalification**, unbalanced Bid Analysis, etc.) must be completed by INDOT
- Purchase Orders (POs) must be dispatched

Adjustment to the scheduled completion dates is sometimes necessary if the NTP is not issued within 30 days from letting. A delay caused by the Contractor does not warrant the adjustment to the completion dates. Adjustment to the completion date shall be concurred by the District Construction Director, the District Local Project Manager and the ERC.

11-2.12 Purchase Order (PO)

After the LPA Match has been received, Fiscal Specialists in the Contract Administration Division will develop a requisition to secure a PO.

The requisition is processed electronically through several budget checks. The Fiscal Specialist then dispatches the PO obligating the funds. The Contract Administration Estimating Administrator signs the PO. The PO data is then entered into the INDOT SiteManager Construction Management Software.

Completing this process allows the Project Engineer/Supervisor (PE/S) to begin processing progress estimates for construction work completed. The signed paper copy of the PO is filed in the contract files maintained by the Final Records Section of the Construction Management Division.

11-3.0 CRITICAL ELEMENTS

Critical Elements are listed below, but are not limited to, the following:

- Consultant Selection approval for CI by INDOT.
- Executed LPA-Consulting Contract for CI.
- Executed INDOT-LPA Contract and/or supplements returned by Attorney General's office prior to the Friday before the letting.

- Financial Commitment Letter.
- Email from the Equal Opportunity Division stating that the DBE goal was met with submitted Letters of Interest for the construction inspection work.
- Timely response to revisions.
- LPA Award Concurrence.
- LPA Match submitted.
- NTP for Construction Inspection issued.

11-4.0 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 NTP to construction:

- Consultant Selection for CI not approved by INDOT.
- No executed LPA-Consulting Contract.
- INDOT-LPA Contract not executed by the Attorney General's office.
- No Financial Commitment letter.
- DBE requirements not met.
- Untimely or no response to requested revisions.
- The LPA does not agree in the bid award amount.
- The LPA match was not submitted for their portion of construction.
- No NTP for CI issued.

11-5.0 REFERENCES TO GUIDANCE MATERIAL

Links

Contracts Available For Bid

Bid Documents

Bid Express

Standard Specifications

Submitting and Answering Contract Questions

Revisions and Addendums

Equal Employment Opportunity (EEO) Web site

Legal Requirements

For your convenience many of the federal and state regulations and statutes 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 and **23 CFR 635.309**

Bid Evaluation/EEO Review

Equal Employment Opportunity on Federal and Federal-Aid Construction Contracts 23 CFR 230.107 and **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 and **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 4-13.6-5-5

Tax Liability - IC 6-8-1-2

Drug Testing of Employees of Public Works Contractors - IC 4-13-18

11-6.0 IDENTIFICATION OF RESOURCE PEOPLE

Contract Administration Division

District Local Program Directors

District Local Project Manager

District Construction Engineers

- ***Communications throughout the letting process should include the:***

  - ***District Local Project Manager***
  - ***Designer***
  - ***Metropolitan Planning Organization (MPO) (if the project is within an MPO area)***

CHAPTER TWELVE: CONSTRUCTION

Acronyms used in this Chapter

A/E – District Construction Area Engineer
CI – Construction Inspection
ERC – Employee in Responsible Charge
FCR – Final Construction Record
GIFE – General Instructions to Field Employees
IA – Independent Assurance
IDM – Indiana Design Manual
INDOT – Indiana Department of Transportation
LPA – Local Public Agency
LPA ERC – Local Public Agency Employee in Response Charge
MPO – Metropolitan Planning Organization
NTP – Notice to Proceed
PE/S – Project Engineer/Supervisor

12-1.0 CHAPTER TWELVE OVERVIEW

Chapter Twelve provides an overview of the role of the Local Public Agency's Employee in Responsible Charge (LPA ERC) in Construction.

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)**.

12-2.0 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 construction phase begins after:

- The Local Public Agency (LPA) submits their matching funds.
- The construction contract has been awarded and the Contractor is issued the Notice to Proceed (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 (CI) has been issued to the LPA from the District Local Program Director. The LPA then must issue a NTP to the CI Consultant.

The CI Consultant will provide a qualified Project Engineer/Supervisor (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 CI Consultant will also provide qualified Construction Inspectors.

See **Chapter Five** for more information regarding selecting a consultant firm**.**

Once the construction phase begins the Contractor will be instructed to notify the Employee in Responsible Charge (ERC) that it is time to schedule the **Preconstruction Conference**. It is the responsibility of the ERC to contact the District Construction A/E who will coordinate with the ERC to schedule the Preconstruction Conference. See Section **12-2.03** of this Document**.**

12-2.01 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.

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 Five** 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.

CI 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 as put forth by the INDOT **Consultant Contracting Manager** to conduct CI.

In accordance with IC 8-23-2-14, the CI costs include up to 2.5% of the total cost of CI 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.

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.

12-2.02 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 **Section 12-2.01** of this Document.

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 will be approved by the District Construction A/E prior to the Ready for Contracts (RFC) date.

12-2.03 Preconstruction Conference

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 the persons listed in Section 2.3 of Section 2 of the GIFE, which can be found at **http://www.in.gov/dot/div/contracts/standards/GIFE/GIFEindex.html.**

The PE/S is responsible for covering the items during the Preconstruction Conference listed in **Section 2.4.1 of the GIFE**.

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 CI 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.

12-3.0 CONSTRUCTION ADMINISTRATION

12-3.01 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 **Chapter 103 [Chapter 14-1.02(08)]** of the Indiana Design Manual (IDM).

