LOCAL PUBLIC AGENCY GUIDE

Published by
Wisconsin Department of Transportation
Local Program
2023

Table of Contents

Chapter 1 Overview

The Local Public Agency (LPA) Guide is intended to be a resource for the LPA, providing information and instruction to assist them in successfully developing federally funded transportation projects. The guide will walk the LPA through the project development process.

The LPA Guide is intended to address procedures required on projects that will be let through the Wisconsin Department of Transportation (WisDOT) letting process. Processes and procedures that apply to locally let Local Program projects are covered in The Sponsor's Guide to Non-Traditional Project Implementation.

Acronyms are used throughout the guide in reference to various programs, regulations, and processes. View the annotated acronym guide online.

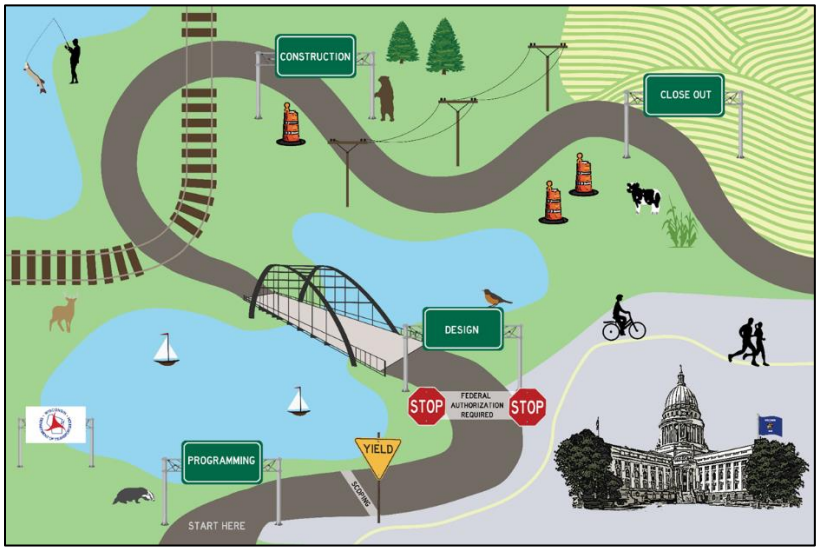


Figure 1.1 Overview of the project life cycle

1.1 Project Life Cycle

Federally funded projects follow a life cycle of specific phases: the Planning/Programming phase, the Design phase, the Construction phase, and the Closing phase.

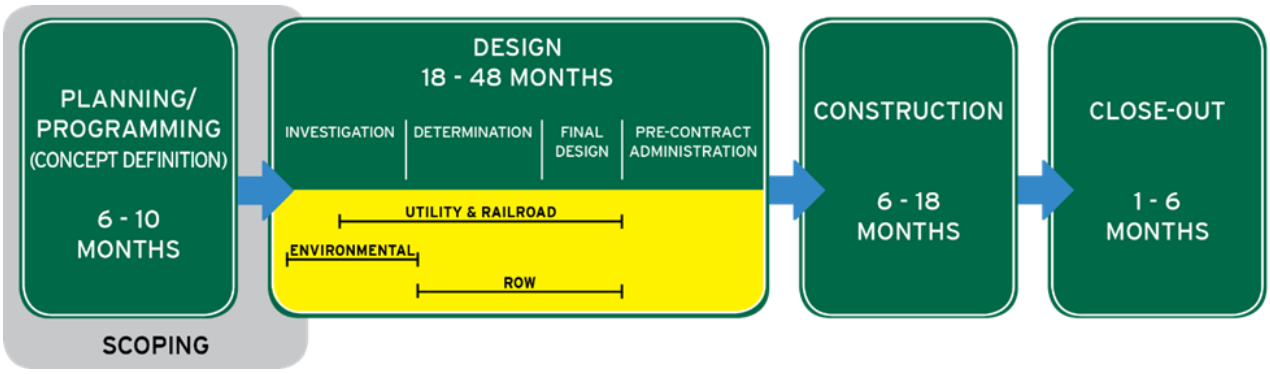


Figure 1.2 Project timeline

1.2 Federal Funding Costs & Benefits

Using federal funds offers significant savings to an LPA but there are added tasks and responsibilities which can add costs and time to the design process for what may otherwise be a simple project. The LPA should evaluate whether the cost savings are worth the additional requirements that come with WisDOT oversight.

When an LPA is deciding whether to apply for federal monies, they should understand the costs and benefits of using federal money. Below are some items that the LPA should consider when considering applying for federal money. This list is intended to provide a clearer understanding of the responsibilities an LPA will take on with a federal-aid project.

- **Control:** LPA delivers design, maintains responsibility of project. WisDOT provides approval, design oversight, maintains authority over project.
- **Cost:** Funding is typically split 80%/20% between federal and local funds. Federal funds capped in State Municipal Agreement (SMA). Cost increases exceeding cap are 100% LPA responsibility. If LPA chooses to fund design with 100% local funds, they are responsible for 100% of WisDOT oversight costs.
- **Schedule:** WisDOT design process minimum: 18 months. ROW, environmental impacts, railroad coordination adds 12+ months. WisDOT controls project letting schedule.
- **Design Standards:** Outlined in Facilities Development Manual (FDM). Variance from standards can be accepted with justification/approval from WisDOT.
- **Eligibility:** Some items (ex: sanitary sewer, watermain, relocating utilities) are not eligible to be paid for with federal funds.
- **Project Lifespan:** 6 years to project completion or risk loss of federal funding/required to pay back any funds spent to date.

1.3 Reference Guides & Manuals

This guide includes references to other WisDOT guides and manuals.

- WisDOT Facilities Development Manual (FDM)
- Wisconsin Department of Transportation Fall 2021 Construction and Materials Manual (CMM)
- Local Public Agency Manual for Right of Way Acquisition
- Wisconsin Department of Transportation WisDOT Guide to Utility Coordination (WGUC)
- Wisconsin Department of Transportation Federal/State Aid Project Delivery
- Federal-aid Essentials for Local Public Agencies
- WisDOT Local Program Contacts

1.4 Stakeholder Roles & Responsibilities

There are several organizations that play a key role in producing a successful local program project. These organizations and their responsibilities are described below.

- Local Program Document Approval Designation Matrix
- Local Program Stakeholders Roles & Responsibilities

Chapter 2 Federal & State Requirements

This chapter provides a summary of applicable federal requirements to promote understanding and compliance with these requirements. Compliance is critical since failure to comply may result in denial of reimbursement and the loss of the use of federal funds.

2.1 Recordkeeping

It is the responsibility of the LPA to assemble and retain a complete project file that verifies all project expenditures and documents compliance with state and federal requirements. Documents may be kept in an electronic format provided requirements and standards are met, including state statutes 16.61(7) and 137.20 and Wisconsin Administrative Code Chapter Adm 12.

Project files should include:

- Official documents
- Approval actions
- Fund expenditure documentation
- Project decision documentation
- Project correspondence

Per state statutes 19.21(4)(b) and 19.21(5)(c), this project file must be retained for a minimum of seven years from the date the LPA requests final project reimbursement, or after the conclusion of any audit, negotiation, or litigation, whichever is later. The LPA must make the file available for inspection by FHWA and WisDOT or furnish copies of these documents if requested.

2.2 Federal Regulations

Under existing statutes and regulations, WisDOT is responsible for ensuring that all federal-aid projects are carried out in accordance with federal laws and regulations. This responsibility was specifically clarified in 23 USC 106, as amended by the Moving Ahead for Progress in the 21st Century Act (MAP-21, Public Law 112-141), the Fixing America's Surface Transportation Act (FAST Act, Public Law 114-94), and the Infrastructure Investment and Jobs Act (Public Law 117-58), commonly referred to as the Bipartisan Infrastructure Law (BIL).

Federal rules and requirements are applicable to any project which is funded with federal dollars, even if only certain phases, segments, or contracts are federally funded. The applicability of Federal requirements for any project is determined by any of the following:

- The use of Federal funds
- Whether the project is located on the National Highway System (NHS)
- Whether the requirements are outside of Title 23 USC or based on a law founded outside of Title 23 USC

Additional descriptions and information are available here.

2.3 National Environmental Policy Act (NEPA)

NEPA is the basic federal charter for protection of the environment. It is critical to understand that NEPA is a decision-making process. As such, it contains policies and procedures that must be followed. Implementing regulations contain "action-forcing" provisions that make sure each federal agency, state agency, or LPA act according to the letter and spirit of these laws. The President of the United States and the Governor of

Wisconsin, federal and state agencies, the courts, and each LPA share responsibility for enforcing the Act to achieve the substantive requirements of these seminal environmental laws.

NEPA Transportation Decision-making Process

The FHWA project development process is a balanced approach to transportation decision-making that considers the potential impacts on human and natural resources as well as the public's need for safe and efficient transportation improvements.

There are certain decisions that need to be made when moving into the NEPA process.

- **Federal Action**: Determine whether a federal action will occur; the use of federal funds is considered a federal action.
- **FHWA and WisDOT Oversight**: For federal-aid projects, NEPA is a FHWA responsibility; however, WisDOT handles much of the environmental process through its delegated authority with FHWA.
- **Purpose and Need**: The purpose and need should be as comprehensive and specific as possible. Information on factors such as safety, system linkage, social demands, economic development, and modal interrelationships, etc. that the proposed project will attempt to address should be described as fully as possible.
- **Preliminary Design**: Preliminary design is necessary to determine impacts, and the decision must be made as to how much design needs to be done in the NEPA process. Typically, 60 percent design will provide adequate information for a proper analysis of the alternatives while not overdesigning for the alternatives that may not be chosen.

2.3.1 Bicycle and Pedestrian Facilities

Federal regulations in 23 USC 217(g) state that bicyclists and pedestrians "shall be given due consideration in conjunction with all new construction and reconstruction of transportation facilities, except where bicycle and pedestrian use are not permitted". If the results of this consideration show that bicycle and pedestrian facilities are warranted, the expectation is that appropriate facilities will be provided and adequately maintained, for federally funded projects.

