

# FACILITIES DEVELOPMENT MANUAL

Wisconsin Department of Transportation

## TABLE OF CONTENTS

### Chapter 6: Public Involvement

#### **Section 6-1 Introduction**

- 6-1-1 ..... Overview
  - 1.1 ..... Originator
  - 1.2 ..... Goals and Objectives
  - 1.3 ..... Public Involvement and the Facilities Development Process
- 6-1-5 ..... Statutes, Rules, Regulations and Law
  - 5.1 ..... State Statutes and Rules
  - 5.2 ..... Federal Regulations and Laws

#### **Section 6-5 Process Development**

- 6-5-1 ..... Introduction
- 6-5-5 ..... Staff Resources
  - 5.1 ..... Region Communications Manager
  - 5.2 ..... Region Tribal Liaison
  - 5.3 ..... Region Environmental Coordinator
- 6-5-10 ..... Public Involvement Plan
  - 10.1 ..... Introduction
  - 10.2 ..... Developing the Public Involvement Plan
  - 10.3 ..... Considerations for an Effective Public Involvement Plan
  - 10.4 ..... Staff Roles
- 6-5-15 ..... Techniques
- 6-5-20 ..... Special Public Involvement Considerations
  - 20.1 ..... Executive Order 12898 - Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations
  - 20.2 ..... Tribal Public Involvement
  - 20.3 ..... Americans with Disabilities Act
  - 20.4 ..... ADA Title II, State, Local, and Tribal Government Activities
  - 20.5 ..... Wisconsin Telecommunication Relay System
- 6-5-25 ..... Other Public Involvement Requirements
- 6-5-30 ..... Public Involvement and the Administrative Record
- 6-5-35 ..... Public Communications Record (PCR)
  - 35.1 ..... General
  - 35.2 ..... When is a PCR Required?
  - 35.3 ..... How to File a PCR
- 6-5-40 ..... Freedom of Information Act (FOIA) and Wisconsin Open Records Law
  - 40.1 ..... Freedom of Information Act (FOIA)
  - 40.2 ..... Wisconsin Open Records Law at DOJ

#### **Section 6-10 Public Involvement Meetings**

- 6-10-1 ..... Public Involvement Meetings (PIM)
  - 1.1 ..... Description
  - 1.2 ..... Public Involvement Meeting(s) Needed
  - 1.3 ..... Number of Public Involvement Meeting(s) to be Held
  - 1.4 ..... Developing a Public Involvement Meeting
  - 1.5 ..... Standardized Public Involvement Meeting Sign-In Sheet and Comment Form
  - 1.6 ..... Public Involvement Meeting and Section 4(f) De Minimis Findings
  - 1.7 ..... Facilitating Public Events and Meetings
  - 1.8 ..... Local Unit of Government Board and Committee Meetings

