



# Sponsor's Training for Non-Traditional Transportation Projects



# Sponsor's Training

Welcome to the Sponsor's Guide to Non-Traditional Transportation Project Implementation Manual review and Certification training



# Sponsor's Guide Overview

Sponsor's Guide Section 1: Introduction



# Sponsor's Guide Overview

Why are we here?

- ▶ 2010 revision to the WisDOT/FHWA oversight agreement
- ▶ Delegation of certain actions to sponsors
- ▶ Requires a “Certification Program”
- ▶ Requires Training

*Continued*



# Sponsor's Guide Overview

Why are we here? *Continued*

- ▶ Provide information and instructions to Sponsors
- ▶ Guidance to adhere with Federal and State requirements
- ▶ Only intended for use on Local Let projects. State let will follow FDM procedures for state letting



# Sponsor's Guide Overview

## Useful WisDOT Links

### “Sponsor’s Guide”

<http://wisconsindot.gov/Pages/doing-bus/local-gov/lpm/guide-man.aspx>

### WisDOT “Assistance Programs – other aid”

<http://wisconsindot.gov/Pages/doing-bus/local-gov/astnce-pgms/aid/default.aspx>

### WisDOT “Structure and Roadway Resources”

<http://wisconsindot.gov/Pages/doing-bus/eng-consultants/cnslt-rsrces/default.aspx>



# Sponsor's Guide Overview

Acronyms – See Sponsor's Guide Appendix A

FHWA	Federal Highway Administration
LPA	Local Public Agency (Sponsor)
MC	Management Consultant
WisDOT	Wisconsin Department of Transportation
FDM	Facilities Development Manual
LLC's	Locally Let Contracts
SMA	State/Municipal Agreement
LFA	Local Force Account
DSR	Design Study Report



# Sponsor's Guide Overview

Major Revisions to Guide were made in 2011

- ▶ Majority of revisions were clarification of current policies and procedures
- ▶ Reformat of Guide to chronologically flow with project delivery
- ▶ Tool to assist Sponsors to deliver project more efficiently



# Sponsor's Guide Overview

Changes include:

- ▶ Sponsor Certification
- ▶ Scope defined in Project Application
- ▶ Scope change request and approval
- ▶ Contract between Sponsor and WisDOT if Sponsor performs the design with their staff and utilizes Federal Funding.
- ▶ Elimination of Environmental Checklist
- ▶ Revised Checklists to highlight Federal and State requirements

*Continued*



# Sponsor's Guide Overview

Changes include: *Continued*

- ▶ Emphasis on Record Keeping and Invoice
- ▶ Supporting Documents
- ▶ Design Study Report Requirements
- ▶ Local Force Account Policy
- ▶ Preliminary Plans Requirement



# Sponsor's Guide Overview

Recent Changes include:

- ▶ 2012 changes at Federal level:
  - Moving Ahead for Progress in the 21st Century Act (MAP 21)
  - Combined several previous WisDOT funding programs
  - Transportation Alternatives Program (TAP)



# Sponsor's Guide Overview

## Funding Program types covered by Sponsor's Guide

- ▶ Congestion Mitigation and Air Quality Improvement Program (CMAQ)
- ▶ Transportation Alternatives Program (TAP)
- ▶ Sheboygan Non-motorized Transportation Pilot Program (NTPP)

*Continued*



# Sponsor's Guide Overview

## Funding Program types covered by Sponsor's Guide *Continued*

- ▶ Scenic Byways (SB)
- ▶ High Priority Projects (HPPs) where LLCs or LFAs may be used
- ▶ Federal Appropriation Earmarks where LLCs or LFAs may be used



# Roles and Responsibilities

Sponsor's Guide Section 2: Organizational  
Structure

Sponsor's Guide Section 3: Roles and  
Responsibilities



# Roles and Responsibilities

## Organizational Structure

- ▶ Federal Highway Administration (FHWA)
- ▶ Wisconsin Department of Transportation (WisDOT)
- ▶ Management Consultant (MC)
- ▶ Local Public Agency (LPA) or Sponsor



# Roles and Responsibilities

## FHWA

- ▶ Ultimate authority on the expenditure of Federal Aid Highway Funds
- ▶ Ensures all Federal laws and regulations are followed
- ▶ Maintain certain approvals
- ▶ Delegates certain approvals to WisDOT



# Roles and Responsibilities

## WisDOT

- ▶ Has delegated authority through federal Aid Oversight agreement
- ▶ Solicit projects, programming, monitors delivery activities
- ▶ Coordinates with FHWA
- ▶ Controls funding process



# Roles and Responsibilities

WisDOT (and/or FHWA) maintains authority for the following:

- ▶ Project Programming
- ▶ Phase authorization (design, real estate, construction)
- ▶ National Environmental Policy Act (NEPA) document approvals
- ▶ Design Exceptions approval
- ▶ Right of Way Certification
- ▶ Utility Certification

*Continued*



# Roles and Responsibilities

WisDOT (and/or FHWA) maintains authority for the following: *Continued*

- ▶ Railroad Certification
- ▶ Construction Advertisement, Award or Reject of Bids
- ▶ Labor Compliance Enforcement (shared responsibility with LPA)
- ▶ Project Cost Eligibility
- ▶ Federal-Aid Payments
- ▶ Project Final Inspection and Acceptance



# Roles and Responsibilities

## Management Consultants

WisDOT has contracted with private sector Management Consultants (MC) to provide direct project oversight on Local Program Projects, including Non-Traditional Projects



# Roles and Responsibilities

## Management Consultants

- ▶ Work directly with the Project Sponsor
- ▶ Report to the Local Program Project Managers in each WisDOT Region
- ▶ Ensure compliance of Federal and State Requirements
- ▶ Provide assistance to the sponsor in interpreting the regulations, manuals and guidelines as they apply to specific project conditions



# Roles and Responsibilities

The MC is not responsible for

- ▶ Overall project administration for the sponsor
- ▶ The Sponsor's or their consultant's quality control



# Roles and Responsibilities

**MCs should be the first contact for a Sponsor to answer questions regarding project delivery**



# Roles and Responsibilities

## Northwest Region

Eau Claire (715) 836-2891  
Superior (715) 392-7863  
Management Consultant  
Knight E/A, Inc.  
(608) 519-1455

## North Central Region

Rhineland (715) 365-3490  
Wisconsin Rapids (715) 421-8300  
Management Consultant  
Cedar Corp  
(715) 235-9081

## Northeast Region

Green Bay (920) 492-5623  
Management Consultant  
JT Engineering  
(920) 468-4771

## Southwest Region

Madison (608) 246-3800  
La Crosse (608) 785-9022  
Management Consultant  
KL Engineering  
(608) 663-1218

## Southeast Region

Waukesha (262) 548-5903  
Management Consultant  
DAAR Engineering  
(414) 225-9817



# Roles and Responsibilities

## Local Public Agency (Sponsor)

- ▶ A governmental entity with taxing authority including townships, villages, cities, counties, Tribal Nations
- ▶ May also include other state agencies
  - Metropolitan Planning Organization (MPO)
  - Regional Planning Organizations (RPO)



# Roles and Responsibilities

## Local Public Agency (Sponsor)

- ▶ **Fully responsible for the administration of their projects**
- ▶ Designate a full-time local government employee “Person in Responsible Charge”
- ▶ Establish a defined Approval Authority to act as authority for all WisDOT delegated responsibilities and project approvals



# Roles and Responsibilities

## Local Public Agency (Sponsor)

- ▶ Scope of Work
- ▶ Preparation of Environmental Documentation in accordance with the NEPA process
- ▶ Acquiring all required Environmental Permits
- ▶ Consultant Selection and administration
- ▶ Project Design

*Continued*



# Roles and Responsibilities

## Local Public Agency (Sponsor) *Continued*

- ▶ Ensure timely submittals of design documents
- ▶ Preparation of Design Exception
- ▶ Design QC/QA
- ▶ Public Participation/Involvement
- ▶ Preparation of Preliminary and Final Plans, Specifications, and Estimates (PS&E)

*Continued*



# Roles and Responsibilities

## Local Public Agency (Sponsor) *Continued*

- ▶ Right of Way Acquisition
- ▶ Utility Relocation
- ▶ Construction Schedule
- ▶ Construction Advertisement and Award
- ▶ Contract Administration and Inspection including contractor claims
- ▶ Reimbursement Requests/documentation



# Roles and Responsibilities

Table 1.  
Non-Traditional Project Oversight Matrix<sup>1</sup>

Work Activity	Action			
	Sponsor	MC	WisDOT	FHWA
Project Application / Scope of Work	P/S		R/C/A	
Project Agreement	A/S		P/A/S	
Project Authorizations			P/S	R/C/A
Environmental Checklist or Environmental Report <sup>2</sup>	P/S	R/C	A	
Design Exceptions	P/S	R/C	A	
Design Study Report (*if required)	P/S	R/C	A	
LFA, Cost Effectiveness Finding	P/S	R/C	A	
Right of Way Certification	P/S	R/C	A	
Utility Certification	PS	R/C/A		
PS&E	P/S	R/C	A	
Construction Advertisement	P/S	R/C	A	
Construction Award	P/S	R/C	A	
Construction Inspection	Responsible Charge <sup>3</sup>	R		
Reimbursement Request	P/S	R/C	A	
Project Closeout	P/S	P/R/S	R/C/A	R/C/A

A = Approve    C = Comment    P = Prepare    R = Review    S = Submit

<sup>1</sup> While WisDOT has approval authority of most of the listed actions, some approvals related to projects selected for full FHWA oversight and/or projects on the National Highway System remain with FHWA in accordance with the April 2, 2008 Oversight Agreement

<sup>2</sup> Applicable to programmatic Environmental Reports (pER). Environmental Reports, Environmental Assessments and Environmental Impact Statements require FHWA approval

<sup>3</sup> Unless Construction is performed by LFA Agreement



# Federal Expectations

Sponsor's Guide Section 4: Federal (and applicable State) Requirements



# Federal Expectations

- ▶ Compliance with Federal Laws and Regulations
  - Prevents loss of Federal funding
- ▶ Documentation
  - Accurate information in each form
  - Required forms in each Project File
- ▶ Timeliness
- ▶ Safety

⇒ A completed project that adds value to your Community, the State, and the Country



# Federal Expectations

Federal-aid Highway Funds can only be used in compliance with **Federal laws and regulations.**

The **WisDOT FDM and Sponsor's Guide** are consistent with Federal laws and regulations.

The **WisDOT LP Staff and MCs** are knowledgeable of the Federal requirements.

Therefore if you work with WisDOT and your MCS, so that your **project file** contains accurate and complete forms, then your project file will document compliance with Federal and State requirements.



# Federal Expectations

Whether you are using a staff person or a consultant to develop your design, you need to stay on top of the process to promote timeliness and good performance.

- ▶ Be copied on emails
- ▶ Ask / Know what is next & get a due date
- ▶ Follow-up with your Designer on that date



# Federal Expectations

## Nondiscrimination in federally funded activities

Race, color, national origin, sex, age, disability, low income, limited English proficiency

*Applies before, during, and after construction*

## Title VI of the Civil Rights Act of 1964

*“No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.”*



# Federal Expectations

***“Simple justice requires that public funds, to which all taxpayers of all races contribute, not be spent in any fashion which encourages or results in racial discrimination.”*** President John F. Kennedy, 1963

- ▶ Therefore do not build highways only in the minority or poor neighborhoods in the community
- ▶ Therefore do not build all the bike paths just to benefit the wealthy neighborhoods in the community



# Federal Expectations

## Environmental Justice

Executive Order 12898 requires that we

- ▶ **Identify and address**
- ▶ **Disproportionately high and adverse**
- ▶ **Human health or environmental effects**
- ▶ **On minority and low-income populations**



# Federal Expectations

## Americans With Disabilities Act of 1990

- ▶ Prohibits discrimination against people with disabilities in all areas of public life
- ▶ No discrimination on the basis of disability in any program, activity, service or benefit provided to the general public
- ▶ Deliver accessible planning, design, and construction
- ▶ Equitable opportunity to use the transportation system



# Federal Expectations

## Americans With Disabilities Act of 1990

Do not design a project just to fit the existing conditions or just to be the lowest cost. You may have to perform more work and/or acquire real estate in order to be ADA compliant

- ▶ Example: In order to make curb ramps ADA accessible, sometimes the grading and proposed sidewalk have to extend further than the corner in order to have accessible grades. This may require TLE for grading
- ▶ Example: For paths in natural areas, more cuts and fills may be needed to make the path ADA compliant rather than just following the contour of the land



# Federal Expectations

Congress did not waive Federal requirements for small federally funded locally let projects

The majority of the Federal requirements that apply to a \$810 million mega project will also apply to a \$300,000 federally funded local let project

Yes, this does result in a very bureaucratic process for small, relatively simple projects



# Federal Expectations

## FHWA Federal-aid Essentials

<http://www.fhwa.dot.gov/federal-aidessentials/>

Provides **information and illustrations** on the often complex Federal requirements of the Federal-aid Highway Program

Includes: Federal-aid Program Overview, **Civil Rights**, Environment, Finance, Right-of-Way, Project Development, Project Construction and Contract Administration



# Federal Expectations

## FHWA Federal-aid Essentials

- ▶ Approximately 80 short (10 minutes or less) videos
  - Plus printable Companion Resources (3-4 pages) with links to additional information
  - Provide the background and purpose of the Federal laws and regulations
    - **Why** do we have to fill out this form?



# Federal Expectations

## FHWA Federal-aid Essentials

- ▶ Do not replace the WisDOT Sponsor's Guide
- ▶ Do not replace the WisDOT FDM or Specifications

⇒ The Handouts are useful for explaining Federal requirements to your leaders and citizens



# Federal Expectations

FHWA, WisDOT, the MCs, and Locals Units of Government and their Associations have worked hard to bring the WisDOT federally funded local program into compliance

WisDOT LP Staff and the MCs know the state and federal requirements

By completing this Certification training local officials should be aware of their responsibilities for nontraditional projects



# Federal Expectations

Each sponsoring local public agency is in **responsible charge** of their local let, federally funded nontraditional project

Each local is responsible for ensuring that compliance with **construction requirements** is documented in your construction files (Buy America, erosion control, etc.)