12-3.02 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.

- ***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.

The procedure for Change Orders on Construction Contracts Policy is explained in the current **Construction Memorandum 14-05**.

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.

- ***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.***

12-3.03 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 **Chapter 103 [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.

12-3.04 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.

If there are questions related to remaining federal funds, please contact your **District Local Program Director**.

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 Metropolitan Planning Organization (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 Four** for additional information on MPO-LPA projects.

12-3.05 Leftover Funds Policy

It is INDOT's policy to only allow non-discretionary changes to a project scope after bidding. Changes to the project scope after bidding that are by the choice of the LPA and are not required to complete the project will not be eligible for federal funds and must be funded 100% locally.

The federal funds allocated to a project are intended to accomplish the original scope of the project as designed. If the project bid prices are lower than estimated, the LPA may NOT utilize those federal-aid funds and the remaining balance of federal-aid funds will revert back to the local program.

A sponsoring agency may not transfer funds to another project after bids for the project have been opened.

12-3.06 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 10 business days.

All federal-aid projects require a Final Construction Record (FCR). Preparing the FCR is the responsibility of the PE/S. The FCR 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 Index can be found on INDOT's Web site at **http://www.in.gov/dot/div/contracts/standards/FCRIndex.pdf**.

The FCR is submitted and maintained in the SiteManager System.

By the time the FCR 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 FCR will be reviewed in INDOT's District Office and then forwarded to INDOT's Central Office for verification and approval.

After the FCR has been approved in the Central Office, the project will proceed to Project Closeout. Please refer to **Section 14-3.0** in this Document for further information on Project Closeout.

The final record procedures are detailed in the **"Final Construction Record & Contract Finalization Procedures For SiteManager Contracts."**

12-4.0 CRITICAL ELEMENTS

Critical Elements in Chapter Twelve include but are not limited to the following:

- Approval of the qualifications of the PE/S by INDOT.
- 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 Preconstruction 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.

12-5.0 FATAL FLAWS

In construction, 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.

- No inspector present 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 FCR.
- Failing to maintain a project file.
- Not having funds available for added work.
- Work occurs before the NTP is issued to the Contractor by INDOT Contract Administration.
- Subcontractors start work before NTP for construction has been issued.
- Accessing a parcel prior to Right-of-Way (R/W) being clear.

12-6.0 REFERENCES TO GUIDANCE MATERIAL

Links

Federal Regulations

INDOT Web site

Standard Specifications and Drawings

Consultant Prequalification Criteria

Certified Technician Training Program

Quality Assurance Technician Training Program

SiteManager User Manual

Indiana Test Methods

Manual on Uniform Traffic Control Devices

Forms

Form IC-639 – Report for Final Inspection & Recommendation for Acceptance

Final Construction Record Index form

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 Prequalification of Inspectors

Local Public Agency Oversight Policies & procedures - 23 CFR 635.105

Independent Assurance System - 23 CFR 637.207

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 and **IC-5-16-8**

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 - IC Title 8 Article 23, INDOT Business Rules

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) and **23 USC 121**

Project Closeout/Audit

Adequate Maintenance Federal-Aid Roads - 23 CFR 1.27 and **23 USC 116**

Participation in Contract Claim Awards and Settlement - 23 CFR 635.124

State Regulations

IC Title 8 Article 23

12-7.0 IDENTIFICATION OF RESOURCE PEOPLE

District Construction A/E

District Testing Offices

Communications concerning Construction should include the:

- ***ERC***
- ***District Construction A/E***
- ***PE/S***
- ***MPO (if project falls within an MPO area)***

CHAPTER THIRTEEN: COUNTY BRIDGE INSPECTION

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
LPA ERC – Local Public Agency Employee in Responsible Charge
MPO – Metropolitan Planning Organization
NBIS – National Bridge Inspection Standards
NTP – Notice to Proceed
P.E. – Professional Engineer
RFP – Request for Proposals
STIP – Statewide Transportation Improvement Program
TIP – Transportation Improvement Program

13-1.0 CHAPTER THIRTEEN OVERVIEW

The role of an Employee in Responsible Charge (ERC) for Bridge Inspection has been instituted based on the need for more effective communication and controls over the bridge inspection schedule.

Please refer to **Section 1-1.04 (1)** in Chapter One of this Document for specific information regarding the role of an ERC and the certification requirements.

The purpose of the Bridge Inspection program is threefold:

1. To ensure public safety.

2. To provide for the efficient use of resources in maintaining the serviceability of Indiana's bridges and small structures.

3. To comply with all federal and state laws, rules, and policies.

Bridge Inspections are required on all bridges meeting the **National Bridge Inspection Standards (NBIS).**

NBIS are federal regulations establishing requirements for:

- Inspection procedures
- Frequency of inspections
- Qualifications of personnel
- Inspection reports
- Maintenance of bridge inventory

Any bridge not inspected and inventoried in compliance with the NBIS may be ineligible for federal bridge replacement funding.

For more information regarding the inspection program, see Chapter One of the **Indiana Department of Transportation Bridge Inspection Manual**.

- ***As a requirement of any project located within the planning area of a Metropolitan Planning Organization (MPO) including bridge inspection contracts, the project must be listed in both the Transportation Improvement Program (TIP) and Statewide Transportation Improvement Program (STIP).***

13-2.0 CONSULTANT SELECTION AND REQUEST FOR PROPOSALS (RFP)

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 writing and submitting the RFP for advertisement for the bridge inspection as outlined in **Chapter Five, Section 5-3.0.** The ERC is also responsible for ensuring the consultant selection process adheres to all federal and state regulations and requirements as outlined in the same Chapter.

