

2018

ODOT CERTIFICATION
PROGRAM OFFICE

LOCAL AGENCY GUIDELINES FOR CERTIFIED LOCAL PUBLIC AGENCIES

SECTION A:

OVERVIEW OF FEDERAL-AID PROJECT DELIVERY
OPTIONS FOR LOCAL PUBLIC AGENCIES, INCLUDING
CERTIFICATION

Effective December 7, 2018



SECTION A: OVERVIEW OF FEDERAL-AID PROJECT DELIVERY OPTIONS FOR LOCAL PUBLIC AGENCIES, INCLUDING CERTIFICATION

A. FOREWORD

The Oregon Department of Transportation Local Agency Certification Program is a federally-authorized program that allows the State to certify Local Public Agencies (LPAs) in federal-aid highway project delivery processes.

The Local Agency Guidelines for Certified Local Public Agencies (LAG for Certified LPAs) provides guidance to local project delivery staff engaged in becoming certified, maintaining certification, and delivering federal-aid projects.

The LAG for Certified LPAs is primarily intended for local agency staff. It is also a guide for ODOT staff providing oversight to Certified LPAs, federal agencies that interact with federal-aid local project delivery, and any audience who wants to better understand Oregon's oversight of federal-aid local project delivery.

1. Organization

The LAG for Certified LPAs is organized into four sections, each intended for specific users.

Section A provides an overview of ODOT's Local Agency Certification Program – the basic structure, processes, and rationale for the program. The intended users are those learning about the program for the first time, or reviewing it at a general level.

Section B outlines how LPAs become certified and how they maintain certification status. The intended users are LPAs, ODOT Region project delivery staff assisting local agencies, and Certification Program Office staff approving Certification.

Section C details how to deliver a federal-aid project as a Certified LPA. The intended users are Certified LPA staff and ODOT Region staff.

Section D is a compendium of the templates, checklists, and similar resources that are referenced throughout the LAG for Certified LPAs.

2. Certification Program Background

ODOT's Certification Program began in the early 2000's to provide a means for local agencies to take greater day-to-day control of project delivery. The Local Agency

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Guidelines Manual has been the medium to explain policies, process, and requirements for all local project delivery, for both certified agencies and those that were not.

In 2017, ODOT clarified its policy on local project delivery by focusing certification on LPAs in Transportation Management Areas (TMA's), replacing non-certified local project delivery with alternate methods and updating the manual to focus on Certification. Due to the policy shift, the Local Agency Guidelines (LAG) Manual is being replaced by this Local Agency Guidelines for Certified Local Public Agencies. An archived version of the LAG Manual used prior to 2018 is available for reference.

B. FEDERAL-AID HIGHWAY PROGRAM IN OREGON

1. Overview

FHWA provides funds to ODOT through the Federal-aid Highway Program. The Federal-aid Highway Program is a cost-based reimbursement program between FHWA and state departments of transportation.

LPAs such as cities, counties, ports, special districts, tribes, and other agencies are eligible for this federal funding. In order to use it, the LPA must be suitably staffed and equipped to perform federal-aid work in accordance with all relevant federal and state requirements.

FHWA, through a Stewardship and Oversight Agreement, delegates authority to ODOT for approving project development and construction administration. ODOT has the option of delegating some or all of this authority to LPAs. The Certification Program, through a Master Certification Agreement between ODOT and Oregon cities and counties, permits LPAs to obtain expanded approval authority at the local level for federally funded projects.

ODOT has the option to delegate some or all of its authority from FHWA to LPAs.

Resources

- ◆ [Archived LAG Manual \(used prior to 2018\)](#)
- ◆ [Stewardship and Oversight Agreement](#)
- ◆ [ODOT/AOC/LOC Agreement](#)
- ◆ [Local Government Funding Overview](#)

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2. Using Federal-Aid Funding

LPAs can use federal-aid funding through one of four methods.¹ An intergovernmental agreement (IGA) between ODOT and the LPA will document which project delivery method has been agreed to.

