

# Certified LPA Approval Authority Matrix

November 2021

**FHWA** - Federal Highway Administration

**ODOT** - Oregon Department of Transportation

**CLPA** - Certified Local Public Agency

**Core Curriculum** - FHWA Contract Administration Core Curriculum Manual

**NHS** - National Highway System

**SHS** - State highway system. SHS requirements apply to the portion(s) of project work on or along the state highway system.

**Stewardship Agreement** - Stewardship and Oversight Agreement on Project Assumption and Program Oversight by and between Federal Highway Administration, Oregon Division and the State of Oregon Department of Transportation

**Concurrence** - Defined: 1) *Agreement in opinion or design* ; 2) *Consent*

**Approve** - Defined: *To give formal or official sanction*

**Recommend Approval** - Defined: *To recommend to the approval authority that it give formal or official sanction*

This matrix designates the agency responsible for approval of the various actions listed below for CLPA projects either on the state highway system or on their local facilities<sup>(1)(2)(7)</sup>. The second column from the right designates the actions where additional ODOT input is required.

Approval Action	Agency Responsible		ODOT Concurrence/ Recommendation	Guidance or Citation
	On SHS by CLPA	Off SHS by CLPA		
<b>I. Program Development (Planning)</b>				
1. Project Selection	ODOT / MPO as applicable		N/A	Varies by funding program. LAG Section C, Chapter 2
2. Ensure Project is in STIP	ODOT	ODOT	N/A	LAG Section C, Chapter 3. Note: For Emergency Relief (ER) projects see ODOT FTA FHWA Amendment Matrix.
3. Verify eligibility for funding category	ODOT <sup>5</sup>	ODOT <sup>5</sup>	N/A	LAG Section A; ODOT/AOC/LOC
4. Approve alternative contracting considered operational by FHWA, for example: CM/GC, design build, cost plus time, additive alternates, incentive/disincentive clauses, etc.	ODOT	ODOT	N/A	FHWA Special Experimental Project No. 14 (SEP14); Core Curriculum
5. Approve alternative contracting methods considered experimental by FHWA	FHWA	FHWA	Recommend Approval	FHWA Special Experimental Project No. 14 (SEP14) and Core Curriculum
6. Approve emergency determinations for contracts awarded by other than competitive bidding	ODOT	ODOT	N/A	Stewardship Agreement; 23 CFR 635.104 & 204; Core Curriculum
7. Accept Local Agency Technical Scope Sheet (formerly, <i>Prospectus</i> )	CLPA	CLPA	Concurrence	LAG Section C, Chapter 3
8. Authorize federal funding (all phases) for federal reimbursement of project expenditures	FHWA	FHWA	Recommend Approval	LAG Sections A, B, C; Stewardship Agreement
<b>II. Environmental (All Phases)</b>				
1. Approve all Class I NEPA Environmental Impact Statement (EIS) Actions	FHWA	FHWA	Recommend Approval	LAG Section C, Chapter 6
2. Approve all Class II NEPA Categorical Exclusion (CE) Actions	FHWA	FHWA	Recommend Approval	LAG Section C, Chapter 6
3. Approve all Class II NEPA Categorical Exclusion (CE) Actions that fit within ODOT/FHWA Programmatic Agreement parameters	ODOT <sup>6</sup>	ODOT <sup>6</sup>	N/A	LAG Section C, Chapter 6
4. Approve all Class III NEPA Environmental Assessment (EA)	FHWA	FHWA	Recommend Approval	LAG Section C, Chapter 6
5. Approve project changes that affect environmental mitigation or commitments	FHWA	FHWA	Recommend Approval	LAG Section C, Chapter 6

