

2018

ODOT CERTIFICATION
PROGRAM OFFICE

LOCAL AGENCY GUIDELINES FOR CERTIFIED LOCAL PUBLIC AGENCIES

SECTION B:

LOCAL PUBLIC AGENCY CERTIFICATION,
COMPLIANCE AND OVERSIGHT

Effective December 7, 2018



SECTION B: LOCAL PUBLIC AGENCY CERTIFICATION, COMPLIANCE AND OVERSIGHT

A. OVERVIEW

Section B of the Local Agency Guidelines for Certified Local Public Agencies (LAG for Certified LPA's) details the prerequisites, process, and maintenance requirements for becoming certified and maintaining certification status. Staff interested in understanding the background and rationale for ODOT's LPA Certification should revisit Section A (Overview). Staff looking for project delivery guidance for certified agencies should visit Section C (Project Delivery).

1. Organization

Section B is organized into nine subsections as follows:

- a. **Overview** of how to become certified and maintain certification
- b. **Roles and Responsibilities** for the certification program
- c. **Becoming Certified**, general process for becoming certified
- d. **Consultant Selection** certification information
- e. **Design (Roadway)** certification information
- f. **Design (Bridges and Structures)** certification information
- g. **Advertisement, Bid, and Award** certification information
- h. **Construction Contract Administration** certification information
- i. **Maintaining Certification** (Compliance and Oversight)

2. Becoming Certified and Maintaining Certification Status

Local Public Agencies (LPA's) in a Transportation Management Area (TMA) should pursue certification to deliver federal-aid transportation projects if:

- They typically have an on-going federal-aid project and;
- Generally have two to three federal-aid projects in a STIP cycle that are not eligible for alternate funding methods.

ODOT's Certification Program supports LPA's that deliver full transportation projects. LPA's, therefore, must have programmatic documents in place to procure consultant services, design and bid projects, and manage construction contracts.

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To become certified, LPA staff must develop and implement foundational program documents, demonstrate compliance with their own approved program by delivering a demonstration project, and work with ODOT on periodic compliance and oversight reviews. The remainder of Section B details this basic process.

B. ROLES AND RESPONSIBILITIES

1. Overview

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 LPA's. The Certification Program, through a Master Certification Agreement between ODOT and Oregon cities and counties, permits LPA's to obtain limited approval authority at the local level for federally funded projects.

Section B details the roles and responsibilities for ODOT's Certification Program, which is ODOT's mechanism for delegating some approval authority to LPA's.

2. Programmatic Authority

ODOT's Certification Program Manager is the primary authority on all policies and processes for the Certification Program. However, LPA's can obtain approval authority for project elements, some ODOT sections retain approval authority for their disciplines, and FHWA retains some final project approvals. The Approval Authority Matrix, found in Section D of this LAG for Certified LPA's details approval authorities for on-system, and off-system projects delivered by Certified LPA's.

3. FHWA Responsibilities

FHWA has the authority and responsibility for implementing and monitoring federal laws, regulations and executive orders affecting highway transportation projects undertaken with federal funding. When a project involves FHWA funding, FHWA is involved according to these responsibilities, delegations of authority and FHWA's Stewardship Agreement with ODOT.

Under Title 23 U.S.C., FHWA retains responsibilities for certain programmatic and project related approvals, such as; planning and programming, civil rights program approvals, environmental approvals, authorization of federal funds, Buy America waivers, experimental features and major changes to a project. For more information, please refer to the ODOT/FHWA Stewardship and Oversight Agreement.

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4. ODOT Responsibilities

With the FHWA/ODOT Stewardship and Oversight Agreement, ODOT has assumed significant delegations of authority and responsibility from FHWA. ODOT is responsible to FHWA for administering the successful implementation of federal-aid programs and projects. These responsibilities can be categorized as certification program policy and procedures, funding programs and project oversight.

a. Certification Program Policy and Procedures

ODOT outlines the basic requirements for certified project delivery. ODOT supports LPA's in developing their own policy and procedures that comply with state and federal requirements. By doing this, ODOT avoids prescribing uniform policies and procedures upon the LPA and allows greater flexibility for individual agencies.

ODOT interprets federal and state laws, rules, and regulations, and provides guidance in the form of manuals and bulletins as well as training to assist LPA's procure consultant services, design, construct, and maintain their transportation systems.

b. Funding Programs

Each specific local assistance program provides funding which requires distribution, management and oversight control to ensure that the funds are expended to meet the program goals and that allocations and budget authority are not exceeded. ODOT distributes both state and federal fund allocations to the local agencies as specified by law and program requirements.

Once the distributions are established, ODOT provides program guidance for their expenditure. Some funding programs may require annual or periodic project application and selection to establish eligibility lists. ODOT also monitors project implementation to ensure that the projects are implemented in a timely manner to achieve program goals.

c. Project Oversight

Some activities delegated by FHWA to ODOT cannot be further delegated to local agencies and remain ODOT's responsibility.