**Follow the Sponsor's Guide** which has the details, forms and checklists needed to stay in compliance

- ▶ **Appendix B-20 – Sponsor's Project File Checklist**



# Federal Expectations

Read and Understand your State/Municipal Agreement (SMA)

Understand your post-construction obligations set forth in the SMA

Know that you are responsible for compliance with Federal requirements **even if another agency, such as DNR, is acquiring real estate for you**



# Federal Expectations

**Stay on top of your project** – the Local is required to make sure their Designer is keeping the project moving forward in a timely manner

**Document your file** – accurate and complete forms

**Follow WisDOT Staff and MC directions**

**Enjoy your completed project**



# Programming

## Sponsor's Guide Section 5: Programming



# Programming

Update: Non-traditional programs now grouped into two categories:

- ▶ Congestion Mitigation & Air Quality Improvement Program (CMAQ)
  - Minimal changes to eligibility, etc.
  - Projects most recently approved in April 2016
- ▶ Transportation Alternatives Program
  - No separate TE/SRTS/BPFP
  - No 100% federally-funded projects
  - Projects most recently approved in August 2016



# Programming

## Responsibilities

AWARD TYPE	CENTRAL OFFICE	REGION
SRTS PLANNING	X	
SRTS PROGRAMMING	X	
BIKE/PED PLANNING		X
INFRASTRUCTURE		X



# Programming

## Central Office Responsibilities

- ▶ Quality Assurance review of SMAs and project delivery
- ▶ Approval of project completion extension requests
- ▶ Approval of scope change requests
- ▶ Approval of schedule changes



# Programming

## Project Changes

### Scope Change Requests:

- ▶ See § 5.5 of Guide
- ▶ Only limited scope changes are allowable
- ▶ Requests submitted after project approval could require SMA revision and corresponding delay
- ▶ Project substitutions not permitted
- ▶ Review committee competitively scored your project applications



# Programming

## Project commencement requirements

### Update to § 5.13: Commencement

- ▶ TAP projects must begin four years from their the date of project award letter. That date is memorialized in the project agreement
- ▶ Commencement deadline fixed by statute – WisDOT cannot extend
- ▶ N/A to CMAQ projects



# Programming

## Project commencement requirements

### Update to § 5.13: Commencement

- ▶ Commencement definition
  - Local Let Construction: Commenced upon execution of Contract between Sponsor and Contractor
  - Local Force Account Construction: Commenced upon execution of LFA Agreement between Sponsor and WisDOT
  - State Let Construction: Commenced upon execution of Contract between WisDOT and Contractor
  - Planning project: Commenced when planning study is begun
  - Non-infrastructure: Commenced on date WisDOT receives first Reimbursement Request



# Programming

## Project completion requirements

### Update to § 5.13: Sunset Clause/Anticipated All Work Complete

- ▶ Sponsors must construct projects and submit Project Completion Certificate within the current state fiscal year plus six complete state fiscal years
- ▶ This date is memorialized within the project agreement
- ▶ Extensions may be available under extenuating circumstances via request to Central Office and approval from FHWA



# Programming

## Project schedule changes

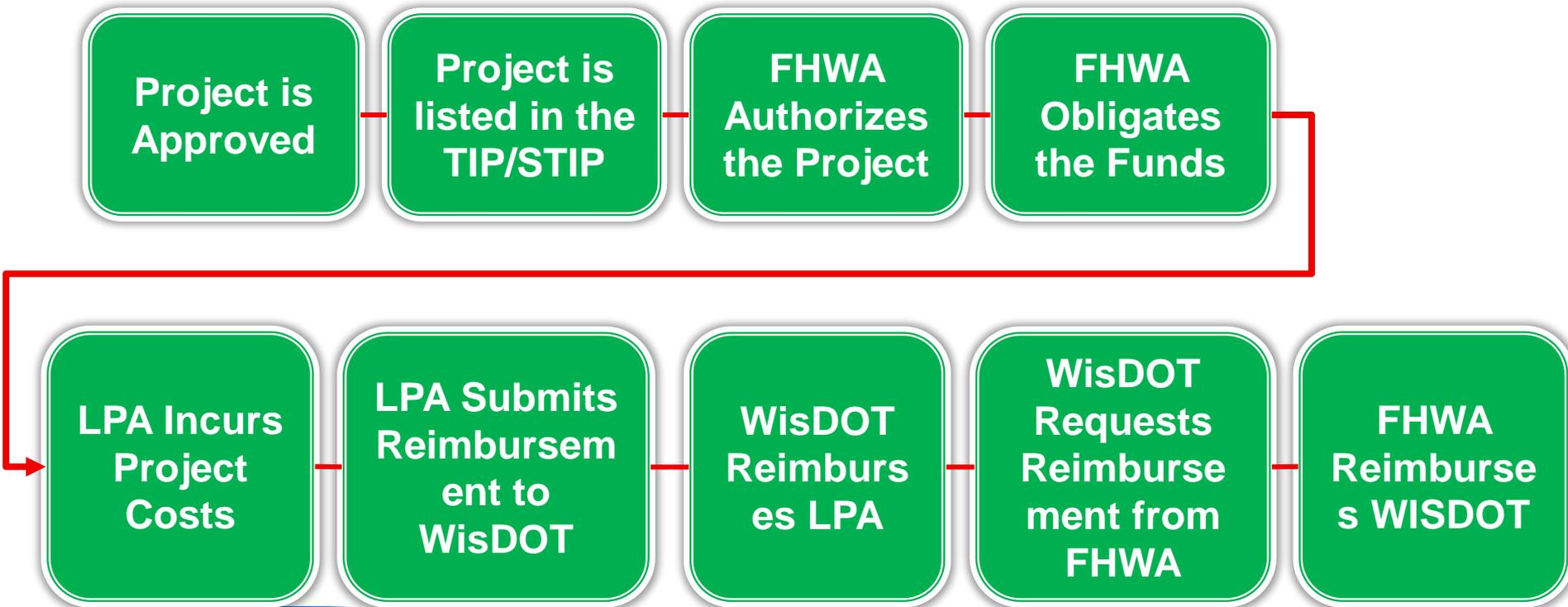
### Update to § 5.13: Schedule Changes

- ▶ Sponsors requesting to move their project into another State Fiscal Year, will need Central Office Approval
- ▶ If there is no funding available, Central Office will suggest a different State Fiscal Year
  - For TAP projects, moving a schedule date may violate the commencement requirement



# Programming

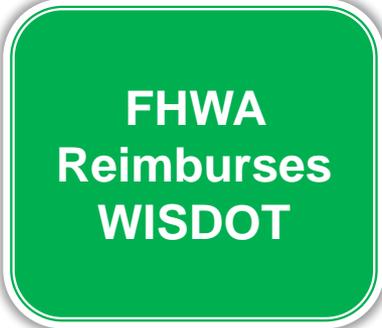
## Federal Funding in WisDOT Local Program



# Programming

It is important to understand that the FHWA programs are not “cash up-front” programs. That is, even though the authorized amounts are “distributed” to the projects, no cash is actually disbursed at this point. Instead, States are notified that they have Federal funds available for their use. Projects are approved and funds and work is started; then the Federal government makes payments to the States for costs as they are incurred on projects.

## The reimbursable nature of the program



FHWA  
Reimburses  
WISDOT

**Funding for the project is set-aside only when FHWA obligates it.** A Project may be obligated only within a couple months of a contract (designer or planner, purchase of real estate or easement, construction contractor).



# Programming

If you don't use, we lose it

Although funds are referred to as being distributed, federal funds are accessible only through reimbursement. What is not spent does not carry over. It may not be used at later date.

 **Commencement Deadline**

 **Anticipated All Work Complete**

 **Sunset**

 **FHWA 10 Year Rule**

 **6 Month Inactive**



# Programming *Continued* . . .

Sponsor's Guide Section 5: Programming



# Programming

## Sponsor's Guide Section 5

- ▶ Project Scope Changes
- ▶ Transportation Improvement Program (TIP) and Statewide Transportation Improvement Program (STIP) Requirement
- ▶ State/Municipal Agreement (SMA)
- ▶ Timeline for document approval
  - Certification & Sponsor Guide Acknowledgement Form
  - State/Municipal Agreement



# Programming

## Project Scope Changes § 5.5

- ▶ Project awards capped, so availability of funds may drive decisions
- ▶ Need to notify WisDOT and obtain approval
- ▶ Unless minor, will usually require a revised application which serves as CDR
- ▶ The sooner, the better



# Programming

## Bike/Ped Project Examples of Scope Changes

- ▶ Changes in termini, e.g., shorten or possibly lengthen path
- ▶ Routing – provided a parallel path in the corridor but on a different alignment



# Programming

## TIP and STIP Program Requirement § 5.7 & 5.8

- ▶ Federally funded projects in urbanized and approved MPA boundaries must have projects listed in the MPOs TIP
- ▶ In urbanized areas MPOs receive their area project applications
- ▶ MPOs are notified of selected projects
- ▶ All federally funded projects must have projects listed in STIP which is updated by WisDOT for selected projects



# Programming

## State/Municipal Agreement § 5.9

- ▶ State/Municipal Agreement (SMA) includes the project cost share, terms and conditions, Disadvantaged Business Enterprise (DBE) goals, maintenance requirements, etc.
- ▶ SMA's updated for 2016
- ▶ Sponsors should anticipate receiving SMA in September/October 2016

*continued*



# Programming

## State/Municipal Agreement § 5.9 *Continued*

- ▶ Region sends SMA
- ▶ Sponsor should return SMA executed by Sponsor to appropriate Region within 10 weeks of Certification training
- ▶ SMA will **NOT** be approved until Certification has been completed and accepted by WisDOT



# Programming

## Timeline for Document Approvals

- ▶ Sponsors should complete and submit both the Certification and the Sponsor Guide Acknowledgement form to WisDOT (see contact list handout) by November 7, 2016
- ▶ Sponsor should return executed SMA to appropriate Region by December 15, 2016



# Design Services

Sponsor's Guide Section 6: Design Services



# Design Services

## Contract types

- ▶ Federal and/or State Reimbursable
  - Three-party: Sponsor, WisDOT & Design Consultant
  - Two-party: Sponsor design in-house & WisDOT
- ▶ Non Federal and/or Non State Reimbursable
  - Two-party between Sponsor & Design Consultant
  - Sponsor design in-house without a contract
- ▶ Will only cover reimbursable in this presentation, but can request assistance from MC with Non Reimbursable contracts



# Design Services

## Three-Party Design Contract

Design services process can begin once:

- ▶ State/Municipal Agreement (SMA) is approved
- ▶ You receive written approval to begin design selection process



# Design Services

## Three-Party Design Contract

Key requirements during selection:

- ▶ Sponsor is responsible for documenting all selection procedures and maintaining the project file
- ▶ Most projects will require use of a consultant from the roster: <http://wisconsindot.gov/Documents/doing-bus/eng-consultants/cnslt-rgistr/roster.pdf>

*continued*



# Design Services

## Three-Party Design Contract

Key requirements during selection: *Continued*

- ▶ Qualification Based Selection (QBS) is required



**DO NOT DISCUSS FEE/COST**

- ▶ Design consultants that assisted with the Project Application cannot be selected
- ▶ WisDOT's conflict of interest policy FDM 8-5-3 & 8-5-55

# Design Services

## Three-Party Design Contract

### Selection Procedures:

- ▶ Small purchase contracting procedures
  - Design estimate is less than \$120,000
  - FDM 8-5-10
- ▶ **Local design procedures**
  - Design is estimated between \$120,000 and \$1,000,000
  - FDM 8-5-20
- ▶ Procedures for design estimated at > \$1,000,000 – not covered in this presentation – work with your MC



# Design Services

## Three-Party Design Contract

### Small Purchasing Contracting Selection process

- ▶ FDM 8-5-10
- ▶ Select a design consultant selection committee – Minimum of two voting members and a chairperson
- ▶ Develop a short list – Minimum of three design consultants
- ▶ Develop criteria to rank design consultants
- ▶ Contact consultants to determine if they are interested and available
- ▶ Interviews are not required



# Design Services

## Three-Party Design Contract

### Small Purchasing Contracting Selection process

⇒ Interviews held:

- ▶ Used if Locals are unfamiliar with potential firms
- ▶ Minimum 5 firms must be interviewed
- ▶ Determine interview type
  - Design consultants present qualifications
  - List of questions
- ▶ Design consultant selection committee ranks firms
- ▶ WisDOT approves selection
- ▶ Notify all firms in writing of selection



# Design Services

## Three-Party Design Contract

### Small Purchasing Contracting Selection process

⇒ Interviews not held:

- ▶ Design consultant selection committee ranks firms based on objective criteria: past performance or other knowledge
- ▶ WisDOT approves selection
- ▶ Notify all firms in writing of selection



# Design Services

## Three-Party Design Contract

### Local Design Selection process

- ▶ FDM 8-5-20
- ▶ Select a design consultant selection committee
  - Minimum of two voting members and a chairperson
- ▶ Develop Notice of Interest (NOI)

*continued*



# Design Services

## Three-Party Design Contract

### Local Design Selection process *Continued*

- ▶ Announce NOI
  - Email to the WisDOT roster
  - Newspaper advertisement
  - Local Internet site
  - Send to Sponsor's roster
    - Minimum 10 firms
    - Must have been developed using QBS process
  - Use WisDOT solicitation – work with your MC

*continued*



# Design Services

## Three-Party Design Contract

### Local Design Selection process *Continued*

- ▶ Provide NOI to your MC
- ▶ Develop a short list
  - Minimum of five design consultants
- ▶ Develop criteria to rank design consultants
- ▶ Review responses to the NOI
- ▶ Interviews are not required



# Design Services

## Three-Party Design Contract

### Local Design Selection process

⇒ Interviews held:

- ▶ Minimum 5 firms must be interviewed
- ▶ Determine interview type
  - Design consultants present qualifications
  - List of questions
- ▶ Design consultant selection committee ranks firms
- ▶ WisDOT approves selection
- ▶ Notify all firms in writing of selection