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<b>III. Civil Rights (All Phases)</b>				
1. Establish Disadvantaged Business Enterprise (DBE) contract provisions and goals (consultant and construction contracts)	ODOT	ODOT	N/A	LAG Section C, Chapters 8 & 12; ODOT LPA A&E Requirements or LPA Non-A&E PSK Requirements guides (as applicable)
2a. Acceptance of bidder's good faith efforts to meet contract goal 2b. Acceptance of DBE subcontractor termination 2c. Acceptance of prime contractor's good faith efforts to substitute DBE subcontractor work	ODOT	ODOT	N/A	LAG Section C, Chapter 8
3. Equal Employment Opportunity (EEO) Contract Compliance Review Approval.	ODOT	ODOT	N/A	LAG Section C, Chapter 8
4. Training Special Provision – Approval of Project Goal for training slots or hours.	ODOT	ODOT	N/A	LAG Section C, Chapter 8
5. Training Special Provision – Approval of New Project Training Programs.	ODOT	ODOT	N/A	LAG Section C, Chapter 8
6. Any contract change that would impact committed Disadvantaged Business Enterprise (DBE); Equal Employment Opportunity (EEO); On the Job Training (OJT); and Apprenticeship participation.	ODOT	ODOT	N/A	LAG Section C, Chapter 8
<b>IV. Preliminary Design (Design Phase)</b>				
1. Consultant Contract Selection (subject to DBE procurement and contract administration requirements).	CLPA	CLPA	*SOW Review ^Concurrence	LAG Section C, Chapter 12; ODOT LPA A&E Requirements or LPA Non-A&E PSK Requirements guides; *ODOT reviews environmental and right of way tasks (as applicable). ^Applies to work on or along SHS
2. Approve hiring of consultant to serve in a "Management support role" as defined in 23 CFR 172.3	FHWA	FHWA	Recommend Approval	Example: When LPA hires an owner's representative for a more complex project or series of projects, typically when alternative contracting methods are used. (See, 23 CFR 172.7(b)(5).)
3. Approve consultant agreements and agreement revisions (Federal non-Major Projects)	CLPA	CLPA	N/A	ODOT LPA A&E Requirements Guide or LPA Non-A&E PSK Requirements Guide (as applicable)
4. Approve deviations from applicable design standards that require design exceptions (not ADA).	ODOT	CLPA ODOT (bridge)	N/A	LAG Section C, Chapters 9 and 11
5. Approve ADA design exceptions	ODOT	CLPA ODOT*	N/A	*If CLPA does not have an ODOT approved ADA design exception and inspection process. LAG Section C, Chapters 9 & 11.
6. Approval of Design Acceptance Package (Design Approval ~30-60% Design)	CLPA	CLPA	^Concurrence	^ Only applies to work on or along SHS and to bridge projects on the National Bridge Inventory list. LAG Section C, Chapter 10
7. Approve preliminary plans for unusual/complex bridges or structures (non-Interstate)	ODOT FHWA <sup>(4)(8)</sup> ***	ODOT FHWA <sup>(4)(8)</sup> ***	Recommend Approval if on NHS	*** FHWA retains approval authority for unusual/complex bridges on the NHS. See LAG Section C, Chapter 10.
8. Approve airport highway clearance coordination and respective public interest finding (if required)	CLPA FHWA <sup>4</sup> ***	CLPA FHWA <sup>4</sup> ***	^Concurrence Recommend Approval if on NHS	*** FHWA retains approval authority for airport highway clearance coordination on the NHS (23 CFR 620.104). ^ Only applies to work on or along SHS.

