

Policy and Operational Notice

Operational Notice Number 2022-01	Original Effective Date 04-01-2022	Revised Effective Date	Review (or Rescind) Date 04-01-2024	Reviewing Position Statewide Investments Management Section
Operational Notice Title Local Agency Delivered Projects			Topic or Program Local Agency Project Development and Delivery	

Purpose:

To set out the Oregon Department of Transportation’s (ODOT) policy and operational direction for the development and delivery of local projects that are being delivered by local agencies, including the Department’s roles and responsibilities.

For operational direction on ODOT-delivered non-certified local projects, see Statewide Project Delivery Branch Operational Notice PD-02.

This policy and operational notice is organized into the following sections:

- A. Roles and Responsibilities for Local Projects
 - 1. Metropolitan Planning Organizations (MPOs)
 - 2. Local Agencies
 - 3. ODOT
- B. Process Guidance
 - 1. Federally Funded, Certified Local Agency Projects
 - 2. Federal Fund Exchange Programs
 - 3. State Funded Grant Programs
- C. Resources

Background:

The Department’s policy on projects that are delivered by a local agency is designed to pursue the following objectives:

- Enable local agency ownership, control, and accountability for local projects to the maximum extent possible while meeting stewardship and oversight obligations.



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- Maximize efficiency while minimizing duplicative administrative processes through a risk-based approach to project delivery, oversight, and grant administration.
- Conserve ODOT project delivery resources to allow Department staff to focus on its responsibility of delivering State transportation projects.

A. Roles and Responsibilities for Local Projects

1. MPO Selection

MPOs are responsible for the following:

- a. Identifying, selecting, and awarding projects with MPO controlled funding allocations to local agencies within their jurisdiction;
- b. Evaluating whether projects are delivery-ready (i.e., adequately scoped); and
- c. Ensuring on time obligation of funding allocations.

2. Local Agencies

The local agency is responsible for the following:

- a. Identifying project needs
- b. Applying for project funding through the MPO, ODOT, or other federal programs.
- c. Developing and delivering the project scope, schedule, and budget according to the program requirements set out in the applicable project funding agreement.

3. ODOT

ODOT is responsible for the following:

- a. For ODOT managed programs, the program managers establish policy, administrative procedures, and criteria for local agency and local project participation to ensure compliance with state and federal funding requirements.
- b. Each Region Manager has direct accountability to the Delivery & Operations Division Administrator for providing support to local agencies in the delivery of their projects consistent with established program policies and procedures.
- c. Regions support local agencies by making them aware of funding program opportunities and helping them navigate ODOT's resources. Regions may also support program awards by performing site visits and participating in scoping efforts.
- d. ODOT's role throughout the delivery of an individual project varies by the program funding the project. The regions may be involved in tracking the local project scope, schedule, budget, and deliverables, but the local agency is ultimately responsible for on-time and on-budget delivery of its projects.

B. Process Guidance

1. Federally Funded, Certified Local Agency Projects:

The ODOT Local Agency Certification Program is an FHWA-approved program that allows the Department to certify qualified and suitably equipped local agencies in the delivery of federal-aid projects. Through the program, a certified local agency takes on day-to-day responsibility for the development and delivery of its federal-aid projects with risk-based support and oversight from ODOT. A certified local agency is responsible for procuring and administering the contracts needed to deliver its projects. With ODOT approval, a certified local agency may also deliver projects on behalf of a non-certified local agency.

The certified local agency is responsible to ensure its staff, consultants, and contractors comply with the applicable local, state, and federal laws, regulations and procedures in developing and constructing its federal-aid projects. ODOT and FHWA retain specified authorities and responsibilities that are not delegated to local agencies through certification.