- An LPA delivers its own project through the certification program.
- An LPA contracts with a Certified LPA to deliver the project.
- An LPA exchanges federal funds for state funds and delivers its own project.
- An LPA contracts with ODOT to deliver the project.

Federal-aid funding is used by LPAs over the six phases of a project. Each of these phases are defined below and addressed in more detail in Section C.

- Program Development** is the planning phase for the proposed project. During this phase, projects may be accepted into the Statewide Transportation Improvement Program (STIP) and the Regional Transportation Plan (RTP).
- Project Development** (Preliminary and Final Design, NEPA, Permitting, and other key elements) is when projects are cleared for environmental impacts; necessary permits and agreements are obtained; and designs, specifications, schedules, and estimates are completed.
- Right of Way Acquisition** is an overlapping phase with Project Development. After NEPA requirements are satisfied, right of way acquisition may start. LPAs must consult with their ODOT regional Local Agency Liaison to determine when the NEPA requirements have been satisfied.
- Utility Relocation** is an overlapping phase with Project Development, continuing throughout the life of the project. LPAs will coordinate with local utilities in this phase.
- Advertisement, Bid, and Award** is the phase in which project plans, specifications, and estimates are approved, FHWA authorizes funding, and the project is advertised for construction.
- Construction** is the final phase where the project is actually built. Project closeout occurs at the end of the construction phase.

¹ Fund exchange, the State Funded Local Projects (SFLP) program and contracting with ODOT are not covered in this LAG for Certified LPAs. More information on these LPA project delivery methods are set out in the ODOT/AOC/LOC Agreement and on ODOT's Local Government Funding Overview page.

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C. ODOT'S LPA LOCAL AGENCY CERTIFICATION PROGRAM

The purpose of the Certification Program is to enable LPAs to deliver federally funded local projects.

1. Benefits

Certification provides several benefits to LPAs, as well as to ODOT and FHWA.

LPAs benefit from:

- **Saving time and money** by enabling Certified LPAs to manage and deliver their projects directly.
- **Mitigating the risk** of losing federal funds and/or failing to meet project objectives within identified scope, schedule, and budget by establishing consistent practices and processes for LPA projects that follow federal requirements.
- **Reducing day-to-day management** by ODOT of Certified LPA projects through its focus on high-level, risk-based oversight.

ODOT saves staff time and resources by ensuring LPAs have their own quality program plan, Title VI plan, general conditions and bid documents, designed to meet federal project delivery requirements, in place before they begin a project. This allows ODOT to focus on risk-based oversight and strengthening relationships between local, state, and federal partners.

Certification can benefit the LPA, ODOT and FHWA.

Certification provides FHWA a single, consistent point of contact to approve local project delivery policies and procedures as well as assurance that federal funds are being used in compliance with stewardship agreements.

2. Scope of Certification

Primarily, but not exclusively, certification is focused on LPAs in Oregon's Transportation Management Areas (TMAs).² ODOT requires LPAs in the Certification Program to demonstrate competency in the functional areas necessary to deliver all phases of the projects that the LPA plans to deliver. The necessary

LPAs must demonstrate compliance with project delivery functional areas.

² Metro, Salem-Keizer Area Transportation Study (SKATS), and Lane Council of Governments (LCOG)

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functional areas are shown in Figure 1 on the next page, alongside the federal project phases.³

³ LPAs interested in delivering federally funded Program Development (Planning) phase work will need prior approval from their ODOT liaison for Planning and the Certification Program Manager.