2.4 FHWA 1273

Required federal contract provisions are contained in FHWA-1273. These provisions must be included in every federal-aid construction contract. Information on FHWA-1273 can be found here. FHWA-1273 must be physically incorporated in each subcontract and be included in all lower tier subcontracts.

2.5 Civil Rights & Compliance

2.5.1 Title VI of the Civil Rights Act of 1964 (Nondiscrimination)

WisDOT complies with Title VI of the Civil Rights Act of 1964 and other related nondiscrimination statutes. Title VI and other related nondiscrimination statutes prohibit unfair and inequitable treatment of any person based on race, color, national origin, sex, age, or disability.

WisDOT Title VI Documentation

2.5.2 Labor & Wage Compliance

All contracts with any federal funding let to bid require provisions governing the employment and payment of persons hired by contractors, subcontractors, and suppliers to perform the contract work. These contract provisions are outlined in the Form FHWA-1273, Section IV, Davis-Bacon and Related Act Provisions.

Labor Compliance Documentation

2.5.3 Americans with Disabilities Act (ADA)

In compliance with the Rehabilitation Act of 1973 (Section 504) and Title II of the Americans with Disabilities Act of 1990 (ADA), all new construction or alterations of existing transportation facilities must be designed and constructed to be accessible to and usable by persons with disabilities. When public agencies provide pedestrian facilities, those facilities are required to be accessible regardless of the funding source. Pedestrian facilities may include, but are not limited to, sidewalks, crosswalks, shared use paths, curb ramps, highway rest area facilities, and pedestrian overpasses/underpasses. These ADA requirements apply to all projects involving new or altered pedestrian facilities.

ADA Accessibility Standards

Public Rights-of-Way Accessibility Guidelines

Shared use paths and trail projects are also considered pedestrian facilities and must meet ADA standards. These projects must also comply with the WisDOT Bicycle Facility Design Handbook and Facility Development Manual accordingly.

2.5.4 Disadvantaged Business Enterprise Program (DBE)

The DBE Program is a federal requirement legally enforced through Title VI of the Civil Rights Act of 1964 and authorized in each Transportation Bill from ISTEA to FAST ACT. Embodied in the Code of Federal Regulations 49 CFR part 26, the program exists to remove barriers and provide opportunities for business owners who have historically had limited access to engagement in the transportation industry.

2.6 Qualifications-Based Selection (Brooks Act)

State and Federal law require that when federal funds are used, the process of procuring a consultant must be based on the qualifications of the consulting firm, not the prices. The Brooks Act, also known as Qualifications Based Selection (QBS), is in conformance with federal regulations published at 23 CFR 172. This is the same process WisDOT uses when soliciting consultants for state system projects.

QBS Policy (FHWA)

QBS requirements apply to all related services, including program management, construction management, feasibility studies, preliminary engineering, design, engineering, surveying, mapping, or architectural related services. Procurement of design-related services must be conducted following policies and procedures published in the Chapter 8 of the FDM.

If the LPA utilizes a consultant to perform any of the programming phase, including developing estimates and completing the project application, they must be aware of the WisDOT Conflict of Interest Policy. This policy can be found in FDM 8-5-3.

Chapter 3 Planning/Programming (Concept Definition)

This chapter covers the transportation planning and programming processes. For the purposes of this guide, the planning and programming phase includes project solicitation, application, selection, SMA, federal authorization, and change management.

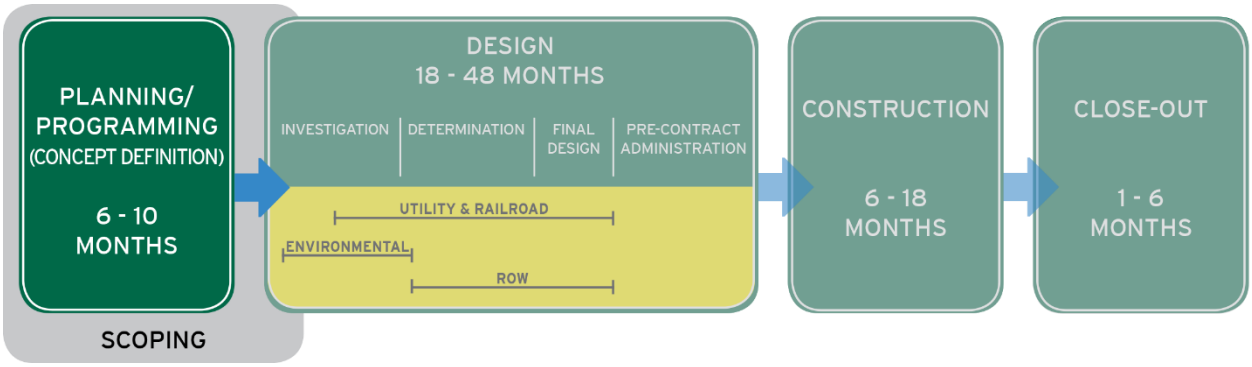


Figure 3.1 Transportation planning and programming timeline

This chapter focuses on the following federal funded programs:

- **STP-Local** – ***New in 2022****, selected by transportation professionals from WI County Highway Association (WCHA, WI Towns Association (WTA), and League of WI Municipalities (LWM)*
- **STP-Urban (large)** – *Selected by MPO/TMAs*
- **STP-Urban (small)** – *Selected by computerized Local Entitlement System (LES)*
- **STP-Rural** – *Selected by computerized Local Entitlement System (LES)*
- **Local Bridge** – *Selected by computerized Local Entitlement System (LES)*

3.1 Planning/Programming Process

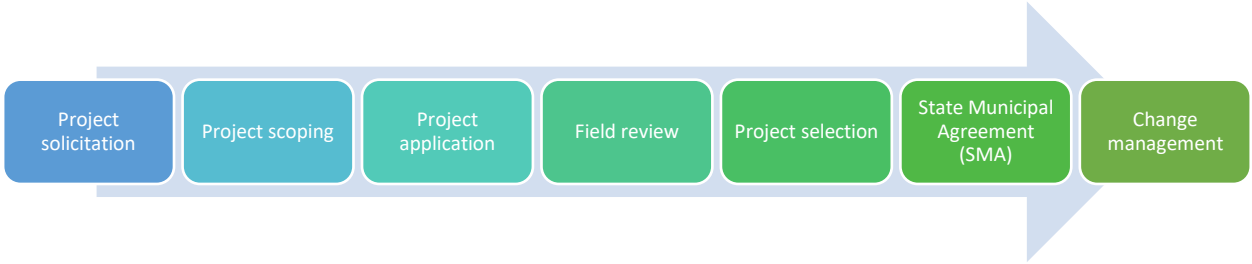


Figure 3.2 Transportation planning process

3.1.1 Program/Project Solicitation

WisDOT Division of Transportation Investment Management (DTIM) solicits new projects in odd-numbered

3.1.2 Project Scoping

To justify expenditure of federal tax revenue, every project must show a comprehensive purpose and need, and have a logical terminus. Accurate scoping includes a detailed description of the work, a project timeline or schedule, and an estimate of cost. The LPA must document all elements of the project scope in a project

application. It is especially important for the LPA to develop a well-defined scope in a project application because WisDOT cannot permit changes to the original scope without written authorization once a project reaches development phase. An accurate well-defined scope is also required to develop an accurate schedule and cost estimate. Without these, potential project delays may impact the LPA budget and financial responsibilities.

Project scope management guidelines

3.1.3 Project Application

All applications and corresponding program guidelines are provided by DTIM. WisDOT reserves the right not to consider as eligible any application that does not adhere to corresponding program guidelines. The LPA is encouraged to contact the Region LPM well in advance of when the applications are due to discuss their projects, and possibly schedule a site visit.

When solicitations are active, applicants interested in pursuing a potential project should obtain a project application from the appropriate program website.

> CAUTION: Failure to follow detailed application instructions or to provide a complete application could jeopardize project approval.

The LPA should submit completed applications to WisDOT into the proper WisDOT e-mail inbox, in accordance with application instructions. WisDOT will not consider applications received after the posted deadline.

3.1.4 Review of Funding and Eligibility

Local improvement projects on connecting highways are not eligible for STP-Urban, STP-Rural, STP-Local, or Local Bridge funds.

For Local Bridge, bridge rehabilitation projects (those functionally obsolete or structurally deficient bridges with sufficiency ratings of 80 or less), a rehabilitation report must be completed and approved by the Bureau of Structures prior to the submittal of the project application. The Policy on Local Program Bridge Approaches is in the FDM.

During the solicitation cycle and prior to the application deadline, WisDOT staff will perform field reviews of project applications verifying **accurate improvement type, estimated cost, project schedule, and project eligibility**. Costs incurred by WisDOT to oversee and review the project are charged to the project. Based on the information provided in the project application, DTIM and Region LPPMs will review the oversight costs to see if these costs are adequate. The costs to oversee and review the project are funded at the same percentage as the design and construction (for example, 80% federal and 20% local). The LPA is responsible for any oversight costs that exceed the project estimate. WisDOT will send an invoice for any amount due for costs at project close out.

3.1.5 Project Selection

Each program utilizes a separate selection process with input from various state agencies and committees. Programs are competitive and typically over-subscribed. Funded projects are announced on the appropriate program website.

3.1.6 State Municipal Agreement (SMA)

The SMA is the legally binding financial contract between WisDOT and the LPA that is required for each transportation improvement project. Funding responsibilities are explained for each party regarding each project within the improvement including:

- Project components that are eligible and ineligible for federal participation
- Responsibilities of each party with respect to roadway or structure ownership, improvement management activities, and on-going facility maintenance
- Liability for improvement-related issues and activities

SMAs demonstrate the LPA financial commitment to an improvement, which is needed for WisDOT and the Wisconsin Division of the FHWA to authorize a project to spend federal funds. Once the SMA is final, it is sent to the LPA, signed by the LPA Approving Authority, and returned to the region for approval. WisDOT will not authorize a project to incur costs until the signed SMA has been approved by the Region.

