



# Locally Administered Federal-Aid Projects



## Local Public Agency Peer Exchange on Certification Programs

Hosted by Washington State Department of Transportation  
Local Programs Division

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**Federal Highway Administration**

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## Introduction

A virtual Peer Exchange held June 11, 2014, between the Washington State Department of Transportation (WSDOT) Local Programs Division and the Utah Department of Transportation (UDOT) provided a forum to discuss WSDOT's local public agency certification program processes, challenges, and successes. This report highlights key information and documents the questions and answers from the meeting.

Stephanie Tax, Program Management Manager, and Kyle McKeon, Engineering Services Manager, both from the WSDOT Local Programs Division, provided information on Washington State's long-standing Certification Acceptance (CA) program. Chris Potter, UDOT Local Government Programs Engineer; Jim Golden, UDOT State Project Management Engineer; and Bryan Dillon, FHWA Utah Division posed questions for WSDOT in comparing the CA program to current UDOT processes. Other state DOTs and Federal Highway Administration (FHWA) Divisions participating in the forum were Colorado, Massachusetts, New Jersey, New York, Nevada, and Wisconsin.



*Peola Road in Garfield County, Washington. (Photo courtesy County Road Administration Board)*

Sharon Gordon, FHWA Arizona Division, welcomed participants and explained that the Peer Exchange would both provide information on WSDOT's CA program and allow opportunities for questions and discussion. She encouraged participants to make the session interactive. Megan Hall, FHWA Washington Division, facilitated the meeting and monitored the questions posted in the chat pod.

## WSDOT Local Programs Division Structure

Stephanie Tax opened the discussion with information on the WSDOT Local Programs Division (referred to hereafter as Local Programs). Local Programs has been around for more than 60 years. Their Federal-Aid Highway Program funds are currently split 66 percent to DOT and 34 percent to local agencies administered through their office. A portion of the city and county gas tax also comes to WSDOT to fund Local Programs.

WSDOT staffs about 40 people at headquarters and in six regions who oversee local projects. The region staff is WSDOT's direct line to the cities, counties, ports, tribes, and nonprofits. Headquarters staff focuses on policy, eligibility, federal compliance, and authorization.

Washington State currently has more than 400 eligible agencies with more than 1,000 active projects. Local Programs utilizes a database that captures authorization dates, transmits project information to FHWA, and displays real-time project status for the public of all local projects.

**Q:** For the 40 people overseeing more than 1,000 active projects for 400 agencies, what is their workload and how is “oversight” defined?

**A:** There are 25 staff distributed in the six regions, so that is about 40 projects per person. Since more than 100 local agencies are CA agencies that can oversee their own projects, we do not have to walk them through each step. We are there as a resource. CA agencies have been delegated approval authority for certain items. There are steps or points at which the 100 or so CA agencies have to come to Local Programs, for example, NEPA, right of way, or construction authorization approvals. The agencies that we deal more closely with are those that are not CA. With them, we are more hands on. We have more checks and balances with certain agencies. WSDOT’s organizational model lends itself nicely to knowing the competency levels of the local agencies.

The CA program is essentially based on competency. An agency can apply for CA, and we evaluate staffing and expertise and delegate authority as appropriate. So the number of projects per person is not the number they are doing hands-on, day-to-day, but at checkpoints along the way in the project development process.

**Q:** Do you have a maximum number of CAs you will allow in the state?

**A:** As cities grow, and gain adequate staff, they come to us, so it is about their growth more than how many.

*UDOT’s Comments:* We have four regions and they all have project managers. Our project managers help manage the projects, but local governments usually hire consultants to do the design. Our project managers guide the locals through the process. They handle projects for local governments and the DOT, so they are not necessarily specialized. This is a challenge when there is so much that they are supposed to know, that it is hard to be an expert on one thing. There is usually a default project manager in each region who, through repetition after doing many projects, becomes the local expert and helps train the others, but then there is turnover and they are constantly teaching someone new.

Some of our bigger municipalities and urban areas may have multiple projects with different funding, and so they know the process. A lot of our smaller, rural municipalities traditionally do not have the money for the match to participate regularly. They may only have a project once every 10 or 15 years, so they need to be guided through the process every time.

**Q:** In WSDOT’s Local Agency Guidelines (LAG) Manual, how do the referenced lead agencies differ from CA agencies?

**A:** Lead agencies are county lead agencies. All 39 counties in Washington are CA. That is where we started, with every county in the state, because county engineering standards in Washington require a licensed Professional Engineer (PE) to be the county engineer. After focusing on certifying the counties, we began working with the major cities because they also had a licensed PE. Our lead agencies are rural counties that are not part of an MPO. The other 67 are cities and three ports.

## WSDOT's Certification Acceptance Program

### CA versus non-CA: Benefits and Risks

While the CA program allows WSDOT staff to manage a large number of projects, Stephanie Tax noted that the program's main benefit for WSDOT, local agencies, and the public, is that it puts the ownership for the facilities onto the owner. She said that WSDOT believes they get a better product, as the locals know best what their communities want, while the CA process increases the locals' knowledge of State DOT processes and Federal regulations. Some locals perform better than others do, but overall, Washington State's locals tend to be very qualified. At the same time, the WSDOT staff is downsizing.

*Megan Hall:* A CA benefit for the state is that the DOT does not have to employ as many people to administer the projects themselves. Through the CA agreement, the DOT delegates some responsibilities to the locals based on qualification. Now the State has more of an oversight role rather than administrative.

*Kyle McKeon:* One of the benefits is that the locals control their own destiny. They are vested in the projects and have an interest in the outcome. That is a positive for the communities. Every project has risks and every agency takes that on. When a local agency takes on a project, they are accountable for it and financially responsible. That is a positive; it is the level of oversight that becomes an issue. Obviously, there is a funding risk. The agency has to follow the approved procedures or they run the risk of losing that eligibility.

**Q:** Is that part of the process, to ensure that they have the financial means if you did have to pull funding?

**A:** Yes. In Washington State we have city and county gas tax. Our Local Agency agreement has a clause that, in the event they become ineligible for Federal funds and they are unable to pay, we have the right to redirect their revenues from their city and county gas tax annually to reimburse. We have not had to institute it, because in the event they have to pay it back, they usually cut a check. It does happen.

**Q:** Is LPA performance tracked, and does an LPA with Federal noncompliance issues have their certification revoked?

**A:** We spend a lot of resources tracking it and a great deal of time coordinating with FHWA on issues. We have pulled LPAs' ability to be a certified agency. In some cases, it may be that an agency loses qualified staff, so we cannot, in good faith, have the LPA administer a project. In the case that we have made an informed decision to pull an LPA's CA, it is with the understanding that when they are ready, they can be considered to come back into the program and their CA may be reinstated. It is also not necessarily an all or nothing proposition. If we need to take away their CA because they lost their right of way person, it does not mean they lose it entirely; they just lose it for that function.

**Q:** What is the process when an agency loses their CA?

**A:** When an agency loses its CA, we go through a corrective action plan so the agency can see where they need to improve. Additional checks and balances are added, depending on what their omission was, to ensure we are training their staff diligently so that they can succeed. Our idea is that when they are successful, we are successful. More projects get done and the public has a better opportunity to use the new facilities. Otherwise, the projects come back to our region staff and that increases their workload. We can take away their CA, but we really try to work with them to maintain it.

**Q:** When you are in the middle of a project, and you lose your CA, what happens to that project? Are those projects grandfathered in? How is it completed?

**A:** During our checks and balances, if we find errors we can usually find a way to make it work. Our local programs engineers in the regions keep their fingers on the pulse of the local agency projects, and if something goes awry, they are usually the first to know. The regions go out to meet with the local agencies and do one-on-one or one-on-three training and get them through their project. We also have checklists in the LAG Manual so that they can walk themselves through. We are also available by phone anytime.

## Certification Process

### Qualification

**Q:** Do you pre-certify LPAs or can they be CA only after they receive a Federal grant?

**A:** They have to do a Federal project, and we have to review it, before they can become certified. We can do the interview to see if they are qualified, but we cannot certify them until they do a Federal project.

**Q:** To what extent are financial requirements included in the certification process? Is a review done regarding the local agency's 49 CFR compliance, A-133 audit findings, etc.?

**A:** For a new agency, we always do an interview to check for adequate staff to administer a project. We also check their background for annual state audits. In the event there is a finding, we

investigate if it is an issue. Then we review documentation throughout the first pilot project to ensure they have adequate backup for expenditures, and that they are reviewing consultant invoices. That is key: No matter who hires a consultant, you have to review what they are billing. The A-133 is performed through the state audit process, and each is reviewed for any findings on 20.205 funding.

**Q:** Some LPAs and nonprofits do not have full-time employees and therefore cannot comply with Federal requirements for responsible charge. How is this addressed if another agency is not willing to sponsor this project?

**A:** If the local agency does not have an engineer, they cannot be a CA agency. The WSDOT Region Local Programs Engineer would be their public employee with responsible charge. All of them are licensed PEs. WSDOT enters into an MOU with the non-CA agency, and then acts as CA for them. The Region Local Programs Engineer has to be on the hiring panel to ensure they follow the Federal regulations for consultant hires. They must also use the standard consultant agreement in the LAG Manual to ensure all the Federal requirements are met when using Federal funds. The non-CA or non-profit is financially responsible for that project. We ensure that through our MOU and local agency agreement.

Project management reviews occur once every three years on every CA, and this is one area reviewed. There are state statutes that mandate having a county engineer, for example, so if one does leave, WSDOT and the agency are protected.

**Kyle McKeon:** Can Nevada talk about their right of way certification process and steps to formalize?

**Nevada:** We have not made a lot of progress yet, but we are looking at the resources and capabilities of local agencies that do our projects to decide whether they would delegate to that agency the right to do the acquisition for a project. In our LPA program, we do not have a certification process right now, but everything is done by the LPA except the right of way. We have looked at those on a case-by-case basis per project, to decide whether that agency was one that we felt comfortable with doing the oversight and different checks. We are currently getting a lot of pressure to step back from that and to certify the agencies and allow the agencies to move forward with fewer checks than what we are currently doing.

**WSDOT:** We certify the agencies to acquire their own right of way but we constantly monitor that. They have to have approved procedures. This has shown to be a higher financial risk area. If it is not done correctly, they can lose eligibility for Federal funding.