## **Section 6-15 Public Hearings**

<u>6-15-1</u>	.....Introduction
<u>6-15-5</u>	.....Public Hearing Requirements
<u>5.1</u>	.....Actions Requiring a Public Hearing
<u>5.2</u>	.....Public Hearing Contents
<u>6-15-10</u>	.....Types of Public Hearings
<u>10.1</u>	.....General
<u>10.2</u>	.....Public Hearing Type - Environmental Documents
<u>10.3</u>	.....Public Hearing Type - Section 84.02, 84.11, 84.12, 84.25 and 84.295(10) Actions
<u>6-15-15</u>	.....Hybrid-Style Hearings Provisions
<u>6-15-20</u>	.....Pre-Hearing Activities
<u>20.1</u>	.....General
<u>20.2</u>	.....Internal Coordination
<u>20.3</u>	.....Legal Notice for the Public Hearing
<u>20.4</u>	.....Federal Register Announcement
<u>6-15-25</u>	.....Public Hearing Notices (Legal Notice)
<u>25.1</u>	.....General
<u>25.2</u>	.....Which Notice to Publish
<u>25.3</u>	.....Notice of Opportunity to Request a Public Hearing
<u>25.4</u>	.....Notice of Public Hearing
<u>25.5</u>	.....Notice Requirements for Section 404 of the Federal Clean Water Act
<u>25.6</u>	.....Notice Requirements for Wetland Considerations
<u>25.7</u>	.....Notice Requirements for Substantial Encroachments on Floodplains
<u>6-15-30</u>	.....News Releases, Display Ads, Newspaper Graphics and Social Media
<u>30.1</u>	.....News Releases and Display Ads
<u>30.2</u>	.....Newspaper Graphics
<u>30.3</u>	.....Social Media
<u>6-15-35</u>	.....Preparing for a Public Hearing
<u>35.1</u>	.....General
<u>35.2</u>	.....Public Hearing Exhibits
<u>35.3</u>	.....Project Statement
<u>35.4</u>	.....Public Hearing Packet Handout
<u>35.5</u>	.....Chairperson's Packet
<u>35.6</u>	.....Audio/Visual Project Presentations
<u>35.7</u>	.....Pre-Hearing Conference
<u>6-15-40</u>	.....Conducting the Public Hearing
<u>40.1</u>	.....General
<u>40.2</u>	.....Public Hearing Room Entry Area
<u>40.3</u>	.....Informational Discussions
<u>40.4</u>	.....Open-Style Portion of the Hybrid-Style Public Hearing
<u>40.5</u>	.....Traditional-Style Portion of the Hybrid-Style Public Hearing
<u>40.6</u>	.....Format of the Traditional-Style Portion of the Hybrid-Style Public Hearing
<u>40.7</u>	.....Court Reporter
<u>40.8</u>	.....Public Hearing Transcripts
<u>40.9</u>	.....Audio Taping
<u>6-15-45</u>	.....Public Hearing Record



## FDM 6-1-1 Overview

December 11, 2014

### 1.1 Originator

The Chief of the Environmental Process and Documentation Section is the originator of this chapter.

### 1.2 Goals and Objectives

Every Department project must include some element of public involvement. WisDOT public involvement plans and activities are designed to effectively involve the public early and often in the process so that the project decisions made are in the best overall interest. Good public involvement is integral to good transportation planning. Without meaningful public participation, there is a risk of making poor decisions, or decisions that have unintended, negative consequences. With it, it is possible to make a lasting contribution to the quality of life. It is more than an agency requirement and fulfilling statutory obligations. It is central to good decision-making.

The public includes individuals or organizations, groups, municipalities and businesses. Consider all avenues of the transportation industry such as rail, freight, transit, roads, or other modes. Include underserved or minority populations, all income levels, races, and cultures to represent the widest variety of input, opinions, and feedback.

Effective public involvement is attained through the implementation of various techniques designed to accomplish one or more of the following objectives:

1. Identify, inventory, and define key populations affected by a project.
2. Foster the public's trust by identifying key community plans, issues, priorities, and values.
3. Utilize a process to effectively capture the public's input.
4. Inform citizens of meetings or events and why they may want to participate.
5. Encourage citizens to participate and gain buy in for the proposed project using appropriate methods.
6. Analyze project alternatives and their impacts on the community and the environment.
7. Promote and conduct public interaction through direct and indirect methods.
8. Resolve differences and conflict in a professional and respectful manner.
9. Monitor impacts related to recently completed projects.
10. Document and evaluate the effectiveness of all public involvement activities.

Public involvement is a very important part of the overall communication plan for a project. Please refer to [FDM 2-20-5.8](#) - Communication Management and other references in FDM 2-20 for a discussion of communication from a project management perspective.

### 1.3 Public Involvement and the Facilities Development Process

This Chapter focuses on public involvement as implemented within the Facilities Development Process (refer to [Chapter 3](#) of this Manual for a description of this process).