The SMA will state, at a minimum:

- Scope and location of the project
- WisDOT assigned project ID number(s)
- Percentage and limit of project costs covered by State/Federal funds
- Accounting and record keeping requirements
- LPA obligation to maintain the project after construction
- The sunset date

3.1.7 Change Management

Change management is part of every local program project. The goal is to keep local program funding in the local program which will allow WisDOT to maintain a stable six-year program, to minimize changes to budget and schedule and to have a more active role in managing these project budgets and schedules.

Change management covers schedule changes, cost increases/decreases and scope change. Project applications serve as the project scoping document. If changes in schedule, cost or scope are needed, the LPA will need to submit a written change request for WisDOT approval. Change requests should include the following information:

- The project change requested
- An explanation of why the change is needed
- Any changes to the project timeline
- Any cost implications
- If the LPA proposed an altered project location, the change request must include a map that shows both the original location and the requested location.

The LPA should submit change requests to the WisDOT Region. The Region then transmits the request to DTIM/LPFS for review and approval. Final approval is by DTIM/LPFS. WisDOT's Local Programs Change Management Policy & Process.

Chapter 4 Design

This chapter provides an overview of the design phase of a project. It is during the design process that the project progresses through the steps needed to achieve construction-ready design plans, project specifications, and estimates. Items discussed in this chapter include consultant contracting, application of standards and procedures, roles and responsibilities, design process and stages, and record keeping.

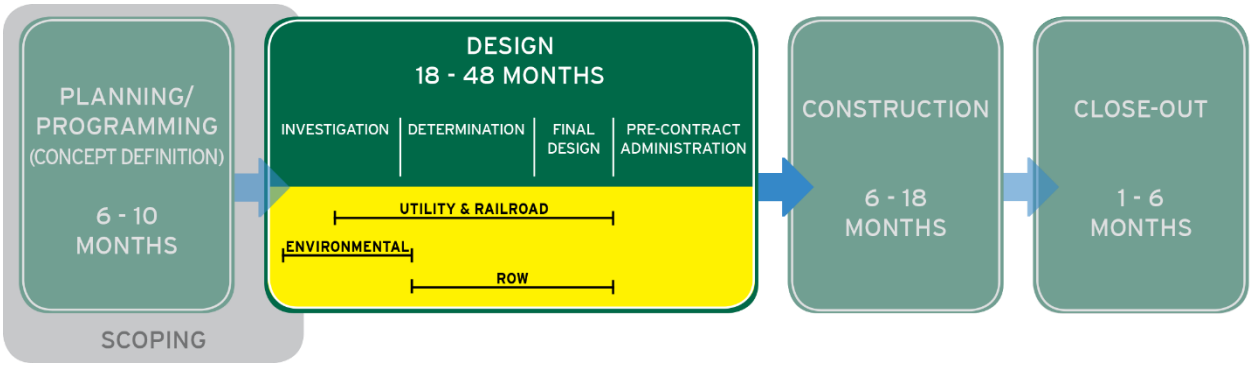


Figure 4.1 Design timeline

The length of the design phase varies based on project complexity, environmental impacts, utility, and railroad coordination, and if real estate is required. A general idea of time required to complete design based on improvement type is shown here.

The LPA should account for review, comments, and time frames for all submittals required including timelines for various clearances including environmental, real estate, utilities, and railroad. Communication with the designer and WisDOT is vital to ensure deadlines are met.

If federal-aid highway funds are used in consultant service contracts, the LPA must comply with procedures set forth by WisDOT and FHWA. Federal-aid funding authorization for the design phase covers scoping, environmental clearances, and preliminary and final design activities. The LPA should be prepared to meet state and federal requirements that normally would not be required for locally funded projects. These additional requirements may result in activities and time frames that may be unfamiliar to the LPA. It should be noted that **federal authorization must be secured before project work begins on any activity in which federal funds are used.** WisDOT is responsible for ensuring compliance with these procedures and will assist as needed.

4.1 Design Responsibility

The LPA can use their own employees, or contract with a consultant for the design of the awarded project. Use of an experienced and qualified consultant is highly encouraged due to the detailed nature of the design process. If the LPA chooses to complete design in-house, they should have well-qualified staff familiar with WisDOT and FHWA processes, policies, and procedures. It's strongly encouraged to have a Professional Engineer on staff. LPAs wishing to undertake design engineering work in-house should contact their Local Program Project Manager for assistance in determining the suitability of this option. For designs employing the use of a consultant, review the following procedures:

- Local Program Project Development Process Training
- Local Program Consultant Selection
- FDM 8-5-20 Securing Consultant Services: Local Design

4.2 Design Process

The LPA should follow the design guidance for a typical project. While every project is different, each phase has a defined timeframe and deadlines. A project can take 18 to 48 months from investigation to bid advertisement. A detailed explanation of the design process can be reviewed in Chapter 3 of the FDM.

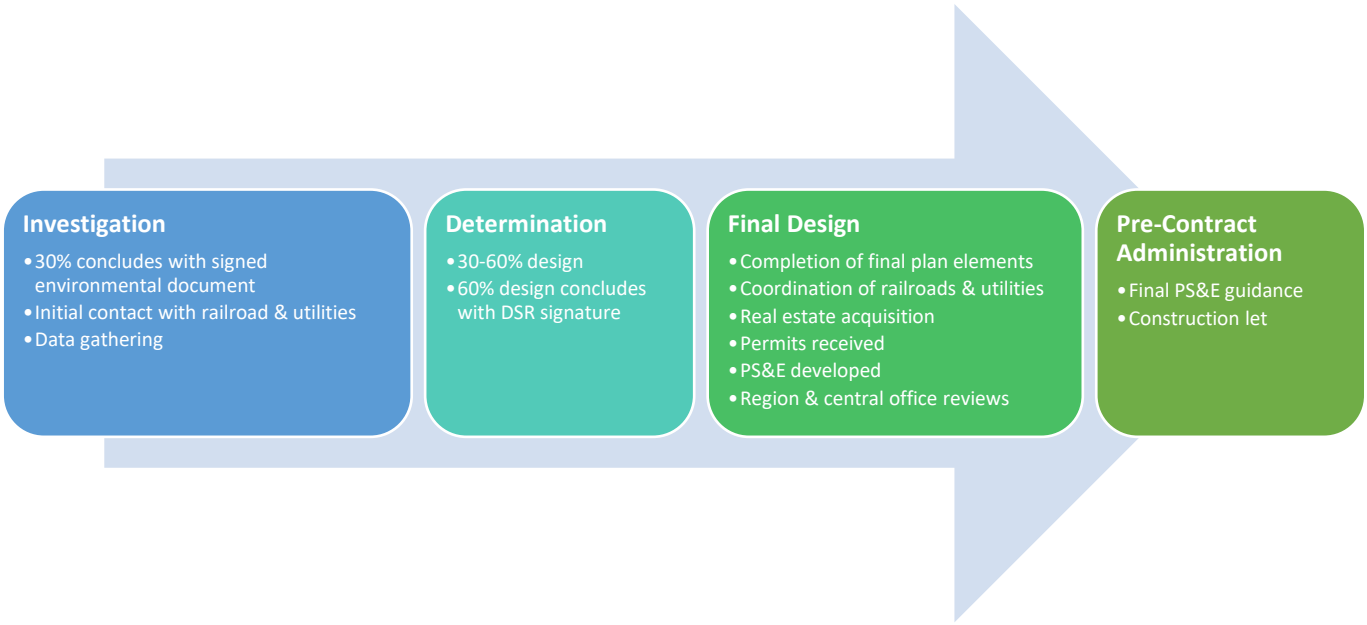


Figure 4.2 Design process

4.3 Environmental Process

CAUTION: The environmental process is a major element in the design process and can have a significant impact on schedule.

This section provides guidance for developing and documenting the NEPA process of federally funded transportation projects, including compliance with various WisDOT and national references, and other related regulations and laws. The NEPA process is the environmental scoping, evaluation, and documentation along with the engineering and design activities necessary to select a project's preferred design alternative. The selected design alternative is recorded in the final approved environmental class action document. If federal-aid funds are used for any part of an LPA project, the LPA must follow the procedures included in this chapter.

Federally funded projects must comply with various federal environmental regulations including but not limited to:

NEPA
CEQ Regulations
FHWA Environmental Impact and related procedures
Section 4(f) of the Department of Transportation Act of 1966
Section 6(f) of the Land and Water Conservation Fund Act (LAWCON)
Endangered Species Act
Migratory Bird Treaty Act
Clean Water Act (CWA)
Clean Air Act
Procedures for Abatement of Highway Traffic Noise and Construction Noise
Section 106 of the National Historic Preservation Act

The LPA should become familiar with the information and documentation requirements that are necessary to complete the environmental process. Environmental issues should be considered as early as possible in the project development process to allow sufficient time to obtain the necessary environmental clearances. The LPA should also be aware of the often-lengthy timelines associated with the environmental process.

4.3.1 Section 404 Permit & Section 401 Water Quality Certification

The Clean Water Act (CWA) requires a permit to discharge fill into United States' waters and wetlands. Waters of the U.S. To discharge fill into navigable waters of the U.S., both Section 10 (Rivers and Harbors Act, 1899) and/or Section 404 (CWA) permits are required. The U.S. Army Corps of Engineers (COE) regulatory branch is the permitting agency for CWA Section 404 permits and has the authority to issue permits provided the state water regulatory agency (DNR) has issued CWA Section 401 water quality certifications. A Section 404 Permit is required whether the project area is located on public or private property, no matter the funding source or environmental action type.

Early coordination with the DNR, the U.S. Fish and Wildlife Service, and the U.S. Army COE is required whenever a wetland, floodplain, stream, river, or water body may be impacted by dredging or filling.

Resource Guidance for Wetland & Waters

Submit Section 404 applications approximately five months to one year before the estimated PS&E date. The earlier the correct information is made available; the sooner the processing can begin. Processing of a routine Section 404 Permit application by the U. S. Army COE is variable. Close and early coordination will assist in reducing delays caused by a lack of information.

4.3.2 NPDES & WPDES Permits

For all projects with one acre or more of land disturbing activity, permits under the National Pollutant Discharge Elimination System (NPDES) and/or Wisconsin Pollutant Discharge Elimination System (WPDES) will be required. These permits are required by the CWA for stormwater discharges from construction sites. NPDES permits are regulated by the EPA, whereas WPDES permits are regulated by WDNR.