**Nevada:** We require them to follow our right of way manual. Our staff will go in and review their first few packages with them to see if the processes are looking right, and if they are, then they step back and do a check towards the end of the project. However, our local agencies are saying that is too much, and they should be given more freedom if they have proven themselves.

*WSDOT:* Our guide has an entire chapter on right of way (chapter 25) and another chapter on how to get certified and standard forms. The LAG Manual is available on the WSDOT Local Programs website. (See Appendix C: Resources)

### Process and Procedures

WSDOT maintains a very detailed LAG Manual, keeping it up-to-date so that the local agencies have the guidance they need, particularly in emerging areas. For CAs, the CA Agreements, along with the LAG Manual, are used to establish the touch-points in the project delivery process. For non-CAs, an MOU is used for this purpose.

WSDOT also requires that all projects adhere to their standard specifications with the only option for revising being Division 1 through the APWA. They can modify Division 1, but it requires DOT and FHWA approval.

*UDOT comments:* Our local agencies have to follow UDOT standards; we do not use APWA or AASHTO standards. It reduces risk because everybody uses the same set of standards. Design exceptions are allowed for some projects, but having one set of standards reduces risks because projects follow the same process whether it is a State or locally administered project.

**Q:** What is meant by Division 1?

**A:** The parts of the PS&E that WSDOT will review that are not necessarily design-related, like DBE goals. Division 1 is the administration of a project. For non-CA, the regions are reviewing the entire PS&E package. Not line-by-line, but certain sections depending on the type of project. For CA local agencies, we do not do that unless requested.

**Q:** For certified agencies, are the PS&Es accepted on a certification basis or does the state DOT review the PS&E documents prior to authorization?

**A:** For CA agencies we do not review PS&Es, except for Division 1 if there are changes. But for all non-CA agencies, we review PS&Es. Regions have to review for non-CA. Sometimes a CA asks the regions to review, depending on their comfort level.

**Q:** Please expand on what the touch-points are on the project development phase when a local agency is putting together PS&Es (30-60-90).

**A:** In bridge selections, for example: We send out a letter to the local programs engineer to notify the agency. We make contact and find out their plan. Are they hiring a consultant? Are they designing in-house? What is their timeline? For tribal areas, we go out to consult with tribes to determine the environmental clearance. Are we going to need archaeology excavation? When they get to 30% design and they need right of way, we tell them, "Do not go out and start wheeling and dealing because Federal Highways has requirements." We do phase authorization for design, right of

way and construction. That is where our regions come in. Now if an MPO has selected a project, it is really up to that agency then to contact the region staff.

**Q:** Does WSDOT do a process or program review for the regions?

**A:** WSDOT does Project Management Reviews (PMR) and documentation reviews. It is not called a process review, but they have region-level documentation reviews of projects that are very similar to the project management reviews that are completed to certify the agencies, as well as monitor CA agencies.

The FHWA Division does a review every year, one or two for each WSDOT region. Region Local Programs does documentation reviews on both CA and non-CA agencies throughout the project. Some will go out during construction, in the middle of environmental, to check progress. Just to see where the agencies are and ensure projects are progressing. Local Programs region staff is responsible for this activity as part of Federal oversight/stewardship. They can go to one agency and look at the steps each of their projects is in.

## Training

**Q:** Is formal training required as part of certification?

**A:** It is up to the agency to demonstrate proficiency. They can ask us for the training. If we are doing a project review and note a deficiency, we will mandate training in that area. As for what training is offered, we do formal bridge inspection training for local agencies that inspect their own bridges. We do STIP training annually as well as a Real Estate course and periodic refresher. The regions do construction administration reminder training in February and March to get agencies geared up before construction season starts.

*Megan Hall:* Local Programs Headquarters staff does specific training based on individual agency needs on as-needed basis. WSDOT provides training on their environmental guidebook. WSDOT HQ staff does sessions around the state for local agencies. The LTAP center does specific technical training as well.

**Q:** Is training financed by State, local or Federal funds?

**A:** A little of everything. LTAP, support groups, one-on-one – it depends on what the issue is for the particular training. We are going to online-based training more and more, developing courses so locals can get online and take them, which is economical. There are upfront course development costs, but the courses get a lot of use.

**Q:** When you mandate training, who pays for the training? Does WSDOT provide the resources or expect the locals to pay for it?

**A:** We do not mandate training unless they have done something that requires us to. Typically, WSDOT pays for actual training resources, and the local pays for their own travel and per diem.

*Megan Hall:* For the optional training, Local Programs covers material delivery and their staff's travel. LTAP also provides a lot of training. The LTAP is connected to DOT and resides in Local Programs at WSDOT. WSDOT and FHWA submit quarterly articles to the LTAP newsletter. It is a good way for Local Programs and the Federal Highway Administration to get information out to local agencies on new rules or clarifications.

**Q:** It sounds like there is a large training workload to keep locals up to speed, especially for locals who do not do training very often.

**A:** The LAG Manual that WSDOT uses is a great tool to implement. It details everything, when something changes, that is the source document that we update.

## Project Administration

### Funding

**Q:** Does WSDOT allow design or construction contingencies?

**A:** Yes, there is a set amount of Federal funding that goes to projects. Federal funds are based on competitive applications. They put together the estimate, they decide how much Federal funds they need. It is then up to them to manage the project. If they underestimate, then, it is on them. If they say there are contingencies in design or construction, at the end of the project we review for eligibility. For the bridge and safety projects that we select, we do have a process where they can come in and ask for contingencies due to soil or other unknowns, they can come to us at 30, 60, 90, percent design and say we have an unexpected issue, and we can determine whether to increase.

We do not allow scope creep. They define the project. They put together the estimate when they submit the application. That is how much money they are getting. Safe Routes project dollars are set in legislation, through the transportation budget. Any increases in the project are the local agency's responsibility.

**Q:** Is there a minimum Federal award per project?

**A:** No, there is not. We would like to have a minimum but you could never sell that to the local agencies. We have had projects from \$50,000 to \$7,000. Then we have local projects that are over \$40 million, and for Seattle \$100 million.

**Q:** Does WSDOT Local Programs charge its staff time to the project or does the DOT absorb its cost of overseeing the LPA?

**A:** We have the TEO45, which takes our staff time and charges it to a Federal project. Otherwise, due to the fact that we have more than 1,000 active projects, we would have staff doing timesheets based on the minute. Management staff is paid through the city county gas tax. They are not charged to individual projects, except local agency coordinators for real estate, who do charge by project. Regions are in the TEO45, and do not charge by project.

*Sharon Gordon:* The TEO45 is a pilot program that is running out of the FHWA Innovative Financing program. Not every state may currently have access, but any state can ask for it.

## Preliminary Engineering

**Q:** Is consultant selection a state or local process?

**A:** It is a local process, but the LAG Manual details how it is done. For non-CA agencies, we are part of that process and require that a Region Local Programs staff be on the selection panel. We do have a clause in the consultant chapter about on-calls, which they can use as long as the advertisement that goes out includes all of the Federal requirements. If they do have an on-call roster, they can only select one consultant for one project at a time from that list. This ensures a competitive process from the on-call list and that the same consultant is not selected for every project in the same local agency.

**Q:** Does the state clear NEPA or allow the locals to complete?

**A:** They provide the documents and Local Programs clears it. Depending on their staff, they may do their own documents or they may hire a consultant to do it.

**Q:** How is right of way (ROW) clearance handled?

**A:** A CA agency that has approved procedures in place will acquire the right of way, and we will evaluate whether procedures were followed and provide certification through the WSDOT region. There are three different ROW certifications: 1, 2, and 3. There are many checks on the acquisition, review, and certification process, hand in hand with FHWA.

**Q:** What is the difference between the three levels of certifications?

**A:** In a project, if everything is acquired and clear, it is a Cert 1. For Cert 2, administratively everything is not complete, for example a trial or an appeal on a parcel or maybe they have not recorded the document, but it is pending or imminent. For Cert 3, they are compelled to go to ad and have not acquired the right of way, but have a plan.

**Q:** Who does the advertisement, bid, and award?

**A:** The CAs do their own. We concur on all those with DBE. All advertise their own projects if they are administering them. They review bids. We have concurrence to award on CA projects that have

a DBE goal and on all non-CA projects whether there is a goal or not. Local Programs establishes goals based on the type of work and the regional availability of DBEs. It is very efficient. Our agency goal statewide this year is 16% and Local Programs is currently at 19%.

**Q:** What evaluations, in addition to DBE, are included in your concurrence of award review?

**A:** We make sure the right materials are being used. We do bid analysis to ensure it is reasonable based on the engineer's estimate. If we see something off, we will work with the local agency.

**Q:** What do you show the auditor that verifies bids were checked for balance, since there is a new question this year specifically on bids being checked for bid rigging or bid balance?

**A:** Everything for locals is done electronically, so we verify through email. If there is a question, it goes back to the Region Local Programs Engineer and local agency.

**Q:** How is civil rights compliance handled with CA and non-CA local projects?

**A:** The requirements are the same for them. This is why we require our local agency agreement and consultant agreement that is in the Local Agency Guidelines Manual be used on every project because we know all those requirements are in there, including the civil rights language.

*Megan Hall:* It is also a training opportunity. Every three years when they go through a renewal, the agency is visited and they go through a project, so it is like a training session as they go through each topic.

## Construction Administration and Project Closeout

**Q:** Do your CA agencies do construction management of projects, and is it all or nothing, or can they be certified only for construction or pre-construction?

**A:** Yes, it is competency based. Sometimes they bring in consultants as well.

**Q:** What is the state's involvement in overseeing the project?

**A:** It depends on whether it is with a CA agency or non-CA agency. Non-CA would have to hire someone or come to us, with a CA agency it would be in that agreement, whether they have that particular skill on staff or what their plan is to cover oversight. During construction, the Region Local Programs staff provides oversight, but the local agency is the owner and responsible party for the project. When the Region staff go out and do their documentation reviews on a project, whether design or construction, we have checklists for that. They are able to monitor, both for CA and non-CA, whether or not the documentation is looking good and offer clarification

*Megan Hall:* Those checklists are in the LAG Manual. Chapter 13 is the certification chapter.