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These include, but are not limited to the following activities:

- Approval of authorization to proceed
- Preparation of federal agreements
- Pre-award audit review of consultant contract over \$250,000
- Approval of Utility Relocation Agreements involving federal reimbursement
- Approval of Specific Authorization for Utility Relocation involving federal reimbursement
- Approval of programmatic categorical exclusions
- Approval of payments from ODOT to local agencies
- Right of Way Certification
- Utility Certification
- Issuance of rail grade crossing orders

The individual LAG for Certified LPA's subsections and chapters covering these topics should be consulted for further details. Where FHWA has not delegated final approval, ODOT monitors local agency activities, reviews or prepares documents and makes recommendation to FHWA. For example, ODOT will review all environmental documents for completeness and sufficiency before ODOT submits them to FHWA for approval.

ODOT also provides assistance to local agencies in interpreting the regulations, manuals and guidelines as they apply to specific project conditions. ODOT's Regional Local Agency Liaisons, Certification Program Manager, other certification program staff and ODOT's subject matter resources are all available to aid LPA's.

Where expertise is not otherwise available, LPA's may also request assistance from ODOT's technical specialists in solving special technical problems. Environmental issues, right of way concerns, hazardous wastes, labor compliance, equal employment opportunity, Title VI issues, Americans with Disabilities Act and Disadvantaged Business Enterprises are among these areas where assistance is available. The use of this expertise should be requested early and be well coordinated with the Regional Local Agency Liaison and the technical specialist to assure that ODOT's limited resources and personnel will be available when needed.

5. Oregon Transportation Commission

The Oregon Transportation Commission (OTC) has programming and fund allocation responsibility for federal-aid programs. The OTC approves selected projects for inclusion in the Statewide Transportation Improvement Program (STIP) for the State of Oregon. The STIP is the funding and scheduling document for major road, highway and transit projects in Oregon and lists projects for the following four years. LPA projects must be approved in the STIP before an intergovernmental agreement can be executed for the project.

6. Metropolitan Planning Organizations (MPOs)

By agreement with ODOT, MPOs in areas with populations between 50,000 and 200,000 receive federal Surface Transportation Block Grant (STBG) funds. The Region and the MPOs work together to identify and prioritize transportation improvement projects and to balance investment needs in the MPO area with other needs in the Region. Some MPOs consist of a single city while others include multiple cities and unincorporated areas. MPO's in Oregon include:

- Portland Metro
- Salem – Keizer Area Transportation Study
- Albany Area MPO
- Corvallis Area MPO
- Bend MPO
- Central Lane MPO
- Middle Rogue MPO
- Rogue Valley MPO
- Walla Walla Valley MPO

7. Transportation Management Areas (TMAs)

MPOs with populations over 200,000 are designated as Transportation Management Areas. TMAs are guaranteed a calculated amount of federal funds and can determine how to spend the funds. TMAs have project selection authority for the regional STBG program and any allocated Congestion Mitigation and Air Quality Improvement Program funds in consultation with the State. ODOT works with all MPOs in a collaborative way to select projects that best serve the needs of each MPO.

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8. Local Public Agency Responsibilities

ODOT along with the Association of Oregon Counties (AOC) and League of Oregon Cities (LOC) entered into an agreement entitled Federal-Aid Project Guidelines and Working Agreement (ODOT/AOC/LOC Working Agreement). This Working Agreement details the roles and responsibilities for ODOT and LPA's.

Sections 3(b) and 3(c) of the Working Agreement states that:

Resources

- ◆ [FHWA letter to ODOT authorizing CLPA work on NHS](#)

- b. Local Agencies certified to administer federal-aid projects that are not on the National Highway System (NHS) shall follow the guidelines set forth by ODOT's LPA Certification Program and in the individual Intergovernmental Agreements (IGAs) written for certification.*
- c. STATE provides three options for delivering federal-aid local projects. Local agencies may:*
 - i. Exchange federal funds for state funds and deliver their project directly;*
 - ii. Utilize the certification program by becoming certified to deliver federal-aid projects or working with a certified Local Agency to deliver the project on their behalf; or*
 - iii. Have the STATE directly deliver the project for the Local Agency.*

In March 2013, FHWA's Oregon Division issued a letter that authorizes the Oregon Department of Transportation to allow certified LPAs to administer Federal-aid projects on locally owned arterials that are part of the NHS.

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Another important responsibility that is not covered by the working agreement is one of **financial management and internal controls**. In order to meet the requirements of 2 CFR 200 Subparts D and E for federal-aid awards, the Certified LPA must have a financial management system that provides for the following:

1. Identification of all federal awards received and expended and the federal programs under which they were received.
2. Accurate, current, and complete disclosure of the financial results of each federal award or program.
3. Records that adequately identify the source and application of funds for federally funded activities.
4. Effective control over, and accountability for, all funds, property, and other assets.
5. Comparison of expenditures with budget amounts for each federal award.
6. Written procedures to implement the requirements of 2 CFR 200.305 Payment.
7. Written procedures for determining the allowability of costs in accordance with Subpart E.