NPDES permits apply to any project that has one acre or more of land disturbing activity and is located wholly or partially within tribal boundaries. These permits can fall under either the EPA's Construction General Permit (CGP) or under an individual permit, depending on the permit's eligibility criteria and project specific impacts. Please note that work on tribal lands will also require coordination with the affected tribe and other permits may be required through tribal laws.

WPDES permits apply to any project that has one acre or more of land disturbing activity and applies to the areas outside of tribal boundaries. These permits can fall under either the DNR's Transportation Construction

General Permit (TCGP) or under an individual permit, depending on the permit's eligibility criteria and project specific impacts. WPDES requirements are governed under Wisconsin Administrative Code NR 216.

For projects that fall both inside and outside of tribal boundaries, there will need to be coordination with both WDNR and EPA to determine the appropriate permitting needs.

4.3.3 Stormwater Reports

Stormwater reports are required at 30 percent, 60 percent, and 90 percent design submittals per the FDM. WisDOT has also developed a post-construction stormwater management program based upon federal regulations, TRANS 401, the Transportation Construction General Permit (TCGP) process and the FDM.

The LPA can use the stormwater report to assist with negotiations for any cost sharing of stormwater control practices from offsite runoff with local communities because the stormwater report specifically distinguishes between on-site and offsite runoff and pollutant loading.

TRANS 401 was created to establish and implement erosion control and stormwater management standards for airport, railroad, highway, and bridge projects which are administered by WisDOT.

TRANS 401 establishes minimum performance standards which all projects should meet. An erosion control plan and an erosion control implementation plan are also required under Trans 401. Erosion control and stormwater management measures should be maintained and inspected prior, during and after construction or maintenance of a transportation facility.

The LPA will use the guidelines in the FDM to determine the water quality objectives for the project. Consult with your designer or LPPM with questions or concerns about the appropriate objectives. Issues to be addressed as part of post-construction stormwater management include:

- Total suspended solids
- Peak discharge
- Infiltration
- Buffer areas
- Timing
- Swales

The stormwater report consists of WisDOT spreadsheets, along with accompanying documentation such as narratives, maps, exhibits and calculations, as needed. The report provides a framework to calculate and document not only a project's hydrologic and hydraulic analysis but also any potential project runoff quality impacts. It should be used throughout the project to assist the engineer with the development of appropriate and cost-effective stormwater treatment practices. Though the stormwater report must be submitted at PS&E, preliminary versions should also be submitted at the (1) **project planning level**, at the (2) **investigation submittal** (to reflect stormwater and drainage coordination with all stakeholders), and at the (3) **determination submittal** (to include as much drainage and stormwater design information as is available).

4.3.4 Section 4(f)

Section 4(f) of the Department of Transportation Act of 1966 provides that the U.S. Secretary of Transportation shall not approve any program or project which involves the use of any publicly owned land from a public park, recreation area, historic site, or waterfowl or wildlife refuge of national, state, or local significance, as determined by the officials having jurisdiction therefore, unless there is no feasible and prudent alternative to the use of such land and such project includes all possible planning to minimize harm.

Some examples of Section 4(f) lands, determined on a case-by-case basis, include the following:

- Publicly owned recreation areas
- National, state, county, town, city parks
- Wild/scenic rivers
- Water trails
- Conservancy lands
- Wetland/stream easements w/ public access
- Public/private Historical and archaeological sites
- Specially funded lands that specify public access

Programmatic applications of Section 4(f) need only be applied if project needs are substantial. In such instances, review the Chapter 20 of the FDM and prepare documents as needed.

4.3.5 Section 6(f)

Section 6(f)(3) of the Land and Water Conservation Fund (LWCF) requires that property acquired or developed with LWCF funds shall not be converted to uses other than for public outdoor recreation use. Acquisition of any land for which LWCF funds have been used for prior acquisition or improvements invokes the strictures of Section 6(f)(3). Coordination with the DNR is necessary as the DNR is the state agency responsible for administering LWCF funds. The federal agencies responsible for the management of LWCF funds and affected lands at the national level are under the auspices of the U.S. Department of the Interior and the U.S. Department of Agriculture. These agencies are the USFWS, NPS and USFS.

If a highway project requires the acquisition of Section 6(f) lands, the lands acquired for ROW purposes must be replaced with other property of at least equal fair market value and of reasonably equivalent usefulness and location. In evaluating the impacts of the acquisition on these lands, a recommendation of replacement lands should be included, indicating the areas under consideration for replacement.

The LPA is responsible for completing and documenting all relevant background research and investigation information pertaining to Section 4(f) and Section 6(f) resources and determinations.

4.3.6 Hazardous Materials Investigation

It is the policy of WisDOT that all transportation improvement projects under its jurisdiction shall be evaluated to determine if they warrant a hazardous materials investigation. The goal is to discover all contamination as early as possible in the facilities development process to permit the timely consideration of options for avoidance or remediation. Early discovery allows responsible parties time to remediate contamination prior to construction. When avoidance is not appropriate, early discovery will allow for efficient and environmentally sound remediation of the contamination.

Determine if a given project requires a hazardous materials assessment. In general, projects that involve ROW acquisition or more than two feet of excavation will also require this process. Review ***Potentially Exempt Projects*** in FDM Chapter 21-35-1. Hazardous materials assessments need to be conducted early in the project development process to minimize the risk of unexpected project costs and risks. The LPA must have a qualified person review the project area to assess the potential for hazardous materials.

If the LPA does not have a contract with an environmental consulting firm, the LPA may use the current state contracts for hazardous materials assessments through one of the following processes:

1. Use the cooperative purchasing process and contract with one of the firms currently under contract to the state. In VendorNet, search using the key word **hazmat**. Municipalities can acquire many products and services through contracts listed on VendorNet, saving 20% to 60% off retail prices using statewide contracts.
2. Coordinate with WisDOT to have the inspections done by one of the firms under contract to WisDOT. The work will be charged back to the Project ID under the terms of the SMA.

Site assessment and remediation is divided into five phases. The timing relationship between the phases and the PS&E due date are included in FDM 21-35, Attachment 1.2. Each of the first four phases ends with a report recommending whether there is a need for further action.

4.3.7 Noise Study Report

An LPA must prepare a noise study analysis in accordance with Federal-Aid Policy Guide (FAPG) Part 772 and FDM Chapter 23 for any project where a noise impact (change in noise levels) is expected to occur as a result of the project. Noise analysis documentation must be concluded and approved prior to PS&E approval.

4.3.8 Air Quality

Air pollutants are natural and man-made contaminants in the atmosphere. There are six major atmospheric pollutants from mobile sources:

- Carbon Monoxide (CO)
- Hydrocarbons (HC)
- Oxides of Nitrogen (NOx)
- Total Suspended Particulates (TSP)
- Sulfur Oxides (SOx)
- Photochemical Oxidants

An air quality analysis is done on a mesoscale (or regional) and a microscale (or corridor) level. The LPA should coordinate with WisDOT to determine if any additional analysis is required. Requirements for this process can be found in the FDM, Chapter 22.

4.3.9 Section 106 of the National Historic Preservation Act (NHPA)

For federally-funded projects that may take place on historic lands preserved under Section 106, 36 CFR 800.1(a) of the NHPA, the LPA and PM must review FDM Chapter 26-5 to determine the necessity to *Establish an Undertaking*. Flowcharts and decision-trees are available in the FDM to demonstrate the Section 106, 36 CFR 800.1(a) process.

Coordination with all Wisconsin tribes is undertaken for all WisDOT projects and is not limited to projects occurring on tribal or trust lands.

Section 106, 36 CFR 800.2 (c)(2) of the NHPA stipulates that Native American tribes be provided a reasonable opportunity to identify their concerns about historic properties, advise on the identification and evaluation of historic properties (including those of traditional religious and cultural importance), articulate their views on the undertaking's effects on such properties, and participate in the resolution of adverse effect.

The tribal chairperson and the historic preservation person for the Native American tribes should be contacted regarding WisDOT-administered projects. A letter notifying the tribes of a project administered by WisDOT should be sent as part of the scoping process. Consulting tribal representatives shall be invited to

scoping meetings, meetings with other agencies and local officials, public information meetings, and public hearings. Contact lists for Tribal Historic Preservation Officers and Tribal Leaders are provided.

4.3.10 Endangered Species Consultation

Section 7 of the Endangered Species Act (ESA) requires federal agencies (such as FHWA) to consult with the U.S. Fish and Wildlife Service (USFWS) to ensure that actions funded, authorized, permitted, or otherwise carried out will not jeopardize the continued existence of any endangered species or adversely modify designated critical habitats. Legal resources for federal and state requirements, as well as FDM references are available on the WisDOT website.

4.3.11 WisDOT and DNR Cooperative Agreement

The LPA is responsible for obtaining and complying with all federal, state, and local permits and authorizations that are necessary to construct the project, including DNR permits. The DNR has the legislative responsibility for administering state natural resources laws and several federal environmental laws. Since most WisDOT projects have potential effects on some aspect of the natural environment, coordination with the DNR is always a crucial part of project development.

In accordance with the provisions of the cooperative agreement, the DNR transportation liaison should be contacted with regard to any project involving their areas of jurisdiction, namely, land and water resources including state and federal wild and scenic rivers, air quality, noise, and hazardous substances. Evidence of that contact, such as letters or records of telephone conversations, meetings, field reviews, etc. should be included in the environmental document. Coordination can be initiated by sending a completed DNR Project Coordination Request Template to WisDOT for review and submission to DNR.

4.3.12 Review Process of Environmental Document

In accordance with the CEQ regulations, each federal agency must identify those typical classes of action that require an Environmental Impact Statement (EIS), an Environmental Assessment (EA) but not necessarily an environmental impact statement, or require the preparation of a Categorical Exclusion (CE), Environmental Report (ER) or Categorical Exclusion Checklist (CEC).

Current guidance on these action types and various other environmental processes and requirements is included in FDM Chapter 20 and on the WisDOT Environmental Programs site.