13-3.0 CONTRACTS

13-3.01 Local Public Agency (LPA) – Consulting Contract

Bridge Inspection contracts typically are in place for 4 years and all county bridges listed in the Indiana Bridge Inspection Application System (BIAS) shall be included in the same contract.

The LPA should use the **LPA-Consultant Contract for County Bridge Inspections** posted on the Indiana Department of Transportation's (INDOT's) Web site. The aforementioned contract is a boilerplate contract and is set up as a lump sum contract. However, each bridge has a per bridge cost associated with it. Always check INDOT's Web site to ensure you are using the most current version of the LPA-Consultant contract for bridge inspections.

In general, most bridges are inspected every 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 Request for Proposals (RFP) should begin approximately one year prior to the expiration of the current Bridge Inspection Contract. The District Local Program Director needs to know when a contract is due to expire so they can contact the ERC to ensure the process gets started in a timely manner. These contracts will be reviewed in a similar process as described in **Section 5-3.02 (7)** of this Guidance Document.

13-3.02 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 Director receives a copy of the executed LPA-Consulting Bridge Inspection Contract from the ERC. The INDOT-LPA Contract is prepared by the Local Public Agency Programs 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 Director.

Before beginning Phase II of the Bridge Inspection work, the ERC is responsible for contacting the District Local Program Director to inform them they will be beginning work on Phase II of the inspections and ask that the funds be requested for Phase II. If any work is completed prior to INDOT's written Notice to Proceed (NTP) for Phase I or Phase II, the work will not be eligible for reimbursement. NTP 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 the FMIS.

13-4.0 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 Director** 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 2 year inspection will remain in July.

There is no benefit provided for late inspections.

Any LPA bridge inspection that is more than 30 days beyond the due date and the ERC has not submitted a written explanation to INDOT, is at risk for losing part or all of the federal funds provided within the contract.

When a bridge is replaced, it must be inspected within 90 days after construction has held the final inspection of the project.

13-5.0 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.

13-5.01 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 Local Public Agency Employee in Responsible Charge (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**.

13-5.02 Load Rating

Each bridge shall be load rated to determine its safe load carrying capacity in accordance with the American Association of State Highway Transportation Officials (AASHTO) Manual for Bridge Evaluation. The load rating shall be stamped by a Professional Engineer (P.E.) and uploaded into BIAS. The load rating shall remain until the rating condition of the bridge has been revised to a 4 or less. This revised rating shall warrant a structural evaluation by a Professional Engineer (P.E.)

13-5.03 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 their consultant is responsible to upload a picture of the posted sign in the 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.

13-5.04 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 findings 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.

13-5.05 New Bridges

New bridges built in a county shall be added to the BIAS database. In accordance with **23 CFR 650.315**, for new bridges, Structural Inventory & Appraisal (SI&A) data is to be entered within 180 days after the completion of work.

13-6.0 CRITICAL ELEMENTS

Critical Elements in Chapter Thirteen include but are not limited to:

- Bridge or bridges inspected and inventoried in compliance with the NBIS.
- The LPA has a certified ERC.
- The bridge inspection is listed in TIP and/or STIP.
- The funds are requested and approved for Phases I and II.
- Local Quarterly Reporting.
- Consultant selection process followed correctly.
- Bridge inspections completed on schedule.
- Scour Monitoring Plan in place.

13-7.0 FATAL FLAWS

- Bridge or bridges are not inspected and inventoried in compliance with the NBIS.
- The LPA does not have a certified ERC.
- The bridge inspection project is not listed in TIP and/or STIP.
- The Local Quarterly Reporting is not followed.
- The consultant selection process was not followed correctly.
- The bridge inspections were not completed on schedule.
- A Scour Monitoring Plan is not in place.
- Work began prior to NTP from INDOT for Phase I or Phase II.

13-8.0 REFERENCES TO GUIDANCE MATERIAL

Links

INDOT Bridge Inspection Manual

INDOT Bridge Inspection Web page

INDOT Local Public Agency Programs Web page

LPA-Consultant Contract for County Bridge Inspections Boilerplate Contract

Legal Requirements

Inspection Report

Inspection Report - 23 CFR 650.309

13-9.0 IDENTIFICATION OF RESOURCE PEOPLE

Bridge Inspection Manager

- ***Communications regarding bridge inspections should include the:***
  - ***ERC***
  - ***District Local Project Manager***
  - ***MPO (if county is within an MPO area)***

CHAPTER FOURTEEN:
FINAL AUDIT AND PROJECT CLOSEOUT

Acronyms used in this Chapter

INDOT – Indiana Department of Transportation
FHWA – Federal Highway Administration
LPA – Local Public Agency

14-1.0 CHAPTER FOURTEEN OVERVIEW

The Indiana Department of Transportation (INDOT) is required to provide adequate oversight for all federal-aid projects, including sub-recipients and any assumed responsibilities INDOT delegates to a Local Public Agency (LPA). This includes the final review and closure of an LPA project.

14-2.0 FINAL AUDIT

INDOT's **External Audit** section reports to the Director of Audits, Agency Results & Revenue Forecasting within the Finance Department of INDOT. External Audit's responsibilities include auditing the contract files after the final invoice has been received and processed by the Owner Office. The files are forwarded to the External Audit section from Central Office personnel as well as from the six INDOT districts (Crawfordsville, Fort Wayne, Greenfield, LaPorte, Seymour, and Vincennes) and two Traffic Management Centers.