The Certified LPA must also establish and maintain effective internal control over the federal award that provides reasonable assurance that the Certified LPA is managing the federal award in compliance with federal statutes, regulations, and the terms and conditions of the award.

LPA's have the primary responsibility for utilizing federal-aid funding for specific projects in accordance with state and federal laws and program requirements. Certified LPA's shall ensure that their staff members, consultants and contractors comply with the applicable state and federal laws, regulations and procedures in developing and constructing their projects.


Certified LPA's have optimum decision-making authority for the project delivery activities of federal-aid projects for which they have been certified.

Certified LPAs must have internal controls in place to ensure the project is delivered in compliance with federal statute and regulations.

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C. BECOMING CERTIFIED

The Certification Program requires all LPA's in the program to be able to deliver full transportation projects. This subsection describes the steps to become certified, from applying to the program through closing out the demonstration project. The five phases to becoming certified are outlined below, with "certification" status conferred after the Foundational Documents and Training phase (indicated by the star).

The Certification Process	
1	Application Process (Meet Minimum Requirements) <ul style="list-style-type: none">• LPA completes and submits application.• Certification Program Office (CPO) reviews application and determines if minimum requirements are met.• If preliminarily approved, CPO coordinates an initial meeting with the LPA to detail program requirements.• With CPO and LPA in agreement, an approval to enter the Certification Program is granted by letter.• The application process will take approximately 6 weeks.
2	Foundational Documents and Training <ul style="list-style-type: none">• CPO and LPA convene an informational meeting to discuss foundational document requirements and expectations.• LPA prepares and submits draft Quality Program Plan (QPP) to CPO.• LPA prepares and submits draft General Conditions and bidding document templates to CPO.• LPA prepares and submits the formal/informal consultant selection RFP and contract templates.• LPA submits Title VI Plan to ODOT's Office of Civil Rights.• LPA verifies with the Office of Civil Rights that they have a ADA Title II Transition Plan.• LPA's Key Qualified Staff takes "Federal-Aid Essentials" training courses, consultant selection training and becomes familiar with FHWA's Contract Administration Core Curriculum Manual as well as all foundational documents.• CPO reviews the QPP, General Conditions, bid document templates and consultant selection templates and provides comments.• CPO and LPA work together to resolve comments.•  Once the foundational documents are approved and LPA staff has completed the required training, "Certification" is granted.

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- The Foundational Document and Training process will take approximately 8 to 12 months to complete.

3 Agreement Process

- Concurrent with the foundational document preparation, training and approval process, the Master Certification and Supplemental Project Agreements are initiated.
- Once full certification is granted, the Master Certification and Supplemental Project Agreements are executed and funding authorization is requested for the Demonstration Project.

4 Demonstration Project Compliance

- Notice to Proceed with Demonstration Project is issued.
- LPA demonstrates compliance with approved program by delivering a single Demonstration Project.
- At a meeting, the LPA will present to the CPO their processes, procedures and documentation shortly after each of the following milestones:
 - Consultant Selection
 - Submittal of Plans, Specifications and Estimate for the Design phase
 - Award of construction contract for the Ad, Bid and Award phase
 - Completion of construction (issuance of 2nd Notification or equivalent) for the Construction Contract Administration phase
- At each of the above milestones, the CPO will conduct an independent compliance review. If any deficiencies are noted, the CPO will work with the LPA to develop and implement a Corrective Action Plan(s).

5 Compliance & Oversight – Moving Forward

- Certified LPA prepares and submits an annual self-audit form along with updated approval authority and key qualified staff forms as well as a list of Qualified Staff training.
- CPO staff performs annual reviews of certified LPA's projects and triennial reviews of the certified LPA's program.
- If necessary, a Corrective Action Plan(s) will be developed for compliance issues encountered during subsequent compliance reviews.

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1. Application Minimum Requirements

LPAs interested in participating in the Certification Program are required to complete a program application. This application is completed by the LPA and reviewed by the Certification Program Office to ensure the LPA meets the minimum requirements of the program.

The LPA must meet the following minimum requirements prior to being approved to participate in the Certification Program:

Requirement	Description
Volume of Projects	Generally, a minimum of two to three federal-aid projects in most STIP cycles is required to warrant becoming certified.
STIP Portfolio Management	The LPA must be able to manage, schedule and adequately staff their portfolio of STIP projects to ensure that federal fund obligation deadlines are met for each programmed phase of a project.
Certified LPA Program Liaison	LPA must assign a full-time employee to be the single point of contact for the LPA's certification program.
Person in Responsible Charge	For locally administered projects, the person in responsible charge must be a full-time employee of the LPA. The person in "responsible charge" of LPA administered projects need not be a registered professional engineer. This requirement applies even when consultants are providing construction engineering services.
Quality Control Coordinator	The primary responsibilities of this person are to coordinate the LPA's certification quality control activities. In many cases, the Certified LPA's Program Liaison serves in this role.
Qualified Staff	The LPA shall have sufficient expertise, qualified staff, and the capability to perform and supervise all project phases for which they are certified; i.e. Consultant Selection, Design, Ad, Bid, and Award and Construction Contract Administration.