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Figure 1: Alignment of Certification functional areas with federal project phases

Certification Functional Areas	Consultant Selection and Contract Administration					
		Design			Ad., Bid, and Award	Construction Contract Administration
Federal Project Phase	Program Development (Planning)	Project Development	Right of Way Acquisition	Utility Relocation	Ad., Bid, and Award	Construction

The Certification functional areas are as follows:

a. Consultant Selection

LPAs must demonstrate competency in at least one area of procurement and contract administration for Architecture & Engineering (A&E) and Design Related Services necessary to deliver a full project. Options include:

- Small Purchase (formerly Direct Appointment): Contracts up to \$100,000 or the LPA's threshold, whichever is less
- Informal Consultant Selection: Contracts up to \$150,000 not requiring public advertisement
- Formal Consultant Selection: Contracts above \$150,000 and requiring public advertisement

b. Design

LPAs must demonstrate competency in Roadway Design, including design standards, Plans, Specifications, and Estimates (PS&E). LPAs may seek additional certification in Bridge Design, if appropriate to the projects they will deliver.

c. Advertisement, Bid, and Award

LPAs must demonstrate competency in the processes and procedures utilized to advertise, bid, and award construction contracts for federal-aid projects.

d. Construction Contract Administration

LPAs must demonstrate competency in post-award processes and procedures necessary to manage a construction contract, including federal requirements for quality assurance and quality control.

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3. Single-Discipline Certification

ODOT does not typically provide certification in a single discipline, although ODOT will consider certification in Consultant Selection for MPOs. Contact ODOT's Certification Program Manager for more information.

4. ODOT-Retained Responsibilities

While ODOT certifies LPAs to deliver full projects, ODOT is not currently authorized to delegate the project responsibilities listed below. Certified LPAs must comply with ODOT's programs and processes within the following specified project areas:

- **Civil Rights:** ODOT is responsible for developing the Civil Rights programs including Disadvantaged Business Enterprises (DBE), Equal Employment Opportunity (EEO), and On the Job Training (OJT)/Apprenticeship. The Certified LPA is responsible for enforcement of those programs during project delivery. Certified LPAs are also responsible for Title VI (Civil Rights Act of 1964) Program or Non-Discrimination Agreement, ADA Title II Transition Plans and Labor Compliance. Civil Rights programs apply to all federal project delivery phases.
- **Environmental Processes:** ODOT retains authorization over the National Environmental Protection Act (NEPA) process in coordination with state and federal resource agencies and FHWA. NEPA applies to the federal project development and construction phases.
- **Final Certification of Right of Way Transactions:** ODOT retains authorization over Right of Way activities, such as co-signing the Right of Way Certificate. This signed certificate ensures that Right of Way work complies with the Uniform Act.
- **Final Certification for Utilities:** ODOT retains authorization over Utility activities, such as co-signing the Utility Certificate. This signed certificate ensures that all utility notifications and relocation work complies with ODOT's Oregon Utility Relocation Manual.
- **Public Interest Finding Determinations:** Patented, proprietary, owner designed, or sole-source products must follow ODOT's approval process.
- **Project Final Acceptance:** ODOT retains Final Acceptance authority for each certified project.

ODOT and FHWA retain some responsibilities that are not delegated to LPAs through certification.

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5. FHWA-Retained Responsibilities

FHWA retains responsibility for several of the resources and guidelines used in project delivery by ODOT and the Certified LPA:

- Approval of National Environmental Protection Act (NEPA) and Endangered Species Act (ESA) environmental documents except for projects that qualify for Programmatic Categorical Exclusion.
- Approval of ODOT's DBE, EEO, OJT/Apprenticeship and Title VI programs.
- Approval of ODOT's LAG for Certified LPAs.

FHWA also retains responsibility for:

- Authorization of FHWA funds.
- "Buy America" waiver requests.
- Experimental features and special experimental projects.
- New project training programs.
- Periodic audits of program and specific projects.

For more detailed information on roles and responsibilities and the above referenced programs and project delivery requirements, refer to the applicable chapters and subsections within Sections B, C and D of this LAG for Certified LPAs.

D. CERTIFICATION PROCESS OVERVIEW

Figure 2 on the next page depicts the five basic phases in certification. This section describes in general what is included in each (Section B provides further detail).