There are several types of contracts that are submitted to External Audit, including the INDOT-LPA Project Coordination Contract, the LPA-Consultant Contract, LPA Force Accounts, Utility Agreements and Railroad Agreements. Submission of project files to External Audit is the responsibility of the Owner Office within INDOT.

14-2.01 Invoice Review and Approval

It is the responsibility of the LPA to insure that billing by their consultant is in compliance with the contract between the parties. Ongoing training of individuals who review invoices and approve them for payment is stressing the importance of not paying invoices which are not in compliance with the contract. Invoices submitted to INDOT which are not in compliance with the contract will be rejected and returned to the LPA for correction with the subcontracted party prior to reimbursement.

14-2.02 Request for Audit

The Owner Office at INDOT will include a completed Audit Request Form, along with the necessary documents, when submitting a request for audit from External Audit. These audits are performed at the preliminary engineering, right-of-way and construction phases of the project.

14-2.03 Audit Results and Resolution

Contract audits are assigned to staff auditors in External Audit for their review and audit. The auditor assigned completes an audit of the contract file per established procedures, and requests additional information from the appropriate parties as needed. When the audit report and findings are complete and reviewed, the final report is sent by mail and/or electronically to all parties including the LPA, any subcontracted party, the INDOT Owner Office and Federal Project/Budget as appropriate.

The resolution process allows the LPA thirty (30) days to notify INDOT of their intention to dispute a citation amount. Notice of intent to dispute the findings of any audit received after the allowed 30 day period **will not** be accepted. The Director of Audits, Agency Results and Revenue Forecasting handles the dispute process between INDOT and the contracted party. Until the 30 days has passed or until the contractor has confirmed agreement with the citation, no billing goes to the responsible party for reimbursement to INDOT. After that time, the External Audit staff will provide billing information and a copy of the audit report to INDOT's Accounts Receivable section in Accounting. If additional funds are owed to the LPA, that party must submit another claim to be reimbursed for the underpayment. This claim is processed by the Owner Office in a similar manner as the original payments per the agreement. Record of the payment or other resolution is requested to be provided to the External Audit section from the Owner Office.

14-3.0 PROJECT CLOSEOUT

The **Project Closeout section** also reports to the Director of Audits, Agency Results & Revenue Forecasting within the Finance Department of INDOT. Once all required audits have been completed per guidelines in **Section 14-2.0** of this Chapter and Construction is completed, INDOT Finance performs a Final Review that is intended to balance all claims, invoices, billings, etc., between INDOT and the Federal Highway Administration (FHWA). This is to ensure that INDOT billed FHWA the correct amounts for all LPA-Consulting contracts as well as the INDOT-LPA contract, for all phases of the project. During the Final Review, INDOT Finance reviews project documentation to verify charges for all phases of a project. This review includes both state financial information and federal financial information.

Once all issues are resolved and the project is closed out, INDOT will reconcile with the LPA.

14-4.0 CRITICAL ELEMENTS

Critical Elements are listed below, but are not limited to the following:

- All required audits have been completed.
- All required documentation listed in **Appendix D** has been kept by the LPA.
- The invoices and billing documentation are in compliance with the information in the LPA-Consultant Contract.

14-5.0 FATAL FLAWS

In Project Closeout, fatal flaws include:

- Failure by the LPA to keep documentation required to perform all audits.
- Inconsistent billing by the LPA and their consultant.

14-6.0 IDENTIFICATION OF RESOURCE PEOPLE

District Local Project Engineer/Manager

External Audit

APPENDIX A: CONTACTS

CENTRAL OFFICE

All Central Office contacts listed below have the following mailing address. The room numbers of the persons are found with their other contact information and should be included in the mailing address when it is used.

Indiana Department of Transportation
100 North Senate Avenue
Indianapolis, Indiana 46204

AUDITS, AGENCY RESULTS & REVENUE FORECASTING – Room N730		
	PHONE NO.	**EMAIL ADDRESS**
Bill Morgan, Performance Metrics & Federal Closeout Manager	(317) 232-5306	wmorgan1@indot.in.gov
David Brewer, External Audit Manager	(317) 234-7838	dbrewer1@indot.in.gov

BRIDGES – Room N642		
	PHONE NO.	**EMAIL ADDRESS**
Anne Rearick, Director	(317) 232-5152	arearick@indot.in.gov
Merrill Dougherty, Bridge Inspection Manager	(317) 232-6776	mdougherty@indot.in.gov
Mark Bailey, Hydraulics Supervisor	(317) 233-2096	mbailey1@indot.in.gov

CAPITAL PROGRAM MANAGEMENT – Room N758		
	PHONE NO.	**EMAIL ADDRESS**
Sam Sarvis, Deputy Commissioner	(317) 234-7173	ssarvis@indot.in.gov
Scott Adams, Project Delivery Director – Room N642		scadams@indot.in.gov
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APPENDIX B: GLOSSARY

Change Order – The addition or subtraction from items in the contract that were missed or not needed.

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.

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.

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.

Critical Element – 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.

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.

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.

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.

Electronic Records Management System (ERMS) – ERMS is the overall storage system for all INDOT documents.

Fatal Flaw – 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.

Field Survey – The Field Survey is conducted at the beginning of a project and identifies the topography of the project area.

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.

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.

Fiscal Management Information System – The system in which federal funds are authorized by the FHWA.

Indiana Local Technical Assistance Program – Created by the Federal Highway Administration in 1982 to provide local agencies with information and training programs to address the maintenance of local roadway and bridges.

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.