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	On SHS by CLPA	Off SHS by CLPA		
<b>V. Detailed / Final Design (Design Phase)</b>				
1. Approve PS&E submittal package	ODOT	ODOT	N/A	LAG Section C, Chapter 11
2. Approve Special Provisions that change the LPA's ODOT approved General Conditions	ODOT	ODOT	N/A	LAG Section C, Chapter 11
3. Approve Exemption Order under ORS 279C.345 to specify use of proprietary, brand name or mark products when "no approved equal" will be allowed	CLPA	CLPA	^Concurrence	LAG Section C, Chapter 11 ^Only applies if specified product is for use in work on or along SHS.
4. Approve Traffic Control Change (e.g. signals, crosswalks, flashing lights, speed zones, and posted speeds).	ODOT	CLPA	N/A	LAG Section C, Chapter 11
5. Approve changes in geometric design which affect the operating or safety characteristics of the facility.	ODOT	CLPA	N/A	LAG Section C, Chapter 11
6. Approve changes in the structural design.	ODOT FHWA <sup>4</sup> ***	CLPA ODOT (Bridge) FHWA <sup>4</sup> ***	Recommend Approval if unusual/complex bridge on the NHS	*** FHWA retains approval authority for changes in structural design for unusual/complex bridges on the NHS. LAG Section C, Chapters 10 and 14.
7. Approve changes to the typical section(s)	ODOT	CLPA	N/A	LAG Section C, Chapter 10
8. Approve changes to staging or the traffic control plan other than those necessary to implement the intent of the original plans and specifications.	ODOT	CLPA	N/A	LAG Section C, Chapter 9
9. Approve addition of, or revisions to, warranty provisions	ODOT FHWA <sup>4</sup> (if on NHS)	ODOT FHWA <sup>4</sup> (if on NHS)	Recommend Approval if on the NHS	LAG Section C, Chapter 11
10. Waiver of Buy America provisions (23 CFR 635.410)	FHWA	FHWA	Recommend Approval	LAG Section C, Chapter 11
11. Utility Certification	CLPA ODOT	CLPA ODOT	N/A	ODOT State Utility Liaison must co-sign. LAG Section C, Chapter 13
12. Approve utility agreements and utility force order work	CLPA	CLPA	^Concurrence	^Only applies to work on or along SHS. LAG Section C, Chapter 13
13. Approve railroad agreements, railroad force order work, and railroad agreement assurance	CLPA	CLPA	^Concurrence	^Only applies to railroad agreement for any work on or along SHS. (ODOT does not sign the railroad assurance.) LAG Section C, Chapter 13.
14. Approve Experimental Features	FHWA	FHWA	Recommend Approval	LAG Section A; FHWA SEP-14 and SEP-15
15. Approve public interest findings for force order work (use of public forces)	ODOT	ODOT	N/A	ODOT Letters of Public Interest Finding Guidance; LAG Section C, Chapter 11 & 16 (23 CFR 635.104 & 204)
16. Approve use of publicly owned equipment	ODOT	ODOT	N/A	ODOT Letters of Public Interest Finding Guidance; LAG Section C, Chapter 11; (23 CFR 635.407)
17. Approve use of publicly furnished materials	ODOT	ODOT	N/A	ODOT Letters of Public Interest Finding Guidance; LAG Section C, Chapter 11; (23 CFR 635.407)
18. Approve use of mandatory borrow/disposal sites	ODOT	ODOT	N/A	ODOT Letters of Public Interest Finding Guidance; LAG Section C, Chapter 11; (23 CFR 635.407)