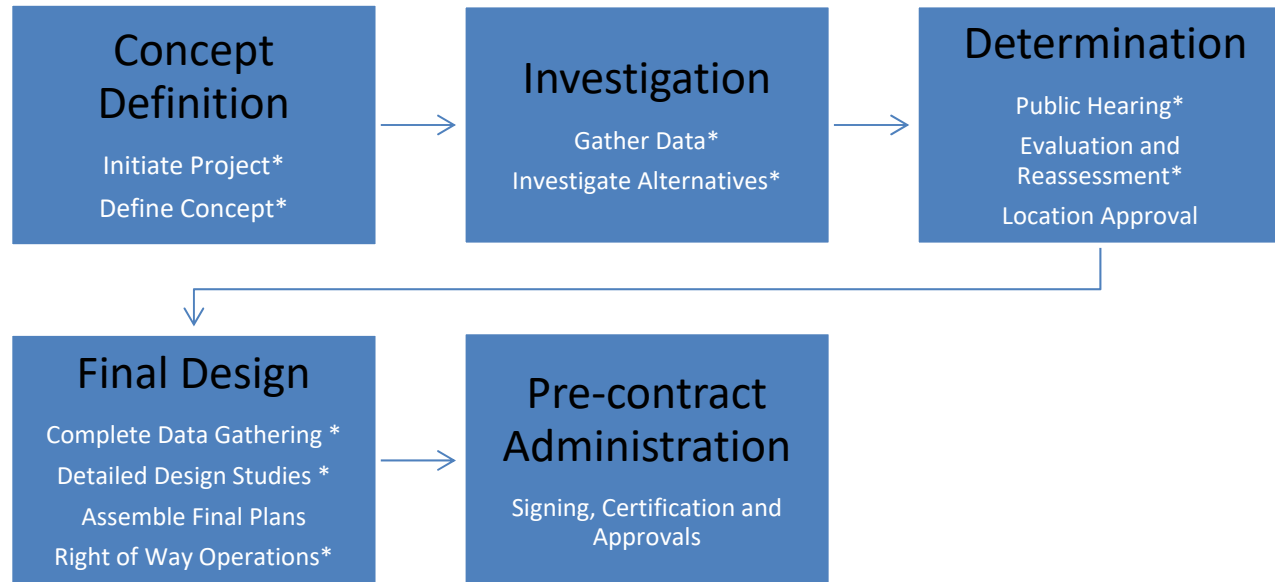
There are requirements for public involvement during the WisDOT statewide plan development process that will not be discussed in this Chapter. Plan development public involvement procedures are found at:

<https://wisconsindot.gov/Pages/projects/multimodal/conn2030.aspx>

There are also opportunities for public involvement following the completion of the Facilities Development Process. Groundbreaking ceremonies prior to starting construction, local public meetings and email blasts during construction to provide information about construction activities, and ribbon cutting ceremonies following construction are several examples of public involvement that can be considered. Refer to [FDM 6-5-15](#) for a summary of available public involvement techniques.

The Facilities Development Process involves developing transportation improvement projects from the point they are authorized to the let-to-bid phase. It is divided into five distinct phases:

1. Concept Definition
2. Investigation
3. Determination
4. Final Design
5. Pre-contract Administration



***\*Important Public Involvement Points***

**Figure 1.1. The Facilities Development Process**

## **FDM 6-1-5 Statutes, Rules, Regulations and Law**

December 20, 2013

### **5.1 State Statutes and Rules**

Numerous state statutes and rules influence the Department's public involvement program. Several key Wisconsin statutes and rules are listed below.

Type of Documentation	Reference to:	Key Concepts
<b>WI Statutes</b> <a href="http://docs.legis.wisconsin.gov/statutes/statutes/1">http://docs.legis.wisconsin.gov/statutes/statutes/1</a>	Chapter 1.11 – Governmental Consideration of Environmental Impacts	Environmental policy affecting the quality of the human environment and proposed actions, including alternatives.
	Chapter 84 – State Trunk Highways; Federal Aid	State trunk highway action types, funding sources and related public involvement requirements.
	Chapter 985 – Publication of Legal Notices; Public Newspapers; Fees	Defines legal notice class-types, publishing requirements and identifies the official state newspaper.
<b>WI Administrative Rule</b> <a href="http://docs.legis.wi.gov/code/admin_code/trans/208/02">http://docs.legis.wi.gov/code/admin_code/trans/208/02</a>	Trans 208 – State Trunk Highway Location Process	Identifies the methods used by WisDOT for establishing state trunk highway locations and the related public involvement steps.
	Trans 400 – Wisconsin	Based on federal regulations and