The primary points of contact for LPAs are ODOT's Regional Local Agency Liaisons (LALs). The LAL's role is to assist LPAs through all phases of project development and delivery for federally funded projects. Visit the Local Government resources webpage for region information and contacts.

Resources

- ◆ [Local Government resources webpage](#)

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Figure 2: Five phases of certification, with certification status conferred as indicated by the star



1. Application - Meet Minimum Requirements

LPAs seeking certification must complete a Program Application to ascertain that they meet the minimum requirements of certification. The application is comprised of two parts: A General Application with general LPA information, and supplements, which contain requirements unique to each discipline. The Certification Program Manager will review the application and discuss with the LPA its eligibility for certification. Eligibility for certification requires the following:

a. Volume of Projects

Generally, a minimum of two to three federal-aid projects in most STIP cycles is required to warrant becoming certified.

b. STIP Portfolio Management

The LPA must be able to manage, schedule and adequately staff their STIP projects to ensure fund obligation deadlines are met.

c. Person in Responsible Charge

A full-time employee of the LPA accountable for a project.⁴

d. Certification Program Liaison

A full-time employee of the LPA designated to be the single point of contact for the LPAs certification program.

e. Quality Control Coordinator:⁵

A designated person who will coordinate the LPAs certification quality program plan activities.

Resources

- ◆ [FHWA Guidance](#)

⁴ See FHWA guidance at: <https://www.fhwa.dot.gov/federalaid/110804.cfm>

⁵ Person in Responsible Charge, Certification Program Liaison, and Quality Control Coordinator can be the same or different staff persons.

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f. Qualified Staff

Sufficient staff, expertise, and capability to perform all project phases, including Consultant Selection; Design; Advertisement, Bid, and Award; and Construction Contract Administration.

After reviewing and discussing the application with the LPA, the Certification Program Manager will:

- Either preliminarily approve or deny the application.
- If preliminarily approved, the Certification Program Office will schedule a meeting with the LPA to discuss the certification process and program requirements.
- Once consensus is reached, a formal letter approving entry into the Program will be sent to the LPA that also discusses foundational document requirements and next steps.

2. Training and Foundational Documents

Effective delivery of certified local projects requires that LPAs develop and implement their own approved program documents to provide evidence that projects will be delivered in a consistent manner and in compliance with state and federal requirements. Upon Program entry approval, LPAs need to take appropriate training and develop the foundational documents listed below:

a. Training

Key Qualified Staff members must take FHWA's "Federal Aid Essentials" training, engage in on-going federal-aid project delivery training to maintain proficiency and must be familiar with FHWA's Contract Administration Core Curriculum Manual. Visit the Certification Program Office resources webpage for a suite of training videos.

b. Quality Program Plan

A document showing how changes in delegated authorities for federal-aid projects are managed and how updates will be sent to ODOT; how the LPA will meet the ODOT Certification Program requirements; how each federal-aid project will be systematically reviewed and confirmed by the LPA Quality Control Coordinator; a staffing plan; compliance with the Single Audit Act requirement in 2 CFR 200 Subpart F; compliance with American's Disability Act (ADA); details of the Financial Accounting Controls and details regarding construction contract administration and materials acceptance.

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c. Title VI Program and Plan or Non-Discrimination Agreement

A document which identifies a Title VI Coordinator for the LPA, and defines a complaint mechanism, a public involvement strategy for reaching traditionally underrepresented classes, and procedures for gathering, collecting and analyzing data. All LPAs must have and maintain a Title VI Program and Plan and submit Annual Title VI Accomplishment Reports.

d. Americans with Disabilities Act (ADA) Title II Transition Plan

A document which identifies an ADA Coordinator for the LPA, and defines a complaint mechanism, a public involvement strategy for review of the plan. All LPAs that are subrecipients of federal funds must maintain an ADA Title II Transition Plan and complete a self-assessment of their agency.

e. Bid Document and Construction Contract Templates

These are the front-end bidding documents that include the invitation to bid, instructions to bidders, bid form and bid supplements, form of agreement, etc.

f. General Conditions (Section 100's)

Using the approved Oregon Standard Specifications for Construction General Conditions template available on the Certification Program website (as developed for Certified LPAs), the LPA must adapt the template for their use. Refer to the Certification Program website for the template and further information.

g. Consultant Selection Templates:

These templates consist of the Request for Proposal (RFP), the A&E contract, and the A&E contract amendment.