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Requirement	Description
Publications	<p>The LPA shall have appropriate guidance on hand or available electronically, including, but not limited to:</p> <ul style="list-style-type: none">• AASHTO Policies and Design Guides• Local Agency Guidelines for Certified Local Public Agencies• Manual on Uniform Traffic Control Devices (MUTCD) and Oregon Supplements• Oregon Temporary Traffic Control Handbook• ODOT's Highway Design Manual• National Association of City Transportation Officials Bikeway Design Guide• ODOT's Bicycle & Pedestrian Design Guide• ODOT's Hydraulics Manual• ODOT's Right of Way Manual• ODOT's Utility Manual• ODOT's Construction Manual• Oregon Standard Specifications for Construction• FHWA's Contract Administration Core Curriculum Manual

a. Application Approval or Denial

The Certification Program Office will preliminarily approve or will deny applications based on the criteria above. If preliminarily approved, the Certification Program Office will schedule an initial meeting with the LPA to further discuss the Certification Program. If denied, the LPA may work with the Certification Program Manager to explore potential ways to qualify in the future.

b. Initial Meeting

The Certification Program Office will schedule an initial meeting between the LPA, Certification Program, ODOT Region staff, and applicable ODOT discipline resources. This meeting is to discuss the Certification Program in greater detail and to verify approval to enter the Program. The Certification Program Office will also provide the LPA a document package for review, including information about the:

- Master Certification Agreement draft
- Quality Program Plan template
- Title VI program and Title VI plan sample

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- Oregon Standard Specifications for Construction General Conditions (Section 100) template
- Bid document and construction contract templates
- Formal/informal consultant selection templates
- Supplemental project agreements
- Demonstration projects

Once approval to enter the Program is confirmed, the Certification Program Office will send a formal letter notifying the LPA it has been accepted into the Program and will provide additional information about next steps.

2. Foundational Documents

Once approved to participate in the Certification Program, LPAs must develop and implement foundational certification program documents upon which all future projects will be reviewed against. The table below details required documents:

Document	Description
Title VI Program & Plan	<ul style="list-style-type: none">• All LPAs that are subrecipients of federal funds must maintain a Title VI Program and a Title VI Plan, which is updated every three years and submit an Annual Accomplishments Report annually to the Office of Civil Rights.• LPA Title VI Programs must identify a Title VI Coordinator, develop a complaint mechanism, develop a public involvement strategy for reaching traditionally underrepresented classes, and develop and maintain procedures for gathering, collecting and analyzing data.• The ODOT Office of Civil Rights Title VI Program Manager can answer any questions regarding the Title VI obligations.
ADA Title II Transition Plan & Self-Assessment	<ul style="list-style-type: none">• All LPAs that are subrecipients of federal funds must maintain a ADA Title II Transition Plan.• LPA's must complete a Self-Assessment of their agency.• LPA Title VI Programs must identify a ADA Coordinator, develop a complaint mechanism, develop a public involvement strategy for review of the plan.• The ODOT Office of Civil Rights ADA Program Manager can answer any questions regarding the ADA obligations.

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Document	Description
Quality Program Plan	<p>The Quality Program Plan (QPP) documents the LPA’s internal processes and quality controls necessary to effectively manage LPA projects delivered through the Certification Program. The QPP includes, but is not limited to the following:</p> <ul style="list-style-type: none"> • How Certification Program requirements will be met • LPA’s delegated approval authorities • A staffing and resourcing plan • Financial accounting controls • Title VI compliance • Civil Rights compliance • ADA compliance • A communication plan – how information, decisions and changes are managed • Project quality control and quality assurance • Consultant selection and management • Environmental compliance • Uniform Act compliance • Administration of design, ad/bid/award and construction contracts • Construction monitoring, including quality control/quality assurance (QA/QC) <p>Refer to the Certified LPA Quality Program Plan Technical Program Guidance for further information.</p>
General Specifications for Construction (Section 100: General Conditions)	<p>The LPA shall establish their agency’s proposed general conditions for all their FHWA certified projects using the Word version of the ODOT Section 100 template and employing track changes.</p> <p>Refer to the Certification Program Office website for the template and further information.</p>
Bid Document and Construction Contract Templates	<p>The LPA shall align their front-end bidding documents (such as the invitation to bid, instructions to bidders, bid form and bid supplements, form of agreement, etc.) with their General Conditions, other aspects of the Standard Specifications and ODOT/FHWA requirements.</p> <p>Refer to the Certification Program Office website for further information.</p>

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Document	Description
Formal/Informal Consultant Selection Templates	<p>The LPA shall modify the existing consultant selection templates (prepared by ODOT's Procurement Office) to accommodate the LPA's process differences. The templates include:</p> <ul style="list-style-type: none">• A&E Request for Proposal (RFP)• A&E Contract• A&E Contract Amendment

These documents will be reviewed and approved by the Certification Program Office in consultation with ODOT subject matter resources, Oregon DOJ and the LPA.