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<b>VI. Right of Way Acquisition (Design Phase)</b>				
1. Approval of right of way strip map (if needed), property legal descriptions/exhibit map and programming estimate	ODOT	CLPA	^^Concurrence	^^Applies to all work off the state highway system. LAG Section C, Chapter 7; ODOT Right of Way Manual
2. Approve retaining right-of-way encroachments	ODOT	CLPA	N/A	LAG Section C, Chapter 7; ODOT Right of Way Manual
3. Make feasibility/practicability determination for allowing authorization of construction prior to completion of right of way clearance, utility and railroad work	FHWA (Interstate) ODOT (Non-Interstate)	CLPA	Concurrence	ODOT Right of Way Manual and 23 CFR 635.309(b)
4. Make public interest finding on proceeding with bid advertisement even though right of way acquisition/relocation activities are not complete for some parcels.	FHWA (If on NHS) ODOT	ODOT	Recommend Approval (If on NHS)	ODOT Right of Way Manual and 23 CFR 635.309(c)(3)
5. Approve disposal at less than fair market value of federally funded right-of-way, including disposals of access control	FHWA	FHWA	Recommend Approval	ODOT Right of Way Manual and 23 U.S.C. 156
6. Approve disposal at fair market value of federally funded right-of-way, including disposals of access control	FHWA (Interstate) ODOT (Non-Interstate)	ODOT	N/A	ODOT Right of Way Manual and 23 CFR 710.409
7. Approve hardship and/or protective right of way acquisition or any early acquisition of right of way prior to NEPA approval	FHWA	FHWA	Recommend Approval	ODOT Right of Way Manual and 23 CFR 710.503
8. Requests for credits toward the non-Federal share of construction costs for early acquisitions, donations or other contributions applied to a project	FHWA	FHWA	Recommend Approval	ODOT Right of Way Manual; Stewardship Agreement
9. Ensure compliant right of way certification is in place	ODOT CLPA	ODOT CLPA	N/A	ODOT Region Right of Way Manager must co-sign the certification. LAG Section C, Chapter 7
<b>VII. Advertisement, Bid and Award (Design Phase)</b>				
1. Approve a bid advertisement period of less than three weeks.	ODOT	ODOT	N/A	Stewardship Agreement; Core Curriculum; (23 CFR 635.112)
2. Approve addenda during advertising period (except for addenda that involve changes covered in VIII. 2a-2i below or V.2 above, in which case the approval authority specified for those subsection(s) apply.)	CLPA	CLPA	N/A	LAG Section C, Chapter 15
3. Approve bid analysis for unbalanced bids	CLPA	CLPA	N/A	LAG Section C, Chapter 15
4. Approve award of construction contract	CLPA	CLPA	N/A	LAG Section C, Chapter 15
5. Approve rejection of all bids	CLPA	CLPA	Concurrence	LAG Section C, Chapter 15

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<b>VIII. Construction (Construction Phase)</b>				
1. Approve construction engineering by local agency.	CLPA	CLPA	N/A	Stewardship Agreement (23 CFR 635.105)
2. Changes/Extra Work/Nonparticipation (See 2a-2i)	See Below and Note 3			
2a. Changes to contract plans and specifications commonly made within the scope and intent for the original plans and specifications	CLPA	CLPA	N/A	Examples of commonly made changes: adjustment to flagging rates and hours because additional hours are needed over the bid quantity, or adding a small amount of subgrade stabilization, etc. LAG Section C, Chapter 16
2b. Changes to contract plans and specifications other than those commonly made within the scope and intent for the original plans and specifications.	CLPA	CLPA	^Concurrence	LAG Section C, Chapter 16 ^Only applies to work on or along SHS.
2c. When a cost reduction proposal causes a change order, except as described above in 2b.	CLPA	CLPA	N/A	LPA's approved General Conditions, Section 00140.70
2d. Single changes affecting contract completion by more than 30 days, or cumulative changes affecting contract completion by more than 60 days.	CLPA	CLPA	^Concurrence	LPA's approved General Conditions 00180.50 and 00180.80. ^Only applies to work on or along SHS; see ODOT Construction Manual, Chapters 3 & 13.
2e. Performing added work using public forces that would normally be bid (public interest finding may be required)	ODOT	ODOT	N/A	LAG Section C, Chapter 16
2f. Any changes affecting environmental mitigation, classification or commitments	FHWA	FHWA	Recommend Approval	LAG Section C, Chapter 6
2g. Proposed waivers for Buy America provision	FHWA	FHWA	Recommend Approval	LAG Section C, Chapter 16; Stewardship Agreement; 23 CFR 635.410
2h. Right of Way access control provisions	ODOT	CLPA	N/A	For access control information, see ODOT Project Development Operational Notices, PD-03.
2i. Changes in the scope of work or extension of the contract limits as shown in the approved project documents	FHWA	FHWA	Recommend Approval	LAG Section C, Chapter 16
3. Approve termination of contracts	CLPA	CLPA	Concurrence	LAG Section C, Chapter 16; 23 CFR 635.125
4. Approve pre-construction conference agenda and meeting minutes	CLPA	CLPA	N/A	LAG Section C, Chapter 16
5. Approve settlement of a Contractor Claim for an amount of \$125,000 or under	CLPA <sup>3</sup>	CLPA <sup>3</sup>	N/A	ODOT receives copy of claim, but otherwise has no authority to settle claim. See LPA's approved General Conditions, Section 00199 and LAG Section C, Chapter 16.
6. Approve settlement of a Contractor Claim for any amount over \$125,000 (If the claim exceeds \$125,000 or is greater than 15% of the project authorization, the claim must be forwarded to ODOT.)	CLPA <sup>3</sup>	CLPA <sup>3</sup>	Concurrence	For consultation with FHWA and decision on federal dollar reimbursement. Otherwise, ODOT has no authority to settle claim. See LAG Section C, Chapter 16. Also refer to LPA's approved General Conditions, Section 00199.
7. Conduct and approve project Inspections	CLPA ODOT †	CLPA	N/A	† Traffic signal installations on the state highway system require additional ODOT inspections. LPA's approved Quality Program Plan and LAG Section C, Chapter 16.

