

LOCAL AGENCY GUIDELINES

FOR CERTIFIED LOCAL PUBLIC AGENCIES

SECTION A:

PROGRAM OVERVIEW OF
FEDERAL-AID PROJECT DELIVERY OPTIONS

Section A: Program Overview of Federal-Aid Project Delivery Options

A1 FOREWORD

The Oregon Department of Transportation (ODOT) 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.

A1.1 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 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 templates, checklists, and similar resources that are referenced throughout the LAG for Certified LPAs.

A1.2 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 Guidelines Manual had been the medium to explain policies, processes, and requirements for all local project delivery, for both certified and non-certified LPAs.

In 2017, ODOT clarified its policy on local project delivery by primarily focusing certification on LPAs in Transportation Management Areas (TMAs), replacing non-certified local project delivery with alternate methods and updating its guidance manual to focus on Certification. Due to the shift in policy, this LAG for Certified LPAs, which may also be referred to as the “LAG Manual”, replaced the old LAG manual that was in effect through 2018.

A2 FEDERAL-AID HIGHWAY PROGRAM IN OREGON

A2.1 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 with ODOT (“FHWA-ODOT Stewardship Agreement”), delegates authority to ODOT for approving project development and construction administration. ODOT has the option of delegating much of this authority to LPAs but remains responsible to FHWA for overall compliance with federal law and regulations. The Certification Program, through a Local Agency Certification Program Agreement (“Certification Program Agreement”) between ODOT and Oregon cities and counties, permits LPAs to obtain expanded approval authority at the local level for federally funded projects.

A2.2 Using Federal-Aid Funding

LPAs can use federal-aid funding through one of four methods. 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

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 is set out in the ODOT/AOC/LOC Agreement and on ODOT’s Local Government Funding Overview page.

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

- *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 engineering 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 project contact 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.

A3 ODOT'S LOCAL AGENCY CERTIFICATION PROGRAM

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

A3.1 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** 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, construction contracting templates and consultant contracting templates, 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 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.

A3.2 Scope of Certification

Primarily, but not exclusively, certification is focused on LPAs in Oregon’s Transportation Management Areas (TMAs). 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 functional areas are shown in the figure below alongside the federal project phases.

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
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:

- **Consultant Selection and Contract Administration**

LPAs must demonstrate competency in the methods of procurement and contract administration for Architecture & Engineering (A&E) and related services or other (non-A&E) services as needed to deliver the LPA’s certified projects. See Section C, Chapter 4 of this manual for details.

- **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.

- **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.

- **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.

A3.3 Single-Discipline Certification

ODOT does not typically provide certification in a single discipline. However, Certification of Metropolitan Planning Organizations (MPOs) only applies to Consultant Selection and Contract Administration due to the nature of MPO work.

A3.4 ODOT-Retained Responsibilities

The primary point of contact for an LPA is most often an ODOT project contact. ODOT project contacts are generally located in each ODOT region and serve as the subject matter experts in the federal aid project delivery process. ODOT project contacts work with the LPAs throughout the project delivery lifecycle and function as ODOT's main point of contact for LPAs. ODOT project contacts may be referred to as local agency liaisons (LALs), transportation project managers (TPMs), planners or other titles depending on the project type, but they are all referred to as ODOT project contacts throughout this manual and related materials to reflect the support and partnering role they provide for certified LPAs.

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 Policy 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 federal Uniform Relocation Assistance and Real Property Acquisition 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.

A3.5 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 Policy 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:

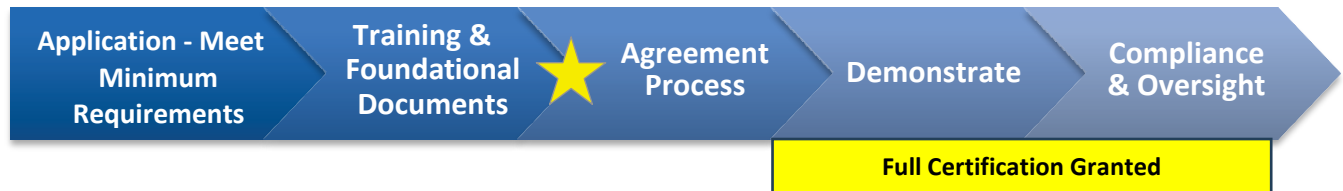
- Authorization of FHWA funds.
- "Buy America" waiver requests.
- Experimental features and special experimental projects.
- New project training programs.
- Periodic audits of program and specific projects.