# Design Services

## Three-Party Design Contract

### Local Design Selection process

⇒ Interviews not held:

- ▶ Design consultant selection committee ranks firms based on objective criteria: past performance or other knowledge
- ▶ WisDOT approves selection
- ▶ Notify all firms in writing of selection



# Design Services

## Three-Party Design Contract

MC Role in selection process:

- ▶ Monitor selection process to ensure Federal requirements are met
- ▶ Assist Sponsor with selection process
- ▶ **Does not participate in actual selection**



# Design Services

## Three-Party Design Contract Contracting:

- ▶ Contract is scoped
- ▶ Compensation method is determined
  - Lump sum
  - Actual cost
  - Combination of the above

*continued*



# Design Services

## Three-Party Design Contract

### Contracting: *Continued*

- ▶ Design consultant creates three-party contract
  - Title sheet
  - Standard Provisions
  - Special Provisions with supporting documents
- ▶ Design consultant estimates costs
  - Direct labor rates (WisDOT reviews in annual audit)
  - Hours by task
  - Allowable direct expenses (WisDOT reviews in annual audit)

*continued*



# Design Services

## Three-Party Design Contract

### Contracting: *Continued*

- ▶ MC and Sponsor review and comment on contract and costs
- ▶ Once contract and costs are acceptable:
  - Contract executed (signed) by Design Consultant
  - Contract executed (signed) by Sponsor
  - WisDOT processes and executes contract
- ▶ Sponsor sends Notice to Proceed



# Design Services

## Three-Party Design Contract

### Contract Management:

- ▶ MC and Sponsor monitor project development
- ▶ Reimbursement
- ▶ Contract amendments:
  - Procedures are the same as the contracting process
- ▶ Consultant Performance Evaluation



# Design Services

## Three-Party Design Contract Timeline

- ▶ Selection process: 6 – 9 weeks
  - Includes time for solicitation, selection and approval
  - Depends on Sponsor timing
- ▶ Contracting process: 3 – 9 months
  - Depends on scope, design consultant familiarity with WisDOT contracting, negotiations, internal Sponsor timing of approvals



# Design Services

## Two-Party Design (Sponsor/WisDOT)

- ▶ Sponsor obtains approved overhead rate from WisDOT
- ▶ Contract is scoped
- ▶ Sponsor creates two-party contract
  - Title sheet
  - Standard Provisions
  - Special Provisions with supporting documents

*continued*



# Design Services

## Two-Party Design (Sponsor/WisDOT) *Continued*

- ▶ Sponsor estimates costs
  - Direct labor rates (WisDOT reviews in annual audit)
  - Hours by task
  - Allowable direct expenses (WisDOT reviews in annual audit)
- ▶ MC reviews and comments on contract and costs
- ▶ Once contract and costs are acceptable:
  - Contract executed by Sponsor
  - WisDOT processes and executes contract
- ▶ Sponsor can begin design



# Design Services

## Two-Party Design (Sponsor/WisDOT)

### Timeline:

- ▶ 3 - 6 Months for Contract Execution
- ▶ Depends on scope, Sponsor familiarity with WisDOT contracting, internal Sponsor timing of approvals



# Design Services

- ▶ Work with your MC!!!
- ▶ Any questions?



# Environmental Process

## Sponsor's Guide Section 7: Environmental Process



# Environmental Process

Environmental requirements are based on Law & must be followed when there are federal or state funds in any part of the project

- ▶ National Environmental Policy Act (NEPA)
- ▶ Wisconsin Environmental Policy Act (WEPA)



# Environmental Process

## Environmental Documentation § 7.1 and 7.11

- ▶ FHWA/WisDOT Programmatic Agreement updated 2015 <http://wisconsindot.gov/Documents/doing-bus/eng-consultants/cnslt-rsrces/environment/pace2015.pdf>
  - Programmatic Environmental Report (pER) has been replaced
  - New CE documents listed on WisDOT Web Site

*continued*



# Environmental Process

## Environmental Documentation § 7.1 and 7.11 *Continued*

- ▶ See Facilities Development Manual (FDM) Chapter 21 for guidance on environmental documentation
  - FDM currently being revised
- ▶ FDM 21-5 Attachment 5.1 provides examples of projects for each environmental document type
- ▶ The environmental document must address the entire project, not just the federally funded portion



# Environmental Process

Environmental document types:

- ▶ Environmental Impact Statement (EIS)
- ▶ Environmental Assessment (EA)
- ▶ Categorical Exclusion (CE)



# Environmental Process

Environmental document types:

Categorical Exclusions (CEs):

- ▶ Environmental Report (ER)
- ▶ Programmatic Categorical Exclusion (PCE)
- ▶ Categorical Exclusion Checklist (CEC)

<http://wisconsindot.gov/Pages/doing-bus/eng-consultants/cnslt-rsrces/environment/formsandtools.aspx>



**MOST LOCAL LETS REQUIRE A CEC**



# Environmental Process

## CEC/PCE Guidance

### Narrative Discussion – Basic Sheet 3 of ER

- ▶ Purpose & Need Statement
- ▶ Summary of Alternatives
  - 2 Minimum (Build & No Build)
- ▶ Detailed Description of Proposed Action
- ▶ Public Involvement Summary
- ▶ ER Factor Sheets for impacts to human/natural environment
- ▶ Summary/Status of Jurisdictional Agency Coordination
- ▶ Supporting documentation/Exhibits



# Environmental Process

## CEC/PCE Guidance:

- ▶ Contact you MC for latest guidance/samples
- ▶ WisDOT Web Site
- ▶ <http://wisconsindot.gov/Pages/doing-bus/eng-consultants/cnslt-rsrces/environment/formsandtools.aspx>

## Environmental document plan requirements:

- ▶ The environmental document is a stand-alone document
  - Preliminary plans are an attachment
- ▶ Preliminary design needs to be completed to determine impacts to human & natural environment



# Environmental Process

## Public Involvement § 7.3

- ▶ Public Involvement Plan required (FDM Chapter 6-5-10)
  - Purpose and Need Statement
  - Identify potential stakeholders
- ▶ Some type of public involvement is required for all projects
- ▶ One Public Informational Meeting (PIM) recommended for projects
- ▶ PIM(s) required if project has impacts to historical/archeological resources; parkland or 4(f) impacts, etc.
- ▶ See FDM 6-10 for information on how to hold a PIM
- ▶ Environmental Tool Box
- ▶ <http://wisconsindot.gov/Pages/doing-bus/eng-consultants/cnslt-rsrcs/environment/formsandtools.aspx>



# Environmental Process

## Archaeological and Historical Screening § 7.5:

- ▶ Some projects will qualify for WisDOT screening review. MCs will coordinate the screening request
- ▶ Screening is performed at the beginning of the project
  - Allow 8 week minimum for screening response
- ▶ If a project is put on the screening list for both archaeology and history, the Section 106 process is complete
  - The screening list is located at:
  - <ftp://ftp.dot.wi.gov/dtsd/bts/environment/106screeninglist.pdf>



# Environmental Process

## Section 106 § 7.6

If the project is not placed on the screening list for both archaeology and history, a Section 106 Report is required:

- ▶ See FDM Chapter 26 for process and forms
- ▶ Project impacts need to be known and shown. This is shown with preliminary plans
- ▶ Allow 3-6 months for Section 106 Report processing



**CAUTION: Section 106 Process takes time!**



# Environmental Process

## Section 106 § 7.6

### Section 106 Report:

- ▶ Contract with a qualified archaeologist and/or historian:
  - WisDOT Facilities Development Manual (FDM) 26-30 outlines archaeologist and historian qualifications
  - Wisconsin Historical Society maintains a list of consultants at <http://www.wisconsinhistory.org> type in “consultants” in the web page search box



# Environmental Process

## Agency Coordination § 7.8:

- ▶ Jurisdictional Agencies must be notified of the project
- ▶ Native American Notification required
  - WisDOT issues Notification Letters to Tribes
- ▶ FDM 5-1 Attachment 1.1 provides guidance on typical agency coordination required



# Environmental Process

FDM 5-1 Attachment 1.1 Agency Coordination

Agency Coordination When Projects Involves:															
Coordinate with	FDM Procedure Number	Federal Funding	Waterways					4f Park	Forest Lands	Agri. Land	Indian Land	Hist. & Archeo. 106 Entities	R.R.	Airport	Util.
			404 Permit	N.R. 116	Comm. Navigable Waters	Wet-land	Coastal Zone Consistency								
<b>General</b>															
Local Review Coordinator	<a href="#">FDM 5-1-5</a>	λ													
<b>Federal Agencies</b>															
Forest Service	<a href="#">FDM 5-5-5</a>							λ	λ						
Nat. Resources Cons. Service	<a href="#">FDM 5-5-5</a>									λ					
Bureau of Indian Affairs	<a href="#">FDM 5-5-10</a>										λ				
Fish & Wildlife Service	<a href="#">FDM 5-5-10</a>		λ		λ	λ		λ							
National Park Services	<a href="#">FDM 5-5-10</a>							λ				λ			
U. S. Coast Guard	<a href="#">FDM 5-5-15</a>				λ										
FAA	<a href="#">FDM 5-2-5</a>													λ	
Army Corps. of Engineers	<a href="#">FDM 5-5-20</a>		λ		λ	λ									
Adv. C on His. Preservation	<a href="#">FDM 5-5-25</a>											λ			



Continued

# Environmental Process

## FDM 5-1 Attachment 1.1 Agency Coordination

Agency Coordination When Projects Involves:															
Coordinate with	FDM Procedure Number	Federal Funding	Waterways					4f Park	Forest Lands	Agri. Land	Indian Land	Hist. & Archeo. 106 Entities	R.R.	Airport	Util.
			404 Permit	N.R. 116	Comm. Navigable Waters	Wet-land	Coastal Zone Consistency								
<b>State Agencies</b>															
DNR	<a href="#">FDM 5-10-1</a>		λ	λ	λ	λ		λ	λ						
DOA	<a href="#">FDM 5-10-35</a>						λ								
State Hist. Society	<a href="#">FDM 5-10-5</a>							λ			λ				
Public Service Commission	<a href="#">FDM 5-10-15</a>														λ
Ofc. of Comm. of R. R.	<a href="#">FDM 5-10-20</a>											λ			
Bureau Aeronautics	<a href="#">FDM 5-10-25</a>													λ	
Dept. of Agr., Trade, & Cons. Prot.	<a href="#">FDM 5-10-30</a>									λ					
<b>Local Agencies</b>															
Floodplain Zoning Authority	<a href="#">FDM 5-15-5</a>			λ	λ										
Indian Tribal Governments	<a href="#">FDM 5-15-10</a>										λ				

Note: In all cases, refer to appropriate procedure in this manual for detailed information concerning application.



# Environmental Process

## Agency Coordination § 7.8:

### USFWS Coordination:

- ▶ Northern Long-eared Bat (NLEB)
  - Coordination with U.S. Fish and Wildlife Service required for all projects with federal aid
  - Attach coordination results in environmental document
  - Contact MC with questions
- ▶ NLEB Final 4(d) Rule
  - USFWS IPaC website – Request Official Species List
  - DNR Natural Heritage Inventory (NHI) Database Review
  - Evaluate impacts–Refer to Federal Project Guidance
  - Streamlined Consultation Framework Guidance



# Environmental Process

## Agency Coordination § 7.8:

### Timing of permits:

- ▶ DNR coordination must begin prior to environmental document approval for projects that may have environmental issues
- ▶ All permits must be obtained prior to PS&E approval
- ▶ Specialty permit required, either:
  - Request a pre-application on-site meeting with DNR. Document results of the meeting getting DNR's concurrence and attach to the environmental document
  - Obtain permit and attach to the environmental document

*continued*



# Environmental Process

## Agency Coordination § 7.8:

Timing of permits: *Continued*

- ▶ Standard DNR permit required: Attach list of permits required to environmental document. Those permits must be obtained prior to draft PS&E submittal
- ▶ No DNR permit required: Request an Endangered Resources Review <http://dnr.wi.gov/topic/ERReview/>. Attach the results to the environmental document



# Environmental Process

## Hazardous Materials § 7.9:

Investigate the potential for presence of hazardous materials

- ▶ Complete the Initial Site Reconnaissance Checklist for all projects
- ▶ Complete the Parcel Reconnaissance Checklist for all parcels with red flags and all parcels that the Sponsor will have a permanent real estate interest on
- ▶ Additional assessment may be required (Contact MC):
  - If there are red flags
  - Depending on real estate acquisition and/or excavation depth - see FDM 21-35



# Environmental Process

## Timeframe for environmental process:

- ▶ Allow ample time for report reviews and approvals
- ▶ The environmental document cannot be approved until the project has completed:
  - Native Tribal Notifications (NTN)
  - History/Archeology is screened or Section 106 approved
  - NLEB Consultation
  - Haz Mat Reconnaissance or Phase 1 HMA approved
- ▶ A CEC or PCE is approved by WisDOT and can take a few months to approve
- ▶ An ER is approved by FHWA and can take longer to approve



CONTACT MC IF SCOPE CHANGES



# Right of Way Acquisition

Sponsor's Guide Section 8: Real Estate



# Right of Way Acquisition

*“Why do we have to do it this way?”*

*“The State should stay out of our business.”*

*“Why should we have to pay the parcel owners for a temporary limited easement? They are getting a new driveway apron out of it!”*



# Right of Way Acquisition

## Eminent Domain

The power of any sovereign government to take private property without the consent of the owner.

## U.S. Constitutional Limitations on Power of Eminent Domain

- ▶ 5th Amendment

*“...nor shall private property be taken for public use without just compensation.”*

- ▶ 14th Amendment

*“...nor shall any State deprive any person of life, liberty, or property, without due process of law...”*



# Right of Way Acquisition

Public Law 91-646 - Uniform Act

Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (Public Law 91-646)



# Right of Way Acquisition

Public Law 91-646 - Uniform Act

Code of Federal Regulations

- ▶ 49 CFR Part 24 – Department of Transportation
- ▶ 23 CFR Part 710 - Highways

Wisconsin State & Local Statutes

- ▶ Chapter 32.05 Eminent Domain
- ▶ Chapter 62.22 - Cities
- ▶ Chapter 83.07 & 83.08 - Counties
- ▶ Chapter 61.34(3),(3m) & 61.36 - Villages
- ▶ Chapter 60.50 & 82.12 - Townships



# Right of Way Acquisition

## WisDOT Policy

- ▶ FHWA and WisDOT Oversight Agreement – How does this affect LPA Projects?
- ▶ Develop procedures – How does this affect a LPA project?