Figure 4.3 Environmental document types

4.4 Real Estate

When right of way is needed or was previously purchased and will be incorporated into the project, the LPA is responsible for ensuring all federal laws and regulations, state statutes, policy, and procedures are followed. This applies when a municipality uses state or federal funds anywhere in a project, as well as when real estate is purchased with local funds. This section provides a very brief overview of these procedures. For a more detailed visualization of the Real Estate process, see page Direct any questions to the Local Program Real Estate Manager (LPREM) or the regional Local Program Real Estate Project Manager (LPREPM).

Additional resources include:

- Local Program Real Estate Manual: real estate acquisition process in the local program
- LPA Toolbox: summary/overview of real estate forms and processes
- WisDOT Real Estate Program Manual (REPM): detailed real estate requirements and procedures

4.4.1 Timeline

ROW must be clear (Certification #1) by the PS&E date. Clearing by AD or LET is not sufficient to assure the project's current construction schedule. Any project where the ROW is not cleared by PS&E will be at risk for delay. The time required to complete acquisition varies from project to project. Factors include number of parcels, complexity of the acquisitions, partial releases, local government's approval process, etc. As a general guideline, no less than 12 months should be provided from the time the plat is approved to the project's scheduled PS&E date.

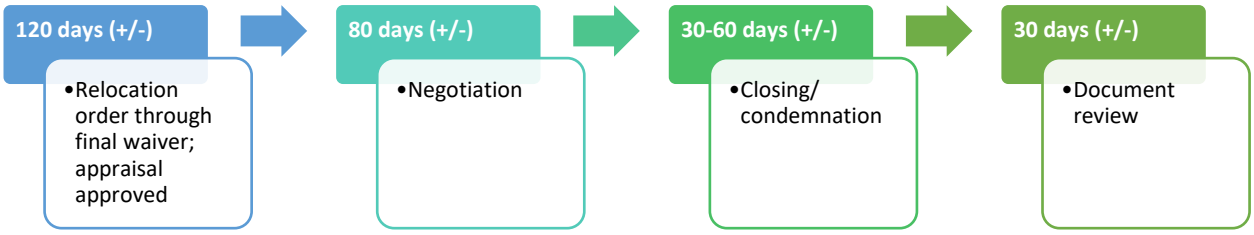
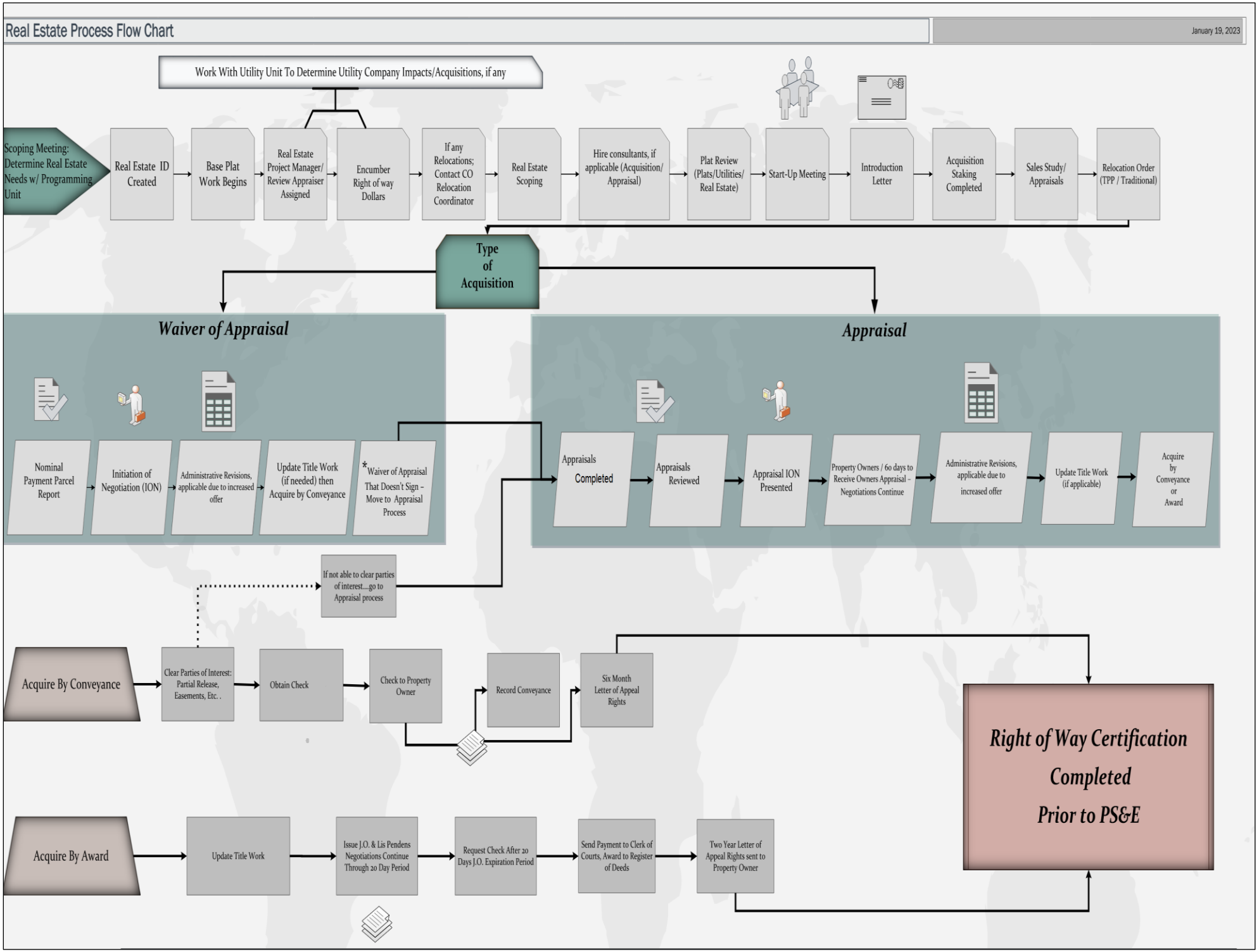


Figure 4.4 Real estate timeline

Figure 4.5 Real estate flow chart



4.5 Utility Coordination

Utility companies serve customers that are also served by the road network and have traditionally constructed their facilities on or adjacent to state highway, local road, and municipal street corridors. Because of this permitted use of the ROW along these transportation corridors, there is always the potential for conflicts.

Although it is desirable to avoid utility conflicts, it is not always possible to design around existing utility facilities. To reduce or eliminate utility conflicts, it may be necessary to modify the highway design, relocate them off highway ROW, or have the utilities rearranged within existing or new highway ROW to be compatible with the new construction. The cost of relocating these facilities may be financed entirely by the utility company, entirely by the LPA, or shared between them based on policy or law. To accomplish this relocation and resolve conflicts requires continuing liaison, coordination, and cooperation between the LPA, WisDOT, consultants, and utility company representatives.

In general, it is the LPA's responsibility to coordinate utility conflicts for the project.
The department has created a Local Project Utility Coordination Task List to help give LPAs guidance through the utility coordination process. This task list should be tailored based on project specific information. The LPA or design consultant fills out and approves the task list then sends to the LPPM for review.

- Utility Coordination Process
- Utility Coordination Forms & Guidance

4.6 Railroad Coordination

CAUTION: If there is a railroad within 1000 feet of the project in any direction, the LPA should notify the LPPM or Regional Railroad Coordinator (RRC).

Projects with railroad impacts are not simple and do not fit the streamlined PS&E process. During the project scoping phase, it is important to identify railroad impacts and provide time and effort into the proposed schedule. It is not unusual to add one year (or more) to a project's schedule for railroad coordination. The Regional Railroad Coordinator (RRC) should be contacted early in the process.

It is important to be aware of the following project limits:

- Project cannot stop just short of a crossing to avoid railroad impacts; it must end at a logical point.
- RR cannot determine project limits. LPA cannot stop a project short to avoid upgrading a crossing.

Other items of note include:

- WisDOT, through Railroad and Harbors section (RHS) shall negotiate necessary agreements with railroads.
- Crossing design submittal is required at least 24 months prior to letting.
- Coordination for structure work over a railroad usually takes longer than an at-grade crossing.
- Any work within 50 feet of railroad ROW requires the contractor to carry railroad protective insurance.

4.6.1 Certificate of Coordination of Railroad Work with Highway Construction

A Certificate of Coordination of Railroad Work with Highway Construction (DT 1804) is required for all project PS&E submittals regardless of railroad impacts.

The RRC and/or the LPA are responsible for completing DT1804 at PS&E. The RRC shall sign DT1804. The RHS within the Bureau of Transit, Local Roads, Railroads and Harbors (BTLRRH) will review DT1804 prior to clearing the project for letting.

4.7 Design Delivery

This section provides an overview of the design delivery phase of a project. It is during the design process that the project progresses through the steps needed to achieve construction-ready design plans and project specifications and estimates.

4.7.1 Preliminary Engineering Checklist

Complete the preliminary engineering checklist and review with the Region LPPM at the beginning of the project. This checklist will help make sure the Plans, Specifications, and Estimates (PS&E) and other contract documents are developed in accordance with the program guidelines.

4.7.2 Public Involvement Plan

A Public Involvement Plan (PIP) is a detailed and sequential list of planned contacts with the public. It is formulated specifically for individual projects to ensure the affected public can be involved in an orderly manner that is consistent with the WisDOT philosophy of *Community Sensitive Solutions*. Since this plan references only intended public involvement, it is updated as intentions change or when planned activities are completed.

The PIP is developed during the scoping stage, prior to the Operational Planning Meeting (OPM). The LPA is responsible for designing the project and is also responsible for developing the plan.

Local Program PIP Form

4.7.3 Transportation Management Plan

A Transportation Management Plan (TMP) is a set of coordinated transportation management strategies and describes how they will be used to manage work zone impacts of a road project. The LPA should develop a preliminary TMP early in the design process. The LPA needs to maintain consultation with the LPPM during TMP development.

There are two different types of local program TMPs, categorized by the degree to which they impact traffic mobility, safety, and cost. Each level has its own process and approval. The LPA should coordinate with the LPPM to identify which TMP is applicable. Guidance for components and mitigation strategies is available in the FDM.