	Environmental Policy Act (WEPA) Procedures for Department Actions	past experience, the state's procedures for environmental policies.
--	---	---

## 5.2 Federal Regulations and Laws

Regulations (and rules) are "administrative laws." Key public involvement regulations include:

Topic	Reference to:	Key Concepts
<b>Public Involvement</b> <a href="http://www.gpo.gov/fdsys/">http://www.gpo.gov/fdsys/</a>	23 USC 139 – Efficient Environmental Reviews For Project Decision-making	Coordination and scheduling for public and agency participation on the environmental review process.
<b>Guaranteed Federal Funding for Highways</b> <a href="http://www.fhwa.dot.gov/map21/">http://www.fhwa.dot.gov/map21/</a> <a href="http://www.fhwa.dot.gov/safetealu/summary.htm">http://www.fhwa.dot.gov/safetealu/summary.htm</a>	Moving Ahead for Progress in the 21 <sup>st</sup> Century (MAP 21)	Continued and enhanced emphasis on strong planning and public involvement when using federal aid for projects.
<b>Highway Planning</b> <a href="http://www.gpo.gov/fdsys/">http://www.gpo.gov/fdsys/</a>	23 CFR 450 – Planning Assistance and Standards	Guides development of statewide transportation plans and programs; requires early and continuous public involvement. Section 450.212 details public involvement.
<b>Protecting the Environment</b> <a href="http://www.gpo.gov/fdsys/">http://www.gpo.gov/fdsys/</a>	23 CFR 771 – Environmental Impact and Related Procedures	Addresses early coordination, public involvement, and project development for proposed actions in section 771.111.
<a href="http://www.gpo.gov/fdsys/">http://www.gpo.gov/fdsys/</a>	40 CFR Volume 31, Chapter V Parts 1500-1508 – National Environmental Protection Act (NEPA)	Addresses availability of information to public officials and citizens prior to decisions made.
<b>ADA/Civil Rights</b> <a href="http://www.fhwa.dot.gov/civilrights/programs/ada.cfm">http://www.fhwa.dot.gov/civilrights/programs/ada.cfm</a>	28 CFR 36 – Americans with Disabilities Act	Requires government programs to be accessible to people with disabilities.
<a href="http://www.fhwa.dot.gov/environment/title_vi.htm">www.fhwa.dot.gov/environment/title_vi.htm</a>	Title VI – Civil Rights Act of 1964	No person shall be excluded from participating in any program receiving federal assistance based on race, color, or national origin.
<a href="http://www.fhwa.dot.gov/hep/lowlim/index.htm">www.fhwa.dot.gov/hep/lowlim/index.htm</a>	Title VI – Executive Order 13166 Limited English and Low Proficiency	Improves access to services to people with limited English and low proficiency populations.
<a href="http://www.fhwa.dot.gov/environment/ejustice/facts/index.htm">www.fhwa.dot.gov/environment/ejustice/facts/index.htm</a>	Executive Order 12898 Environmental Justice	Addresses avoidance of actions that can cause disproportionately high and adverse impacts on minority and low income populations.
<b>Tribes</b> <a href="http://www.tribalplanning.fhwa.dot.gov/consult.aspx">www.tribalplanning.fhwa.dot.gov/consult.aspx</a>	Tribal Relations – IRR Public Hearings/Review 25 CFR 170.435 -170.441 25 CFR 170.413	Tribal transportation, consultation, and public involvement for road projects including within the metropolitan planning process.