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.

A4 CERTIFICATION PROCESS OVERVIEW

There are five basic phases in the certification process. This section describes what is generally included in each phase (Section B of this manual provides further detail).

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



A4.1 Application - Meet Minimum Requirements

LPAs seeking certification must complete a program application to ascertain that they meet the minimum requirements of certification. The ODOT Local Agency Certification Program General Application Form (734-5327) is available in the ODOT Local Government forms library. Certification Program staff will review the application and discuss with the LPA its eligibility for certification.

Eligibility for certification requires the following:

- **Volume of Projects:** Generally, a minimum of two to three federal-aid projects in most four-year STIP cycles is needed to warrant becoming certified.
- **STIP Portfolio Management:** The LPA must be able to manage, schedule and adequately staff their STIP projects to ensure fund obligation deadlines are met.
- **Person in Responsible Charge:** A full-time LPA employee of the LPA accountable for a project.
- **Certification Program Liaison:** A full-time employee of the LPA designated to be the single point of contact for the LPAs certification program.
- **Quality Control Coordinator:** A designated person who coordinates the LPA's certification quality program plan activities.
- **Qualified Staff:** Sufficient staff, expertise, and capability to perform all project phases, including consultant selection and contract administration; design; construction contract advertisement, bid, and award; and construction contract administration.

NOTE: The Person in Responsible Charge, Certification Program Liaison and Quality Control Coordinator can be the same or different staff person(s).

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 staff schedules a meeting with the LPA to discuss the certification process and program requirements.

Once consensus is reached, the Certification Program will notify the LPA it has been accepted into the Program and provide information about the next steps.

A4.2 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:

A4.2.1 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.

A4.2.2 Quality Program Plan

The Quality Program Plan documents the LPA’s internal processes and quality controls necessary to effectively manage LPA projects delivered through the Certification Program.

A4.2.3 Title VI Program and Implementation Plan or Non-Discrimination Agreement

The Title VI Implementation Plan describes the LPA’s Title VI Program. The plan should identify the LPA’s Title VI Coordinator, describe the LPA’s discrimination complaint mechanism, its public involvement strategy for reaching traditionally underrepresented communities, and its procedures for gathering, collecting and analyzing data. All sub-recipient LPAs are required to have and maintain a Title VI Program and Implementation Plan, as well as submit an Annual Title VI Accomplishment Reports to ODOT.

A4.2.4 Americans with Disabilities Act (ADA) Title II Transition Plan

All certified LPAs must provide documentation showing compliance with ADA Title II requirements. Typically, this includes maintaining an ADA Title II Transition Plan available to the public that outlines the agency’s compliance with the ADA if applicable. MPOs without physical assets to inventory as the basis for a Transition Plan can address ADA compliance through the Title VI Implementation Plan.

A4.2.5 Construction Contracting Templates

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. 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.

A4.2.6 Consultant Contracting Templates:

These templates consist of the Request for Proposal (RFP), non-A&E Planning Services RFP the A&E/non-A&E contract, and the A&E/non-A&E contract amendment.

Once the foundational documents are approved and the LPA 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 project contacts and the Certification Program can provide guidance and feedback. ODOT also provides training on requirements and processes in each discipline. Visit the Certification Program resources webpage for training opportunities and schedules.

A4.3 Agreement Process

To formalize certification, the LPA and ODOT enter into a Certification Program Agreement, which delegates allowable authorities to the LPA. It also outlines state and federal requirements, roles and responsibilities and expectations for future project agreements. ODOT initiates development of the Certification Program Agreement concurrent with the foundational document preparation and approval process.

At the same time the Certification Program Agreement is being developed, a Supplemental Project Authorization (also known as a “project agreement”) is initiated for the selected demonstration project. Final execution of these two agreements proceeds after the Certification Program approves the foundational documents and the LPA has demonstrated that their staff has completed the required training.

A4.4 Demonstration Project

Upon execution of the required agreements, the Certified LPA administers a demonstration project in accordance with their Certification Program Agreement, their 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 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 project contact consults, advises, and works with the Certified LPA throughout demonstration project delivery.

During the course of the demonstration project, the Certified LPA presents their processes, procedures and documentation to the Certification Program 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 conducts a compliance review. If the compliance review reveals any issues, the Certification Program and the ODOT project contact 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.