INDOT Technical Application Process – ITAP is a gateway to access INDOT's most used applications such as the Scheduling Project Management System, Professional Services Contracting System, Local Quarterly Report and the Local Call Application, etc.

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.

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.

LPA ERC Basic Project Development Certification Training Class – This class is for beginner level ERCs or anyone who needs to maintain their ERC status. Please see **Section 1-1.04 (2)** of Chapter One for class specifics.

LPA ERC Project Development Recertification Class – This class is held for ERCs who need to maintain their ERC status. Please see **Section 1-1.04 (2)** of Chapter One for class specifics.

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.

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 4-1).**

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.

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.

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.

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.

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)

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.

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.

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.

Regionally Significant Transportation Project – A regionally 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.

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.

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.

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 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 4-1**)**.**

Work type – Work type 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.

APPENDIX C: LPA INVOICE VOUCHER INSTRUCTIONS

State Form 52663 (R2 / 6-16)

Revised 10-26-16

- An LPA Invoice Voucher must be included with each claim submitted. The current LPA Invoice Voucher is posted on INDOT's Web site at http://www.in.gov/indot/files/LPA_Invoice_Voucher_SF_52663_-_R2__6-16.xls.

- The LPA Invoice Voucher and claims can be submitted as copies.

- The LPA Invoice Voucher **must** be electronically submitted via email to the appropriate INDOT Districts:

Crawfordsville District	Crawfordsvilleinvoices@indot.in.gov
Fort Wayne District	Fortwayneinvoices@indot.in.gov
Greenfield District	Greenfieldinvoices@indot.in.gov
LaPorte District	Laporteinvoices@indot.in.gov
Seymour District	Seymourinvoices@indot.in.gov
Vincennes District	Vincennesinvoices@indot.in.gov

  * **All LPA Invoice Vouchers for Countywide Bridge Inspection and Inventory Program projects must be submitted to** Greenfieldinvoices@indot.in.gov.

- The LPA should submit no more than and no less than one billing per every 30-45 days to INDOT. Consultants should submit no more than and no less than one billing per every 30-45 days to the LPA. Purchase Orders (PO's) are considered inactive after 45 days of no financial activity. Inactive PO's are at the risk of being closed.

The FHWA states that federal funds are "reimbursement funds." It is INDOT's policy that the LPA is required to make payment to the Payee prior to submitting an LPA Invoice Voucher to the Assigned Program Coordinator for reimbursement. **A legible copy of the cancelled check (front and back) to the Payee or, in the case of direct deposit, a copy of the electronic funds transfer (EFT) must accompany each invoice voucher including supporting documentation.** When proof of payment exceeds reimbursement requested, a breakdown of proof of payment is required.

- The LPA should not submit an LPA Invoice Voucher prior to receiving a copy of the Purchase Order from INDOT.

- The LPA ERC's are responsible for completing the LPA Invoice Voucher.

- Per Section 5-5.02 Invoice Review of this document – "Invoices are to be reviewed for accuracy and approved by the ERC before payment." Proof of ERC review needs to be provided when requesting reimbursement. Examples of proof could be, but not limited to:

  1) The ERC's signature on the LPA Invoice Voucher,
  2) The ERC's signature on the Accounts Payable Claim submitted for payment by the LPA, or
  3) The ERC's signature on the Consultant Invoice.

- It is the LPA's responsibility to track Federal Funding Allocation awarded to their project and each Purchase Order (PO) assigned to their project. A sample spreadsheet for tracking Federal Fund Allocation and Purchase Orders is posted on the LPA Web site at http://www.in.gov/indot/files/Federal_Funds_Allocation_Log_6-27-16.xls. INDOT highly recommends submission of the Purchase Order Tracking Log with each LPA Invoice Voucher. The LPA is required to submit the Purchase Order Tracking Log with submission of LPA Invoice Voucher Claim #99 (Final).

For each 30-45 day period there will not be a billing by the LPA, an email or letter should be submitted to the Assigned Program Coordinator and Program Manager stating there were no invoices submitted for that period and billing will continue the next month unless another email or letter is submitted. Should this procedure be utilized for more than 9 consecutive months, the PO will be at risk of being closed and the project funds will become inactive and no longer available.

The **supporting documentation** required to be submitted with the LPA Invoice Voucher for the following types of contracts is listed below:

- *Labor Rate Multiplier Contracts*
- *Negotiated Labor Rate Contracts*

  - Supporting documentation does not have to be original.
  - Time documents for each billed employee:

    - Identify the employee and classification
    - Project
    - Date
    - Weekly Timesheets - must include breakdown of hours worked on each day of the week.

      - In the event of overtime, the weekly timesheet is needed to determine if overtime is billable for the project.

    - Direct labor for cost reimbursable agreements MUST be billed/invoiced by employee name and by the labor classification, since these agreements state reimbursement at "actual" cost.

  - Payroll Records are required for LPA force projects, and union pay scales for some utilities and railroads.
  - Expense reports and supporting receipts for billed direct non-salaried costs (DNS costs). These expenses may include, but are not limited to:

    - Meals (only if trip included an overnight stay)
    - Lodging
    - Mileage

Please keep in mind that INDOT will only reimburse the LPA the maximum allowable limit under the State's Travel Policy for meals, lodging and mileage. The State's Travel Policy can be found on IDOA's Web site at http://www.in.gov/sba/files/FMC_2014-1.pdf. Because IDOA policies change periodically, please verify current travel policies prior to billing.

- Equipment Rentals (Generally allowed only if rented from a third unrelated party)
- Field Supplies
- Materials

- Mileage Records/Log must identify:

  - Project
  - Date
  - Employee
  - Vehicle used
  - Beginning and Ending miles (Odometer readings)
  - Departure location and arrival location
  - This information may be recorded on an expense report or some document other than a mileage log.