**Q:** Do any of the states provide professional services on behalf of the LPAs for design and construction inspection?

**WSDOT:** In the past yes, however due to influence from private engineering firms it is WSDOT's policy not to provide professional services for local agency projects. However, our regions can decide to perform these services on behalf of the local agency if there is compelling need. For example, in right of way acquisition, in rural and/or remote areas where there are no private firms available locally, WSDOT could be requested to acquire real estate on behalf of a local agency.

**UDOT:** There is a provision that allows for that if the local government requests it, and they can demonstrate they have a real need or hardship but it has to be approved by senior leadership. It does not happen often.

**New York:** On a limited basis.

**Arizona:** On a limited basis as well.

**Colorado:** Rarely with construction, but not with design.

**Q:** Have you seen improvements in the delivery of projects to construction with CA Agencies?

**A:** We have the same challenges in delivery. Whether they are CA or not, it is all about the local agency's staffing levels and whether they are accepting too many projects. We are now reviewing how many Federal projects an agency has prior to awarding bridge and safety projects, to make certain they have the staff to deliver projects already in their queue before adding others, so that they can be successful.

**Q:** How does WSDOT coordinate with the locals when there are projects going on in the same area, as far as communicating with the public if it is going to impact traffic?

**A:** WSDOT has traffic management centers located throughout the state. When a local agency project is at or near a state highway, there is a notification process that the local agencies work directly with the local traffic management center and/or WSDOT region. With respect to coordinating project work with the media, the local agency will work directly with them; it is their project and part of local ownership.

**Q:** Does WSDOT review change orders and contract administration activities, such as time extensions?

**A:** The CA and non-CA agencies are given a set amount of money for these projects, so if they approve a change order, they pay for it. In the MOU with non-CAs, it says they need concurrence from the Region Local Programs Engineer, because we want to make sure there are no changed conditions within the contract itself. Changes have to be within the parameters of the project. If it is

a non-CA agency, we lend them the expertise to ensure they are making a good decision. We require concurrence on change orders for non-CA, but for CA, we do not. The only time we would see a change order from a CA would be if Federal Highways determined to do full oversight and had a dollar amount for change orders that they wanted to review. We would put a time restraint on FHWA to get back to them.

**Q:** Does each of the projects have a contingency amount, for example 5%?

**A:** The agency determines the amount of contingency, because they have a set dollar amount of Federal funds.

**Q:** At closeout, are project files sent to WSDOT?

**A:** No. but we do expect the local agencies to retain them for review. Final inspections are done on every Federal project in this state, for local agencies and DOT. For local agency projects, our Region Local Programs Engineer does a final field inspection of every project to ensure it has met requirements before it can be closed. We do not have project files, so if FHWA or a national review team comes out to review all the required documentation for a project, we go to the local agency.

**Q:** Are project files hard copy or electronic?

**A:** A couple consultants have gone to electronic construction administration documents, but most are hardcopy.

*UDOT:* We are pushing for electronic documentation. We require it on all of our projects at closeout. If they do not have the equipment to do this throughout the project, then at the end we require them to scan in everything so we have access.

## Monitoring and Oversight

**Q:** What are the State DOT's audit/oversight activities (random, targeted, frequencies, etc.)?

**A:** Washington's state auditor's office conducts annual audits. Depending on the agency and the type of project, if there is something that causes questions with the invoice, WSDOT asks for backup documentation. That would be a random activity. Targeted requests regarding project status and in identifying risk areas through the Improper Payments and Elimination Recovery Act reporting, Compliance Assessment Program (CAP) reviews, the Financial Integrity Review and Evaluation (FIRE) Program and FHWA Inactivity Report. In Washington, Local Programs requires local agencies to bill monthly. An inactive report is generated at nine months. We send letters to each agency requesting justification for no billings, a reimbursement request with the corresponding project documentation that supports the bill, to determine why the agency has not billed. This helps identify agencies that may need assistance.

For oversight of CA agencies, the regions do one documentation review on every agency that has a Federal project. If an agency has five projects at different stages, they will try to do one on every stage. As time permits, we will do additional if a risk has been identified.

**Q:** Did the state DOT modify their project development process to streamline their internal reviews, and do they thoroughly review the municipality's project development submission, or do they spot check or use checklists?

**A:** WSDOT projects go through project development phases and then a region review. If there is a deviation, it goes to headquarters. Headquarters does not review everything; they focus on certain areas. Regarding the question on modifying the project development process, Local Programs owns the process as part of our oversight responsibility, and we would only modify it to align with changes in Federal regulation.

The points at which internal reviews occur are detailed in our LAG Manual. The CA agencies know the touch-points based on the guidance in the manual. There are checklists. Every project is evaluated because we want them to maintain Federal eligibility.

**Q:** Once the assessment is complete, how is documentation to ensure compliance achieved?

**A:** In the case that something has happened, we notify the local agency that we need to know what their corrective action plan is. We will go back and monitor, and do another project management review on a future project, or a note to watch an agency on a future project. For example if they did not have the right documentation or spotty records, that agency is on notice. If processes are not corrected and local agencies are not responsive, their CA status can be jeopardized.

*New York FHWA:* We try to be as flexible as possible, depending on how severe the action is, and target funds for just the specific items. However, where there is an egregious omission, in those cases it can be determined that Federal funds were ineligible for an entire project. This is a formal FHWA action that can happen due to lack of documentation, for example, inspection bill reports or Buy America certifications. NYSDOT can go to the New York FHWA Division with recommendations of a certain dollar value in Federal funds being withheld; it is not just Federal Highways doing this independently.

*New Jersey:* Did the state then pursue repayment from the LPA? Was there a payback at the local level?

*New York FHWA:* Yes, there were a couple instances where part of the issue was a result of a NSYDOT action so they absorbed some of the repayment. More times than not, it is put back to the locals and they do the repayment.

*Sharon Gordon:* Pulling Federal funds is not our first option; we try to work with our state and local partners. In some cases we work with the state to develop stronger processes, provide additional

training for our local stakeholders. However, if the issue is egregious, we have pulled funds, but we try to use that as a last resort. Our goal is try to create a more supportive relationship.

## Open Floor Discussion

**Sharon Gordon** asked participants to respond as to whether they have been able to gain a better understanding of WSDOT's CA program, and whether or not it could be used in their state.

**New York:** NYSDOT uses similar processes with their local project procedures as WSDOT currently does with their CAs. We would like to see an example of a WSDOT project plan to further review the differences in CA versus non-CA. (See Appendix C: Resources)

**New Jersey:** NJDOT does not currently have a CA program. We have a procedure for assessing eligibility – whether or not an agency is equipped to receive Federal funds – and other pieces in place such as LPA training through LTAP. Today's Peer Exchange has helped provide a picture of how to put the pieces together and take the next step to work with Federal Highways on a certification acceptance program.

**Colorado:** CDOT does not have certification program but may work toward something like that gradually over the next two to three years. Colorado tried a certification program before but only two agencies participated. Most agencies want to keep doing things the same way. We may look into a local on-call engineering contract that the locals can tap into to get their consultants. We are also moving toward online training for locals. Colorado's LTAP is very small so they do not have the resources for training as some LTAPs in other states do.

**Shaun Cutting/Colorado FHWA:** We will try to figure out a way to do this without adding staff. It is a common restraint most DOTs have. We can learn from you all and our upcoming trip to Oregon, whether it is through the use of consultants or other tools we can use to advance this.

**Wisconsin:** Our process is a scaled-down version of certification. It focuses on education of the process and requirements, particularly through the TAP program. The TAP projects are locally led, and we are looking at expanding that to the Statewide Transportation Improvement (STIP) program. One thing Wisconsin does differently is use consultants to manage local programs on behalf of the state, where a consultant serves as the day-to-day contact for the LPAs. We have five different regions and there is a different management consultant in each region. The consultants are restricted from doing any design or construction oversight for projects within their region.

**Sharon Gordon:** We did that in Arizona under ARRA. The state DOT hired consultants to manage the local government projects and it worked very well for us.

**Massachusetts:** The Peer Exchange was very helpful because we are looking for ideas on how we might set up a certification or qualification program. We do not have any program yet. We will definitely look at Utah's and Washington's Local Agency manuals.

MassDOT asked WSDOT if their CAs save time in advertising their own projects versus having the DOT advertise the bid, because one of the complaints they get from their communities is that it takes so long to get a Federal-aid project advertised.

**Stephanie Tax:** It is helpful because they can advertise the project on their schedule and not on the DOT's, especially if they have a critical "fish window."

**Kyle McKeon:** It is far more efficient than a WSDOT project, because WSDOT's process is so rigid. The local agencies can control their own destiny because they are not as process-driven as WSDOT.

**Sharon Gordon:** Arizona has had a certification program since 1995. There are eight agencies here that have certification. I think all of them would say that timing for advertising has been an extreme help, instead of going through the DOT's process. The DOT makes sure that the local agency's process meets State requirements and Federal regulations. Once that has been approved, that local agency can advertise and award the project.

**Nevada:** We do not have a formal certification process, but a lot of what we do sounds similar to WSDOT. We will examine it further to determine the differences and see how we can implement. Our local agencies want a certification process, at least for right of way, that will allow them to do the actual acquisition.

As a follow-up to Massachusetts's question, some of our local projects get done faster because the local agency makes it a priority and gets it done on their schedule. However, there are times when the projects languish just as long because the local agency does not make it a priority to get it out.

**Stephanie Tax** asked the states that do not have a local agency program how they administer the Transportation Alternative Program (TAP), since the DOT cannot be the lead agency for these funds.

**Massachusetts:** We have not authorized any TAP funds since MAP-21.

**Utah:** We have a joint highway committee with a city and a county representative that makes all the decisions on project selection, and the local government program engineer helps manage them. They are local government projects, awarded to local governments, but we have a project manager to provide oversight.

**Nevada:** Most of our TAP funds go through our LPA program, but if the local agency is not capable or does not feel capable of administering, then the DOT will design, advertise, and administer the contract for that local agency by entering into an agreement with them.

**New York:** Can New Jersey share a copy of their Local Aid Eligibility Assessment document? (See Appendix C: Resources)

The assessment was implemented in 2013, and it is composed of two different pieces:

- Financial questionnaire. NJDOT will ask locals to supply back up information if needed based on their answers.
- Interview questionnaire. The questions are meant to assess their ability to manage a Federal project, including availability of responsible charge and other items based on NJDOT's past experience with ARRA and other Federal projects.