Once the foundational documents are approved and the LPAs staff has taken the required training, the Certification Program Manager will confer full "certification".

There are multiple resources available to LPAs who are developing or refining their programs. Section B of this LAG for Certified LPAs provides further instructions on becoming certified. In addition, ODOT's Regional Local Agency Liaisons and the Certification Program Office are able to provide guidance and feedback. ODOT also provides training on requirements and processes in each discipline. Visit Certification Program Office resources webpage for training opportunities and schedules.

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3. Agreement Process

In order to formalize certification, the LPA and ODOT will enter into a Master Certification Agreement (MCA), which delegates allowable authorities to the LPA. It also outlines state and federal requirements, roles and responsibilities and expectations for future supplemental project agreements. ODOT will initiate development of the MCA concurrent with the foundational document preparation and approval process.

At the same time the MCA is being developed, a Supplemental Project Agreement (SPA) will be initiated for the selected demonstration project. Final execution of these two agreements will proceed after the Certification Program Office approves the foundational documents and the LPA has demonstrated that their staff has completed the required training.

4. Demonstration Project

Upon execution of the required agreements, the Certified LPA will administer a demonstration project in accordance with their Master Certification Agreement, their Supplemental Project Agreement and their approved Quality Program Plan. It is possible that more than one demonstration project may be needed, since some required competencies may not be applicable to every project (Bridge Design, for example). The Certified LPA may need to demonstrate competency in those areas at a later time. The Certification Program Office's intention is that Certified LPAs demonstrate competency in as many areas as possible on a single demonstration project. With the principle of "partnering for success" in mind, an ODOT Local Agency Liaison will consult, advise and work with the Certified LPA throughout demonstration project delivery.

During the course of the demonstration project, the Certified LPA will present their processes, procedures and documentation to the Certification Program Office following completion of four milestones; consultant selection, submittal of the plans, specifications and estimate (PS&E), award of construction contract and completion of construction. At each of these milestones, the Certification Program Office will conduct a compliance review. If the compliance review reveals any issues, the Certification Program Office and the Regional Local Agency Liaison will work with the Certified LPA to develop an appropriate Corrective Action Plan.

All other projects delivered in parallel or after the demonstration project are treated as certified projects.

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5. Compliance and Oversight

Continued certification status is contingent upon the Certified LPA continuing to meet Certification Program requirements and maintaining qualified and experienced staff. The compliance and oversight portion of the Certification Program is designed as a three-tiered approach. The components include an annual Certified LPA self-audit along with annual project reviews and triennial program reviews by the Certification Program Office. See Section B for more details. The project and program review steps are as illustrated in Figure 3 below.

Figure 3: Compliance Review Cycle



- a. **Set up Review Schedule:** The Certification Program Office establishes two schedules, one for annual project compliance reviews and another for the three-year programmatic compliance reviews, including the agencies, projects, and risk-areas to be reviewed.
- b. **Gather & Review Information:** The Certification Program Office works with ODOT Region and the Certified LPA staff to gather and review necessary program and project information.

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- c. **CPO/Certified LPA Informational Meeting:** This meeting is for the Certification Program Office to gather any additional information that may be needed, conduct interviews with Certified LPA staff and discuss any issues found during the initial document review.
- d. **Draft Findings:** The Certification Program drafts and shares compliance review findings with Certified LPA.
- e. **CPO/CLPA Findings Review Meeting:** This meeting is to discuss the review findings with the Certified LPA staff and agree on corrective actions (if applicable).
- f. **Agree on Corrective Actions:** Certified LPA prepares a Corrective Action Plan, if necessary.
- g. **Close Review:** The Certification Program Office approves the Corrective Action Plan, if applicable, and ends compliance review of the Certified LPA.
- h. **Monitoring:** The Certified LPA, ODOT Region, and Certification Program Office implement any necessary Corrective Action Plan.