# Right of Way Acquisition

## What Constitutes a Federal-Aid Project?

If federal funds are expended **anywhere** in a project

- ▶ You must follow the Uniform Act and state statutes/codes even if you **DO NOT** utilize Federal funds in the right of way phase of the project.
- ▶ If **ANY** federal funds (even \$1) are in a project, federal rules and regulations must be followed.
- ▶ If an LPA anticipates **EVER** requesting federal funds, the Uniform Act and State laws and regulations must be followed.

*49 CFR 24.2 (a)(22) Definition of Program or Project*

*49 CFR 24.101 (d) Federally Assisted Projects*



# Right of Way Acquisition

LPA's are expected to:

- ▶ Follow the procedures outlined in the LPA manual
- ▶ Secure the approvals needed to proceed with right of way acquisition on state or federal aid projects
- ▶ Ensure that all state and federal procedures and laws are followed
- ▶ Document, Document, Document



# Right of Way Acquisition

## WisDOT Procedures

### Local Public Agency Manual for Right of Way Acquisition

<http://wisconsindot.gov/Pages/doing-bus/eng-consultants/cnslt-rsrcs/re/lpa-manual.aspx>

### Real Estate Program Manual (REPM)

<http://wisconsindot.gov/Pages/doing-bus/eng-consultants/cnslt-rsrcs/re/repm.aspx>

### Facilities Development Manual (FDM)

<http://wisconsindot.gov/Pages/doing-bus/eng-consultants/cnslt-rsrcs/rdwy/fdm.aspx>



# Right of Way Acquisition Important Requirements



# Right of Way Acquisition Important Requirements

## LPA Staff Requirements



Caution! 'Individuals' are approved for handling right of way functions, not companies or firms.

### 2.2.1 LPA Staff

Individual LPA staff performing right of way acquisition functions must complete the following training prior to project acquisition:

- National Highway Institute online course - [Real Estate Acquisition Under the Uniform Act: An Overview](#); course number: FHWA-NHI-141045. 
- Read WisDOT's *LPA Manual for Right of Way Acquisition* and be familiar with the required procedures and documentation.

Complete the [Acquisition Capability Statement Qualifications for LPA Staff \(unnumbered\)](#) form and attach to the appropriate Acquisition Capability Statement (*unnumbered*). See the regional MC for further instruction.



# Right of Way Acquisition Important Requirements

## REQUIREMENTS PRIOR TO REAL ESTATE ACQUISITION

- ▶ Environmental document approval
- ▶ Design study report (DSR) approval (state/federal funding in RE)
- ▶ Preliminary plat submittal for MC review/comments
- ▶ Relocation plan (if applicable)
- ▶ R/W plat approval/relocation order filed
- ▶ Acquisition capability statement (local or state/federal funding)
- ▶ Cost estimate (state/federal funding)
- ▶ Real estate consultant contract (WisDOT forms with state/federal funding)



# Right of Way Acquisition Important Requirements

REQUIREMENTS PRIOR TO REAL ESTATE  
ACQUISITION *continued*

STATE/FEDERAL FUNDS IN REAL ESTATE - Do not proceed with real estate acquisition process\* until you receive letter regarding authorization of federal funds

*\*ACQUISITION PROCESS INCLUDES (BUT NOT LIMITED TO): Preparation of appraisals, appraisal approval, contacting property owners (negotiations)*



# Right of Way Acquisition Important Requirements

## REQUIREMENTS FOR WISDOT CERTIFICATION OF ROW

- ▶ State/Municipal Agreement (SMA)
- ▶ Conveyance documents – Warranty Deed, TLE or PLE Easements
- ▶ Construction permits – attach exhibit from plan/plat
- ▶ Encroachments – removed or allowed via revocable permit
- ▶ Acquisition Capability Statement
- ▶ Approvals – ER, DSR, relocation plan, R/W plat, signed real estate consultant contracts (if applicable)
- ▶ Local Certification (LPA 3028 Certification of LPA R/W)
- ▶ Negotiation diary
- ▶ R/W plat or construction plan sheets



# Right of Way Acquisition Important Requirements

## REQUIREMENTS FOR REIMBURSEMENT (State or Federal Funds in Real Estate)



### THE FOLLOWING DOCUMENTS ASSOCIATED WITH THE PROJECT:

- ▶ Only real estate related items
- ▶ State/Municipal Agreement (SMA)
- ▶ R/W detailed statement of expenditures
- ▶ Signed contracts for consultant services (invoices & copies of checks)
- ▶ Itemized list of recording fees associated w/each parcel
- ▶ Charges for partial/satisfaction of mortgages



# Right of Way Acquisition Important Requirements

## REQUIREMENTS FOR REIMBURSEMENT

### (State or Federal Funds in Real Estate)

#### THE FOLLOWING DOCUMENTS ASSOCIATED WITH EACH PARCEL:

- ▶ Negotiation diary
  - ▶ Statement of Construction Engineer
  - ▶ Recorded conveyances
  - ▶ Nominal Waiver of Appraisal (signed & approved)
  - ▶ Approved offering price reports
  - ▶ FHWA reimbursement of owner's appraisal fee
  - ▶ Approved Administrative Revision (if applicable)
  - ▶ Disposition of R/E taxes, including Closing Statement
  - ▶ Copy of property owner compensation check
  - ▶ Relocation & litigation expenses
- (see page 44 LPA manual) only real estate related items



# Right of Way Acquisition Real Estate Acquisition Process & Timeline



# Right of Way Acquisition Real Estate Acquisition Process & Timeline

Real Estate must be done prior to Request to Advertise.

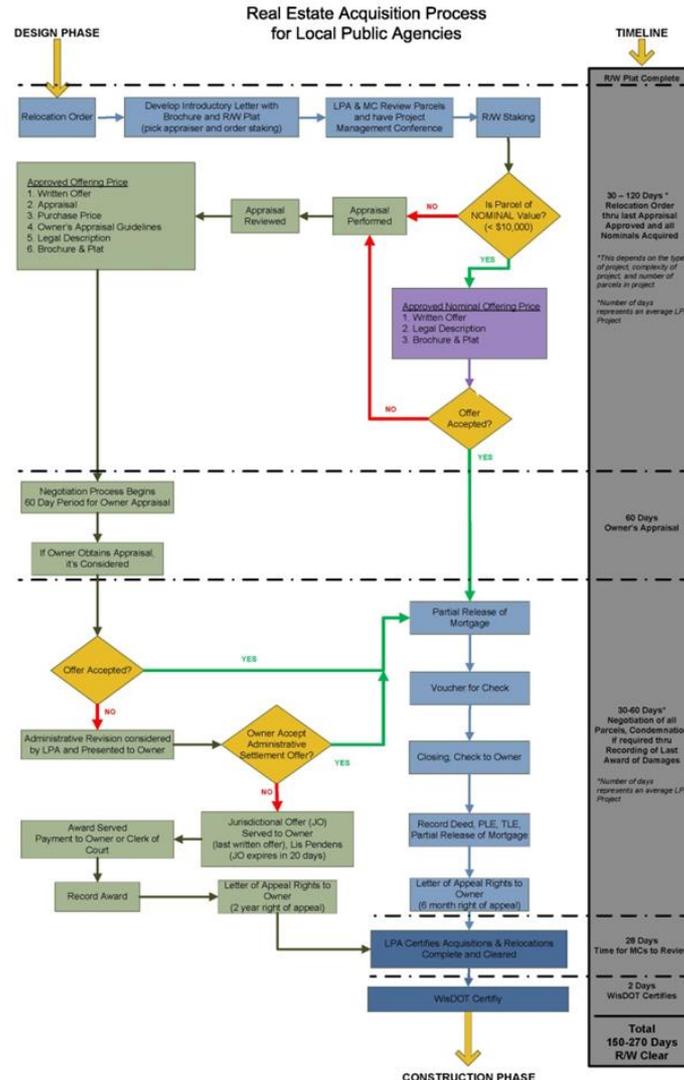
Timeframe for real estate:

- ▶ Allow ample time for real estate acquisition. Property owners may live out of state or travel for work, or there may be a property with multiple owners.
- ▶ It is hard to put a timeframe on acquisition because of the variables but it is safe to assume that it will take months or possibly years rather than days.



# Right of Way Acquisition Real Estate Acquisition Process & Timeline

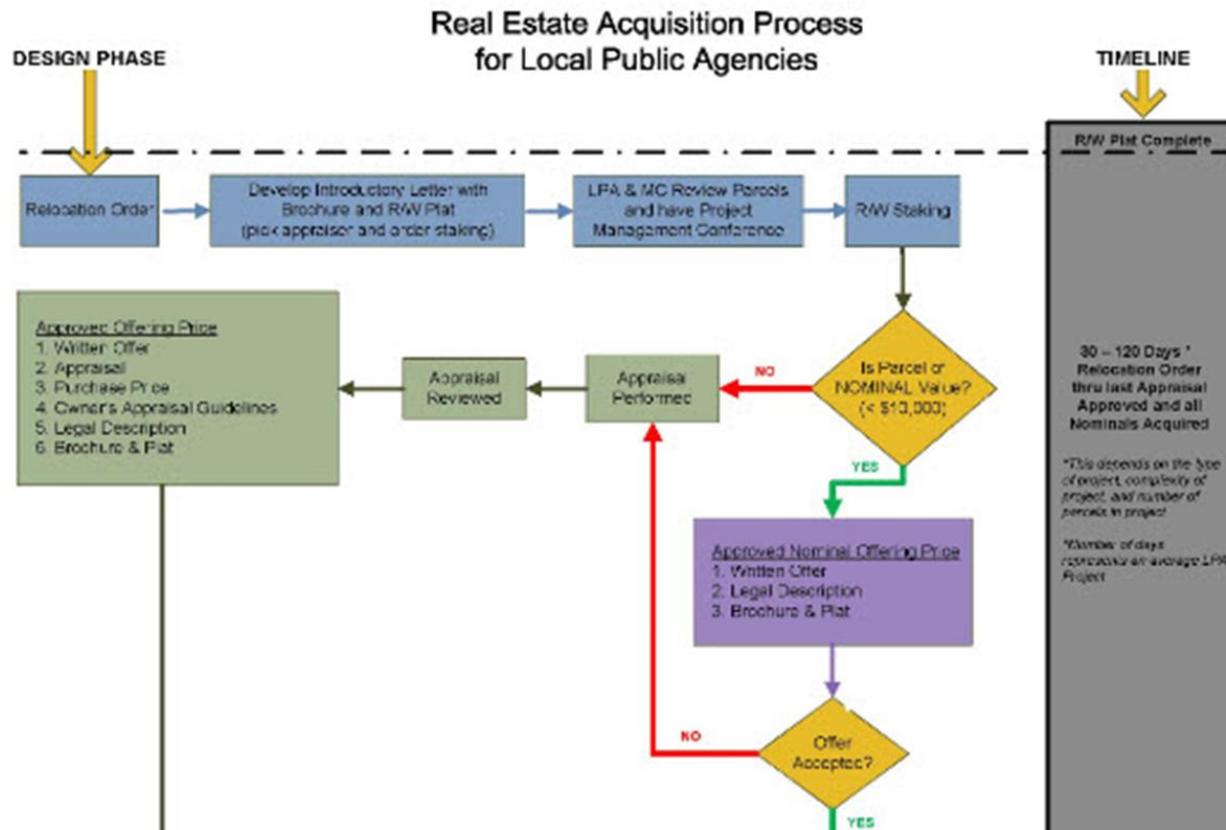
## Real Estate Acquisition Process for LPAs



# Right of Way Acquisition Real Estate Acquisition Process & Timeline

## Relocation Order thru Approved Offer

Schedule at least 30-120 Days



# Right of Way Acquisition Real Estate Acquisition Process & Timeline

## Owner's Appraisal

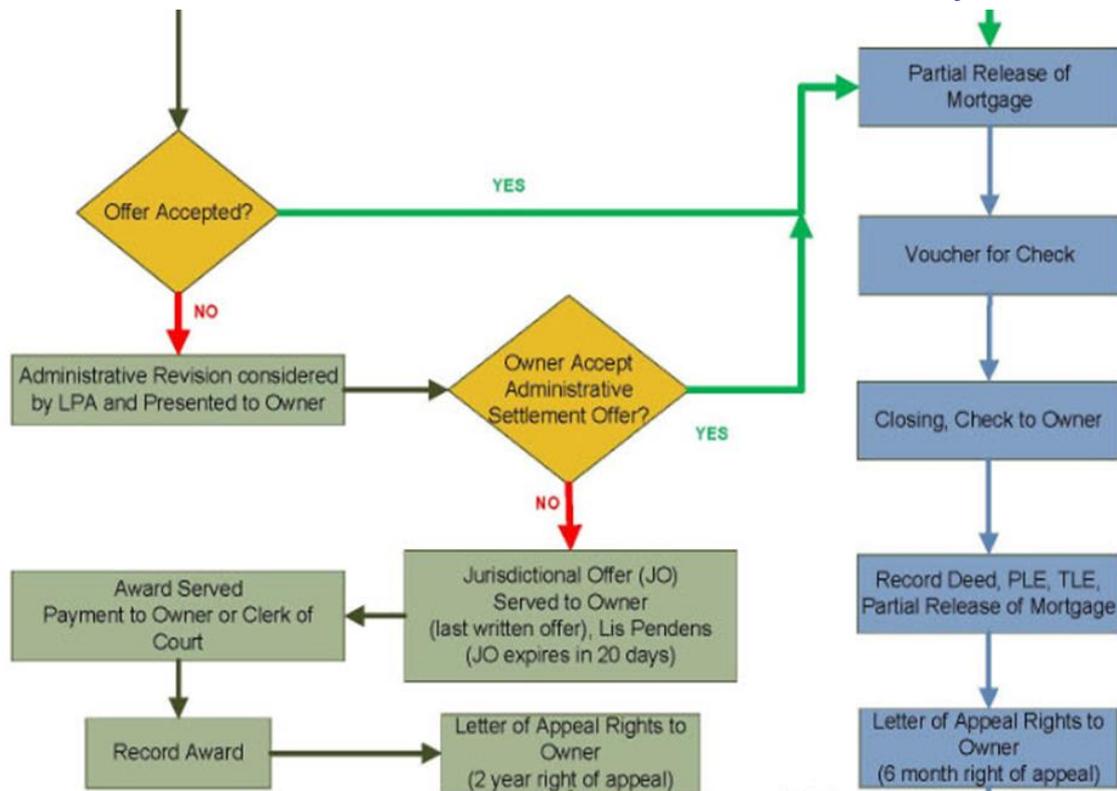
Schedule at least 60 Days



# Right of Way Acquisition Real Estate Acquisition Process & Timeline

## Negotiation thru Condemnation

Schedule at least 30-60 days



30-60 Days\*  
Negotiation of all  
Parcels, Condemnation  
if required thru  
Recording of Last  
Award of Damages