For LPAs that are currently "conditionally" certified in any of the functional areas, please refer to the document entitled *Transitioning Conditionally Certified LPAs to Full Certification*, located in Section D of this LAG for Certified LPAs.

3. Intergovernmental Agreements

The Certification Program uses two types of Intergovernmental Agreements (IGAs) to formalize program and project expectations between ODOT and the Certified LPA. The two types are:

- **Master Certification Agreement (MCA):** The primary IGA between ODOT and the LPA and foundational agreement upon which all supplemental project agreements are based. The MCA is updated with each new federal transportation act to reflect revisions to ODOT's Stewardship Agreement with FHWA or the AOC/LOC Agreement, and include laws which are the basis for all federal-aid agreements. A draft is provided at the initial meeting.
- **Supplemental Project Agreement (SPA):** Governs specific projects under the Certification Program. A SPA between ODOT and the LPA is required for every funded project. Agreements must be executed before any phase of the project is funded with federal money.

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4. Amendments to Intergovernmental Agreements

For a Certified LPA that only needs to transition one conditional discipline area to full certification, the MCA amendment will be initiated shortly following issuance of the formal certification letter. For those Certified LPA's that will be transitioning more than one discipline area, the Certification Program Office will initiate an amendment to the MCA at an appropriate time as agreed upon. The Certification Program Office would like to avoid multiple MCA amendments.

Should the need arise for a Supplemental Project Agreement (SPA) prior to finalizing an MCA amendment, language indicating full certification for the particular discipline area will be included in the SPA.

5. Key Staff Training

In addition to the foundational documents described above, 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.

Training relative to consultant selection and A&E contracting is also required. This training, offered by ODOT, consists of statement of work writing, negotiating contracts, contract administration and invoice review. A contract administration training course, offered by the Oregon Department of Administrative Services, is required as well.

Two other documents that Key Staff should also be familiar with include the FHWA/ODOT Stewardship and Oversight Agreement and the ODOT/Association of Oregon Counties (AOC)/League of Oregon Cities (LOC) Federal-Aid Project Guidelines and Working Agreement.

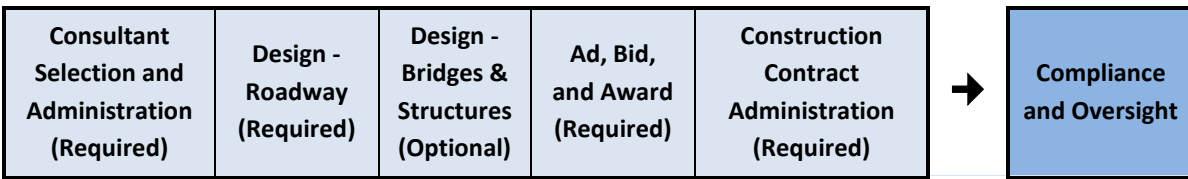
Staff training will be reported to the Certification Program Office on an annual basis.

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6. Certification Phases

Figure 1 below depicts the six basic components of certification: consultant selection and administration; roadway design; bridge design; advertisement, bid and award; construction contract administration; and compliance and oversight. The first five are the functional areas of certification and the last is to maintain certification. The following subsections describe in further detail what is included in each.

Figure 1: Certification Phases



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D. CONSULTANT SELECTION

There are two types of consultant selection certifications available to LPA's; Small Purchase (direct appoint) and formal/informal. Certification in at least one method of selection is required. The following table provides a brief overview of their differences.

Consultant Selection Procedures		
Small Purchase (formerly Direct Appoint)	Informal / Formal	
For total contract values not exceeding \$100K.	For total contract values not exceeding the \$150K federal limit.	For total contract values in excess of \$150K
Prepare contract to include the DBE "no-goal" provisions.	Prepare an RFP and include the appropriate DBE goal per ODOT Civil Rights instructions.	
Public advertising not required.	Public advertising not required; distribute the RFP to a minimum of three consulting firms.	Publically advertise or publish the RFP electronically.
Identify and rank a minimum of three qualified consulting firms.	Evaluate and rank all proposals received.	
Contact the firms for additional information as needed.	Evaluate and rank all proposals received. Issue notice of intent to award to the highest ranked firm and not selected notice to all other proposers.	
Negotiate contract with the highest ranked firm.	Negotiate contract with the highest ranked proposer.	