If they pass both sections, they are declared eligible for three years. In the case of counties that get a Federal project every three to five years, the assessment is on a project-by-project basis. It is a new process and NJDOT is still evaluating it and considering revisions.

## Concluding Remarks

*Sharon Gordon* stated that all of the agenda items for the Peer Exchange were completed, so the half-day session originally scheduled for the next day, Thursday, June 12, would not be needed. Participants were given the opportunity to ask any additional questions.

*Kyle McKeon* advised that WSDOT would be glad to answer any future follow up questions, which can be forwarded via email through Megan Hall.

*Sharon Gordon* thanked WSDOT for sharing their processes, stating that it had been very helpful and informative.

## Appendix A: Peer Exchange Agenda

### LPA Peer Exchange – Hosted by WSDOT Local Programs June 11, 2014 10:00am-2:00pm Eastern Time

Washington DOT/ Local Programs Organizational Structure and Program Size

Certification Program LPAs vs Non-Certified LPAs

- Certified and Non-Certified
  - a. Benefits
  - b. Risks
- The number of communities within the State that are allowed Certification Acceptance.
- Project Administration-Certified Agency
  - a. Eligibility
    - i. Qualifications
    - ii. Process and Procedures:
    - iii. Training: ( formal, Application based or Interview based)
  - b. Agency Roles and Responsibilities
    - i. Federal
    - ii. State
    - iii. Local
- Project Administration
  - a. Funding
  - b. Preliminary Engineering
    - i. Planning
    - ii. Consultant Selection
    - iii. Design
    - iv. Environmental
    - v. Right of Way
    - vi. Advertise, Bid and Award (letting)
  - c. Construction
    - i. Construction Administration
    - ii. Project Closeout
- Monitoring and Oversight
  - i. What are the State DOT's audit/oversight activities?
  - ii. How did the State DOT streamline the internal reviews?
  - iii. Once the assessment is complete- running documentation to ensure compliance- how is this achieved.

## Appendix B: Peer Exchange Participant List

### Arizona

- Sharon Gordon, FHWA Arizona Division

### Colorado

- Steve Markovetz, Area Engineer, CDOT
- Cathy Cole, Assistant Area Engineer, CDOT
- Shaun Cutting, FHWA Colorado Division

### Massachusetts

- Marie Rose – Director of Roadway Project Management, MassDOT Highway Division
- John McVann, FHWA Massachusetts Division

### New Jersey

- Mike Russo, Director – Local Aid, NJDOT
- Shukri Abuhuzeima, Supervising Engineer – Local Aid, NJDOT
- Julie Seaman, Project Engineer – Local Aid, NJDOT
- Pragna Shah, Senior Engineer – Local Aid, NJDOT

### New York State

- Daniel C. Wood, High Risk/Innovation Oversight Team Leader & Local Program Manager, FHWA
- Mary Anne Mariotti, Acting Director, Local Programs Bureau – NYSDOT Main Office
- Ken Rupert, Local Programs Bureau – NYSDOT Main Office
- Richard Papai, RLPL – NYSDOT Region 4
- Don Mattimore, RLPL – NYSDOT Region 7
- Carolyn Ryan, RLPL – NYSDOT Region 8
- Ronald Coleman, RLPL – NYSDOT Region 9

### Nevada

- Kristena Shigenaga – NDOT Assistant Chief Road Design Engineer
- Kirsten Kehe – NDOT Local Public Agency Program Manager
- Dean Morton – Local Public Agency Coordinator
- Andrew Soderborg – FHWA Field Operations Team Leader
- Juan Balbuena-Merle – Safety & LPA Engineer

### **Wisconsin**

- Brian Edwards, WisDOT Local Program Project Manager
- Dave Simon, WisDOT Program Services Supervisor
- Joan Bonack, WisDOT Local Program Project Manager
- Oscar Winger, WisDOT Local Program Supervisor
- Sandi Villiesse, WisDOT Local Program Contracts

### **Utah**

- Chris Potter, UDOT Local Government Programs Engineer
- Jim Golden, UDOT State Project Management Engineer
- Bryan Dillon, FHWA Utah Division

### **Washington State**

- Stephanie Tax, Program Management Manager
- Kyle McKeon, Engineering Services Manager
- Megan Hall, FHWA Washington Division

## Appendix C: Resources

### Local Agency Website Links

#### Washington State DOT Local Agency Guidelines Manual

<http://www.wsdot.wa.gov/localprograms/LAG/>

#### Colorado DOT Risk Assessment Process for local agency projects:

[http://www.coloradodot.info/business/designsupport/bulletins\\_manuals/local-agency-bulletins/2013-1/view](http://www.coloradodot.info/business/designsupport/bulletins_manuals/local-agency-bulletins/2013-1/view)

#### New Jersey DOT Local Aid website:

<http://www.nj.gov/transportation/business/localaid/eligibility.shtm>

# WSDOT Letter of Understanding for Project Administration

August 1, 2014

City of \*\*\*\*\*  
\*\*\*\*\*  
\*\*\*\*\*, WA \*\*\*\*\*

F.A. No. \*\*\*\*-\*\*\*\*(\*\*\*)  
\*\*\*\*\*

## Letter of Understanding for Project Administration

Attn.: \*\*\*\*\*  
Public Works Director

Dear Sir:

Washington State Department of Transportation Local Programs (Local Programs) is to define, for projects utilizing Federal funding, the responsibilities for grant administration, consultant selection, consultant agreements, development of plans, specifications, and estimate, environmental documents, acquisition of right of way, advertisement, award and execution of contract, and construction administration including but not limited to inspection, change orders and final project documentation.

The CITY, operating under an extension of Local Programs Certification Acceptance (CA), shall administer all associated projects entirely in accordance with the Local Agency Guidelines (LAG), this Letter of Understanding (LOU) and direction as provided by the Local Programs Engineer (LPE). Failure to comply with the LAG, this LOU or the direction of the LPE may result in loss of Federal funds.

- 1) The STATE and the CITY have designated CA managers as shown below:

STATE  
WA State Department of Transportation  
Ed Conyers, Local Programs Engineer  
PO Box 330310  
15700 Dayton Avenue North, NB82-121  
Seattle, WA 98133-9710  
(206) 440-4734  
FAX (206) 440-4806

CITY  
\*  
\*  
\*\*\*\*\*, WA \*\*\*\*\*  
  
(\*\*) \*\*-\*\*\*\*  
FAX (\*\*) \*\*-\*\*\*\*

All formal submittals outlined herein, either from the STATE or the CITY, will be sent through the designated CA Manager.

- 2) The CITY shall obtain concurrence from the Local Programs Engineer (LPE) for any Grant application that requires CA status and administered under this document prior to submittal to the appropriate Grant Program administrator.
- 3) The CITY shall submit monthly progress billings to the LPE for federal funding reimbursement. The CITY shall include copies of contract progress estimates and/or consultant billings to verify the amount of reimbursement requested in the progress bill.
- 4) The CITY shall obtain approval from the LPE in the solicitation and selection of a Consulting Engineering firm for Preliminary Engineering, Right of Way and Construction Engineering services. The CITY shall utilize qualified consultants, approved by the LPE, for contract administration, inspection, and materials testing. In addition, the CITY shall obtain the approval from the LPE of the Consulting Engineering Agreement prior to execution. (See LAG chapter 31).
- 5) Contract plans, specifications and cost estimates (PS&E) shall be prepared in accordance with the current State of Washington Standard Specifications for Road, Bridge and Municipal Construction, and amendments thereto, and

adopted design standards (see LAG chapter 44). The LPE will review the PS&E to ensure compliance with the LAG.

- 6) Any deviations to design standards must be approved and stamped by a Professional Engineer licensed in the State of Washington. The CITY shall submit the design deviation to the LPE for further processing and approval.
- 7) The CITY shall be responsible for all required environmental documentation (SEPA and NEPA) and shall submit all required NEPA documentation to the LPE for further processing and approval. (See LAG chapter 24). The CITY shall be responsible for obtaining all required permits and approvals.
- 8) No R/W action shall proceed until the CITY contacts the Local Agency Right of Way Coordinator. The CITY shall follow current Right of Way (R/W) Procedures as described in the LAG (see LAG chapter 25). The LPE shall be advised of all meetings preliminary to R/W acquisition. All acquisitions of R/W such as construction easements, donations, permits, etc. shall be certified by the CITY and the STATE.
- 9) The CITY shall forward the proposed advertisement for bids to the LPE for approval. Upon approval, the CITY may begin advertisement for bids (see LAG chapter 46). The CITY shall keep the LPE advised on any pre-award issues affecting the quality and timing of the contract. Any required addenda to the contract documents shall be approved by the LPE prior to issuance.
- 10) The CITY shall notify the LPE of the Bid Opening date and time. The CITY shall transmit to the LPE, the Engineer’s Estimate and Bid Tabulations along with the complete Bid Packages of the apparent three (3) lowest bidders. Upon approval by the LPE, the CITY may Award the Contract to the lowest responsive bidder (see LAG chapter 46).
- 11) Upon the CITY’s execution of the contract for construction, the CITY shall administer and inspect the Project in accordance with the contract documents, WSDOT Standard Specifications for Road Bridge and Municipal Construction, the WSDOT Construction Manual, and all applicable State and Federal laws (see LAG chapter 52). Per Item 4 in this LOU, the CITY shall utilize consultants, approved by the LPE, for this work. The CITY shall notify the LPE of the date, time, and location of the pre-construction meeting with the contractor. The LPE will conduct periodic construction documentation reviews which are typically performed at 25%, 75%, and 100% of contract completion, or as warranted.
- 12) Changes to the contract will be documented by change order as defined in the current edition of the WSDOT Standard Specifications for Road, Bridge and Municipal Construction Section 1-04.4. The CITY Project Manager shall initiate, negotiate, and document all change orders. Prior to obtaining the contractor signature the CITY Project Manager shall provide a copy of all change orders to the LPE for review. All signed Change Orders shall be sent to the LPE or the LPE’s representative for final approval.
- 13) The CITY shall request the LPE to inspect the project prior to providing the final “punch list” to the Contractor (see LAG chapter 53).

Signature below constitutes concurrence with this Letter of Understanding.