## FDM 6-5-1 Introduction

December 20, 2013

Public involvement is very important in the development of a project. Public involvement must be implemented in accordance with this chapter on all projects administered by WisDOT, including those federally funded projects that are developed by local units of government or their consultants.

The policies and processes identified in this chapter shall be used to develop and administer the public involvement process regardless of whether or not an environmental document is being prepared in compliance with the National Environmental Policy Act or the Wisconsin Environmental Policy Act.

## FDM 6-5-5 Staff Resources

December 20, 2013

Each WisDOT region has key staff with specialized expertise in the public involvement process. Just as the goal should be to communicate early and often with the public, contacts with the regional public involvement process experts should occur in the same manner.

### 5.1 Region Communications Manager

Each WisDOT region has a Region Communications Manager (RCM) who assists region staff in developing a comprehensive communication plan and choosing appropriate public involvement techniques. It is critical to involve the RCM early in the project and to keep him or her apprised of progress at all times. The RCM signs off on all Public Involvement Plans (PIP). Another important role of the RCM is to serve as the region's liaison to the WisDOT Office of Public Affairs.

### 5.2 Region Tribal Liaison

Each WisDOT region has a Region Tribal Liaison, who assists project development staff in developing and choosing appropriate public involvement techniques to ensure Wisconsin tribes have an opportunity to provide input in the WisDOT planning and project development process.

### 5.3 Region Environmental Coordinator

Each WisDOT region has one or more Region Environmental Coordinators (REC) who assists project development staff in ensuring the appropriate public involvement procedures are followed throughout the environmental review and decision-making process.

## FDM 6-5-10 Public Involvement Plan

November 17, 2020

### 10.1 Introduction

All projects have public involvement and require a formal written public involvement plan. The level of detail in the plan will depend on the scope of the project and possibly on the type of environmental document being prepared.

The Public Involvement Plan (PIP) is essential in assuring the effectiveness of public involvement. Use the PIP template found at the environmental program form, templates, and checklists website.

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

Details for completing the template are found in [FDM 6-5-10.2](#).

The PIP is a project-specific sequenced list of anticipated contacts with the public. Preparation of the PIP is a crucial task completed early in the environmental review process. A properly developed PIP will ensure effective involvement of the affected public in a planned, orderly manner throughout the entire project.

For projects being evaluated using a draft environmental impact statement or an environmental assessment (for which the 23 USC 139 process applies), a Coordination Plan for Agency and Public Involvement (Coordination Plan) must also be prepared. Elements of the PIP should be incorporated into the Coordination Plan. Refer to the environmental website for the Coordination Plan Template.

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

Refer to [FDM 20-10](#), Environmental Documentation, to coordinate plans and activities that align and

complement the activities in this section.

**Why prepare a Public Involvement Plan**

- Early and continuous communication, education, and outreach to stakeholders.
- Effective communication for diverse stakeholders.
- Collaborative problem solving and consensus building.
- Results in more comprehensive outcomes based on the input of stakeholders.
- Conduct outreach efforts based on the specific project.
- Meet funding and timeline deadlines.
- Plan and execute public involvement for decision-making.

**Benefits of preparing a Public Involvement Plan**

- Issues are addressed earlier rather than later in the process.
- Builds public trust and support.
- Less negative or critical coverage from the media.
- Agreements are more likely to be maintained.
- Reduces delay from conflict, misunderstandings and/or opposition.
- Reduces costs due to delays.
- Process establishes a framework for collaboration.
- Helps to prioritize needs and determine the best alternative.
- Evaluates the effectiveness of public input.

**10.2 Developing the Public Involvement Plan****Key concepts:**

- Public involvement process is well defined and communicated.
- Public involvement efforts and results, both positive and negative, are well documented.
- Meets the particular needs of the stakeholders and project.