For the demonstration project, the LPA will present to the Certification Program Office and ODOT subject matter resources their processes, procedures and documentation shortly after the consultant procurement process has been completed, but prior to execution of the A&E contract. The LPAs A&E contract administration procedures will be reviewed during the annual project compliance review process. Any deficiencies noted will be resolved through the Corrective Action Plan process.

The consultant selection application form and additional information and detail contained in the LPA A&E Requirements Guide are located on the Local Government website.

Resources

- ◆ [Local Government Website](#)

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E. DESIGN (ROADWAY)

Roadway design encompasses a long list of processes and several professional disciplines. The basics include engineering design, environmental permitting, right of way acquisition, utility coordination and/or relocation, and preparation of the final plans, specifications and estimate (PS&E).

Several aspects of the design phase are of particular interest to the CPO, such as:

- Design standards and design criteria
- Technical design reports
- ADA compliance
- Work zone temporary pedestrian accessible routes
- Design exceptions
- Letters of Public Interest Findings
- National Environmental Policy Act compliance and closeout
- Compliance with the Uniform Act when acquiring right of way
- Civil rights program compliance
- Utility and right of way certifications
- Final signed PS&E documents
- Signed PS&E Submittal and Completeness Checklist

As noted in subsection C above, the LPA and Certification Program Office will convene a meeting where the LPA will present their processes, procedures and documentation. This meeting will occur shortly after the PS&E submittal. The Certification Program Office will then conduct a compliance review. Any deficiencies noted will be resolved through the Corrective Action Plan process.

F. DESIGN (BRIDGES AND STRUCTURES)

Bridge and structures design is an optional certification for LPA's and requires a separate application and screening process. The application allows for certification for in-house design as well as certification for oversight of consultant designed projects.

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In addition to some of the elements listed in Section E above, the application focuses on:

- Bridge design experience
- Bridge design specifications, standards and manuals
- Foundation design
- Design quality control and quality assurance procedures
- Hydraulic design and scour analysis
- Geotechnical design
- Load rating
- Bridge design approvals

Unlike the single “demonstration” project concept on which the rest of the LPA certification program is based, to become certified in bridges and structures requires the successful completion of two (2) test projects.

For a copy of the application or more information on bridge and structures certification, please see the ODOT Certification website or contact the ODOT Certification Coordinator by email at ODOTCertification@odot.state.or.us.

Refer to **Section C, Chapter 14** and **Section D** in this LAG for Certified LPAs for information related to bridge and structures project delivery.

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G. ADVERTISEMENT, BID, AND AWARD

The basics of the advertisement, bid and award phase include the advertisement and bidding documents, bid opening / bid review and the construction contract award process. The following table illustrates some of the more important aspects of this phase.

Advertisement	Bidding	Award
Authorization to proceed	Public bid opening	Notice of intent to award
Competitive low bid process	Contractor prequalification	Certificates of insurance
Time period for advertisement	Contractor eligibility confirmation	Performance and payment bonds
How and where it was advertised	Appropriate bid sheets	Public works bond
Proper advertisement content	Bid bond	Oregon CCB license
DBE language and goal	First-tier subcontractor disclosure	Responsible bidder determination
Buy America language	Committed DBE subcontractors	Notice of award
Prevailing wage rates	Bid tabulation	Contract execution
Addenda(s) and bid clarifications	Bid analysis	BOLI fee payment

For the demonstration project, the LPA submits the **Ad, Bid & Award Checklist** to the Regional Local Agency Liaison and the Certification Program Office for review and comment. For all other projects the LPA is encouraged to maintain a copy of the checklist (or equivalent tracking tool) in the project file. The checklist can be found in **Section D** of this LAG for Certified LPA's.

As noted in subsection C above, the LPA will present their processes, procedures and documentation to the Certification Program Office shortly after award of the construction contract. The Certification Program Office will then conduct an in-depth compliance review and any deficiencies noted will be resolved through the Corrective Action Plan process.

Refer to **Section C, Chapter 15** in this LAG for Certified LPAs for additional information.

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H. CONSTRUCTION CONTRACT ADMINISTRATION

Construction contract administration of a federal-aid project can be very complex and if not managed properly can lead to delays, disputes and claims.

The construction contract should be administered and materials accepted according to the Certified LPA's approved Quality Program Plan. In many cases the Certified LPA will follow ODOT's Construction Manual with modifications to accommodate the LPA's staffing and process differences.

As an overview, the administration of a construction contract includes the following:

- Project management for administration of the contract
- Project compliance with state and federal requirements
- Subcontract review and approval
- Materials quantity measurement
- Materials quality acceptance (field and non-field tested)
- Inspection by inspectors certified through ODOT
- NEPA related environmental inspections
- Civil rights and labor compliance, including monitoring of prompt payments to subcontractors
- Buy America compliance
- Project documentation and retention
- Contract Payments
- Contract dispute management and resolution

Refer to **Section C, Chapter 16** of this LAG for Certified LPA's for more detailed information.