CITY OF \*\*\*\*\*

STATE OF WASHINGTON  
DEPARTMENT OF TRANSPORTATION

By: \_\_\_\_\_  
\*\*\*\*\*  
\*\*\*\*\*

By: \_\_\_\_\_  
Ed Conyers, P.E.  
Local Programs Engineer

Date: \_\_\_\_\_

Date: \_\_\_\_\_

# **NJDOT Local Aid Eligibility Assessment Documentation**

## **New Jersey Department of Transportation**

### **Division of Local Aid and Economic Development**

#### **I. Policy/Procedure No. 010.00**

**II. Supersedes:** None

**III. Subject:** Local Public Agency Eligibility Assessment for Federal Aid Funds

**IV. Effective Date:** October 1, 2012

#### **V. Purpose**

To establish a policy to assess Local Public Agencies (LPA) ability to comply with requirements of the Federal Highway Administration's (FHWA) Federal Aid Highway Program (FAHP).

#### **VI. Background**

NJDOT provides funds to LPA's for construction projects on the federal-aid system through FHWA's FAHP. LPA's receiving Federal funds are responsible for administering the projects and meeting all Federal-aid requirements. The NJDOT, through its Stewardship Agreement with FHWA, is responsible for ensuring that each LPA is adequately staffed and suitably equipped to undertake Federal-aid projects; to provide the supervision and inspection required to complete each project in conformance with the approved plans and specifications; and to ensure that all federal requirements are met.

In order to make this eligibility determination the NJDOT will assess each LPA's policies, procedures, organization structure, and internal controls prior to the authorization of Federal-aid funds.

#### **VII. Authority**

23 U.S.C 112, 23 CFR 172, 23 CFR 635, 40 U.S.C., 49 CFR 18, 49 CFR 19, 49 CFR 26, 2 CFR 225, 2 CFR 230, OMB Circular A-133, FAR 31.2, and 40 U.S.C.

#### **VIII. Policy**

NJDOT Division of Local Aid and Economic Development will conduct an eligibility assessment of all LPA's as a prerequisite to receive FHWA FAHP funds. All requirements of the following

February 5, 2013

Procedure must be met prior to the authorization of FAHP funds for Fiscal Year 2013, and all subsequent fiscal years.

#### **IX. Procedure**

1. An LPA seeking FAHP funds must complete the NJDOT Division of Local Aid and Economic Development Federal Aid Highway Program Administrative Questionnaire (Attachment I). The questionnaire must be certified by the LPA and submitted to the Director, Division of Local Aid and Economic Development.
2. The completed questionnaire will be reviewed by the Division Office and written comments, if any, provided to the LPA. The NJDOT will notify the LPA of acceptance once all comments have been resolved. Certified questionnaires will be subject to audit by NJDOT.
3. An Eligibility Assessment Interview will be scheduled and conducted by the Local Aid District Office. The purpose of the interview is to assess the LPA's organization structure, staffing levels, and the LPA's administration and project management systems and internal controls. The interview will include an assessment of the LPA's written policies and procedures for administering federal-aid projects. The NJDOT Division of Local Aid and Economic Development Summary of Project Management Eligibility Requirements for Locally Administered Federal Aid Highway Projects dated December 5, 2012 (Attachment II) provides a summary of the federal-aid requirements that must be addressed in the LPA's policies and procedures.
4. District Office personnel will utilize the NJDOT Division of Local Aid and Economic Development Federal Aid Highway Program Eligibility Assessment Interview Form (Attachment III) as the basis for the interview.
5. The District Office will notify the LPA in writing of any comments including all deficiencies noted as a result of the interview. The notification will identify corrective action required by the LPA. The Division Director shall be copied.
6. The LPA will implement required corrective actions and submit revised documentation to the District Office. The District Office will notify the LPA in writing of acceptance or provide an explanation of corrective actions required to gain acceptance.
7. The District Office Manager will notify the Division Director in writing when all requirements identified in the Eligibility Requirements (Attachment II), the Eligibility Assessment Interview Form (Attachment III) and this Procedure are met.
8. The District Office Manager will notify the Division Director in writing of any LPA found not to be adequately staffed or suitably equipped to receive FHWA FAHP funds. The Division Office will notify the LPA in writing of this determination.

February 5, 2013

9. The Division Director will notify FHWA in writing of each LPA determined to be an eligible recipient of FHWA FAHP funds. The District Office will be copied. A copy of the notification shall be included in each funding authorization request prepared by the District Office.

10. Eligibility determinations will be valid for three years for Metropolitan Planning Organization (MPO) Subregions. All other LPA's will be assessed on a project by project basis as a prerequisite for the authorization of FAHP funds.

#### X. Attachments

Attachment I – New Jersey Department of Transportation, Division of Local Aid and Economic Development, Federal Aid Highway Program Administrative Questionnaire , State Local and Indian Tribal Governments, Universities and Non-Profits dated August 1, 2012 or subsequent revisions.

Attachment II - NJDOT Division of Local Aid and Economic Development Summary of Project Management Eligibility Requirements for Locally Administered Federal Aid Highway Projects dated December 5, 2012

Attachment III – NJDOT Division of Local Aid and Economic Development Federal Aid Highway Program Eligibility Assessment Interview Form dated January 17, 2013.

Approval



Date:

2-5-13

Michael Russo

Director, Local Aid and Economic Development

## ATTACHMENT I

### New Jersey Department of Transportation

#### Division of Local Aid and Economic Development

#### Federal Aid Highway Program Administrative Questionnaire

#### State, Local and Indian Tribal Governments

#### Universities and Non-Profits

The New Jersey Department of Transportation Division of Local Aid and Economic Development uses the standards set forth in the Code of Federal Regulations 49 CFR Part 18, 49 CFR Part 19, 2CFR Part 225, 2 CFR Part 230 [Office of Management and Budget (OMB) 87] and the OMB Circular A-133 to assess the adequacy of a potential Federal-aid recipient's accounting controls and administrative and project management systems.

To be awarded Federal-aid funds an organization must have accounting controls and administrative and project management systems that fully comply with the requirements identified in this questionnaire. Corrective action may be necessary to comply with the Federal requirements as a condition for receipt of Federal-aid funds.

The regulations cited in this document can be found at <http://www.dot.gov/ost/m60/grant/49cfr18.htm>; <http://www.dot.gov/ost/m60/grant/49cfr19.htm>; [www.gpoaccess.gov/cfr/index.html](http://www.gpoaccess.gov/cfr/index.html); <http://www.whitehouse.gov/omb/circulars/default>.

### I. General

1.	Name of Organization
2.	DUNS Number
3.	If your organization has expended more than \$500,000 in federal grant funds within a year, has an A-133 audit been performed?

4. If yes, were there any major findings and please provide the electronic link to the report?	
5. Does your organization have an approved indirect cost rate with the Federal Government?	

**II. Administrative Capability**

	<b>Financial Management Systems</b>	<b>Citation</b>	<b>Yes</b>	<b>No (Please provide explanation)</b>
	<b>Standard</b>			
1.	Does your organization's accounting and financial management systems follow generally accepted administrative rules, cost principals, and audit requirements?	OMB Circular A-102 2 CFR, Part 225 OMB Circular A-133	<input type="checkbox"/>	
2.	Do your systems permit the preparation of reports required by applicable statutes and regulations?	49 CFR 18.20(a)(1)	<input type="checkbox"/>	
3.	Do your systems permit the tracing of funds to a level of expenditures adequate to establish that funds have not been used in violation of applicable statutes?	49 CFR 18.20(a)(2)	<input type="checkbox"/>	
4.	Do your systems produce accurate, current, and complete disclosure of the financial results of financially assisted activities in accordance with the financial reporting requirements of the grant?	49 CFR 18.20(b)(1) 49 CFR 19.21(b)(1)	<input type="checkbox"/>	
5.	Does your system contain information which adequately identifies the source and application of funds provided for financially assisted activities? These records must contain information pertaining to grant or subgrant and authorizations, obligations, unobligated balances, assets, liabilities, outlays or expenditures, and income.	49 CFR 18.20(b)(2) 49 CFR 19.21(b)(2)	<input type="checkbox"/>	
6.	Does your system provide effective control over and accountability for all funds, property, and other assets?	49 CFR 18.20(b)(3) 49 CFR 19.21(b)(3)	<input type="checkbox"/>	

7.	Does your system adequately safeguard all property and assure that it is used solely for authorized purposes?	49 CFR 18.20(b)(3) 49 CFR 19.21(b)(3)	<input type="checkbox"/>
8.	Does your system allow for comparison of actual expenditures or outlays with budgeted amounts of each grant?	49 CFR 18.20(b)(4) 49 CFR 19.21(b)(4)	<input type="checkbox"/>
9.	Does your system relate financial information to performance or productivity data, including the development of unit cost information whenever appropriate or specifically required in the grant agreement?	49 CFR 18.20(b)(4) 49 CFR 19.21(b)(4)	<input type="checkbox"/>
10.	Does your system provide procedures for determining the reasonableness, allocability and allowability of costs in accordance with 2 CFR Part 225, "Cost Principles for State, Local, and Indian Tribal Governments"?	49 CFR 18.20(b)(5) 49 CFR 19.21(b)(6)	<input type="checkbox"/>
11.	For recipients paid in advance, do you maintain written procedures for minimizing the time elapsing between the transfer of funds from the U.S. Treasury and disbursement? Are draw downs requested as close as possible to the time of disbursement?	49 CFR 18.20(b)(7) 49 CFR 19.21(b)(5)	<input type="checkbox"/>

	Procurement	Citation	Yes	No (Please provide explanation)
1.	Do your contract administration systems ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders?	49 CFR 18.36(b)(2) 49 CFR 19.47	<input type="checkbox"/>	
2.	Do you maintain a written code of conduct governing the performance of your employees engaged in awarding and administering contracts?	49 CFR 18.36(b)(3) 49 CFR 19.42	<input type="checkbox"/>	
3.	Do your procedures require review of proposed procurements to avoid purchasing unnecessary or duplicative items?	49 CFR 18.36(b)(4) 49 CFR 19.44(a)(2)	<input type="checkbox"/>	