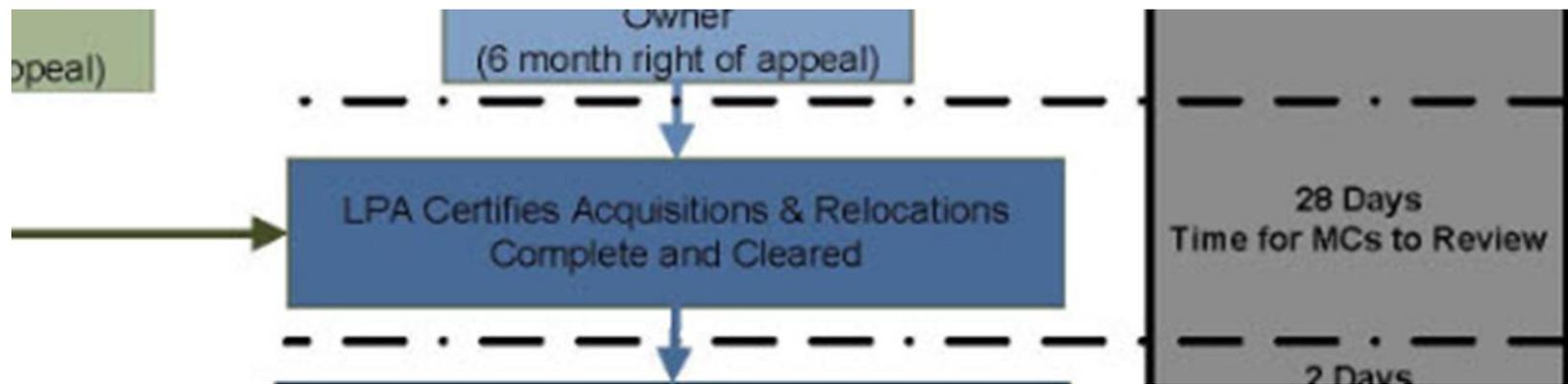
*\*Number of days  
represents an average LPA  
Project*



# Right of Way Acquisition Real Estate Acquisition Process & Timeline

## MC Review

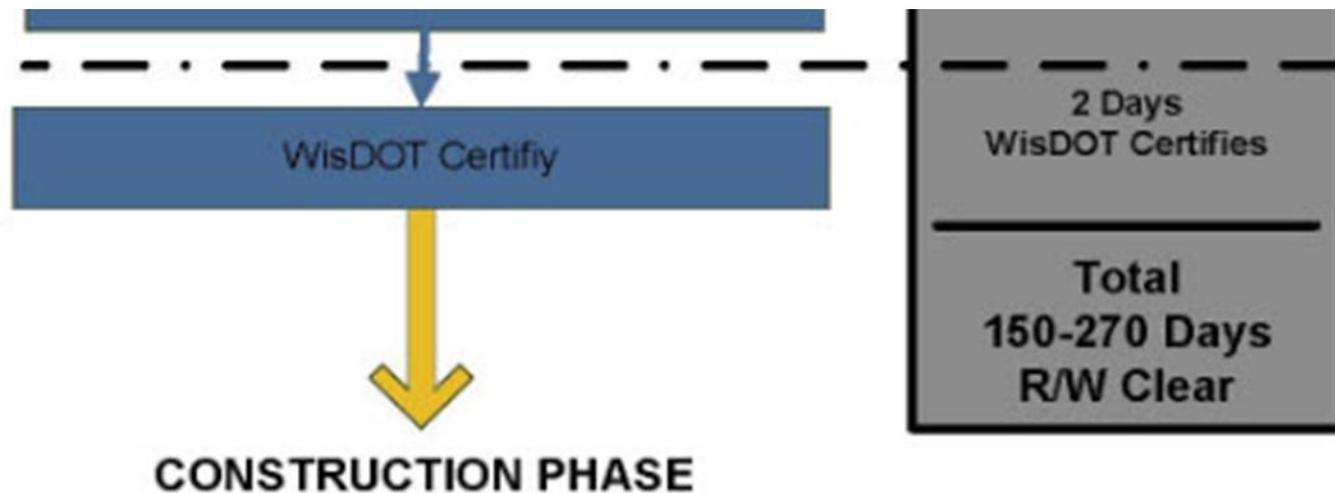
Schedule 28 days prior to PS&E



# Right of Way Acquisition Real Estate Acquisition Process & Timeline

## WisDOT Certification

Schedule at least 2 days



# New Developments



# Right of Way Acquisition Uniform Act and Existing ROW



# Right of Way Acquisition Uniform Act and Existing ROW

The Uniform Act applies to all land acquisitions which *are intended* to be part of a Federal or federal aid project. (49 CFR 24.101(b)). FHWA guidance states that the Uniform Act applies to all persons whose property is acquired in anticipation of federal aid for a project.

## Types of Existing ROW

- ▶ Early State and Advanced Federal ROW
- ▶ ROW that was purchased in anticipation of a project
- ▶ Land in possession

**IMPORTANT:** It is assumed that an LPA is aware of the type of existing ROW that is located within a Federal-aid project's limits. If asked, the LPA shall provide documentation proving the Uniform Act was followed or was land in possession.



# Right of Way Acquisition Uniform Act and Existing ROW

## Acquisition Types

Local Public Agency ROW: Early/Advanced Acquisitions, Purchased in Anticipation, & Lands in Possession			
	Early State & Advanced Federal Acquisitions	ROW Purchase in Anticipation of Federal/State Funded Project	Lands in Possession
<b>Definition</b>	An early acquisition is acquisition performed with the <i>intent</i> to use the lands on a Federal or federally aided project.	ROW purchased in anticipation of a project are those lands purchased with the <i>intent</i> to use on a future Federal or federally funded project.	Lands in Possession are those lands acquired otherwise by a municipality through its normal course of governance ( <i>without specific intent to use on a Federal or federally funded project</i> ).
<b>State/Federal Funding</b>	State/Federal funding in the project is in place	No State / Federal funding in place <b>but</b> the intent is to add funding at some point. <b>The purchase is in preparation for a project (which could be years in the future).</b>	No State/ Federal funding was used in purchase and there was <b>NO intent</b> to bring such funding to purchase. ROW was legally purchased for other purposes.
<b>Uniform Act Required?</b>	YES	YES	NO
<b>What Documentation is Required?</b>	See <u>LPA MANUAL for RIGHT OF WAY ACQUISITION</u> , Section 1.5 & 1.6 and REPM, Section 3	See <u>LPA MANUAL for RIGHT OF WAY ACQUISITION</u> , Section 1.7 (new) & document called <i>Statute and Regulations Real Estate Requirements for use of Federal &amp; State Transportation funds</i>	See <u>LPA MANUAL for RIGHT OF WAY ACQUISITION</u> , Section 1.7 (new) & LPA should provide certification that all <i>Lands in Possession</i> were purchased legally for other purposes and be prepared to provide proof upon request.
<b>Can a Parcel be exempt from the Uniform Act?</b>	NO	Maybe. See document called <i>Uniform Act Exemption Requirements</i>	YES



# Right of Way Acquisition

## Clear Title



# Right of Way Acquisition

## Clear Title

Under Federal law, property acquired for a state or Federal-aid project must be adequate for the construction, operation, and maintenance of the resulting facility and for the protection of both the facility and the traveling public. See, [23 CFR 710.201\(e\)](#). Meeting the adequacy of interest test requires the LPA to acquire clear, marketable title to the real property or real property interests necessary to build the project.

### A partial release of mortgage or subordination agreement is necessary when?

- ▶ Prior recorded liens or title encumbrances (i.e. mortgage)
- ▶ FEE or Permanent Easement on partial taking (PE or HE)

**IMPORTANT: The LPA should notify any potential negotiation consultants that obtaining partial releases of mortgages, subordination agreements, or JOs should be considered when bidding on projects.**



# Right of Way Acquisition

## Clear Title

A partial release of mortgage or subordination agreement is **NOT** necessary when?

- ▶ When there are no liens or encumbrances on title - CLEAR
- ▶ Temporary Limited Easements (TLE)

### Why?

- ▶ Protect the Property Owner
  - Most mortgage agreements it is a violation to sell any property under the mortgage without the consent of the lender
- ▶ Protect the LPA
  - May have to pay twice
  - Could hold up the project



# Right of Way Acquisition

## Clear Title

### Best Practice

- ▶ Review parcel titles early (during design there is a title search done) and make sure to update the titles during the acquisition phase.
- ▶ Alert property owner to this issue early in the negotiation phase.
- ▶ Schedule enough time
- ▶ Determine deadline for obtaining releases – you will need 45 days to complete the condemnation process if needed.



# Right of Way Acquisition

## Clear Title

### Possible Issues

- ▶ Lien holder, mortgage company or property owner is not cooperative or reasonable
- ▶ Time constraints
- ▶ Costs

### Solution

- ▶ Condemnation Process where by a jurisdictional offer (JO) can be used as an alternative and acceptable route
- ▶ Research design alternatives to take parcel off the plat

**Note: In the case of 'nominal' parcels being acquired through the nominal waiver valuation process (non-complex parcel valuations, with estimated damages below \$10,000), if the acquiring agency determines that condemnation will be necessary, then the nominal waiver valuation should be converted to a full appraisal.**



# Right of Way Acquisition Licensing Agreements



# Right of Way Acquisition Licensing Agreements

Because license agreements do not hold real property interest, FHWA will no longer be granting exceptions for use. The LPA must work with the utility company to develop an easement. The easement must include the following:

- ▶ Legal description of easement
- ▶ Map depicting location and shape
- ▶ Term of easement (usually expected life of project)
- ▶ Payback terms if easement terminated before term of easement is expired
- ▶ Scope of easement (rights and obligations)
- ▶ Other terms of easement such as what improvements may be constructed, maintenance, what use retained by the land owner, etc.

**NOTE: A long-term lease is also acceptable.**



# Right of Way Acquisition Other Information



# Right of Way Acquisition Other Information

## Updated Eminent Domain Brochure

The Rights of Landowners Under Wisconsin Eminent Domain Law and the Wisconsin Relocation Rights Business and/or Residential were updated November of 2015. Please make sure you download the updated document. Toss out old paper copies. Links below.

[http://doa.wi.gov/Documents/DEHCR/Relocation/WI\\_Eminent\\_Domain\\_Law32\\_05.pdf](http://doa.wi.gov/Documents/DEHCR/Relocation/WI_Eminent_Domain_Law32_05.pdf)

[http://doa.wi.gov/Documents/DEHCR/Relocation/WI\\_Relocation\\_Rights\\_Business.pdf](http://doa.wi.gov/Documents/DEHCR/Relocation/WI_Relocation_Rights_Business.pdf)

[http://doa.wi.gov/Documents/DEHCR/Relocation/WI\\_Relocation\\_Rights\\_Residential.pdf](http://doa.wi.gov/Documents/DEHCR/Relocation/WI_Relocation_Rights_Residential.pdf)



# Right of Way Acquisition

## Other Information

### NEW State Law (Effective February 4, 2016) Real Estate Transfer Returns (RETR)



- ▶ RETR must be filed with the Wisconsin Department of Revenue (DOR) for all fee simple conveyances of property (excludes easements)
- ▶ Must be done prior to getting the conveyance recorded. A transfer return receipt must be included with the deed when it is recorded
- ▶ Please be aware that conveyances dated prior to the creation of the real estate transfer fee law are still exempt, but LPAs may need to work with each county Register of Deeds Office on recent projects to ensure compliance

#### NOTE:

DOR administers the eRETR program at <https://www.revenue.wi.gov/retr/index.html>.

See their new eRETR training videos viewable at <https://www.youtube.com/watch?v=2K7AiPhIfFY>.



# Right of Way Acquisition Reference Materials



# Right of Way Acquisition Reference Materials

## FHWA Links

Federal-aid Essentials for Local Public Agencies  
(short YouTube videos)

<http://www.fhwa.dot.gov/federal-aidessentials/>

Planning, Environment, & Realty

<http://www.fhwa.dot.gov/hep/>

Realty Training

[http://www.fhwa.dot.gov/real\\_estate/right-of-way/training/](http://www.fhwa.dot.gov/real_estate/right-of-way/training/)



# Right of Way Acquisition Reference Materials

## WisDOT LPA Real Estate Links

Local Public Agency (LPA) Real Estate Web Site

<http://wisconsindot.gov/Pages/doing-bus/local-gov/astnce-pgms/aid/lpa-re-info.aspx>

Real Estate Acquisition Under the Uniform Act: An Overview WEB-BASED, #FHWA-NHI-141045

[Required LPA Staff who will be Acquiring ROW take this course(consult your MC for details)]

[http://www.nhi.fhwa.dot.gov/training/course\\_search.aspx?tab=0&key=141045&course\\_no=141045&res=1](http://www.nhi.fhwa.dot.gov/training/course_search.aspx?tab=0&key=141045&course_no=141045&res=1)

**\*\* NEW Training \*\*** PARTIAL RELEASE OF MORTGAGE WEB CAST

<https://livestream.com/accounts/14475780/events/6310029>



# Right of Way Acquisition

## Top 5 Take-Aways



# Right of Way Acquisition

## Top 5 Take-Aways

### 1. ALWAYS comply with the Uniform Act

You will lose your funding if you fail to comply with the Uniform Act and Chapter 32!