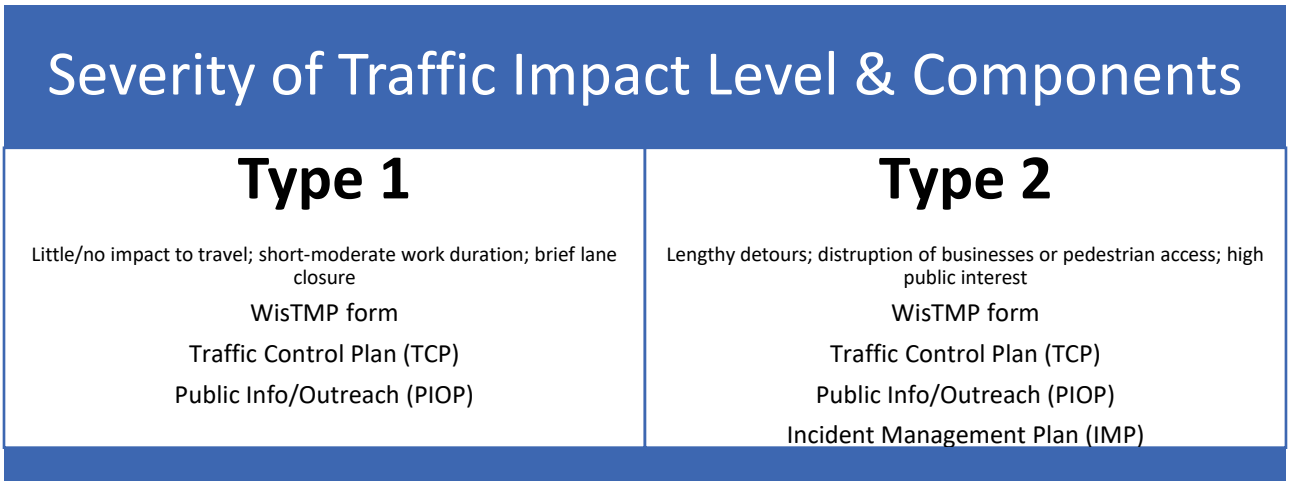


Figure 4.6 Local Program TMP types

All TMP approval is performed in the WisTMP system and controlled by the LPPM. Per FDM, Type 1 TMPs are only reviewed at 60%. Most TMPs stay within the region for approval at both levels. TMPs that have federal oversight checked will be routed to FHWA and to the Bureau of Traffic Operations (BTO).

4.7.4 Traffic Forecast Request

Traffic forecasting is the process of estimating the number of vehicles that will use a specific roadway in the future. Forecasts explain what the needs of the future might be and provide benchmarks for proper design and efficient transportation system operation.

It is imperative that the LPA prepare a forecast (and counts if needed) early in the life of a design project. Traffic data and forecasts will affect a project's pavement design, traffic analysis (if required), DSR, preliminary plans, project specifications and project cost estimates. The LPA is responsible for the traffic forecast and is the designated approver of the traffic forecast. Traffic forecasting policy, responsibilities and guidance are outlined in Chapter 9 of the WisDOT Transportation Planning Manual (TPM).

4.8 Preliminary Plans

A preliminary plan should be prepared for every project. The preliminary plan is a graphical representation of the Design Study Report (DSR). Its purpose is for designers and reviewers to reach agreement on the project concept and impacts.

A **preliminary plan checklist** has been created that identifies items that can potentially be included in a preliminary plan. Items unique to a specific project should be added to the list. This list can be used during project scoping to determine the content of preliminary plan to be submitted.

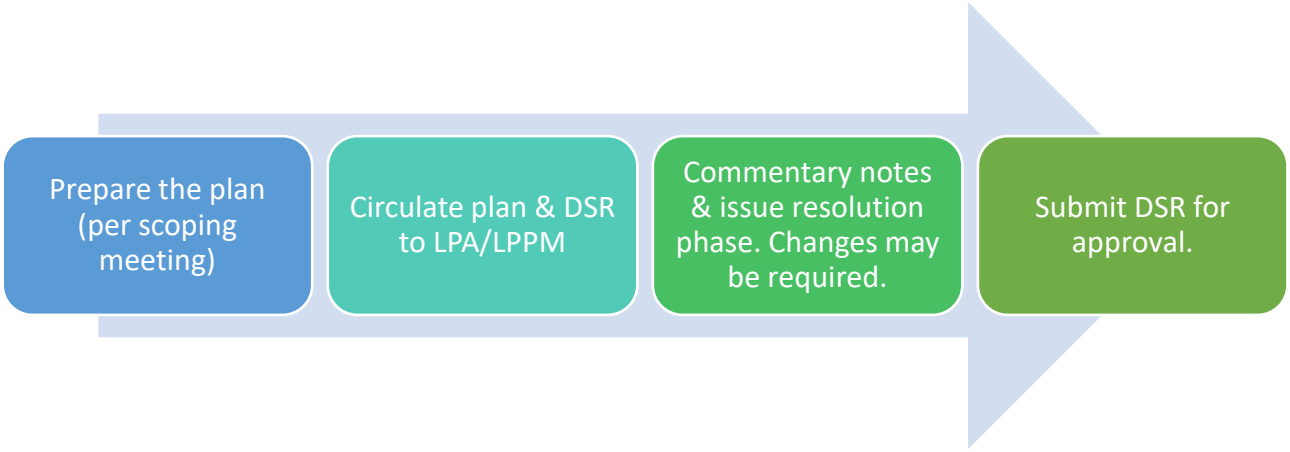


Figure 4.7 Preliminary plan checklist

4.9 Bridge Approach Length Justification

Due to limitations on some roadway classifications, local bridge costs are limited to only those approach costs that are necessary to render the bridge serviceable (to reach the attainable touchdown points using current standards). Bridge Approach Lengths are identified and agreed to in the project application. Approach lengths can be altered after the initial application by presenting the appropriate design modification with supporting justification at project milestones. Requests for funding increases because of design modification will require the LPA to follow the WisDOT Change Management Procedure.

4.10 Cost Effectiveness Finding

The type of work associated with LFA (Local System) will typically be limited to locally maintained traffic signal, lighting, signing, pavement markings, guardrail and utility work related to WisDOT improvement projects that can't be accommodated through the project letting or utility adjustment processes. Very narrow LFA exceptions may be made at WisDOT discretion; decisions will be made by on a case-by-case basis.

Refer to FDM 3-5-10 for more information on LFAs.

4.11 Design Study Report

The purpose of the DSR is to document the decisions and rationale for decisions in the development of a project. The designer is responsible to complete the DSR, LPA is to review and recommend approval, and the LPPM is to approve. In certain circumstances, the department's Design Oversight Engineer will need to review and concur with the DSR.

The DSR must be approved before the final design can begin on a project and before real estate relocation orders can be approved and acquisition can begin. The DSR serves as the bridging document between preliminary and final design, serves as a good summary of project decisions, and a "checkbox" for the LPA for preliminary design. Templates and guidance for the DSR include:

- FDM 11-4-10 Design Study Report
- Local Bridge Design Study Report

LPAs that choose to build a bridge replacement project beyond the Local Bridge Funding Policy design criteria may be subject to an increased local cost share. Designers of such projects would need to process the Modernization Design Study Report.

4.12 Encroachment Report

An encroachment is any unauthorized object located partially or wholly within the highway ROW. This includes but is not limited to buildings, signs, fences, or other objects as well as any unpermitted uses such as parking lots, driveways, etc. Consistent with statutory requirements, it is the policy of the Division of Transportation Systems Development (DTSD) that no encroachments will occupy highway ROW. Under no circumstance will an encroachment be created due to the purchase of new ROW. Existing encroachments that do not interfere with the safe and efficient movement of traffic may be allowed to temporarily remain in place if removal would be impractical or would create a hardship on the owner.

4.13 Structures

The LPA should be familiar with the standards and procedures used throughout the WisDOT Bridge Manual. It includes the established standards and guidelines for application on all structures being designed for WisDOT. The design information presented is based primarily on policies, standards, and specifications. Standard parameters and example plans are also available.

The Structure Survey Report (SSR) contains all data necessary to design a structure. It is prepared and submitted by the LPA or their consultant to the Bureau of Structures (BOS) unless the LPA involvement is not in the structures portion of a design. Several standard forms have been created for specific situations, including:

- Separation Structure Survey Report (DT1694)
- Rehabilitation Structure Survey Report (DT1696)
- Stream Crossing/Box Culvert Structure Survey Report (DT1698)

During design, staff from the BOS will review specific aspects of the project. These reviews can occur at different times during design. The final plan submittal shall be submitted a minimum of 2 months before the earliest possible PS&E via WisDOT's e-submit process.

4.14 Final Plans and Process Overview

Since each project is different, the scope of the development/design work and the expectations for each stage submittal must be coordinated with the LPPM and with the appropriate WisDOT review groups throughout development/design. Coordinate with the LPPM and designer regarding the process of reviewing and commenting on submittals for 30%, 60% and 90%. **Good communication throughout the project is key to design success.**

Chapter 5 Construction

Planning, programming, scoping, and design activities are prerequisites to construction. This chapter describes the primary considerations and activities involved in constructing LPA projects. WisDOT is responsible for administering the bidding and construction of federally funded transportation projects. They are responsible for ensuring that all projects comply with applicable state and federal requirements; providing adequate inspection and supervision during construction of approved PS&Es; and FHWA closeout requirements.

