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# SECTION A

# INTRODUCTION

## **Chapter 4      Developing Projects Using the LAG Manual**

The previous chapters of this Introduction Section provide an overview of project delivery roles and responsibilities, federal funding programs and how a local agency may qualify either as a certified local agency or a non-certified local agency to utilize [FHWA](#) funding for their transportation projects. The remainder of the *LAG Manual* offers greater detail and discusses procedures for developing specific projects.

### **A. OVERVIEW**

To be reimbursed with FHWA funds for local agency transportation projects, a local agency must coordinate through ODOT's [Regional Local Agency Liaison](#). Any communication directly from the local agency to ODOT staff should also be copied to the [Regional Local Agency Liaison](#). As noted in the previous chapter, projects must be programmed in the STIP. Depending on their size, complexity and specific program requirements projects may be subject to different development procedures. The remaining two sections of the *LAG Manual* describe project delivery requirements and activities to utilize federal transportation funding for non-certified and certified local agencies.

The specific requirements for a project may change as project development progresses and as more information about a project becomes available. Further details of the specific requirements can be found in ODOT's [Project Delivery Guidebook](#).

The meanings of unfamiliar terms may be found in the Glossary of this *LAG Manual* as well as in the project delivery definitions section of the [Project Delivery Guidebook](#). In accordance with their certification status, local agencies can refer to the appropriate non-certified or certified section within this *LAG Manual* for specific federal-aid project delivery information.

### **B. PROJECT DEVELOPMENT PROCESS**

This section describes the project development process by setting forth project phases, documentation requirements, options for construction administration, required reviews and approvals. Refer to Chapter 3 for additional information regarding specific transportation funding programs, requirements and procedures.

# 1. Phases of Authorization

FHWA funds may be authorized for the following project phases:

- a. planning;
- b. preliminary engineering environmental processes and plans specifications and estimates;
- c. right of way acquisition;
- d. utility relocation; and
- e. construction.

*NOTE: Local agencies must obtain authorization of federal funding prior to beginning any reimbursable project work.*

## 2. Phase Requirements When Utilizing FHWA Funds

### a. Planning

Additional information regarding Federal-aid programs is available earlier in this Introduction Section of the *LAG Manual*.

### b. Preliminary Engineering Phase

For FHWA funds to be used in the preliminary engineering phase of the project, the local agency and ODOT must have a preliminary assessment of the environmental classification. This is typically documented on [Part 3 of the project prospectus](#).

In order to use federal funds in the preliminary engineering phase of the project, the local agency must still follow federal environmental regulations and the [Uniform Relocation Assistance and Real Property Acquisition Policies Act](#), even if the local agency does not use federal funds in the right of way or construction phases.

[National Environmental Policy Act](#) (NEPA) documents must be approved by FHWA and all environmental commitments must be incorporated into the right of way and construction phases. Right of way negotiations may not proceed until after NEPA related actions are completed.

### c. Right of Way Phase – FHWA Funds in the Right of Way Phase

For FHWA funds to be used in the right of way phase of the project, the following documentation must be completed prior to FHWA right of way authorization:

- FHWA [NEPA](#) approval additional details are available in ODOT's Plan;
- Relocation plan approval (as applicable);
- Project funding estimate; and
- Approved right of way plan.

All property acquisitions and relocations must be completed prior to advertising the project, unless otherwise noted in the right of way project certification. All environmental commitments must be incorporated into the right of way and construction phases. The right of way must be certified by ODOT prior to advertising the project, even if no federal funds are used in construction. Refer to the Environmental Process and Right of Way Process chapters for additional information.

**d. Construction Phase – FHWA Funds in the Construction Phase**

Use of federal funds in the construction phase triggers all federal laws including but not limited to the following laws:

- [NEPA](#);
- [Title 23 USC](#);
- [Uniform Relocation Assistance and Real Property Acquisition Policies Act](#);
- [Buy America](#);
- [Davis Bacon](#);
- DBE, EEO, OJT; and
- Title VI.

After approval of the NEPA document and right of way certification, then FHWA can authorize the construction phase. If a local agency does not use any federal funds for construction, then [Title 23 USC](#) including [Buy America](#) and [Davis Bacon](#) provisions do not apply. Any study projects are excluded from NEPA approval.

Refer to Chapter 16 Construction and Contract Administration for more details.

Once FHWA authorizes construction funding and DBE/training goals are set by [ODOT's Office of Civil Rights](#), the project may then be advertised as outlined in the Sections B and C Advertising Bid and Award chapters as applicable.