A4.5 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 to evaluate compliance risks at the program and project levels. See Section B of this manual for more details.

A4.6 Compliance Review Cycle



- **Gather & Review Information:** The Certification Program works with ODOT Region and the Certified LPA staff to gather and review necessary program and project information.
- **CPO/Certified LPA Informational Meeting:** This meeting is for the Certification Program 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.
- **Draft Findings:** The Certification Program drafts and shares compliance review findings with Certified LPA.
- **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).
- **Agree on Corrective Action:** Certified LPA prepares a Corrective Action Plan if necessary.
- **Close Review:** The Certification Program approves the Corrective Action Plan, if applicable, and ends compliance review of the Certified LPA.
- **Monitoring:** The Certified LPA, ODOT Region, and Certification Program, implement any necessary Corrective Action Plan.

A5 PARTNERING

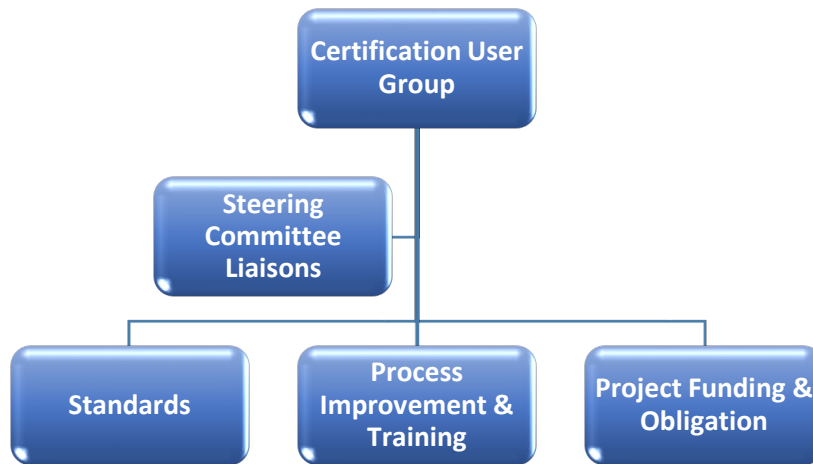
For agencies engaged in the Certification Program, either through project delivery, oversight, or other interest in certification, ODOT provides a **Certification User Group (CUG)**. The CUG's mission is to "Streamline and improve the delivery of certified local public agency federal aid transportation projects for Oregon" 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 and any interested CUG members. The basic structure of the CUG is shown in the figure below.

Overview of Certification User Group Structure



A6 CONCLUSION

Section A provides a high-level introduction to federal-aid local project delivery through the Certification Program. For more details on becoming certified or maintaining certification status, refer to Section B. For more details 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.

A7 RESOURCES

For questions not covered here, contact the [ODOT Certification Program](#).

Provider	Resource Title	Description	Link
FHWA	Defining Responsible Charge	Webpage	https://www.fhwa.dot.gov/federalaid/110804.cfm
ODOT	Certification Guidance & Forms	Webpage	https://www.oregon.gov/ODOT/LocalGov/Pages/Certification-Guidance-Forms.aspx
ODOT	Certification User Group Site	Webpage (includes meeting materials, resources and announcements)	https://www.oregon.gov/odot/LocalGov/Documents/Partnering-for-Success-Mission-Goals-Roles.pdf
ODOT	General Application Local Agency Certification Program	Form 734-5327	https://www.oregon.gov/odot/Forms/20DOT/7345327.pdf
ODOT	Local Agency Training	Webpage	https://www.oregon.gov/ODOT/LocalGov/Pages/Training.aspx
ODOT	Local Government Committees & Contacts	Webpage (includes contacts by region)	https://www.oregon.gov/ODOT/LocalGov/Pages/Contacts.aspx
ODOT	Local Government Funding Overview	Webpage	https://www.oregon.gov/ODOT/LocalGov/Pages/Funding.aspx
ODOT	Local Government Funding Overview	Webpage (includes searchable grant opportunities)	https://www.oregon.gov/ODOT/LocalGov/Pages/Funding.aspx
ODOT	Local Government Governance	Webpage (includes link to Stewardship and Oversight Agreement - FHWA and ODOT, and ODOT/AOC/LOC Agreement)	https://www.oregon.gov/odot/LocalGov/Pages/Governance.aspx