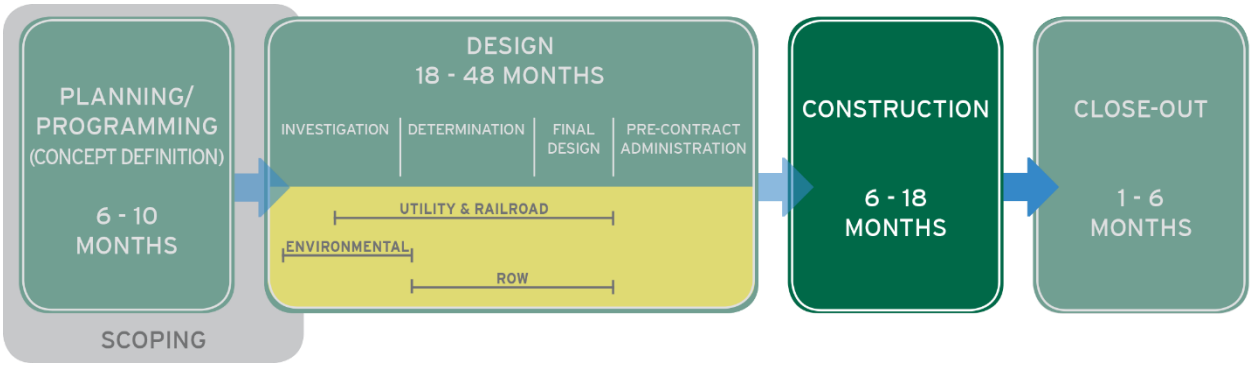


Figure 5.1 Construction timeline

WisDOT and FHWA have policies and procedures that the LPA must follow for projects that received federal-aid funds. This chapter illustrates general procedures and requirements for federally funded projects and **must be followed.** For projects that do not receive federal funds, the LPA may follow their own construction procedures.

5.1 Preconstruction

Figure 5.2 Preconstruction process

5.1.1 Preconstruction process documents and guidance

- Highway Construction Contract Information (HCCI)
- Contract Documents
- Bidding Requirements & Conditions
- Contract Award & Executions
- ECIP Guidance/Form
- Preconstruction Meeting Guidelines
- Notice to Proceed

5.1.2 Project Advertisement

Projects are advertised publicly on the WisDOT website, approximately five weeks prior to the bid letting. Prospective bidders can view bidding procedures and project descriptions. During the advertisement period, bidders submit sealed project bids to WisDOT until 9:00 AM on the day of letting.

Future Letting Schedule

5.1.3 Project Letting

When the advertisement period ends, all sealed bids are publicly opened and read aloud. Bid reading confirms successful bids and establishes the project cost. WisDOT publishes all read bids on their website at approximately 9:30 AM on the day of letting.

5.1.4 Project Award

WisDOT will compare and analyze all bids to identify irregularities and ensure bidder eligibility. Upon completion of the process, the contract is awarded to the *lowest responsible bidder*. Awards are typically approved on the Friday following the letting day. Once awarded, the LPA can follow the execution process via the HCCI contract log.

In accordance with federal requirements, the prime contractor is required to perform at least 30% of the original contract work. The purpose of this requirement is to prevent brokering.

5.1.5 Contract Execution

Upon notification of award, the bidder has 10 days to return all documents necessary for contract execution (signed contract, bond, 30% rule documentation, sublets, DBE documentation). All documents are reviewed and approved. The contract will be executed with a signature of approval from the Governor of Wisconsin.

The date of contract execution is critical to the construction process. The next stage of preconstruction cannot begin, and no work can start, until the contracted is executed. Project delays can occur if documentation is not submitted in a timely fashion.

5.1.6 Erosion Control Implementation Plan (ECIP)

Trans 401.08 requires the prime contractor to prepare and submit an ECIP for any WisDOT administered projects. The prime contractor must submit the ECIP at least 14 days prior to the preconstruction meeting. Complexity of the ECIP is dependent on project type. The ECIP contains project implementation details that indicate the timing of project activities related to erosion control, such as staging and placement of erosion control practices, locations of borrow sites and material disposal locations. Changes to the ECIP require an amendment.

5.1.7 Preconstruction Meeting

Guidance for the preconstruction meeting can be found in the CMM. At the preconstruction meeting, WisDOT staff, consultants, contractor staff, and the LPA will begin the process of creating the project team. The project engineer (PE) assigned by WisDOT will lead the meeting. A written record of the meeting will be drafted for the region file and include attendance, plans, problems discussed, and decisions made. Copies will be available upon request.

5.1.8 Notice to Proceed (NTP)

The NTP authorized the bidder to begin work on the project. This is the last step in the preconstruction phase. The contract start date is defined as ten days from the date listed on the NTP (or sooner). The NTP start date process discourages the bidder from delaying start dates.

5.2 Construction

5.2.1 Construction Oversight - General

Projects are required to follow the procedures outlined in the WisDOT Standard Specifications for Highway and Structure Construction and the Construction and Materials Manual (CMM).

5.2.2 Construction Oversight by Consultant

General interest in performing construction engineering services for WisDOT is solicited from consultants who are included on the WisDOT Roster of Eligible Engineering Consultants. Only firms on the roster are eligible for construction engineering contracts. Firms awarded preliminary or final design engineering contracts are eligible to pursue construction engineering services for that same project under one (or both) of the following conditions:

- A separate firm is under contract to lead the construction engineering effort for that project and has not had a contract associated with the preliminary or final design of the project (either solely or as part of a joint venture).
- WisDOT employees are leading the construction engineering effort in the field, and design firm staff only provide support for the construction engineering effort.

Each fall, WisDOT advertises construction projects for the following construction season. Once published, consultants interested in being considered for available projects must submit a completed Notice of Interest (NOI) questionnaire form via Masterworks. Construction engineering interviews are held at the annual construction fair. Consultants present their qualifications and expertise to WisDOT staff. A regional selection committee, led by the Consultant Unit Supervisor, makes recommendations for consultant selections, and then submits their recommendations to the Statewide Consultant Engineer for final review. Following the consultant award for construction engineering services, WisDOT and the construction services consultant negotiate their contract based on demonstrated competence and qualifications, at fair and reasonable prices.

5.2.3 Construction Oversight by LPA

Though it is not common, in some instances WisDOT may negotiate with the LPA for field services involving administration, engineering, surveying, inspection, and materials sampling and testing on let road and bridge construction projects on the local system of highways. LPA staff would perform duties of PE and inspector. LPA personnel are expected to represent WisDOT in the same competent and positive manner, as would WisDOT and/or consultant employees. To provide construction engineering services on let projects on the local highway system, the LPA is required to be “adequately staffed and suitably equipped”. Submission of the DT2060, Prequalification - Local Unit Performing Construction Engineering to WisDOT demonstrates these qualifications. To perform construction engineering, the LPA must have at least one staff person that is registered as a professional engineer. Holding a current Certificate of Authorization to practice professional engineering in the state of Wisconsin is satisfactory evidence of professional engineering registration.
Once prequalified to provide construction engineering services, the LPA would indicate their desire to work on a particular project by submitting a "Letter of Interest". The letter should state the LPA’s desire to provide services, indicate staff available for the project, detail staff experience in providing construction-engineering services, estimate the time each of the staff would be needed, and request approval to provide services.

WisDOT would review the "Letter of Interest" to be sure the correct number of staff are planned, that the staff are available for the correct time, and that the staff are qualified for construction engineering services. If all elements are in order, the LPA would be authorized to provide the construction engineering services.

5.2.4 Contractor Role

To satisfactorily perform and complete the work of the WisDOT contract, the contractor provides a competent superintendent (or designated representative) with full authority to execute directions or instructions of the engineer without delay, and to promptly supply all things needed to properly perform the work. The prime or general contractor is responsible for coordinating the efforts of various subcontractors. Instructions and suggestions concerning the work are given to the contractor, superintendent, or work supervisor, but not to the workers. Any suggested changes are given solely for the benefit of the work and are clearly differentiated from directions.

The PE and staff do not manage the contractor's operations. The PE and inspectors do not act as foreperson, superintendent, or coordinator for the contractor.

5.2.5 Contract time/ Schedule

Contract time and schedule will vary depending on the size and complexity of the project. The contractor is required to submit a project schedule indicating that they can complete all project requirements within the specified number of contract days or by the completion date. Timely decision making and monitoring construction activity aids in maintaining the schedule. Contractors' schedules consider anticipated weather days, holidays, and other weather-related activities. Time extensions will only be allowed if justified and approved via contract modification.

5.2.6 Weekly Progress Meetings

The PE typically holds weekly progress meetings with WisDOT, project staff, the prime contractor superintendent, and subcontractors. Progress meetings provide opportunities to identify and resolve issues. There may be select noncomplex, low-cost projects where weekly meetings may not be necessary. The intent is that these meetings be kept as brief as possible to minimize demands on attendees and enable prompt distribution of notes.

5.2.7 Public Communication

The consultant and/or the LPA are in the best position to provide information about the project, including day-to-day inquiries from citizens, media, and the public. Some guidelines for local program public information include:

- Letters should go out on the letterhead of the LPA. Letters sent by the consultant may utilize the consultant's letterhead with permission from the local municipality.
- The LPA should distribute any needed news releases. WisDOT letterhead should not be used for these releases and the text of the release should not indicate the information and/or announcement is being made on behalf of WisDOT.
- Local projects with budgets of $300,000 or more may be included on region weekly construction updates. PEs for local projects are responsible for providing the project updates to region communication staff.
- The PE should be advised of controversial issues related to local program projects.

Open communication is critical to the success of a project. The LPA is encouraged to meet with project staff frequently to communicate any questions or concerns they may have.

5.2.8 Utility Coordination

WisDOT Guide to Utility Coordination

5.2.9 Construction Project Documentation

Proposal: DT1633 Proposal Request & DT1633 Guidance

Contract: WisDOT Highway Construction Contract Information. Contract includes notice to contractors, proposal, contract form, contract bond, standard specifications, special provisions, addenda, general plans, detailed plans, notice to proceed, and contract change orders and agreements required to complete the construction of the work in an acceptable manner, including authorized extensions, all of which constitute one instrument.

Materials Records: Materials Testing & Acceptance Materials (CMM, 845), Materials Reporting/Tracking (CMM 165). Construction operations are monitored to identify potential nonconforming materials and prevent their incorporation into the work. All materials are subject to the engineer's approval before incorporation into the work. The engineer may inspect or test all materials at any time during their preparation, storage, and use. The PE designates one person to act as the materials representative for the project to oversee and ensure all materials are in conformance with the contract. The contractor also designates one person, either a member of the contractor's own organization or acting as an agent for the contractor, to be responsible for communicating with the engineer representative and ensure materials conform to the contract. Contractors are contractually required to supply material in conformance with the contract; changes would have to go through the contract modification process.