Certified local agencies must comply with ODOT's programs and processes within the following specified project areas:

- Civil rights programs, applicable to all federal project delivery phases.
- Environmental/National Environmental Protection Act (NEPA) processes
- Final certification of right of way transactions
- Final certification for utilities
- Approval of letters of public interest findings (LPIFs)
- Project final acceptance

FHWA 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

The [Local Agency Guidelines for Certified Local Public Agencies](#) (also known as "the LAG manual") provides guidance to local agencies engaged in becoming certified, maintaining certification, and delivering certified local agency federal-aid projects. The [Approval Authority Matrix](#) referenced throughout the LAG manual and linked here details program and project activity responsibilities by agency for on-system and off-system projects delivered by certified local agencies. The matrix includes a guidance and citations column that refers users to relevant sections and chapters of the LAG manual or other guidance.



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Certified LPA Approval Authority Matrix				
November 2021				
FHWA - Federal Highway Administration ODOT - Oregon Department of Transportation CLPA - Certified Local Public Agency Core Curriculum - FHWA Contract Administration Core Curriculum Manual NHS - National Highway System SHS - State highway system. SHS requirements apply to the portion(s) of project work on or along the state highway system. Stewardship Agreement - Stewardship and Oversight Agreement on Project Assumption and Program Oversight by and between Federal Highway Administration, Oregon Division and the State of Oregon Department of Transportation Concurrence - Defined: 1) <i>Agreement in opinion or design</i> ; 2) <i>Consent</i> Approve - Defined: <i>To give formal or official sanction</i> Recommend Approval - Defined: <i>To recommend to the approval authority that it give formal or official sanction</i>				
This matrix designates the agency responsible for approval of the various actions listed below for CLPA projects either on the state highway system or on their local facilities ⁽¹⁾⁽²⁾⁽⁷⁾ . The second column from the right designates the actions where additional ODOT input is required.				
Approval Action	Agency Responsible		ODOT Concurrence/ Recommendation	Guidance or Citation
	On SHS by CLPA	Off SHS by CLPA		
I. Program Development (Planning)				
1. Project Selection	ODOT / MPO as applicable		N/A	Varies by funding program. LAG Section C, Chapter 2
2. Ensure Project is in STIP	ODOT	ODOT	N/A	LAG Section C, Chapter 3. Note: For Emergency Relief (ER) projects see ODOT

2. Federal Fund Exchange Programs:

a. State Funded Local Projects (SFLP)

SFLP is a process to exchange federal funds for state funds on select local projects which are not on the state system. Federal funds are traded at a one-to-one ratio; however, local agencies are still required to provide a match as determined by the applicable funding program. Note, projects should be scoped to meet federal funding requirements. SFLP is not intended as a selection tool, but may be a delivery option when a project is eligible and state funds are available. See the [Local Funding Overview](#) page on the ODOT Local Government website for a more detailed description of [SFLP eligibility requirements](#) and additional program information.

ODOT developed SFLP to reduce the administrative burdens associated with federal funding to enable local agencies to control and deliver their projects efficiently and with minimal oversight from ODOT. Thus, ODOT has a limited role in project development and delivery:

- ODOT’s role may include providing scoping notes and any additional documents from the selection process (if selected and awarded by ODOT).
- ODOT will process local agency invoices seeking reimbursement; conduct a final project review and acceptance to confirm the local agency delivered the agreed upon project; and ensure receipt of project closeout documents.
- In exceptional cases, a particular funding program or special project need may require additional ODOT oversight responsibilities (for example, Local Bridge Program funded projects or a project on which any phase of the project has been *authorized* by FHWA). The intergovernmental agreement will specify these requirements.



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State Funded Local Projects – Project Activities	Responsible Agency
Design	Local Agency
Environmental Permitting (environmental permits may be required from various federal agencies with a nexus to the project, including the Army Corps of Engineers, Bureau of Land Management, Forest Service, etc.)	Local Agency to seek approval from applicable permitting authorities
Right of away appraisal and acquisition	Local Agency
Utility	Local Agency
Construction	Local Agency
Final Review (not inspection)	ODOT (Region)
Invoice processing and reimbursement	ODOT (Region)
Exceptions	
NEPA (if any project phase has been previously <i>obligated</i> through FHWA)	ODOT (Region)
Design Review and Inspection (for work that touches ODOT system)	ODOT (only for the portion that touches ODOT’s system)
All Roads Transportation Safety (ARTS) Projects Final Cost and As-Constructed Drawings	Local Agency (develops and submits copies to ODOT at project closeout prior to final invoice payment)
Bridge Structural Analysis Information, Foundation Report, Hydraulic Report including Scour Analysis, Pile Records, and Final Load Rating, As-Constructed Drawings	Local Agency (develops and submits copies to ODOT at project closeout prior to final invoice payment)
Bridge Final Inspection	ODOT (Program)

b. State Transportation Block Grant (STBG) Fund Exchange (FEX)