— *Lump Sum Contracts*

- Supporting documentation does not have to be original.
- Monthly Progress Report – must show percent of each "task" completed during that billing cycle based on the "tasks" included in the LPA–Consultant Contract as well as the total percent of each "task" completed to date.

— *Cost Plus Fixed Fee Contracts*

- Supporting documentation does not have to be original.
- Time sheets, expenses reports with supporting receipts, etc. (see specifics above) for the corresponding charges on the invoice and the Monthly Progress Report for those corresponding charges on the invoice.

When overhead rates change during the life of a contract, consulting firms should begin billing at the revised rates when they go into effect. Overhead rates are usually adjusted at the beginning of a State fiscal year after a review by INDOT Audit.

LPA Invoice Voucher Completion Instructions

The LPA ERC's are responsible for completing the LPA Invoice Voucher.

Invoices submitted to INDOT for payment which are not in compliance with the contract and these instructions will be rejected and returned to the LPA for correction prior to reimbursement.

INDOT personnel are restricted from making any changes to any invoice or claim voucher. All changes must be edited by the LPA.

INDOT cannot accept LPA INVOICE VOUCHERS which are hand completed except in areas noted below. The signature of the Vendor is the *ONLY* place where handwritten is acceptable

The numbers below correspond to the red numbers shown on the LPA Invoice Voucher following these instructions. LPA MUST complete all areas shaded in gray to allow for reimbursement processing.

In addition, any number that references information from the Purchase Order will correspond to the blank example Purchase Order (also following these instructions) showing where the information is located.

1. **LPA'S NAME AND REMIT TO ADDRESS** – This Information must match the vendor information in the Remit to box located on the Purchase Order (PO). This address has been approved through the Auditor of State and is the address where the payments for claims will be sent.

2. **TO: INDIANA DEPARTMENT OF TRANSPORTATION, CARE OF** – Drop Down Menu. Select the appropriate District Program Coordinator. The address will be Auto Populated based on the District Program Coordinator Selection. Keep in mind that the claims **must** be submitted electronically to each District email inbox address as shown on page 1.

   NOTE: All claims for Countywide Bridge Inspection and Inventory Program projects must be sent electronically to the Greenfield District Program Coordinator at the email inbox address on page 1.

3. **PO Number** – Enter the PO Number of PO that funds are being deducted from.
   3a. This space is auto populated upon data entry in number 3.

4. **Net Amount of Claim –** This amount is auto populated from **Line Item No. 10 (Net amount of claim)** - number 19.

5. **Vendor Code** – Enter the Vendor (Vendor ID) number shown on the PO that funds are being deducted from for your City/Town/County. This is the digit number on the PO proceeded by zeros.

6. **Invoice Number** – Enter a referencing number based on supporting documentation for which the LPA is requesting reimbursement. This reference number is typically a consultant invoice number or in case of a claim for right-of-way, a Parcel Identification number. One reference number per line, DO NOT combine invoices or parcels.
   6a. & 6b. Available for entering additional referencing numbers based on supporting documentation for which the LPA is requesting reimbursement. This reference number is typically a consultant invoice number or in case of a claim for right-of-way, a Parcel Identification number.

7. **Amount** – Enter the gross amount from the supporting documentation corresponding to the entered Invoice Number the LPA is requesting reimbursement.
   7a. & 7b. Available for entering the additional gross amounts from the supporting documentation corresponding to the entered additional Invoice Voucher Numbers the LPA is requesting reimbursement.

8. **Line Item No. 1 (Claim No.) –** The first claim should be number 001 and continue in sequence until the final claim for a PO is ready for submission. The final claim for a PO **MUST** be numbered 099, which indicates the final claim. When a project has multiple PO's, claim numbers start at 001 with the final claim being 099 for each individual PO. **CLAIM NUMBER SEQUENCE DOES NOT CONTINUE WHEN PROJECT HAS MULTIPLE PO'S.**

9. **Line Item No. 1 (Des. No.) –** Enter the Des. No. that is assigned to the project. The Des. No. can be found on the front page of the INDOT-LPA Contract. The Assigned Program Director is available if you have questions.

10. **Line Item No. 2 (This claim voucher is for:)** – Drop Down Menu. Select the phase of the work the LPA Invoice Voucher covers.

11. **Line Item No. 3 (Project Description:)** – Enter the description of the project as shown in the INDOT-LPA Contract. The Assigned Program Director is available if you have questions.

12. **Line Item No. 4 (Period covered by this claim.)** – Enter the time period the work occurred and reimbursement is being requested. Time periods covered for the duration of a PO must be sequential with no time lapses or gaps. If no work occurred during a particular time period, the gap time period needs to be reflected on the claim and on all supporting documentation. It is an INDOT policy that a service period must be at least 30 days or greater.

13. **Line Item No. 5 (Gross amount of previous claims)** – Enter the Gross amount of previous claims that have been submitted for reimbursement. The LPA should be maintaining their own records in order to know the amount to enter, but the Assigned Program Coordinator is available if you have questions. The Gross amount of previous claims is tracked per PO. The Gross amount of previous claims **does not** extend over multiple PO's.

14. **Line Item No. 6 (Net amount of previous claims)** – Enter the amount of federal reimbursements for previous claims that have been submitted for reimbursement. The LPA should be maintaining their own records, but the Assigned Program Coordinator is available if you have questions. The Net amount of previous claims is tracked per PO. The Net amount of previous claims **does not** extend over multiple PO's.