4.	Do your procedures require lease vs. purchase analysis?	49 CFR 18.36(b)(4) 49 CFR 19.44(a)(2)	<input type="checkbox"/>
5.	For governmental recipients, do you enter into state and local intergovernmental agreements for procurement of common goods and services?	49 CFR 18.36(b)(5)	<input type="checkbox"/>
6.	For governmental recipients, do you use federal excess and surplus property rather than purchasing new property?	49 CFR 18.36(b)(6)	<input type="checkbox"/>
7.	For governmental recipients, do you use value engineering on large construction projects?	49 CFR 18.36(b)(7)	<input type="checkbox"/>
8.	Are contract awards made only to responsible contractors?	49 CFR 18.36(b)(8) 49 CFR 19.44(d)	<input type="checkbox"/>
9.	Do you conduct a cost and price analysis in connection with every procurement action?	49 CFR 18.36(f) 49 CFR 19.45	<input type="checkbox"/>
10.	For governmental recipients, do your procurement records include rationale for procurement method, contract type selection, contractor selection or rejection, and contract price basis?	49 CFR 18.36(b)(9)	<input type="checkbox"/>
11.	Do nonprofit/university recipient records for purchases in excess of their small purchase threshold include basis for contractor selection, justification for lack of competition when competitive bids or offers were not obtained, and basis for award cost or price.	49 CFR 19.46	<input type="checkbox"/>
12.	Do you take the necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible?	49 CFR 18.36(e) 49 CFR 19.44(b)	<input type="checkbox"/>
13.	Do your procedures meet the requirements laid out in 49 CFR 18.36(d) for small purchases, sealed bids, competitive proposals, and noncompetitive proposals?	49 CFR 18.36(d) 49 CFR 19.44(c)	<input type="checkbox"/>
14.	To the maximum extent practical, are your procurement actions conducted in a manner providing full and open competition?	49 CFR 18.36(c) 49 CFR 19.43	<input type="checkbox"/>

15.	Do your contracts contain the required provisions in 49 CFR 18.36(i) and Appendix A, as applicable?	49 CFR 18.36(i) 49 CFR 19.48	<input type="checkbox"/>	
<b>Personnel Systems</b>				
1.	Do you maintain an employee handbook or personnel manual	2 CFR 225, Appendix B, 8(a)(d)(h) 2 CFR 230, Appendix B, 8(a)(g)(m)	<input type="checkbox"/>	
2.	Do you have written, current position descriptions	2 CFR 225, Appendix B, 8(a)(b)(h) 2 CFR 230, Appendix B, 8(a)(c)(m)	<input type="checkbox"/>	
3.	Are staff in each position qualified, based on position description?	2 CFR 225, Appendix B, 8(a)(b) 2 CFR 230, Appendix B, 8(a)(c)	<input type="checkbox"/>	
4.	Do you have a written recruiting and hiring procedure that ensures fairness and compliance with all applicable federal and state requirements?	2 CFR 225, Appendix B, 8(a) 2 CFR 230, Appendix B, 8(a)	<input type="checkbox"/>	
5.	Is your compensation system reasonably tied to position descriptions and regular performance evaluations? Is it consistently applied, e.g., same pay scale regardless of funding source?	2 CFR 225, Appendix B, 8(b) 2 CFR 225, Appendix B, 8(c)	<input type="checkbox"/>	
6.	Are your fringe benefits reasonable and consistently applied, e.g., same benefits regardless of funding source for the person's position?	2 CFR 225, Appendix B, 8(h) 2 CFR 230, Appendix B, 8(m)	<input type="checkbox"/>	
7.	Does your timekeeping system meet the requirements of the applicable cost principal?	2 CFR 225, Appendix B, 8(h) 2 CFR 230, Appendix B, 8(m)	<input type="checkbox"/>	

	<b>Property Management Systems</b>	<b>Citation</b>	<b>Yes</b>	<b>No (Please provide explanation)</b>
1.	Do you maintain equipment records that include: <ul style="list-style-type: none"> <li>• Property description</li> <li>• Serial or identification number</li> <li>• Title holder</li> <li>• Acquisition date</li> <li>• Cost</li> <li>• Percentage of federal participation in cost</li> <li>• Location and condition, including date information was reported</li> <li>• Disposition date, including disposal date and sales price</li> </ul>	49 CFR 18.32(d)(1) 49 CFR 19.34(f)91	<input type="checkbox"/>	
2.	Do you conduct a physical inventory of equipment at least once every two years, including reconciliation with property records?	49 CFR 18.32(d)(2) 49 CFR 19.43(f)(3)	<input type="checkbox"/>	
3.	Do you have a control system to ensure property is safeguarded to prevent loss, damage, and theft?	49 CFR 18.32(d)(3) 49 CFR 19.34(f)(4)	<input type="checkbox"/>	
4.	Do you have adequate maintenance procedures to keep the property in good condition?	49 CFR 18.32(d)(4) 49 CFR 19.34(f)(5)	<input type="checkbox"/>	
5.	For federally owned equipment, do governmental recipients manage it according to federal agency requirements?	49 CFR 18.32(f)(2)	<input type="checkbox"/>	
6.	For federally owned equipment, do you submit annual inventory listings?	49 CFR 18.32(f)(3) 49 CFR 19.33(a)	<input type="checkbox"/>	
7.	For nonprofit/university recipients, do you maintain insurance on equipment and real property acquired with federal funds equivalent to insurance on their own property?	49 CFR 19.31	<input type="checkbox"/>	
8.	Do your procedures cover requesting disposition instructions from the federal agency when real property is no longer needed on the project?	49 CFR 18.31(c) 49 CFR 19.32	<input type="checkbox"/>	
9.	Do your procedures for equipment disposition require valuation when equipment is no longer needed on federally supported projects?	49 CFR 18.31(e) 49 CFR 18.32(e)	<input type="checkbox"/>	

10.	Do your procedures require compensation to the federal agency when disposing of equipment with a current fair market value exceeding \$5,000?	49 CFR 18.32(c) 49 CFR 19.34(g)	<input type="checkbox"/>
11	Do your procedures cover calculating the residual value of supplies at closeout?	49 CFR 18.33 49 CFR 19.35(a)	<input type="checkbox"/>
12.	For governmental recipients, do your procedures require that disposition instructions are requested where the value of supplies exceeds \$5,000?	49 CFR 18.33	<input type="checkbox"/>

**PART III - CERTIFICATION AND SUBMISSION**

**CERTIFICATION OF APPLICANT'S AUTHORIZED REPRESENTATIVE (REQUIRED):**

I hereby certify that the statements I have made on this form and all attachments thereto are true, accurate and complete.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Name of Official)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Date)

## ATTACHMENT II

### NJDOT Division of Local Aid and Economic Development

### Summary of Project Management Eligibility Requirements for

### Locally Administered Federal Aid Highway Projects

December 5, 2012

#### Introduction

This document is intended to be used as a guide by LPA's in the development and implementation of procedures for projects using FHWA funds. Please note that this document is a summary of the federal requirements that must be met to establish an LPA's eligibility for funds. This document is not intended to be a comprehensive list of all federal requirements to be met once a project is authorized.

Each LPA seeking federal-aid funds must also complete NJDOT's Division of Local Aid's Federal Aid Highway Program Administrative Questionnaire. This questionnaire was developed to assess the LPA's accounting controls and administrative management systems.

The following areas must be addressed in each LPA's internal policy and procedure documents as a prerequisite to receiving federal aid funds.

#### Procurement of Professional Services– Consultant Selection

Consultant Services funded in whole or in part with FAHP funds must be procured and administered in accordance with the requirements of the Common Grant Rule, 49 CFR 18. In addition, contracts for engineering and design related services directly related to a construction project must also comply with the requirements of 23 U.S.C. 112 and 23 CFR 172.

Any LPA using Federal-aid funds for engineering and design related consultant services must have written procurement policies and procedures in accordance with 23 CFR 172.9. The written policies and procedures must address:

- Preparation of the consultant scope of work and cost estimate
- Solicitation, evaluation, ranking, and consultant selection
- Negotiation of reimbursement costs
- Monitoring of the consultant's work
- Consultant errors and omissions

Title 23 CFR 172 allows three procurement methods to be used to hire a consultant: competitive negotiation, small purchases and noncompetitive procurement. Competitive negotiation procedures generally apply and are commonly referred to as "qualification based selections". Qualification based

selection requirements are defined by the Brooks Act, 40 U.S.C, and can be broken down into three steps:

1. Issuing a request for proposal, or RFP.
2. Selecting a consultant based on qualifications.
3. Negotiating a fair and reasonable cost and contract terms with the selected consultant.

#### Request for Proposal

1. The LPA must have a written procedure detailing their consultant selection process for federal-aid projects. This procedure must be approved by NJDOT for compliance to federal requirements.
2. The RFP must include a detailed scope of work, qualifications required, responsibilities, and deliverables.
3. The RFP must include an estimated schedule for the performance and delivery of the services.
4. The RFP must stipulate method of contract payment.
5. The RFP must clearly define the LPA's evaluation criteria used to assess and rate the firms including the scoring rate of each criterion.
6. The qualification based evaluation criteria may take into consideration qualifications of staff, prior similar work experience, past performance, workload capacity, and technical project approach.
7. In-state or local hiring preferences are prohibited.
8. Consideration of price or any element of cost in the evaluation is prohibited in the evaluation, ranking, and selection of the most qualified consultant.
9. The RFP must be advertised for a sufficient amount of time to solicit as many proposals from as many qualified consultants as possible.
10. The RFP process must allow fair and open competition by providing opportunities for in-State and out-of-State consultants.

#### Selection

11. All submitted proposals must be evaluated and ranked according to the evaluation criteria and scoring process outlined in the RFP.
12. The 3 most qualified consultants should be listed in order of preference.

#### Negotiations

13. The LPA must prepare an independent cost estimate that reflects the advertised scope of work to be used as the basis of negotiations.
14. Negotiation of costs and contract terms are conducted with the number-one ranked qualified consultant.
15. Only the tasks included in the RFP can be incorporated in the contract.