All testing personnel are required to obtain the appropriate levels of certification to conduct their assigned roles and duties. University of Wisconsin – Platteville maintains a list of certified testers for various construction materials as well as training programs and guidance on becoming certified. Laboratories must be properly certified to complete the materials testing activities. The WisDOT website provides a yearly certification list for all qualified laboratories.

Buy America: Listed in the project special provisions, it states all steel and iron materials permanently incorporated on the project are required to be domestic products; all manufacturing and coating processes for these materials from smelting forward in the manufacturing process must have occurred within the United States. Coating including epoxy coating, galvanizing, painting, and any other coating that protects or enhances the value of a material is subject to the requirements of Buy America. The exemption of this requirement is the minimal use of foreign materials if the total cost of such material permanently incorporated in the product does not exceed one-tenth of one percent (1/10 of 1%) of the total contract cost or $2,500.00, whichever is greater. Upon completion of the project the contractor certifies to the engineer, in writing, that all steel, iron, and coating processes for steel or iron incorporated into the contract work conform to these "Buy America" provisions.

Haul Roads: Haul Road Spec 107 Haul roads are utilized for hauling materials incidental to the construction of the project. The LPA is responsible for any damage caused by legally hauled loads, including permitted Oversize/Overweight (OSOW) loads. The contractor is responsible for any damage caused to haul roads if they do not obey size and weight laws, do not use properly equipped and maintained vehicles, and do not prevent spilling of materials onto the haul road. PEs will assist the LPA with documenting haul routes if requested. Specific haul routes may not be designated in the contract without a public interest finding that is approved by WisDOT and FHWA (if applicable).

Source Documents: The PE and staff under the PE's jurisdiction are required to maintain accurate and complete records of the work during the administration of a construction contract. It is of prime importance that measurements and calculations of contract quantities are accurate, complete, and detailed enough to sustain an audit, and that records of all activities pertaining to the contract contain sufficient detail and are clear enough to be read and understood by anyone unfamiliar with the contract. Standard forms are provided for reporting progress on various phases of work and for reporting other activities pertaining to the administration of the contract.

Correspondence Files: Correspondence is documented and filed to provide an accurate record of activities. These include pertinent emails, letters, complaints, reports, etc. All correspondence related to the construction phase of the project from the LPA should be forwarded to the PE to be included in the correspondence file.

Engineer's Diary: The engineer's diary is primarily a record of the daily work performance of the contractor. It is also a record of many other significant, contract-related matters. This diary is one of the most important of all the required records and is written so that project activities and status on any given day will be clear to any present-day or future reader. The inspector for each major work operation keeps an individual report, which contains detailed descriptions including, but not limited to, work activities; contractor forces; testing; delays; inspection checks; requests from others; correspondence with the public, contractor, or others; and any other relevant information.

Labor Compliance: Documents regarding compliance with FHWA-1273, nondiscrimination, equal employment opportunity (EEO), prevailing wages, Native American Hiring Provision (NAHP), etc.

Payroll Submission (CRCS) Compliance: Prevailing wage compliance on federal and state funded projects includes the requirement that contractors enter electronic payrolls weekly through the WisDOT Civil Rights Compliance System (CRCS). The contract special provisions have detailed information on this requirement.

Transportation Alliance for New Solutions (TrANS): TrANS is a means of encouraging the development of the next generation of workers through a 120-hour industry awareness class that prepares applicants for work in road construction trades. Employers of graduates of the TrANS educational program may receive a per-hour wage reimbursement from WisDOT. Graduates and apprentices will be paid at the predetermined rates for their work, if enrolled in a bona fide program. The contract special provisions have detailed information on this requirement.

Subcontractor Payment: Additional Special Provision 4 (ASP 4) covers prompt payment of subcontractors. The prime contractor is required to pay a subcontractor for their work within ten days of receiving a progress payment unless written notification to the subcontractor and WisDOT has been submitted documenting "just cause" for withholding payment. WisDOT is responsible for enforcement of the contract labor provisions to the same extent as any of the other contract requirements. The region labor compliance specialist assists the PE with the detailed enforcement duties connected with contract labor provisions.

5.2.10 Contract Modifications

It is the contractor's responsibility and duty to construct the project in accordance with the requirements of the plans, special provisions, and specifications as originally drawn and written; however, there may be instances where the original contract needs to be altered to complete the project. This is completed through contract modifications. These represent alterations or revisions of plans and item quantities, revisions of bid item method of measurement, omission of work items found unnecessary during construction, time extensions, material credits, and extra work required to properly complete the project.

In general, any change or modification to the contract once it has been awarded is a contract modification. The process involves preparing and approving a contract modification justification before the work begins that lists the description and need for the change, consequences, alternatives, cost, justification of price, and consideration for time extensions. The justification is created by the PE and submitted to WisDOT for approval. The justification can also be sent for approval to the LPPM, WisDOT supervisor, section chief, and FHWA depending on the dollar amount involved.

Due to the congressional mandate to select contractors based on low bids, federal laws and regulations limit the ability of the LPA to add work to federal-aid work. This congressional requirement is not overridden by cost or convenience issues. Where safety does create an urgent need, WisDOT should use emergency contracts to select contractors, not contract modifications. There is no set rule regarding the scope of a contract, but factors to consider include whether the work to be added falls within the physical area of the project work, and whether the work is within the environmental document.

Guidance for Contract Modifications

5.2.11 Participating and Non-Participating Funds

Participating funds are illustrated in the SMA. Participating funds generally include the plan items with a certain percentage utilizing federal funds and the remaining percentage funded by the municipality or local government up to a federal funding cap shown in the SMA. Costs over the federal funding cap are considered non-participating costs and are 100% local government responsibility.

As the work progresses, the state will bill the LPA for work completed which is not chargeable to federal funds. Upon completion of the project, a final audit will be made to determine the final division of costs. If reviews or audits show any of the work to be ineligible for federal funding, the LPA will be responsible for any withdrawn costs associated with the ineligible work.

5.2.12 Responsibilities

Standard spec 104.3 describes the process to be used when contractors identify what they think is a potential change to the contract. This notification clause is intended to address communication problems and to have the following benefits:

- Early and clear notification of potential changes
- Better exchange of information
- Mechanisms to keep resolution process moving
- Reduced number of claims

5.2.13 Claims

In the mutual interest of all parties, WisDOT vigorously promotes resolution at the most immediate opportunity, and advocates timely submission of claims and responses to them. Objective claim analysis requires reconstruction of circumstances and events that occurred before submission of the claim. This analysis becomes more difficult with the more time that has elapsed since the events that caused the claim. The purpose of a claim may be to recover extra costs due to changes in scope, differing site conditions, or delays. These instances should be easily identifiable by both the PE and contractor, so the contractor is required first to request a revision to the contract per standard specifications. If a revision is not agreed, the contractor may proceed using the claim process.

Contract Claims Guidance

5.2.14 Site Visits

The PE is typically on site every working day and serves as the “eyes” and the “ears” for WisDOT. All communication shall go through the PE. It is encouraged that LPA visit the site as frequently as needed with the PE to discuss questions or concerns. LPA shall avoid direct contract related communication with the contractor(s) and shall go through the PE with contract-related communication.

5.2.15 As-Built Records

Upon completion of the project, the PE will submit an electronic as-built plan with changes from the as-let plan that were built into the project. As-built plans include, but are not limited to, major grade changes, adjustments to drainage structures, relocated private and field entrances, culvert changes, undercut areas, omissions, and errors, change order items, benchmarks, relocated or added utilities, and other major changes from plan.

As-Let & As-Built Plan Guidance (165.11/165.12)

5.3 Post Construction

Post-Construction Guidance (Standard Spec 105.11.2.1.3-105.11.2.3)

Figure 5.3 Post Construction process

5.3.1 Substantially Complete

WisDOT sends a substantially complete letter to the contractor when the facility is available for use by the public, all contract and change order items are complete, the final walkthrough is complete, and a punch list and material needs list is created. This stops contract time and begins day one of the finals process.

5.3.2 Project Records Submission

The PE is responsible for creating and filing all required final project records. Within 60 days of WisDOT issuing the substantially complete letter, the PE submits the final project records to WisDOT for review. Final records include all source documents and items payment records, time charges, estimates, contract modifications, engineer diaries, all material and testing records, explanation in quantity variations, evaluations of contractor’s performance, design quality index, letters, ECIP and revisions, meeting minutes, permits, agreement, commitments, labor compliance, as built, and any other documentation specific to the project.

5.3.3 Project Records Acceptance

WisDOT corresponds with PE and any issues with records are resolved. WisDOT accepts the PE and completes the final material certification and final records review.

5.3.4 Semifinal Estimate

After WisDOT accepts records the semifinal will be sent. This occurs within 120 days of the substantially complete date. WisDOT sends the semifinal estimate to the contractor and the PE. Within 30 days of the semifinal being sent, the contractor reviews the semifinal and responds in one of three ways. The semifinal is

signed and returned to WisDOT certifying that the contractor agrees with all quantities listed on the semifinal or indicates minor differences, the contractor does not submit the semifinal within 30 days, which defaults into acceptance by the contractor, or returns the semifinal unsigned stating major items of disagreement.

If signed with no adjustments or not returned at all, WisDOT proceeds onto the final estimate process. If minor changes are requested and approved, the PE adjusts estimate and notifies WisDOT. If contactor indicates major disputes, the PE resolves issues, and disputes and adjusts the estimate. Contractor then signs adjusted semifinal and returns to WisDOT.

5.3.5 Final Estimate

Following semifinal disputes and acceptance, the final estimate is submitted to the contractor and approved by WisDOT within 180 days of substantially complete date.

5.3.6 Final Acceptance

After final estimate and payroll records are approved, WisDOT issues a final acceptance letter and signs completion certification. This completes the construction phase of the project and indicates final acceptance.

Failure to discover defective work or materials before final acceptance does not prevent the department from rejecting that work or those materials later. The department may revoke final acceptance if WisDOT discovers defective work or materials after it has accepted the work.