15. **Line Item No. 7 (This (is) (is not) a final claim**.) – Drop Down Menu. Select "IS FINAL" or "IS NOT FINAL" to indicate whether this claim is a final claim for the PO. Claim No. 099 indicates the final claim and must be entered as "IS FINAL."

16. **Line Item No. 8 (Gross amount of this claim)** – This amount is auto populated summation of 7., 7a. & 7b.

17. **Line Item No. 9 (Federal Share Reimbursable (Line 8 x Fed. %)** – Enter percentage of funding awarded. This amount can be found in the INDOT-LPA Contract. The Assigned Program Director is available if you have questions.

18. **Line Item No. 9 (Federal Share Reimbursable (Line 8 x fed. %)** – This amount is auto populated upon data entry of numbers 16. and 17.

19. **Line Item No. 10 (Net amount of claim)** – Enter net amount of claim for which reimbursement is being requested. Should be equal to number 18. unless PO is being exhausted, then will be remaining balance on PO.

20. **Line Item No. 11** [I am aware of the project end date (this may or may not be the same as the PO end date.)] – Drop Down Menu – Select "Yes, LPA is aware of the Project End Date" or "No, LPA does not know Project End Date."

21. **Line Item No. 12** (My last reimbursement request was within six (6) months.) – Drop Down Menu – Select "Yes" or "No." If this is Claim 1, leave blank.

22. **Signature of Vendor** – Signature of LPA official who is authorizing the claim. Signature must not be stamped or typed (Must be *Handwritten*).

22a. **Official Title** – Official title of the person signing the claim.

22b. **Date (Month, Day, Year)** – Enter the date the LPA Invoice Voucher is being submitted for reimbursement. The date will need to be updated if a claim was previously rejected and is being resubmitted.

LPA INVOICE VOUCHER
State Form 52663 (R2 / 6-16)
INDIANA DEPARTMENT OF TRANSPORTATION
Appoved by State Board of Accounts, 2016
Approved by Auditor of State, 2016

INDOT USE ONLY	
PS Receipt No.	
PS Voucher ID No.	
INDOT Invoice No.	

LPA'S NAME AND REMIT TO ADDRESS

1.

PO Number	3.
Net Amount of Claim	4.
Vendor Code	5.
CFDA Number	20.205

TO: **INDIANA DEPARTMENT OF TRANSPORTATION**
CARE OF: 2.
ADDRESS:

EXEMPT PER I.C. 5-17-5-2

PO Number	Invoice Number	Amount
3a.	6.	7.
3a.	6a.	7a.
3a.	6b.	7b.

1	Claim No.	8.	Des. No.	9.		
2	This claim voucher is for:	10.				
3	Project Description:	11.				
4	Period covered by this claim.		From:	12.	To:	12.
5	Gross amount of previous claims.			$ 13.		
6	Net amount of previous claims.			$ 14.		
7	This (is) (is not) a final claim.			15.		
8	Gross amount of this claim.			$ 16.		
9	Federal Share Reimbursable (Line 8 x Fed. %)	17.	%	$ 18.		
10	Net amount of claim.			$ 19.		
11	I am aware of the project end date (this may or may not be the same as the PO end date). 20.					
12	My last reimbursement request was within the last six (6) months. 21. Note: If funds are removed, no reimbursement will be given.					

RECOMMENDED FOR APPROVAL

INDOT OFFICIAL INITIATING THE CHARGE | **DATE** ***(Month, Day, Year)***

I certify that this claim is correct and valid and is a proper charge against the State Agency indicated.

Authorized Signature of State Agency	**Date** ***(Month, Day, Year)***

Pursuant to the provisions of Indiana Code 5-1-10-1, I hereby certify that the amount claimed is legally due after allowing all just credits, and that no part of the said has been paid.

Signature of Vendor	**Official Title**	**Date** ***(Month, Day, Year)***
22.	22a.	22b.

Purchase Order
INDOT Consulting
Indiana Department of Transportation

Approved by Encompass Leadership Team – 2011

Order #	Date	Required Date	Page
3.			1 of 1

Requisition Number:
Vendor ID: 5.
Agency: 00800 Transportation
Pay Terms: 35 Days in Arrears
Fund/Object/Center: 63200/ 583110 / 467010

Vendor 5.

Remit to 1.

Ship To: Dept Of Transportation

Vendor Name Address

Bill To: Transportation
Dept Of Transportation

Vendor Contact: Name:
eMail:
Phone:

Buyer: Name:
eMail:

Purchase Order Instructions & Comments

Purchase Order Line Details

Item No	Description	(FOB Destination)	Qty Ordered	Qty Recd	UOM	Unit Price	Extended Amt

Deliveries acceptable only between 8:00 AM and 4:30 PM, Monday through Friday

Units of Measure, Handling, Totals, Signatures

The following UN/CEFACT Unit of Measure
Common Codes are used in this document:
EA Each

This area left blank

Total PO Amt. $

Issued by the Indiana Department of Transportation	CONFIRMATION OF RECEIPT	
	I certify that the items listed above were received. All commodities appeared to conform to specifications and showed no patent defects, except as otherwise noted.	
	Signature of State Employee Receiver	Date Signed(Month/Day/Year)

FUNDING ENCUMBERED BY THE AUDITOR OF STATE

I certify that there is sufficient unencumbered balance in the above account to cover the amount of this order, and that funds have been set aside for payment thereof.

Indiana Department of Transportation

APPENDIX D: DOCUMENTATION REQUIREMENTS

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. This documentation must be maintained by the LPA for **five (5) years** following the project closeout and final audit of the construction phase and should be made readily available to INDOT and/or FHWA upon request.