**3. Document Requirements When Utilizing FHWA Funds**

Note: Preliminary Engineering (PE), Right of Way (ROW)

<b>Required Documentation</b>	<b>Preliminary Engineering Phase: FHWA Funds in PE Phase (1)</b>	<b>Right of Way Phase: FHWA Funds in the PE and ROW Phase (2)</b>	<b>Construction Phase: FHWA Funds in the Construction Phase (3)</b>
<b>STIP</b>	<b>X</b>	<b>X</b>	<b>X</b>
<b>Approved NEPA</b>	<b>X (4)</b>	<b>X (4)</b>	<b>X (4)</b>
<b>Approved Relocation Plan (if applicable)</b>		<b>X</b>	

<b>Project Funding Estimate</b>	<b>X</b>	<b>X</b>	<b>X</b>
<b>Approved ROW Plan</b>		<b>X</b>	
<b>ODOT Approved Right of Way Certification</b>		<b>X</b>	<b>X</b>
<b>DBE/Training Goals</b>	<b>X*</b>		<b>X</b>
<b>Design per LAG Manual</b>			<b>X</b>
<b>Environmental per LAG Manual</b>	<b>X</b>	<b>X</b>	<b>X</b>
<b>ROW Acquisition per LAG Manual</b>		<b>X</b>	<b>X</b>
<b>Construction per LAG Manual</b>			<b>X</b>

**NOTES:**

1. If the local agency only uses federal funds in the preliminary engineering phase, the local agency must provide documentation that the project has been constructed with non-FHWA funds. Otherwise, the local agency will be required to repay such federal funds.
  2. If the local agency only uses federal funds in the preliminary engineering and right of way phase, the local agency must provide documentation indicating how the project will be constructed with non-federal funds.
  3. After completion of the construction phase, the local agency must provide documentation as outlined in this *LAG Manual*.
  4. Any environmental commitments must be incorporated into the right of way and construction phases.
- \* If a local agency retains a consultant for project services, DBE requirements apply.

**a. Documentation Required for Authorization of Funds**

FHWA requires a cost estimate for every phase of project work.

1. *Planning with STP Funds* – "[Urban Transportation Planning](#)" is an interdisciplinary process for developing and monitoring long and short-range transportation plans and improvement programs. These plans and programs are formulated with due consideration of present and anticipated future social, economic and environmental factors as well as the safety and mobility needs of the population of the urban area. It is a dynamic process that is continuously monitored to accommodate changes of land use, economic conditions and other factors influencing travel patterns. Due to the substantial influences that transportation improvements have on the character of the land, it is important that transportation improvement planning reflects the overall regional social and economic objectives pertaining to community development.

FHWA funded planning activities and studies are identified in [23 CFR 420](#), as necessary in development of procedures and project identification.

For planning and [Transportation Options](#), formerly known as Transportation Demand Management funding, the following documents are required:

- a. [project prospectus](#) for planning projects;
  - b. Local Agency Agreement; and
  - c. evidence of inclusion in the Statewide Transportation Improvement Program (STIP), for planning projects and Transportation Options projects funded through Surface Transportation Program.
2. *Preliminary Engineering Funds* – When applying for preliminary engineering funds the following documents are required:
- a. complete [project prospectus](#);
  - b. FHWA concurrence on the [Part 3 of the project prospectus](#);
  - c. Intergovernmental Agreement, see [What is an Agreement?](#);
  - d. typical Sections (shown on [Part 2 of the project prospectus](#));
  - e. vicinity map; and
  - f. evidence of STIP inclusion.
3. *Right of Way Funds* – When applying for right of way funds, the following documents are required, as appropriate:
- a. supplement to original Local Agency Agreement (Section C, Chapter 4);
  - b. FHWA approval of environmental documents (Section B, Chapter 5 & Section C, Chapter 6);
  - c. relocation plan, if relocation is required (Section B, Chapter 6 & Section C, Chapter 7);
  - d. right of way plan (Section B, Chapter 6 & Section C, Chapter 7);
  - e. right of way Project Funding Estimate or True-Cost Estimate (Section B, Chapter 6 & Section C, Chapter 7); and
  - f. evidence of STIP inclusion (Section A, Chapter 3).
4. *Construction Funds* – The following documents must be submitted to request construction funds:
- a. Local Agency Supplemental Project Agreement (Section C, Chapter 4);
  - b. right of way certification (Section C, Chapter 7);
  - c. final FHWA approval of environmental documents (Section B, Chapter 5 & Section C, Chapter 6);
  - d. proof of possession by the local agency of all required permits, clearances and certifications (Section B, Chapter 5 & Section C, Chapter 6); and
  - e. evidence of STIP inclusion (Section A, Chapter 3).