# Right of Way Acquisition

## Top 5 Take-Aways

### 2. Follow the FHWA approved ROW manual.

You will lose your funding if you fail to follow the requirements and procedures found in the Local Public Agency (LPA) Manual for Right-of-Way Acquisition



# Right of Way Acquisition

## Top 5 Take-Aways

### 3. DO NOT Cut Corners!

- ⇒ If you do not have the money to do it right, you don't have money to do it at all!
- ⇒ If you don't have sufficient and knowledgeable staff then hire a qualified consultant from the WisDOT LPA Approved Consultant List!



# Right of Way Acquisition

## Top 5 Take-Aways

### 4. Schedule enough time to clear the ROW to meet project milestones! (Cert. 1)

- ⇒ Remember allow a minimum of at least 150 days to acquire a parcel (it could take longer, much longer!).
- ⇒ Good faith negotiation is a MUST!
- ⇒ Plan for issues!



# Right of Way Acquisition

## Top 5 Take-Aways

### 5. The “Almost Golden Rule” *(taken directly from FHWA)*

“If it ain’t documented, it didn’t happen!”



# Questions?

Thank you!

[kerry.paruleski@dot.wi.gov](mailto:kerry.paruleski@dot.wi.gov)



# Project Design Delivery

Sponsor's Guide Section 9: Project Design  
Delivery



# Project Design Delivery

## Design Standards

- ▶ Design standards to be followed:
  - Wisconsin Bicycle Facility Design Handbook
  - Wisconsin Guide to Pedestrian Best Practices
  - Facilities Development Manual (FDM) elements (documented in the Design Study Report (DSR))
  - Additional references listed in § 1.5
- ▶ These are listed in the **Project Proposal Certificate**
- ▶ Any initial challenges with standards need to be discussed early on



# Project Design Delivery

## Process Overview

Timeline: 12 months to 3 years

- ▶ Dependent on familiarity of designer with process, if design amendments are needed, & complexity of project
- ▶ At the end of this process, you must submit a draft PS&E and Request to Advertise



# Project Design Delivery

## Process Overview

Design begins



Environmental Document approved



Design Study Report (DSR) approved (if required)



Plans, Specs & Estimates (PS&E)/Draft Request to Advertise



WisDOT Request to Advertise form approved



# Project Design Delivery

Design Challenges ⇒ Added Time

- ▶ Railroad
- ▶ Utilities
- ▶ Structures
- ▶ Design Variance
- ▶ Proprietary Products
- ▶ Scope Modifications
- ▶ Multiple phases of construction

*continued*



# Project Design Delivery

Design Challenges ⇒ Added Time *Continued*

- ▶ Section 106 challenges (Historical or Archeological)
- ▶ WisDNR/Army Corp of Engineers permitting/environmental issues
- ▶ Bureau of Aeronautics Permit
- ▶ Hazmat (greater than Phase 1)
- ▶ Real Estate



THE SOONER YOU COORDINATE WITH THE MC  
THE BETTER

# Project Design Delivery

## Design Challenges: Railroad § 9.3

- ▶ If RR within 1,000 feet, contact MC who will work with Regional Rail Coordinator (RRC)



**DO NOT CONTACT THE RAILROAD DIRECTLY**

- ▶ If a crossing is needed, an Office of the Commissioner of Railroads (OCR) hearing is required
- ▶ Contact is required as well with abandoned corridors
- ▶ RR involvement may add 2+ years to the project (depending on level of complexity)
- ▶ A Certificate of Coordination of Railroad Work is required prior to approval of PS&E on **ALL PROJECTS**

# Project Design Delivery

## Design Challenges: Utilities § 9.4

- ▶ Refer to the [WisDOT Guide to Utility Coordination](#)
- ▶ TRANS 220 does not apply to Local Program Projects, including Non-traditional, however utility coordination is still required
- ▶ Coordinate for planning locates through digger's hotline and/or through private utilities
- ▶ Utility relocation costs not reimbursable
- ▶ A Utility Status Report form must be approved prior to approval of PS&E on **ALL PROJECTS**



# Project Design Delivery

## Design Challenges: Structures § 9.5

- ▶ Culverts, bridges, boardwalks, retaining walls are submitted to Bureau of Structures (BOS)
  - Does not apply to boardwalks with spans less than 20' and heights less than 10 feet above water/ground
  - Does not apply to retaining walls that meet the definition of minor retaining wall (FDM 11-55-5.2 and WisDOT Bridge Manual 14.1.1.1)
  - These structures still need to follow standards established in the Wisconsin Bicycle Facility Design Handbook

*Continued*



# Project Design Delivery

## Design Challenges: Structures § 9.5 *Continued*

- ▶ Formal BOS submittals—both preliminary (Type, Size, Location (TSL)) and final
  - Preliminary submittal comments must be received and addressed prior to the Design Study Report (DSR)
  - Final BOS submittal to BOS a minimum of 2 months prior to final submittal of draft PS&E and Request to Advertise
- ▶ Prior to submittal to BOS, submit to MC for review of completeness

*Continued*



# Project Design Delivery

## Design Challenges: Structures § 9.5 *Continued*

- ▶ Prior to submittal to BOS, submit to MC for review of completeness
- ▶ Will be submitted electronically in accordance with FDM
  - Will need structure number for submittal
  - In “comments” section, write: “Non-traditional locally let project” since they are evaluated differently
- ▶ Be aware
  - Weight restrictions : Min 20,000 lbs (even for pedestrian)
  - Desired 14’ wide clear width (12’ minimum)
  - Appropriate railing and fencing requirements are required



# Project Design Delivery

## Design Challenges: Variance § 9.7

- ▶ Required for variances to design standards (width, clear zone encroachments, side slopes, curve radii, etc)



**DO NOT ASSUME APPROVAL**

- ▶ **Last resort, alternative design solutions should be explored first and foremost.** Contact your MC if you are concerned that there will be a challenge with a standard

*Continued*



# Project Design Delivery

## Design Challenges: Variance § 9.7 *Continued*

- ▶ Specific format and requirements for the Variance can be gotten from your MC
- ▶ Allow ample time for review and modifications/approval (months)
- ▶ Need to be approved prior to submittal of DSR and/or 60%



# Project Design Delivery

## Design Challenges: Proprietary Products § 9.9

- ▶ Required for items that specify unique, distributor, manufacturer
- ▶ Certification of Patented or Proprietary Products (DT1584) form is available on WisDOT Doing Business Forms page
- ▶ Within special provisions, identifying “or approved equal” is not enough
  - Need to have total of two or more options and note “or approved equal”
  - OR generalize the specification to remove specific products and names
  - This applies to non-participating items as well
- ▶ Per Facilities Development Manual (FDM) 19-1-5



# Project Design Delivery

## Design Challenges: Other

- ▶ Scope Modifications § 5.5
  - Multiple-levels of approval (not quick)
  - Do not assume approval, talk to MC if you believe a scope change is required
  - Possible re-work (which would then not be reimbursable)
- ▶ Multiple phases of construction

*Continued*



# Project Design Delivery

## Design Challenges: Other *Continued*

- ▶ Previously discussed
  - Section 106 challenges (Historical or Archeological) § 7.6
  - WisDNR /Army Corp of Engineers (ACOE) permitting/environmental issues § 7.8
  - Bureau of Aeronautics Permit – Airport in proximity of project § 7.8
  - Hazmat (greater than Phase 1) § 7.9
  - Real Estate § 8
  
- ▶ Questions?



# Project Design Delivery

## Design General Notes

- ▶ Preliminary plans are required with environmental document
- ▶ Design Study Report (DSR) includes 60% plans
- ▶ Plans and specifications do not need to be in WisDOT state-let template, but do need to include appropriate detail & information
- ▶ WisDOT specifications Part 1 (Contract Front End) must be included by reference on all projects. It is encouraged to use the WisDOT Specification for all projects. Avoid using WisDOT bid item numbers when not using WisDOT specifications
- ▶ Estimates should not include contingencies



# Project Design Delivery

## Design Stages

### Preliminary submittal

- ▶ **Preliminary Engineering Checklist** § 9.1
- ▶ Preliminary plans (see § 9.2 for required information).
- ▶ **Local Project Utility Coordination Task List** § 9.4
- ▶ Preliminary structure plans (if req'd) § 9.5
- ▶ Section 106 (if req'd) § 7.6
- ▶ Phase 1 Hazmat (if req'd) or **Initial Site Reconnaissance Checklist & Parcel Reconnaissance Checklist** § 7.9
- ▶ Environmental document w/ appropriate back-up\* § 7.11 & 7.12



DO NOT MOVE FORWARD UNTIL REVIEW COMMENTS  
RECEIVED AND ENVIRONMENTAL DOC APPROVED



# Project Design Delivery

## Design Stages

“60%” submittal

- ▶ Updated project plans
- ▶ Design Study Report (DSR) (if applicable--more on next slide)
- ▶ **Local Project Utility Coordination Task List** § 9.4



DO NOT MOVE FORWARD UNTIL REVIEW  
COMMENTS RECEIVED AND DSR APPROVED

# Project Design Delivery

## Design Stages

“60%” submittal

Design Study Report (DSR) § 9.8

- ▶ Required when construction project costs are greater than \$500,000
- ▶ May be required on projects under \$500,000 at the direction of WisDOT
- ▶ Does not apply to building-type projects or some other unique types
- ▶ DSR **must be approved** prior to beginning Real Estate
- ▶ Needs to be approved prior to draft PS&E and *Request to Advertise*
- ▶ 60% plans are one of the attachments



# Project Design Delivery

## Design Stages

Draft PS&E Package Submittal § 9.9, 9.10, 9.11, 9.12, 9.13

- ▶ Draft final plans
- ▶ Final structure plans (if applicable)
- ▶ Draft Project Manual with all required WisDOT forms per **Local Let Project Contract Document Checklist** (LLPCDC), front end documents and special provisions included
  - LLPCDC examples: DBE forms, wage rates, Buy America, etc.
- ▶ Engineer's Estimate

*Continued*



# Project Design Delivery

## Design Stages

### Draft PS&E Package *Continued*

- ▶ Sponsor's Guide and WisDOT forms/checklists
  - **Construction Bid letting Checklist** \* highlights all elements required in your advertisement.
  - **Project Proposal Certificate**
    - Attach final approved permits (DNR/ACOE permits; STH permits)
  - **Local Let Project Contract Document Checklist** (LLPCDC)
  - **Local Project Utility Coordination Task List**
  - Utility Status Report (USR) (DT1080)

*Continued*



# Project Design Delivery

## Design Stages

### Draft PS&E Package *Continued*

- ▶ Sponsor's Guide and WisDOT forms *Continued*
  - Certification of Coordination of Railroad Work with Highway Construction (DT1804)
  - Certificate of Right of Way (DT1899) Cert 1 with applicable documents (if not already submitted)
  - **Request to Advertise**



DO NOT MOVE FORWARD UNTIL REVIEW  
COMMENTS RECEIVED



# Project Design Delivery

## Design Stages

Request to Advertise/Final PS&E Submittal § 9.9, 9.10, 9.11, 9.12, 9.13

- ▶ Submit a minimum of six weeks prior to the desired advertisement placement date.
- ▶ In the submittal to the MC include (2 sets of everything, with both sets having all original signatures)



# Project Design Delivery

## Design Stages

### Request to Advertise/Final PS&E Submittal

- ▶ Project Manual:
  - Cover
  - Special Provisions
  - Contract Front End
  - Part 1 of WisDOT Standard Specifications (via reference)
  - WisDOT DBE & Labor Compliance and Additional Special Provisions and required inserts (noted on Local Let Project Contract Document Checklist)
  - Supplemental Information (as required—e.g. permits, soil borings, etc.)