E. STAKEHOLDER PARTNERING

For agencies engaged in the Certification Program, either through project delivery, oversight, or other interest in certification, ODOT provides a **Certification User Group (CUG)**. The CUG's mission is to "Streamline and improve the delivery of certified local public agency federal aid transportation projects for Oregon" ⁶ through activities such as training, best-practice sharing, inter-agency communication, and process improvement. The CUG operates under the following principles:

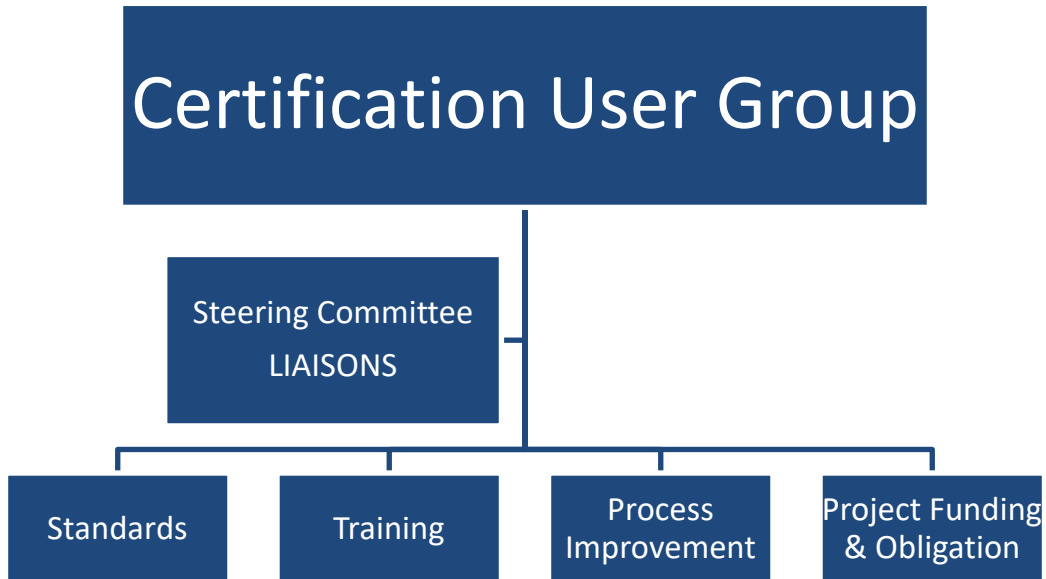
- **Partner for success**
- **Efficient delivery of projects**
- **Effective oversight**

The CUG is led by a Steering Committee co-chaired by a Certified LPA and the Certification Program Manager. Steering Committee members include representatives from five Certified LPAs, four ODOT staff members, and one FHWA representative.

The CUG sponsors subcommittees to work on issues identified by CUG members. Each subcommittee includes one Steering Committee Liaison plus any interested CUG members. The basic structure of the CUG is shown in Figure 4 below.

⁶ Certification User Group Charter. 2016.

Figure 4: Certification User Group Structure



F. CONCLUSION

Section A provides a high-level introduction to federal-aid local project delivery through the Certification Program. For more detail on becoming certified or maintaining certification status, refer to **Section B**. For more detail on day-to-day project delivery as a certified LPA, refer to **Section C**. For a compendium of the templates, checklists, manuals, and similar resources needed by Certified LPAs, refer to **Section D**.

Lastly, for information on local project delivery methods other than through the Certification Program, such as **state funded projects** or **direct delivery by ODOT**, refer to ODOT’s Local Government Funding Overview page and contact your ODOT Region Office.

Resources

- ◆ [Local Government Funding Overview](#)
- ◆ [ODOT Region Office](#)