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.

The following is the complete list of required documentation:

Project Application Documents

- ☐ Proof of ERC Certification prior to project application
- ☐ Copy of Initial Project Application
- ☐ Financial Commitment Letter
- ☐ Project Eligibility form
- ☐ Self Certification letter from the LPA that they have an ADA Plan or have submitted a Plan for approval
- ☐ Funding Award Letter of project approval from INDOT or MPO
- ☐ Signed Early Coordination Meeting Agenda minutes

Transportation Improvement Program (TIP) Documents

- ☐ Copy of the request from the LPA to the MPO to include project in TIP
- ☐ Copy of project listing in the **TIP** for PE
- ☐ Copy of project listing in the TIP for R/W
- ☐ Copy of project listing in the TIP for CN and CE

Statewide Transportation Improvement Plan (STIP) Documents

- ☐ Copy of the request from the District to include project in the STIP
- ☐ Copy of project listing in the **STIP** for PE
- ☐ Copy of project listing in the STIP for R/W
- ☐ Copy of project listing in the STIP for CN and CE

Request for Proposals (RFP) Documents

PE

- ☐ **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 Prequalification from Web site
- ☐ LPA Selection Review Checklist signed by the ERC
- ☐ Consultant Selection approval email

R/W

- ☐ 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 Prequalification from Web site
- ☐ LPA Selection Review Checklist signed by the ERC
- ☐ Consultant Selection approval email

CE

- ☐ 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 Prequalification from Web site
- ☐ LPA Selection Review Checklist signed by the ERC
- ☐ Consultant Selection approval email

Local Quarterly Reports

- ☐ Copies of all Local Quarterly Reports throughout the Construction phase until the final billing by the LPA has been submitted to INDOT

INDOT-LPA Project Coordination Contracts

- ☐ INDOT-LPA Contract for the PE phase
- ☐ INDOT-LPA Contract for the R/W phase
- ☐ INDOT-LPA Contract for the CN phase
- ☐ All INDOT-LPA Supplemental Contracts (if applicable) for the PE, R/W and CN phases

LPA-Consulting Contracts

- ☐ LPA-Consulting Contract for the PE phase, including fee justification and man-hours
- ☐ LPA-Consulting Contract for the R/W phase, including fee justification and man-hours
- ☐ LPA-Consulting Contract for the CE phase, including fee justification and man-hours
- ☐ Copy of letter from LPA requesting Land Improvement and Damages
- ☐ All LPA-Consulting Supplemental Contracts (if applicable) for the PE, R/W, and CN phases

Fiscal Management Information System (FMIS) and Purchase Orders

- ☐ Copy of FMIS approval notification for PE
- ☐ Copy of FMIS approval notification for R/W
- ☐ Copy of FMIS approval notification for CE
- ☐ Copy of Purchase Order for PE
- ☐ Copy of Purchase Order for R/W
- ☐ Copy of Purchase Order for CE
- ☐ Copies of Consultant Invoices
- ☐ Copies of LPA Invoices to INDOT
- ☐ Record of Payments to Consultant

Errors and Omissions (E&O)

- ☐ Documentation of any communication regarding E&O

Notice to Proceed

- ☐ Notice to Proceed from the INDOT to the LPA for PE
- ☐ Notice to Proceed from the INDOT to the LPA for R/W
- ☐ Notice to Proceed from the INDOT to the LPA for Land Improvement and Damages
- ☐ Notice to Proceed from the INDOT to the LPA for CE
- ☐ Notice to Proceed from the LPA to Consultant for PE

Notice to Proceed (continued)

- ☐ Notice to Proceed from the LPA to Consultant for R/W
- ☐ Notice to Proceed from the LPA to Consultant for Land Improvement and Damages
- ☐ Notice to Proceed from the LPA to Consultant for CE

Environmental

- ☐ 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
- ☐ USFWS Decision emails or letters and notes
- ☐ USEPA Notifications
- ☐ Karst Study and Memorandum of Understanding (MOU)
- ☐ Copy of Noise Wall Decision Letter
- ☐ All Memorandum of Agreements (MOA)
- ☐ Waters Report

Plans Preparation

- ☐ 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

Plans Preparation (continued)

- ☐ **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

Utilities and Railroads

- ☐ List of Utilities identified during research stage
- ☐ 811 Contact Notes or email
- ☐ 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
- ☐ Utility Conflict Review Letters
- ☐ Reimbursable Utility List
- ☐ Petition to Rail office if railroad crossing is altered or new
- ☐ 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
- ☐ Railroad FMIS Authorization Letter or E-mail
- ☐ Documentation that utility relocation work is complete or timeline has been coordinated with the project construction

Land Acquisition

- ☐ All completed Parcel Packets

Letting and Bid Documents

- ☐ Schedule and Copy of Pay items
- ☐ DBE Interest Report for construction contract by the Contract Administration Division
- ☐ PS&E Letter
- ☐ PS&E Approval by the Contract Administration Division
- ☐ Letting Advertisement
- ☐ Contract Bid Documents
- ☐ CIB and CIB Certification by Designer
- ☐ Advertisement - Notice to Highway Contractors Web link – Copy

Letting and Bid Documents (continued)

- ☐ 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)
- ☐ 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)

Final Construction Record

Please click on the following link to find a complete list of documents:
http://www.in.gov/dot/div/contracts/standards/FinalConstructionRecordGuide.pdf

Change Orders

- ☐ Copy of all Change Orders including approvals by the MPO