*Continued*



# Project Design Delivery

## Design Stages

### Request to Advertise/Final PS&E Submittal *Continued*

- ▶ Sponsor's Guide and WisDOT forms/checklists
  - Approved Certificate of Right of Way (DT1899) (even if no Real estate is acquired)
  - **Construction Bid Letting Checklist**
  - **Local Let Project Contract Document Checklist**
  - Utility Status Report (DT1080)
  - Certificate of Coordination of Railroad Work with Highway Construction (DT1804)
  - **Project Proposal Certificate**

*Continued*



# Project Design Delivery

## Design Stages

### Request to Advertise/Final PS&E Submittal *Continued*

- ▶ Sponsor's Guide and WisDOT forms/checklists *Continued*
  - **Request to Advertise** (with Proposed Advertisement attached) § 9.12
    - Minimum 21 Calendar Days between the first advertisement and the bid date
    - Recommend diverse publication to ensure competitive bid
      - Sponsor's Legal Newspaper
      - Trade Journals
      - State or Other Local Newspaper
      - Sponsor's Internet Site or Other Internet Site
    - Obtain Affidavit of Publication and keep in Records (You will need this for the **Request to Award**)

*Continued*



# Project Design Delivery

## Design Stages

### Request to Advertise/Final PS&E Submittal *Continued*

- ▶ Project Plans
  - Signed & sealed by designer and signed and accepted by Project Sponsor
  - Typically 11 x17 format
- ▶ Engineer's Estimate



DO NOT ADVERTISE UNTIL THE REQUEST TO ADVERTISE PACKAGE HAS BEEN APPROVED AND YOU HAVE RECEIVED AUTHORIZATION LETTER

# Project Design Delivery

## Sponsor's Guide and WisDOT forms/checklists

Note: Part 1 of the WisDOT Standard Specification requires the Prime Contractor to perform a minimum of 30% of the contract. (Section 108.1.2)



# Project Design Delivery

## Material & Equipment Purchasing § 9.14

### General:

- ▶ Slightly different than full *Request to Advertise* Package—called “Purchase Request Package”
- ▶ Still includes an advertisement, bid documents, and *Request to Award* package as well



# Project Design Delivery

## Material & Equipment Purchasing § 9.14

### Three Different bidding types

- ▶ Simplified Bidding
  - \$5,000 or less- a little more flexibility
  - \$5,000 to \$25,000—three or more quotes—in writing preferred
- ▶ Official sealed bidding
  - Purchases of more than \$25,000
  - Newspaper advertisement & sealed bids
  - Project must be listed on state vendor.net site
- ▶ Non-Competitive Negotiation & Sole source—contact your MC for more info



# Project Design Delivery

## Material & Equipment Purchasing § 9.14

### Examples:

- ▶ Purchase of Bike sheds and installation by volunteers
- ▶ Municipal purchase of pre-fab bridge and then separate installation of the bridge by contractor (equates to two separate **Request to Advertise** Packages)



# Project Design Delivery

## Material & Equipment Purchasing § 9.14



DO NOT ADVERTISE UNTIL THE  
REQUEST TO ADVERTISE PACKAGE  
HAS BEEN APPROVED AND YOU HAVE  
RECEIVED AUTHORIZATION LETTER

## Questions?



# Contract Letting

Sponsor's Guide Section 10: Contract Letting



# Contract Letting

## Locally Let Contracts (LLC) § 10.1

Contract between Sponsor and a contractor for the construction project

Key conditions that must be met

- ▶ The State/Municipal Agreement for the construction phase is in effect
- ▶ The bidding and award of the contract comply with WisDOT Standard Specifications Section 102 & 103
- ▶ Sponsor's roles and responsibilities will be detailed in your Sponsor's Certification

Construction Staking	Materials Testing and Inspection	Final Acceptance
Materials Documentation	Daily Diary	Collect Contractor Payrolls
Measurement of Quantities	Estimates for Payment	Maintenance of Records
Time Charges	Change Orders	Conduct field Interviews



# Contract Letting

## Addendum § 10.2

- ▶ Notify MC of significant changes or errors requiring Addendum
  - Change in quantities or work that would affect the Engineer's Estimate
  - Changes in start or completion dates
  - Change connected with permitting, approval or mitigation measures
- ▶ MC must approve addendum before issued



# Contract Letting

## Request to Award § 10.3

### Bid Opening

- ▶ All bids shall be sealed and sent to Sponsor or Consultant Engineer in accordance with terms of Advertisement
- ▶ All bids received shall be publically opened and announced either by item or total amount
- ▶ If any bid is not read, publically announce the name of the bidder and the reason



# Contract Letting

## Request to Award § 10.3

### Bid Evaluation

- ▶ Sponsor must evaluate all bids for irregularities – Section 102 and 103 of Standard Specifications
- ▶ Sponsor must prepare justification
  - If any bids rejected
  - To award if less than 3 bids received
  - To award if low bid is greater than 10% over Engineer Estimate
- ▶ Sponsor must verify the Prime Contractor will provide at least 30% of the contract



# Contract Letting

## Request to Award § 10.3

### DBE Commitments

- ▶ Apparent Low Bidder submits Commitment to Subcontract to DBE Non-Traditional Project (form DT 1880) along with Attachment A for each subcontractor to MC **within 5 days** of notification.
- ▶ If Contractor cannot meet DBE Commitments, they must submit a Good Faith Waiver Request
  - Good Faith Waiver is not automatically approved
- ▶ WisDOT will review/approve



# Contract Letting

## Request to Award § 10.3

Key items documented on the *Request to Award* form

- ▶ Prime Contractor will provide at least 30% of the contract
- ▶ Non-participating work included in the bid if applicable
- ▶ Compares the bid cost with the funded amount
- ▶ **Sponsor is ensuring selection process meets requirements after advertising, bid opening and determination of lowest responsive and responsible bidder**

## *Request to Award* attachments

- ▶ Copy of Notarized Advertisement
- ▶ WisDOT **approved** DBE Commitments
- ▶ All addenda
- ▶ Justification for rejecting bids if applicable
- ▶ Justification to award if less than 3 bids received
- ▶ Justification to award if bid is > 10% over engineers estimate
- ▶ Bid tab listing unit prices for bidders and total bid
- ▶ Bid summary review to determine bids not irregular



# Contract Letting

## Request to Award § 10.3

### Request to Award

- ▶ Sponsor submits to MC
- ▶ Allow at least 2 weeks for review
- ▶ WisDOT approves



DO NOT SIGN CONTRACT WITH  
CONTRACTOR UNTIL REQUEST TO  
AWARD PACKAGE APPROVED

# Contract Letting

## Request to Award § 10.3

### Contract Execution

- ▶ MC will notify Sponsor to Proceed with Contract Execution by returning signed **Request to Award**
- ▶ Sponsor will execute the Contract in accordance with their Local Approval Authority as documented in the Sponsor's Certification
- ▶ The Sponsor will provide the MC with a signed and executed copy of the contract.



# Schedule

Sponsor's Guide Sections 5, 6, 7, 8, 9, & 10



# Schedule

## Critical issues:

- ▶ Commencement:
  - Project must commence within 4 years of the award date
  - By **August 29, 2020** for the 2016 – 2020 program
- ▶ Completion:
  - Project must be complete within 7 years of the award date
  - By **August 29, 2023** for the 2016 – 2020 program
- ▶ Funding availability:
  - Funding is programmed for each fiscal year (July 1 – June 30)
  - Moving a project out of the fiscal year it is programmed in is not a given – depends on funding availability



# Schedule

## Notes on the example schedules:

- ▶ Schedule begins at training
- ▶ Timelines shown are **estimates only**
- ▶ Only key activities are shown
- ▶ The timeline does not include reimbursement requests
- ▶ Most submittals require revisions by the design consultant, re-submittal, and another review. 1-2 weeks is included in each review and approval item to account for this, assuming only one revision is required
- ▶ The reviews and approvals take time





# Schedule

Federally Funded Design scheduled in FY 2017

See handout

Assumptions:

- ▶ Project screened for both archaeology and history
- ▶ Categorical Exclusion Checklist applicable
- ▶ Design Study Report not required
- ▶ No real estate acquisition (no TLE, PLE or fee)
- ▶ No other design challenges like hazardous materials, railroads, structures, effects on utilities, or scope modifications (see Design Challenges slides)





# Schedule

Federally Funded Design scheduled in FY 2018

See handout

Assumptions:

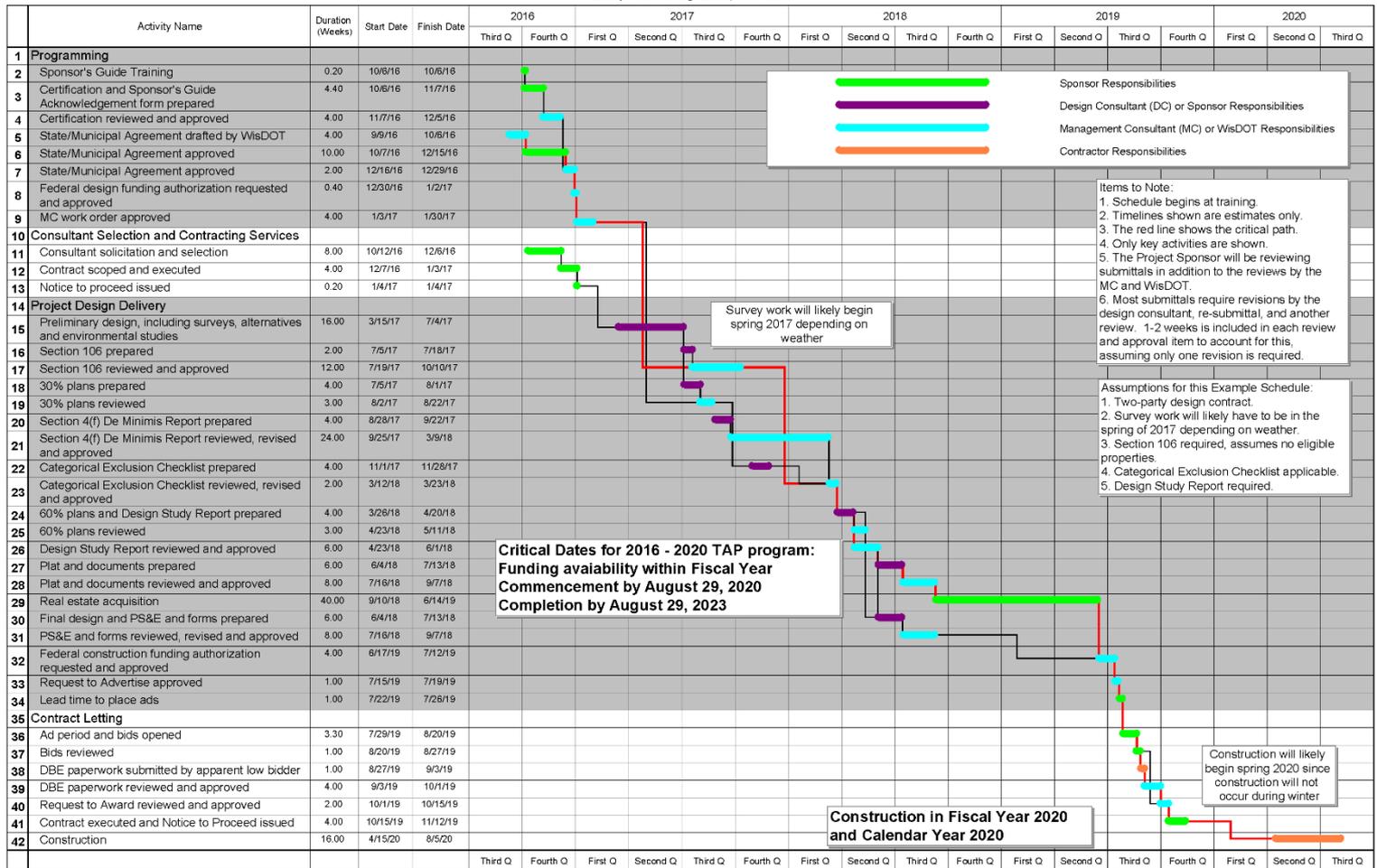
- ▶ Section 106 required, assumes no eligible properties
- ▶ Categorical Exclusion Checklist applicable
- ▶ Design Study Report required
- ▶ Real estate acquisition does not require condemnation

Project includes a structure



# Schedule

Locally Funded Design Example Schedule



**Legend:**

- █ Sponsor Responsibilities
- █ Design Consultant (DC) or Sponsor Responsibilities
- █ Management Consultant (MC) or WisDOT Responsibilities
- █ Contractor Responsibilities

**Items to Note:**

- Schedule begins at training.
- Timelines shown are estimates only.
- The red line shows the critical path.
- Only key activities are shown.
- The Project Sponsor will be reviewing submittals in addition to the reviews by the MC and WisDOT.
- Most submittals require revisions by the design consultant, re-submittal, and another review. 1-2 weeks is included in each review and approval item to account for this, assuming only one revision is required.

**Assumptions for this Example Schedule:**

- Two-party design contract.
- Survey work will likely have to be in the spring of 2017 depending on weather.
- Section 106 required, assumes no eligible properties.
- Categorical Exclusion Checklist applicable.
- Design Study Report required.

**Critical Dates for 2016 - 2020 TAP program:**  
 Funding availability within Fiscal Year  
 Commencement by August 29, 2020  
 Completion by August 29, 2023

Survey work will likely begin spring 2017 depending on weather

Construction will likely begin spring 2020 since construction will not occur during winter

**Construction in Fiscal Year 2020 and Calendar Year 2020**



# Schedule

## Locally Funded Design

See handout

Assumptions:

- ▶ Two-party design contract
- ▶ Section 106 required, assumes no eligible properties
- ▶ Section 4(f) De Minimis applicable
- ▶ Categorical Exclusion Checklist applicable
- ▶ Design Study Report required

Project includes a property protected by Section 4(f) and more extensive real estate acquisition



# Schedule

## Summary

- ▶ Remember commencement and completion deadlines
- ▶ Remember funding availability constraints
- ▶ If design funding in Fiscal Year 2017 – execute design contract by mid-June
- ▶ Start as early as allowable



# Construction Administration

## Sponsor's Guide Section 10: Contract Letting



# Construction Administration

## WisDOT Oversight via the MC

- ▶ Pantry software project tracking forms
- ▶ Limited site visits
  - Critical interim site visits (pre-pour, pre-pave, etc.)
- ▶ Approval of prior justifications (WisDOT signs)
- ▶ Approvals of contract modifications (WisDOT signs)
- ▶ Final Walk Through
- ▶ Approvals of reimbursement requests (site visit for verification)



# Construction Administration

## Communication

- ▶ MC needs to be kept informed
- ▶ The earlier the MC is involved with concerns or questions the better
- ▶ MC is here to help you meet your goal of maintaining an eligible project
- ▶ Don't be afraid to ask



# Construction Administration

## Construction Oversight

### Two Party Contract § 10.4

- ▶ In-house staff: Two-party WisDOT/Municipal contract
  - Not allowed on LFA contracts
- ▶ Consultant: Two-party between Sponsor & Consultant
  - Need to solicit via QBS process
  - Cannot be part of the three-party design contract
  - Includes standard provisions of construction engineering agreements, FDM 8-15-1



# Construction Administration

## Construction Oversight

### Reimbursement § 10.4

- ▶ If reimbursable
  - Is charged to construction ID
  - Costs are funded the same as the construction costs
  - Look at how the construction contract amount compares to what is reimbursable under the construction ID



# Construction Administration

## State/Municipal Agreement cost sample

In the summary funding table below, the federal/state share of the total estimated cost distribution indicates the maximum amount of federal/state funding available to the project, to be distributed across federal/state-funded project phases. The final Project Sponsor share is dependent on the final federal/state participation, and the actual costs will be used in the final division of costs for billing and reimbursement.