## **4. Construction Contract Administration**

With respect to construction contract administration, the local agency has the following options:

- a. administering the contract as a certified local agency;

- b. requesting that a certified local agency perform the work; or
- c. requesting that ODOT administer the contract.

## **5. Reviews and Approvals**

Prior to release of funds, the local agency must obtain appropriate FHWA and ODOT approval(s). The Approval Authority Matrix specifies what activities FHWA, ODOT and certified local agencies can approve. FHWA approvals involve a two-step process. ODOT prepares or forwards the request on behalf of the local agency and submits the request to FHWA; FHWA does not recognize local agencies directly. Then, FHWA returns a form which grants the authorization approval, to ODOT. If ODOT is not contacted, then no federal funds will be approved.

When the certified local agency is the approving authority for any phase of work, it must operate within the guidelines specified in the LAG Manual and all applicable federal, state and local laws and regulations. As outlined in Certified Agency Section, ODOT will provide an oversight function for the certified local agency's procedures. ODOT is the approval authority for non-certified local agencies.

### **C. GUIDELINES AND STANDARDS**

Non-National Highway System ([NHS](#)) standards and guidelines are addressed in Chapter 9 General Design. See Chapter 1 for additional information regarding the [NHS](#) system.

For [NHS](#) routes, American Association of State Highway and Transportation Officials (AASHTO) design guidelines, approved by the FHWA Headquarters Office, will apply to all new construction and reconstruction projects; and to all Resurfacing, Restoration and Rehabilitation (3-R) multilane limited access highway projects on the NHS. State design standards approved by the FHWA Division Office, as found in the ODOT [Highway Design Manual](#), will apply to all other NHS highways. These standards apply to all NHS projects regardless of funding sources. FHWA approval is required for all standard drawings, amendments and Special Provisions intended for use on FHWA construction projects on the NHS.

### **D. USE OF INTERSTATE RIGHT OF WAY**

Any project (or use) proposed to occupy Interstate right of way must have FHWA approval. This approval will be based on an occupancy agreement satisfactory to FHWA.

Since all projects within the Interstate right of way have the potential to impact safety and operations on the Interstate route, local agencies must incorporate Interstate design criteria and construction quality. It is FHWA's policy that all projects within the Interstate right of way should be administered by ODOT. However, given the scope and extent of non-Interstate

projects within the Interstate right of way, it is recognized that local agency administration of some projects may be acceptable and all requests will be considered on a case-by-case basis.

## **1. Agreement Required**

Whenever a local agency proposes a project or any other use within the Interstate right of way, the local agency must develop an agreement with ODOT that clearly outlines each others duties and responsibilities to maintain the integrity of the Interstate facility, from both the safety and operational perspectives. The agreement should be executed prior to design approval and must be executed prior to advertising for bids. The following requirements must be incorporated into the agreement:

### **a. Responsibilities**

ODOT and the local agency must each assign a Project Engineer.

### **b. Design**

ODOT must review and approve all highway plans, profiles, deviations, structural plans, false-work plans, shoring plans and traffic control plans for any work within the Interstate right of way.

### **c. Plans, Specifications and Estimates**

ODOT must review and approve the plans and specifications for any work within Interstate right of way.

### **d. Advertising and Award**

The local agency must confer with the ODOT Project Engineer on any pre-award issues affecting the quality and timing of the contract.

### **e. Construction**

All construction, materials and quality control requirements contained in the current editions of the [Oregon Standard Specifications for Construction](#) must be incorporated into the agreement.

### **f. Contract Changes**

All contract changes affecting work within the Interstate right of way must have the prior concurrence of the ODOT Project Manager.

**g. Final Inspection**

The final inspection of the project must be performed by the ODOT [Regional Local Agency Liaison](#) and the ODOT Area Manager, or their representatives and must evidence their approval.

Only local agencies operating as a fully certified local agency may enter into such an agreement with ODOT.

The agreement must be submitted to FHWA for approval. FHWA reserves the right to assume full oversight of the project.

**E. PROJECT SELECTION AND WORK PLAN DEVELOPMENT CHECKLIST**

The "[Project Selection and Development Workplanning Checklist](#)" is available at ODOT's [Office of Project Delivery](#) website.

This Checklist depicts the sequence of major activities necessary to develop transportation projects using FHWA funds.

It is recommended that a copy of the checklist be inserted in the project file and used to initiate and document the activities necessary to complete a project.