To help ensure success during this phase of the demonstration project, ODOT's Regional Local Agency Liaison or Region representative, with assistance from ODOT's Regional Assurance Specialist and the Regional Environmental Coordinator, will provide a higher level of oversight and consultation with the Certified LPA than would normally occur on certified non-demonstration projects.

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Following completion of construction (issuance of 2nd Notification or the LPA's equivalent), the Certified LPA and the Certification Program Office will convene a meeting where the Certified LPA will present their processes, procedures and documentation. The Certification Program Office will then conduct an in-depth compliance review and any deficiencies noted will be resolved through the Corrective Action Plan and monitoring processes.

I. MAINTAINING CERTIFICATION (COMPLIANCE AND OVERSIGHT)

This subsection describes ODOT's compliance and oversight (C&O) process for Certified LPA's, as well as the escalation process for certification issues generally. The Certification Program Office's Certification Compliance Specialist is the primary point of contact and administrator of the compliance and oversight portion of the Certification Program. The compliance and oversight process is designed as a three-tiered approach, utilizing an annual Certified LPA self-audit, an annual Certification Program Office project(s) review and a triennial Certification Program Office program review. The latter two reviews will be structured on a risk-based assessment and will follow the steps as shown below.

Figure 2: Compliance Review Cycle



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Project reviews will include selected aspects of each area of certification.

- Consultant Selection and Consultant Contract Administration
- Design
- Ad/Bid/Award
- Construction Contract Administration
- Bridge Design (optional)

Program reviews will have a particular emphasis on the following:

- Key Qualified Staff
- Training
- STIP Portfolio Management
- Quality Program Plan
- Bid Document and Contract Templates
- General Conditions (Section 100's)
- Civil Rights (e.g. Disadvantaged Business Enterprises Program, Title VI etc.)
- Accounting Controls and Improper Payments

1. Certified LPA Self-Audit

This is the first tier of the compliance review process and requires the certified LPA to submit to the Certification Program Office a Certified LPA Annual Self-Audit form along with updated Certified LPA Approval Authority and Certified LPA Key Qualified

Staff forms as well as documentation of staff training. The information received will be utilized, in part, to assess risk and to prioritize the review schedule discussed below.

Certified LPAs conduct self-audits as a part of the compliance process.

2. Prepare and Publish Review Schedule – The Other Two Tiers

The Certification Program Office will perform a risk-based review of at least one completed, or nearly completed, federal aid project per year for each Certified LPA. Through these reviews, ODOT will assess the Certified LPA's continued ability, resources and experience to deliver federally funded projects pursuant to federal and state laws as well as the LAG for Certified LPA's.

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Additionally, a risk-based program review will be conducted every three years on each Certified LPA. As mentioned above, this review will focus on local agency staff qualifications and training as well as the Certified LPA's certification program processes and procedures.

Every year, the Certification Compliance Specialist will prepare or update a project and program review schedule for all Certified LPA's. The basic steps to set up the review cycle are:

Review Schedule Process	
1	The Annual LPA Self-Audit form along with updated Approval Authority and Key Qualified Staff forms will be requested from the Certified LPA's
2	Assemble review team (Certification Program Manager, Certification Compliance Specialist, FHWA, Regional LAL, HQ Subject Matter Resources, and other Region staff as needed)
3	Review team identifies high-risk or priority review areas [Risk assessment form]
4	Certification Program Office decides which agencies will be reviewed
5	Compliance Specialist forecasts resources necessary for reviews
6	Compliance Specialist prepares and publishes review schedule
7	Compliance Specialist notifies individual Certified LPA's of the review process, timeline, and expectations

3. Request and Gather Information

After publishing the review schedule and notifying individual LPA's, the Compliance Specialist gathers necessary information to conduct reviews from individual Certified LPA's and works with necessary ODOT resources. The information and documents required may be different from one review to the next, depending on priority review areas, Certified LPA past performance, types of projects under review, and other criteria.

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The basic steps for gathering information are:

Initial Document Gathering and Review Process	
1	Compliance Specialist requests/receives necessary documents and/or information from Certified LPA.
2	Compliance Specialist requests/receives additional independent review documents from ODOT resources as needed (RAS reviews, Civil Rights audits, Region/LAL information etc.).
3	Compliance Specialist and ODOT review team reviews assembled documents and information; determines information gaps to be filled.
4	The Certification Program Office identifies Certified LPA or statewide issues applicable to the individual Certified LPA and develops a draft list of issues or concerns.
5	Compliance Specialist consults with FHWA on review (if previously agreed upon in review schedule preparation).

4. Draft Findings Report

Based upon the information provided, and in consultation with selected review team members, the Compliance Specialist will prepare a draft findings report. This report details how well the LPA complied with applicable requirements for each area of review and highlights areas needing corrective action (if any).

Prior to the informational meeting, the draft report is sent to the LPA for review. The LPA is then given an opportunity to supply additional documentation that may have an influence on the final findings or corrective actions.