PHASE	SUMMARY OF COSTS				
	Total Est. Cost	Federal/State Funds	%	Project Sponsor Funds	%
<b>ID 0000-00-00</b>					
Design	\$52,000	\$41,600	80%*	\$10,400	20%*
Design Review#	\$11,000	\$8,800	80%*	\$2,200	20%*
<b>ID 0000-00-70</b>					
Participating Construction	\$530,000	\$424,000	80%*	\$106,000	20%*
Participating Construction Review#	\$13,000	\$10,400	80%*	\$2,600	20%*
Non-Participating Construction		\$0	0%	\$0	100%
<b>Total Est Cost Distribution</b>	\$606,000	\$484,800	MAX	\$121,200	N/A

\*This project has a BFPF federal/state/earmark funding maximum of **\$484,800**. This maximum is cumulative for all federal/state/earmark funded project phases.

#Review costs are administered and paid for by WisDOT. The Project Sponsor will be billed for any required local match and for costs beyond the cumulative federal or state funding.



# Construction Administration

## WisDOT/FHWA requirements § 10.4

- ▶ Documentation and recordkeeping
- ▶ On-site inspection
- ▶ Materials acceptance & testing (Buy America Certs)
- ▶ Measurements of quantities & verification (load tickets)
- ▶ Explanation of variation of quantities
- ▶ Plans and Spec enforcement

*Continued*



# Construction Administration

## WisDOT/FHWA requirements § 10.4 *Continued*

- ▶ Contractor payments
- ▶ Keeping on schedule
- ▶ Monitoring of DBE utilization & Labor Compliance
- ▶ Permits
- ▶ Finals Documentation
- ▶ Documentation of Erosion Control Activities



# Construction Administration

## Pre-con Meeting § 10.5

- ▶ Formally invite MC
- ▶ Local and WisDOT topics (contract mods, labor compliance, monthly progress reports)
- ▶ Discuss Erosion Control & Traffic Control items
- ▶ Federal & State Wage Rate postings should be distributed
- ▶ Schedule for completion from Contractor
- ▶ Reimbursements - how often is up to Sponsor
- ▶ Copy MC on official 'Notice to Proceed'



# Construction Administration

## Erosion Control

- ▶ In accordance with WisDNR permits, project plans and special provisions
- ▶ Contractor submits detailed schedule of erosion control activities
- ▶ All WisDNR permits should be posted on-site
- ▶ Responsible for meeting all conditions of permits and maintaining erosion control
- ▶ Documentation of erosion control activities during the project



# Construction Administration

## Project Documentation § 10.6

- ▶ Contract Proposal
- ▶ As-Built Plans
- ▶ Project Diaries (project leader & Inspectors)
- ▶ Source Documents
- ▶ Material Records (Buy America Certs)
- ▶ Pictures & videos
- ▶ Correspondence Files
- ▶ Contractor Pay Estimates
- ▶ Justifications for non-conforming work or materials
- ▶ Labor compliance – DBE reporting



# Construction Administration

## Labor Compliance § 4.8 & 10.6

Sponsor responsible for monitoring labor compliance until project completion:

- ▶ Require State Wage rates
- ▶ Federal Wage rates on all Federal Aid Highways and on some project types
- ▶ Post the wage rates on-site (Posting Board)
- ▶ Weekly Certified payrolls are required for all projects
- ▶ Interviews are the responsibility of the Sponsor



**THIS IS YOUR RESPONSIBILITY**



# Construction Administration

## Local Force Account (LFA) § 9.6 & 10.7

- ▶ LFA consideration requires cost effectiveness determination
- ▶ Sponsor is responsible for submitting all necessary forms for LFA work per the FDM
- ▶ If constructed by LFA, WisDOT will contract with a consultant for construction oversight in accordance with the FDM



# Construction Administration

## Contractor Challenges

- ▶ WisDOT/FHWA is NOT involved in any claims
- ▶ Construction contract is between the Project Sponsor and Contractor
- ▶ Keep MC informed of any problems & associated resolutions
  - If contractor is behind schedule
  - If liquidated damages will be assessed
  - If Sponsor is going after Payment or Performance Bond



# Construction Administration

## Contract Modifications (CM) § 10.8

Needed when:

- ▶ Field conditions requiring extra work
- ▶ Addition of bid items
- ▶ Change in contract requirements

Is a two - part process requiring WisDOT approval

- ▶ WisDOT approval/signature prior to work being initiated (Prior Approval Justification)
- ▶ WisDOT approval/signature (Contract Modification)
- ▶ Without both approvals work is not reimbursable
- ▶ Require support documents
  - Plans & Specs
  - Contractor quotes







# Construction Administration

## Site Visits § 10.10

- ▶ Ensure items are built according to contract documents
- ▶ Critical operations such as paving and deck pours as determined by the Department
- ▶ Reimbursement requests
- ▶ Final Walk Through
- ▶ Upon request, the MC will supply the WisDOT LLC Site Visit Checklist for informational purposes



# Construction Administration

## LLC Site Visit Checklist - Local Program

### LLC Site Visit Checklist - WisDOT Local Program

State ID#: \_\_\_\_\_ Inspection Date: \_\_\_\_\_  
 Project Name: \_\_\_\_\_ ACS: \_\_\_\_\_  
 LPA: \_\_\_\_\_ County: \_\_\_\_\_

---

**ADA CURB RAMPS ALL PROPERLY CONSTRUCTED**  No problems  Needs adjustments (explain)  
 COMMENTS \_\_\_\_\_  
<http://roadwaystandards.dot.wi.gov/standards/fdm/11-46.pdf> FDM 11-46-10 and construction details

---

**CROSS SLOPES 1.5 TYP 2.0% MAX**  No problems  Needs adjustments (explain)  
 COMMENTS \_\_\_\_\_  
<http://roadwaystandards.dot.wi.gov/standards/fdm/11-46.pdf> FDM 11-46-5 Section 5.2.1: 1.9% Typical X-Slope; 2.0% Maximum

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**RUNNING SLOPES**  No problems  Needs adjustments (explain)  
 COMMENTS \_\_\_\_\_  
<http://roadwaystandards.dot.wi.gov/standards/fdm/11-46.pdf> FDM 11-46-5 Section 5.1.1: Over 5.0%, 8'x8' landing pad for every 2.5' of rise

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**LATERAL CLEARANCE**  
 • 3' to 5' desired from isolated/continuous obstructions (poles, boulders, signs, fences, etc.)  No problems  Needs adjustments (explain)  
 COMMENTS \_\_\_\_\_  
<http://www.dot.wisconsin.gov/projects/state/foan/bike-facility.pdf> Section 4.5 WI Handbook: Desirable lateral clearance 3'-5'

• 2' min. from isolated obstructions (poles, boulders, signs, etc.)  No problems  Needs adjustment (explain)  
 COMMENTS \_\_\_\_\_  
 AADITD Guide for Development of Bicycle Facilities Section 5.2.1: Minimum lateral clearance 2.0'

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**SLOPING**  
 • 5' min. distance from slopes greater than 3:1  No problems  Needs adjustments (explain)  
 COMMENTS \_\_\_\_\_  
<http://www.dot.wisconsin.gov/projects/state/foan/bike-facility.pdf> Section 4.5 WI Handbook p 4-10

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**VERTICAL CLEARANCE**  
 • Branches and other overhead clearances  No problems  Needs adjustment (explain)  
 COMMENTS \_\_\_\_\_  
<http://www.dot.wisconsin.gov/projects/state/foan/bike-facility.pdf> Section 4.5 WI Handbook: Des. overhead clearance 10.0' Min. 8.0'

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**MISCELLANEOUS**  No problems  Needs adjustment (explain)  
 • Erosion control issues  
 COMMENTS \_\_\_\_\_

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• All items installed as per plan?  No problems  Needs adjustment (explain)  
 COMMENTS \_\_\_\_\_  
 Check: sign type, size, mounted height and lateral offset from path, etc...

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**ADMINISTRATION**  
 • Preconstruction meeting  Date held: \_\_\_\_\_  Minutes on file?  
 COMMENTS \_\_\_\_\_

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• Contract Modification documents on file  No problems  Needs adjustment (explain)  
 COMMENTS \_\_\_\_\_

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• Is Contract Mod adding work consistent with approved project/SMA? Does WisDOT have all Mods?  
 • Is the project consistent with the contract documents?  No problems  Needs adjustment (explain)  
 • Visually verify misc. items such as structures, boardwalks, curve radii, railings, side slopes, etc...  
 COMMENTS \_\_\_\_\_

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• Final walk through Date: \_\_\_\_\_  No problems  Needs adjustment (explain)  
 COMMENTS \_\_\_\_\_

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ADDITIONAL COMMENTS \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_



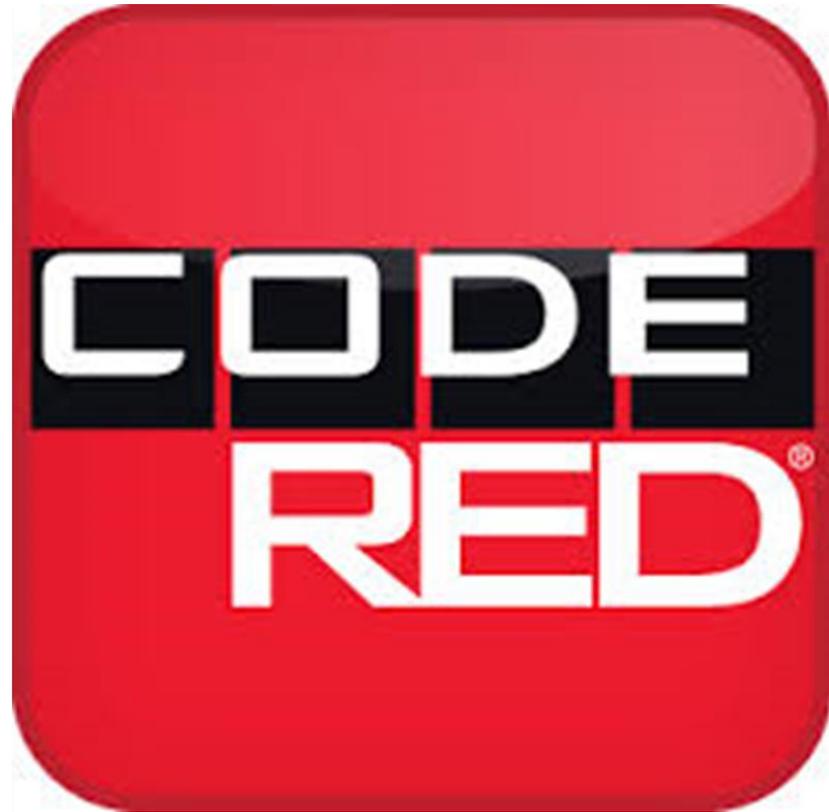
# Construction Administration

## Field Review Items

- ▶ Basic plan elements
- ▶ Detectable Warning Field (DWF) installation & ramp installation
- ▶ Sign placement
- ▶ Clear zone encroachments
- ▶ Vertical & horizontal clearances
- ▶ Erosion and Traffic control
- ▶ Items added or deleted from approved plans
- ▶ Items that are incorrect, missing or not built per plan, will need to be corrected prior to reimbursement



# Construction Administration



# Construction Administration

## Close-out

### Final Walk through – punch list

- ▶ Invite MC/WisDOT PM
- ▶ Take pictures
- ▶ Include MC in order to assure that all items are addressed prior to final Contractor payment

## Records

- ▶ Be ready to submit final request for reimbursement and completion certificate
- ▶ Neat and complete
- ▶ Ready for when FHWA comes for an audit



# Reimbursement

Sponsor's Guide Section 11: Reimbursement



# Reimbursement

These projects are reimbursement projects where the Sponsor pays the cost of the project **up front** and then submits a **request for reimbursement**

Highly recommend that MC review the design and construction invoices prior to payment by the Sponsor



# Reimbursement

## Timing/Frequency

- ▶ Submit as soon as practical
- ▶ Generally, monthly requests encouraged during major design or construction efforts
- ▶ Do not wait to submit **design** reimbursement requests until **construction** is complete



NO MORE THAN 6 MONTHS WITHOUT REIMBURSEMENT REQUEST

# Reimbursement

## Required documentation for design

- ▶ Reimbursement Request form DT1713
- ▶ Invoice
- ▶ Progress Report
- ▶ Cancelled check showing payment



# Reimbursement

## Required documentation for construction

- ▶ Construction costs
  - Reimbursement Request form DT1713
  - Detailed Invoice (per item)
  - Cancelled check showing payment
- ▶ Local Force Account projects:
  - Require detailed summary of work and payment is processed through FieldManager



# Reimbursement

## Required documentation for reimbursable construction oversight

- ▶ Consultant construction oversight
  - Reimbursement Request form DT1713
  - Detailed Invoice (per item)
  - Cancelled check showing payment
- ▶ Sponsor construction oversight
  - Reimbursement Request form DT1713
  - Printout from financial system that shows the employees, rates, hours worked, and time period



# Reimbursement

## Final Reimbursement Request

- ▶ All project records must be complete
- ▶ Provide the Project Completion Certificate
  - Complete for both design and construction
  - Complete for construction after the final walk-through and all work is complete
- ▶ Mark the reimbursement request “Final” and provide all required documentation



REMEMBER THE PROJECT COMPLETION DATE



# Additional Questions Regarding the Sponsor's Guide?



# Certification

## Sponsor's Guide Section 1: Introduction



# CERTIFICATION

## Standard Requirements for Certification

- ▶ Delegated person in Responsible charge for all project approvals
- ▶ sufficient expertise and capability, either in-house or consulted, to perform and supervise the design, environmental, PS&E, advertisement, letting, award and construction administration
- ▶ administered in accordance with the Sponsor's Guide attend WisDOT Training



# CERTIFICATION

## Certification for Non-traditional transportation Project Administration and Delivery

- ▶ <http://wisconsindot.gov/Pages/doing-bus/local-gov/astnce-pgms/aid/tap.aspx>

## FAQ's for completing Certification Form



# CERTIFICATION

Sponsors should complete and submit both the Certification and the Sponsor Guide Acknowledgement form to WisDOT (see contact list handout) by November 7, 2016.

Sponsor should return executed SMA to appropriate Region by December 15, 2016.



# Questions and Discussion