16. NJDOT is required to ensure the consultant contract is compliant with FAR cost principals when using federal-aid funds.
  - Allowable costs include those directly associated with the specific contract as well as overhead costs, also known as their indirect cost rate.
  - Only NJDOT approved overhead rates are used. Consultants that do not have approved overhead rates must be approved in accordance with NJDOT Procurement policies and procedures.
  - The approved overhead rate must be used for the purpose of estimating, negotiating, and making payment on the contract.
17. The methods of payment that shall be used are: lump sum, cost plus fixed fee, cost per unit of work or specific rates of compensation.
  - Lump Sum: The lump sum method shall not be used to compensate a consultant for construction engineering and inspection services except when the agency has established the extent, scope, complexity, character and duration of the work to be required to a degree that a fair and reasonable compensation including fixed fee can be determined.
  - Cost plus fixed fee: This method of payment reimburses the consultant for its direct and indirect costs (salary, overhead, direct expenses) in addition to a negotiated amount as a fixed fee. This type of agreement is typically used for projects where the level of effort is unknown or the final objectives cannot be fully identified or precisely defined.
  - Cost per unit of work: This method is used when the cost per unit can be established with reasonable accuracy at the time of procurement, but the extent of the work is undefined. Payment is made based on a preset amount per unit of work performed.
  - Specific rates of compensation: this method of payment reimburses the consultant for services based on direct labor hours at specific fixed hourly rates plus direct expenses/costs subject to an agreement maximum amount. The specific rates of compensation method should only be used when it is not possible to estimate the extent or duration of the work or to estimate costs with any reasonable degree of accuracy at the time of procurement.
18. The cost plus a percentage of cost and percentage of construction cost method of compensation shall not be used.

#### Contract Administration

19. The LPA must monitor the consultant's work throughout the life of the contract.
20. The LPA must be adequately staffed to oversee the work, and must provide one full time agency employee in responsible charge.
21. NJDOT will review invoices to ensure costs are consistent with FAR cost principals, contract terms, and progress of consultants work.
22. The LPA is required to evaluate the consultant's performance when the contract is complete.

23. All records pertaining to the consultant procurement and executed contract must be kept on file a minimum of 3 years following submittal of the final invoice.

## **Project Management**

### **Responsible Charge**

Title 23 CFR 635.105(a) (4) requires LPA's to provide a full-time employee to be in responsible charge of Federal-aid construction projects. The person in responsible charge of LPA administered projects need not be an engineer. The "responsible charge" requirement applies even when a consultant is providing construction engineering services.

The LPA responsible charge is accountable for the project and expected to perform the following duties and functions:

- Administers inherently Government project activities, including those dealing with cost, time, adherence to contract requirements, construction quality, and scope of Federal-aid projects.
- Maintains familiarity of day to day project operations, including project safety issues.
- Makes or participates in decisions about changed conditions or scope changes that require change orders or supplemental agreements.
- Visits and reviews the project on a frequency that is commensurate with the magnitude and complexity of the project.
- Reviews financial processes, transactions and documentation to ensure that safeguards are in place to minimize fraud, waste, and abuse; and
- Directs project staff, agency or consultant, to carry out project administration and contract oversight, including proper documentation.
- Is aware of the qualifications, assignments, and on-the-job performance of the agency and consultant staff at all stages of the project.

Federal regulations do not preclude the sharing of these duties and functions among a number of LPA employees, nor do the regulations preclude one employee from having responsible charge of several projects and directing project managers assigned to specific projects.

### **Construction Inspection**

Title 23 CFR 635.105 requires projects receive adequate supervision and detailed construction inspection to ensure construction is completed in conformance with the approved plans and specifications. Likewise, LPA's are required to be adequately staffed and suitably equipped to undertake and satisfactorily complete this work. The LPA's detailed inspections and related source documents are the basis for payment of completed work. Title 23 CFR 635.123 requires LPA's to have procedures in place to inspect and verify delivery and quality of materials and ensure that work has been completed in accordance with the plans and specifications. Source documentation should be reflected in inspector reports, daily diaries and engineering calculations.

### Source Documentation

Title 23 CFR 635.123 requires each LPA to adopt procedures that provide adequate assurance that the quantities of completed work on federal-aid construction projects will be determined accurately and on a uniform basis. All such determinations and all related source documents upon which payment is based must be a matter of record. Additionally, all source documents pertaining to the determination of pay quantities must be retained for three years after final payment and project close-out pursuant to 49 CFR 18.36 (J)(11).

Source documents are the LPA's handwritten receipt of exactly what was delivered, and how many or how much. They are the single most important form of documentation that substantiate quality and quantities and provide the required basis for payment to the contractor. Lack of source documentation can result in the loss of federal participation of funds. Source documents consist of notes/documentation of counts; measurements (length, width, depth, and slope); calculations of area, volume, weights; sketches; a statement of compliance with contract plans and specifications; field changes; comments; and delivery tickets collected and initialed by the inspector at the point of unloading.

The LPA's procedures for source documentation must specify the following at a minimum:

- Delivery tickets are received before placement of materials
- Testing of materials is documented in the project files and referenced in daily inspection reports
- Form DC-29's are used for daily inspection reports and the instructions included on the DC-29's are followed. DC-29's are supplemented with field notes and photographs that tie the work being done to the plans, specifications and related contract documents.  
(<http://www.state.nj.us/transportation/business/localaid/documents/DC29aW1.pdf>)
- Inspection reports are signed and dated by the inspectors.
- The Resident Engineer reviews and initials the daily inspection reports.
- The Resident Engineer prepares a summary of pay quantities based on the daily inspection reports
- The Resident Engineer uses the summary of pay items to develop periodic pay estimates for the LPA person in responsible charge. The summary of pay items must be used for comparison and negotiations of contractor payment requests. The LPA person in responsible charge must ensure proper payments are being made in accordance with the contract provisions. Upon acceptance of the negotiated contractor payment, a voucher request will be forwarded to the LPA financial officer for contractor payment. Once contractor payment is made, the LPA financial officer must prepare and submit a State voucher.
- Prevailing wage rate requirements of 23 U.S.C. and the Davis- Bacon Act must be met and documented in the LPA's project files.
- Environmental commitments and/or permit requirements must be met and documented in the daily inspection reports.

- All pedestrian facilities must be constructed or reconstructed in accordance with the American with Disabilities Act (ADA) of 1990; Section 504 of the Rehabilitation Act of 1973; 28 CFR Part 35.151 (e) and NJDOT Standard Construction Details.
- DBE requirements are monitored and enforced to ensure compliance with 49 CFR 26; the contract plans, specifications and related contract documents; the NJDOT Construction Handbook Section V, Subsection B and NJDOT DBE/ESBE Programs.
- Include provisions to identify the LPA's full time employee in "responsible charge" of the project.

### Buy America

Title 23 CFR 635.410 requires that all steel or iron products permanently incorporated into a federal-aid project must be manufactured in the United States. This includes application of coatings.

Buy America requirements apply to the entire federal-aid project. Steel or iron products purchased with non federal funds are not exempt from this requirement.

Waivers are permissible in rare cases as specified in 23 CFR 635.410 (c) (1). Minimal use of foreign steel or iron is permissible if the costs of such materials does not exceed one-tenth of one percent of the total cost or \$2,500, whichever is greater as specified in 23 CFR 635.410 (b)(4).

The LPA responsible charge is responsible for receiving the Buy America certification at time of delivery and prior to the steel or iron product being incorporated into the project. The Buy America certification must be current, signed, and dated and be specific to the materials

### DBE Compliance

Title 49 CFR 26 requires that Disadvantaged Business enterprises (DBE's) have an equal opportunity to receive and participate in federal-aid assisted construction contracts. The LPA is responsible to award federal-aid contracts to only those bidders who make a good faith effort to meet the DBE goals established by NJDOT's Civil Rights Contract Compliance Unit. The LPA must continuously monitor DBE participation as the project progresses and is responsible for ensuring the contract goals will be met at the time of project completion. Failure to comply with DBE goal requirements may result in the loss of federal funding. The LPA's responsibilities include:

1. Verification of Recommendation to Award memorandum and Form CR-266F, "Schedule of DBE/ESBE Participation (former "Form A") to determine status of the subcontractors to monitor DBE/ESBE compliance.
2. Monitor participation by comparing contractors DBE/ESBE/SBE goal commitments against each Form DC-18, "Request for Approval to sublet". Cross check the Daily Work Reports with each affected Form DC-18, the Recommendation to Award, and the Form CR-267, Monthly Report of Utilization of ESBE/DBE or SBE.
3. Utilize Daily Work Report to document on-site monitoring of stipulated DBE work items and contractor performing the work to insure compliance.

4. The person in responsible charge must be made aware of non-compliance issues and direct the contractor in writing to comply with these requirements. Revisions can only be made to the approved DBE/ESBE/SBE program upon submission of a revised Form CR 266 by the contractor and review and approval by NJDOT.
5. Any DBE/ESBE/SBE goal commitments not fulfilled must be supported by Good Faith Effort documentation and reviewed and approved by NJDOT based on the guidance set forth in 49 CFR 26 Appendix A.

## **Contract Changes, Project Schedules, Project Progress, Contract Completion**

### **Contract Changes**

Title 23 CFR 635.120 and Section 104.03 of the NJDOT Standard Specifications govern changes in plans and specifications, and extra work. Deviations from the contract requirements shall not occur unless the Resident Engineer issues a written field order or a Change Order is approved by the Department. Change Orders require written justification: breakdown of costs and quantities; and timely approvals. Contract changes and progress of work must be monitored daily. Types of changes include quantity increases and decreases; new work; and changes in the character of work.

Contract line item overruns are not permissible without NJDOT approval. Any sum in excess of the contract's current authorized funding amount cannot be expended until a Change Order is approved by NJDOT. All new or supplemental costs must be negotiated, itemized and justified. All documentation including a cost analysis of each negotiated cost must be included in the Change Order request and maintained in the project file.

Time shall always be evaluated as part of a change order. Extensions in contract time related to contract changes or extra work will only be granted for excusable, compensable delays as defined in Section 108.10 of the NJDOT Standard Specifications.

### **Contract Time**

Contract time must be specified in the bid documents for all federal-aid projects, monitored by the local public agency each work day, and documented. A pre-construction conference shall be promptly scheduled following contract award and a Notice to Proceed (NTP) issued specifying the NTP date, project duration, and contract completion date.

Delays in work progress and completion result in delays in the use of the project, inconvenience to the public and increased inefficiencies leading to additional costs incurred by the NJDOT and the LPA for engineering, inspection, and contract administration. The NJDOT Standard Specifications summarizes it simply by stating "Time is of the essence as to all time frames stated in the Contract." Every effort should be made to establish contract times that have the shortest practical durations.

Contract time extensions will only be granted for excusable delays specified in Section 108.11 of the NJDOT 2007 Standard Specifications. Contract time extensions must be submitted and approved by Change Order as the project progresses and at the time an excusable delay occurs.