5. Certification Program Office/Certified LPA Informational Meeting

Once the draft findings report has been prepared and transmitted to the LPA, the Compliance Specialist will schedule a meeting with the Certified LPA and selected members of the ODOT review team. This meeting is to gather any additional information needed, conduct interviews and to discuss any issues found in the initial document review. This meeting will also serve as a forum to discuss areas of statewide importance applicable to the Certified LPA.

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6. Final Findings Report

After reviewing any additional LPA supplied documents and information, the Compliance Specialist will prepare the final compliance review findings for each Certified LPA reviewed. Form 734-5070 Certified LPA Review and Corrective Action Report will be used to document the findings. The basic steps for drafting findings are:

Findings Report Process	
1	Compliance Specialist drafts initial findings based on document reviews, site visits, interviews, and consultation with the review team (and FHWA if applicable)
2	Compliance Specialist circulates draft findings to the LPA and review team; receives comments
3	An informational meeting is held to discuss the draft findings and to gather any additional information the LPA may want to provide
3	Compliance Specialist finalizes findings report and any corrective actions that may be needed and transmits it to the Certified LPA for their review

7. Corrective Action Review Meeting (if applicable or needed)

The final task is for the Compliance Specialist and Certified LPA to discuss any corrective actions (if applicable). The Compliance Specialist's role is to review and identify corrective actions (in consultation with the Certification Program Manager and the ODOT review team) in the Certified LPA's program and project delivery process. The Certified LPA's role is to prepare a plan for Certification Program Office approval on how they will address the corrective actions identified. The basic steps are:

Corrective Actions Process	
1	Certification Program Office and Certified LPA agree on corrective actions needed (if necessary).
2	Certified LPA prepares a Corrective Action Plan (with LAL assistance).
3	Certified LPA submits Corrective Action Plan to Compliance Specialist.
4	Compliance Specialist distributes Corrective Action Plan to review team; receives comments.
5	Compliance Specialist returns Corrective Action Plan to Certified LPA for revision (if needed).
6	Compliance Specialist informs Certified LPA of the approved Corrective Action Plan.

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8. Close Review & Monitor

Once the Certified LPA's Corrective Action Plan (CAP) is approved (if needed), the Compliance Specialist will close out the review process. The Regional Local Agency Liaison and Compliance Specialist will monitor the Certified LPA's progress on addressing actions described in the Corrective Action Plan.

9. Corrective Action Escalation Process

Corrective Action Plans are used both as part of the formal compliance and oversight process as well as to resolve issues identified outside of formal reviews.

In the event issues and corrective actions need to be escalated to higher or more

Remember: The Certification Program Office's policy is to resolve issues at the lowest possible level.

formal levels, this section details the process to be followed. If at any point the issue is resolved, the process below is ended at the last completed step.

Corrective Action Escalation Process Steps	
1	Informal Escalation: The Local Agency Liaison works with the Certified LPA's Project Manager (PM) & other staff (Verbal/Email) to try to resolve the issue.
2	Informal Escalation: If the issue remains unresolved, the Local Agency Liaison escalates to the Certification Program Manager. A telephone or email discussion on the merit of escalation will ensue. a. If the Local Agency Liaison and Certification Program Manager decide to escalate but want the issue to remain informal, discussion(s) will take place with the Certified LPA's PM, the Certified LPA PM's manager or Certified LPA's Certification Liaison, and the Local Agency Liaison's manager. The discussion(s) may involve email and/or in person meeting(s). b. If the Local Agency Liaison and Certification Program Manager are not satisfied with 2a results, continue to Step 3.

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Corrective Action Escalation Process Steps	
3	Formal Escalation: The Certification Program Manager and the regional Local Agency Liaison will send a signed warning letter to Certified LPA; with a copy sent to the ODOT Region Manager and the FHWA Oregon Division Office. The warning letter will outline the corrective action(s) needed, potential consequences, next steps, and a time frame for Certified LPA response and issue remedy.
	a. If the Certified LPA satisfactorily resolves the issue: the Certification Program Manager and ODOT Region Manager will send a joint Resolution Letter to the Certified LPA.
	b. If Certified LPA does not satisfactorily resolve issue: the Certification Program Manager initiates a discussion between ODOT Active Transportation, Program & Funding Services, and the Region Manager as well as the regional Local Agency Liaison. The group decides consequences appropriate for the Certified LPA's issue. The Certification Program Manager documents decision and consequences.
4.	Formal Escalation: The Certification Program Manager and ODOT Region Manager sends a signed decision letter to the Certified LPA identifying consequences of Certified LPA non-compliance to be carried out by ODOT.

Potential consequences for non-compliance include:

- The Certified LPA may be subject to increased monitoring as deemed appropriate.
- ODOT may withhold approval of final PS&E documents until the non-compliance is remedied.
- ODOT may remove the Certified LPA's certification status until such time the corrections are made and/or resolved.
- ODOT retains the right to remove federal funds from Certified LPA federal aid projects if deemed necessary.