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8. Approve materials testing and quality	CLPA ODOT**	CLPA	N/A	** ODOT must approve contractor-provided mix designs for structural concrete and asphalt pavement. LPA's approved Quality Program Plan and LAG Section C, Chapter 16.
9. Approve quantity and quality documentation	CLPA ODOT (Risk-Based RAS Reviews)	CLPA ODOT (Risk-Based RAS Reviews)	N/A	LPA's approved Quality Program Plan and LAG Section C, Chapter 16.
10. Approve contractor payments	CLPA	CLPA	N/A	LAG Manual Section C, Chapter 16
11. Conduct and approve final inspection	CLPA ODOT	CLPA ODOT	N/A	LAG Section C, Chapter 16.
12. Approve final acceptance	CLPA ODOT	CLPA ODOT	N/A	LAG Section C, Chapter 16.
13. Periodic Review/Program Evaluation	ODOT FHWA	ODOT FHWA	N/A	LAG Section C, Chapter 18.

**NOTES:**

1. For any other FHWA approval actions required by federal law or regulation (See FHWA Oversight Matrix: <http://www.fhwa.dot.gov/programadmin/contracts/tabover.cfm>)
2. Reference FHWA "Summary of Federal Requirements for NHS, Non-NHS and Service Contracts" for a list of federal requirements including Buy America and DBE; <http://www.fhwa.dot.gov/programadmin/contracts/tabover.cfm>
3. The certified local public agency SHALL inform ODOT, through the Regional Local Agency Liaison, of any project change orders or claims authorized by the certified local agency for concurrence by ODOT if necessary.
4. Title 23 USC and 23 CFR provisions, including "Buy America" requirements, apply to all NHS federal-aid. Except for federal requirements pertaining to contract bid proposal content (Davis Bacon and DBE) and procurement procedures (competitive bidding and Brooks Act), state legal requirements may be used on non-NHS projects. Refer to Section C, Chapter 15, Advertising, Bid and Award within this LAG for additional information.
5. ODOT is responsible for ensuring that all individual elements of the project are eligible. FHWA will check that the scope of the project as described in submitted project agreement is eligible for the category of funding sought. All final eligibility and participation determinations are retained by FHWA.
6. If there is a 23 U.S.C. 326 or 325 assignment or Programmatic Categorical Exclusion (PCE) agreement, decisions are handled in accordance with those assignments or agreements.
7. ODOT process and modifications to, or variation in process, require FHWA approval.
8. Unusual/Complex bridges and structures are those that the Division determines to have unique foundation problems, new or complex designs, exceptionally long spans, exceptionally large foundations, complex hydrologic (including climate change and extreme weather events) aspects, complex hydraulic elements or scour related elements, or that are designed with procedures that depart from currently recognized acceptable practices (i.e., cable-stay, suspension, arch, segmental concrete, moveable, truss, tunnels, or complex geotechnical walls or ground improvement systems)

*FHWA approved November 1, 2021*