### Liquidated Damages

Liquidated damages must be specified for all federal-aid projects. Liquidated Damages are defined as the daily amount set forth in the contract to be deducted from the contract price to cover additional costs incurred by the local public agency because of a contractor's failure to complete work within the specified Contract Time.

Liquidated damages must be assessed by the LPA for each day the contractor fails to complete work within the specified Contract Time. Failure to assess liquidated damages by the local public agency in accordance with the contract bids documents and federal-aid requirements may result in the loss of federal participation of funds.

### Progress Schedules

The LPA is responsible for providing a progress schedule and monitoring contract progress to evaluate impacts to contract time pursuant to Section 153 of the NJDOT Standard Specifications.

Progress payments are compensation for the value of work performed during a covered period as specified in Title 23 CFR 635.123. The LPA is responsible for documenting the project's progress, contractor payments, and contract completion to ensure adherence to the approved project schedule and specified contract time.

### Disposition of Change Order Protests

Title 23 CFR 635.109 prescribes standardized changed conditions contract clauses for differing site conditions; suspensions of work ordered by the engineer; and significant changes in the character of work on all federal-aid construction projects. The LPA is responsible for resolving protests to change orders in accordance with 23 CFR 635.109 and Section 104.03.02 of the NJDOT 2007 Specifications.

If the contractor disagrees with any terms or conditions of a Change Order, a written protest must be submitted to the LPA within 15 days of receipt of the Change Order. The LPA will notify the NJDOT as soon as possible. (Agreement language and claims language; NJSA 59:13-1)

Submission of a written protest does not relieve the contractor from the obligation to proceed with work as directed by an approved change order.

Questions regarding federal-aid compliance can be directed to one of NJDOT's Local Aid District Offices. District Office contact information can be found on the Local Aid website at:

<http://www.state.nj.us/transportation/business/localaid/>

The "Summary of Project Management Eligibility Requirements for Locally Administered Federal Aid Highway Projects" and the "Division of Local Aid's Federal Aid Highway Program Administrative Questionnaire" can also be found on the Local Aid website.



**ATTACHMENT III**  
**New Jersey Department of Transportation**  
**Division of Local Aid and Economic Development**

**Federal Aid Highway Program**  
**Eligibility Assessment Interview Form**

<b>Local Public Agency</b>		
<b>Reviewer</b>		
<b>Date</b>		
<b>Attendees</b>	<b>Name:</b>	<b>Organization:</b>

<b>Organization Chart</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<i>(Review agency personnel associated with federal-aid projects and identify specific duties and responsibilities.)</i>	

<b>Agency Responsibilities</b>	
Identify Personnel/Position Responsible for the following tasks.	
• NEPA Document and Permits	
• PS&E Approval	
• ROW Availability	
• Utility Clearances	
• Bid Reviews and Analysis	
• Award of Contract	
• Execution of Contract	
• Approval of Material Sources	

• Construction Contract Administration	
• Construction Inspection	
• Source Documents	
• Buy America	
• Sampling/Testing Acceptance	
• Contract Changes	
• Contract Time	
• Disposition of Change Orders	
• Wage Rate Compliance	
• DBE Monitoring and Compliance	
• Training Goals Monitoring and Compliance	
• ADA Compliance	
• Consultant Contract Administration	
• Work Zone Safety and Traffic Control	

<b>Contract Administration</b>	
Describe how the LPA will administer multiple, concurrent construction contracts.	
Describe how LPA will inspect multiple, concurrent construction operations or work activities.	
Describe how the LPA will provide adequate oversight of construction activities if the Resident Engineer or inspectors are absent from the job site on any given work day.	
Describe how the LPA manages traffic control and work zone safety.	

### Consultant Services

Identify the activities to be performed by consultant services.

Environmental	<input type="checkbox"/>	Right of Way	<input type="checkbox"/>	Surveying	<input type="checkbox"/>
Design	<input type="checkbox"/>	Construction Engineering	<input type="checkbox"/>	Sampling and Testing	<input type="checkbox"/>
PS&E	<input type="checkbox"/>	Construction Inspection	<input type="checkbox"/>		

Does the LPA have written policies and procedures for the procurement of professional services?  Yes  No

If yes, do they comply with 23 CFR, Brooks Act, and FAR cost principals. (See eligibility requirements dated December 5, 2012)  Yes  No

Does the LPA have formally adopted standard consultant contracts?  Yes  No

If yes, do the contract terms and conditions include the appropriate Federal Regulations and provisions for Federal audit of books and records? If no, each consultant contract must be reviewed and approved by NJDOT. (Federal regulations require cost basis contracting with consulting firms. FAR 31.2 defines allocable and allowable costs for reimbursement. All consultant contracts must include payment terms that require compliance with this regulation and a provision for Federal audit of books and records.)  Yes  No

How does the LPA monitor and evaluate the consultant's work?

### Responsible Charge

Does the LPA have written policies and procedures to provide a full-time employee to be in responsible charge of each federal-aid construction contract?  Yes  No

Do procedures include requirements for responsible charge to maintain records of all material testing, and material certifications, including Buy America, for all materials placed on the project for review by the NJDOT?  Yes  No

Do the procedures meet the requirements of 23 CFR 635.105 and do they specify the role and responsibilities of the responsible charge? (See eligibility requirements dated December 5, 2012)  Yes  No

If no, corrective action must be taken to formally adopt and implement acceptable policy and procedural controls prior to the authorization of federal-aid funds.

**Construction Inspection**

Does the LPA have written policies and procedures to provide adequate supervision and detailed construction inspection of federal-aid construction contracts?  Yes  No

If yes, do the procedures include provisions to inspect and verify delivery and quality of all materials and ensure work has been completed in accordance with the plans and specifications as required by 23 CFR 635.123? (See eligibility requirements dated December 5, 2012)  Yes  No

If no, corrective action must be taken to formally adopt and implement acceptable policy and procedural controls prior to the authorization of federal-aid funds.

**Source Documents**

Does the LPA have written policies and procedures for source documentation in support of pay quantities?  Yes  No

If yes, do the procedures provide adequate assurance that the quantities for completed work will support the contractor's claims for payment and reimbursement by the NJDOT? Procedures must address delivery tickets, materials testing, DC-29's/Daily Inspection Reports, pay quantity summaries, contractor payments, wage rate inspections, NEPA/permit compliance, ADA compliance, DBE compliance and responsible charge responsibilities. (See eligibility requirements dated December 5, 2012 for additional guidance)  Yes  No

If no, corrective action must be taken to formally adopt and implement acceptable policy and procedural controls prior to the authorization of federal-aid funds.

**Buy America**

Does the LPA have written policies and procedures in place to ensure all steel or iron products are manufactured in the United States in accordance with 23 CFR 635.410?  Yes  No

If yes, do the procedures include provisions for receiving and documenting Buy America certifications at the time of delivery and prior to the steel or iron product being incorporated into the project? Procedures must specify that certifications be current, signed, dated, and specific to the materials. Procedures must specify that a log be maintained of all foreign steel placed on the project.  Yes  No

If no, corrective action must be taken to formally adopt and implement acceptable policy and procedural controls prior to the authorization of federal-aid funds.

### DBE Compliance

Does the LPA have written policies and procedures to ensure federal-aid contracts are only awarded to bidders who make a good faith effort to meet DBE goals established by NJDOT?  Yes  No

Do procedures have provisions to monitor DBE participation to ensure goals are met at project completion?  Yes  No

If no, corrective action must be taken to formally adopt and implement acceptable policy and procedural controls prior to the authorization of federal-aid funds.

### Contract Changes

Does the LPA have written policies and procedures governing changes to contract quantities or plans and specifications?  Yes  No

If yes, procedures must reference NJDOT Standard Specifications for Road and Bridge Construction Section 104.03. Procedure must specify requirements for written field orders for all work that deviates from the contract requirements and the timely approval of change orders prior to contractor reimbursement. Procedure must specify need for LPA to develop independent cost estimates and negotiate costs of supplemental work items with contractor. Procedure must specify the need for change orders to be formally adopted and approved by LPA and NJDOT prior to reimbursement. Procedure must include requirement to evaluate impacts of all change orders on contract time and contract completion dates. *(See eligibility requirements dated December 5, 2012 for additional guidance)*

If no, corrective action must be taken to formally adopt and implement acceptable policy and procedural controls prior to the authorization of federal-aid funds.

### Contract Time

Does the LPA have written policies and procedures to specify contract time in all bid documents?  Yes  No

Do procedures include requirement to promptly schedule pre-construction meeting following contract award and to issue a Notice to Proceed (NTP) specifying the NTP date, project duration, and contract completion date? <i>(See eligibility requirements dated December 5, 2012 for additional guidance)</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No
If no, corrective action must be taken to formally adopt and implement acceptable policy and procedural controls prior to the authorization of federal-aid funds.	

Liquidated Damages	
Does the LPA have written policies and procedures to specify liquidated damages on all federal-aid projects?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If no, corrective action must be taken to formally adopt and implement acceptable policy and procedural controls prior to the authorization of federal-aid funds.	

Project Schedule	
Does the LPA have written policies and procedures to establish project schedules pursuant to Section 153 of the NJDOT Standard Specifications?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Do the procedures include provisions to monitor contract progress and evaluate impacts on contract time?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Do the procedures include requirements for the project schedule to be kept current?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If no, corrective action must be taken to formally adopt and implement acceptable policy and procedural controls prior to the authorization of federal-aid funds.	

Does the LPA have written policies and procedures to ensure project's progress, contractor payments, and contract completion adhere to the approved project schedule and specified contract time?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If no, corrective action must be taken to formally adopt and implement acceptable policy and procedural controls prior to the authorization of federal-aid funds.	

**Disposition of Change Orders**

Does the LPA have written policies and procedures for the disposition of change order protests in accordance with Section 104.03.02 of the NJDOT Standard Specifications?

Yes  No

If no, corrective action must be taken to formally adopt and implement acceptable policy and procedural controls prior to the authorization of federal-aid funds.

**Federal-aid Workload**

Active construction contracts

Federal Project Number	Project Description	Contract Completion Date
------------------------	---------------------	--------------------------


Scheduled construction contracts


**Reviewer Comments**

FHWA-XXX-XX-XXX

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U.S. Department of Transportation  
**Federal Highway Administration**