The FEX funding mechanism is a federally-funded ‘allocation-based’ program available to some local agencies. FEX allows all counties and some cities to exchange federal STBG funds they receive for state funds according to [program requirements](#). Local agencies may then design and construct any gas-tax eligible transportation projects as they see fit in compliance with applicable state laws.

Types of projects include road paving and chip seal, ADA improvements, transportation planning, or the purchase of equipment necessary to maintain eligible roads. FEX may not be



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used for funding FHWA Emergency Relief, Congestion Mitigation Air Quality (CMAQ), or Federal Lands Access Program (FLAP) projects.

Similar to the State Funded Grant Programs in Section 4 below, ODOT takes a hands-off approach to administering FEX projects. The local agency is responsible for their own design, delivery, and project decisions and for meeting federal, state, and local requirements.

STBG Fund Exchange – Project Activities	Responsible Agency
Design	Local Agency
NEPA (environmental clearances may be required if approvals or permits from other federal agencies, including the Army Corps of Engineers, Bureau of Land Management, Forest Service, etc.)	Local Agency to seek approval from applicable permitting authorities
Right of away appraisal and acquisition	Local Agency
Utility	Local Agency
Construction	Local Agency
Invoice processing and reimbursement	ODOT (Program)
Recipient Audit	ODOT (Program)
Exceptions	
Design Review and Inspection (for work that touches ODOT system)	ODOT (only for work that touches ODOT system)

3. State Funded Grant Programs:

State funding that passes through ODOT for programs such as Connect Oregon, Safe Routes to School, the Small City Allotment, and Oregon Community Paths are defined in statute as “allotments” or “grants”.* ODOT takes a “hands-off” approach in regards to the administration of grants by having the local agency be responsible for delivering their own projects.

The grant recipient is responsible for their own design, delivery, and project decisions and for meeting federal, state, and local requirements.

There are times when ODOT may become more involved in a project. For example, when a grant project touches an ODOT facility, this would trigger the need for an ODOT technical review of the design plans that impact ODOT’s facilities, as well as issuance of a permit and inspection for that portion. This type of ODOT technical review would not apply to grant projects that do not touch an ODOT facility. The grant agreement will identify the local agency and ODOT obligations.

*Note, if federal funds are used or awarded to a project under any of these programs, the ODOT federal project delivery requirements will apply. Such projects must be delivered by a certified local agency or by ODOT on behalf of the local agency.



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State Funded & Grant Programs – Project Activities	Responsible Agency
Design	Local Agency
NEPA (environmental clearances may be required if approvals or permits from other federal agencies, including the Army Corps of Engineers, Bureau of Land Management, Forest Service, etc.)	Local Agency to seek approval from applicable permitting authorities
Right of away appraisal and acquisition	Local Agency
Utility	Local Agency
Construction	Local Agency
Final Review (not inspection)	ODOT (Program with Region support)
Invoice processing and reimbursement	ODOT (Program)
Exceptions	
Design Review and Inspection (for work that touches ODOT system)	ODOT (only for the portion that touches ODOT's system)

C. Resources

ODOT Local Government page <https://www.oregon.gov/odot/localgov/pages/index.aspx>

- [Local Funding Overview](#) (provides links to program one-pagers, if available)
- [Local Agency Guidelines for Certified Local Public Agencies](#)
- [Stewardship and Oversight Agreement - FHWA and ODOT](#)
- [ODOT and Association of Oregon Counties, League of Oregon Cities Agreement](#)