**Key preparation:**

- Consider current transportation and urban development plans including WisDOT, regional, and local plans.
- Align the public involvement process with needs of the project.
- Provide for flexibility in process to adapt to changes.
- Design a plan for the specific project and tailor it to the demographics of the project's area of impact.
- Define key measurable outcomes of the community's values.
- Train all staff, both internal and external, to properly execute the plan in an effective and timely manner.
- Utilize best practices from projects that have similar community characteristics and challenges to anticipate and avoid previous mistakes.

**Key considerations:**

- What is the functional classification of the roadway?
- What is the level of potential impact to the human, natural, and physical environment?
- Are there Environmental Justice or other unique populations in the study area?
- How much involvement from state/federal agencies and interest groups (local or county government, businesses, or others) is required or anticipated?
- What is the level of potential project controversy?
- In the past, how have the public and stakeholders reacted to similar transportation projects in the area?
- How many residential or business properties or tribal lands are in the immediate area of the project?
- What is the impact to users in the project area including motorists, pedestrians, bikers and others?
- What is the proposed construction staging or detour plan? (see [FDM 11-3-5.3.1.5 Construction Traffic Control](#))
- What is the amount and complexity of right of way impacts?
- What is the anticipated level of political concern?



## Key components:

The Public Involvement Plan Template consists of the following key components.

### 1. Define the project's purpose and need

The first step in developing a public involvement plan is to clearly define the need for the project and the issues it is meant to solve. In this section, provide a clear, non-technical description of why the project is needed and the proposed solutions. Please keep in mind that the solutions are proposed until the project has gone through the public involvement process (i.e., communication with regulatory agencies, local community officials, property owners, etc.).

### 2. Create a plan timeline

The plan should include a detailed timeline of the planning, program development, or decision-making processes as well as the public involvement activities within that process. Public involvement needs to be timed early enough to provide the public many opportunities to influence the decision.

Describe key phases of the project delivery and include public involvement/outreach activities. Include a targeted month and year to clarify expectations and have a clear vision of what will be done and when.

The first phase of public involvement should be conducted very early in project development to ensure that appropriate public involvement is being conducted before any decisions are made.

Example milestones to include in timeline: 30, 60, 90 percent plans; local community officials/emergency management meeting and public involvement meetings; list of attendees for public involvement meetings; notice and news release for public involvement meetings; complete environmental document; handouts and exhibits for public meetings; final PS&E.; project Let; beginning of construction; complete construction.

### 3. Identify public involvement goals and objectives

After determining the appropriate level of public involvement for the project, the next step is to define the goals for inviting the public to participate. The following are questions to consider as you develop the goals:

Could this be an opportunity to:

- Create a better project.
- Incorporate other community goals into the project.
- Benefit from public input, involvement, and support regarding the project.
- Collaborate with citizens or organizations in overlapping areas.
- Promote good news, WisDOT programs and/or projects.
- Strengthen partnerships between WisDOT and local community officials.

List what the Public Involvement Plan will accomplish. Start each sentence with a verb and use measurable results using a month, year, or some other way to determine if the goal was met or not.

For example: "Identify and actively involve affected stakeholders by November 2014."

### 4. Identify stakeholders and target audiences

With goals and objectives outlined, it is easier to identify stakeholders and what level of public outreach is needed. When creating the list of stakeholders, make sure to think about audiences that may not typically be engaged to try to cover a broad range of citizens. Focus on all audiences that are important. They should be included early and regularly during project development. *Please include a contact name and contact information for each stakeholder.* Target audiences include but are not limited to:

- Property and business owners
- Local and county officials
- Neighborhood associations/special interest groups
- Regulatory agencies
- Tribes
- Media

### 5. Define the process, tactics, and techniques (see [FDM 6-5-15](#))

Describe in detail the different methods to convey information and to which intended audiences. List key public involvement activities and their tentative dates.



For example: “For the project, WisDOT will conduct a coordination meeting, one public involvement meeting, and one local officials meeting. The purpose of the local officials meeting and public involvement meeting is to (*state purpose*). These meetings are to inform the public of the project purpose and the reasoning behind some of the decisions made including (*state specific decisions relating to project*). The goal is to conduct all meetings by (*month, year*) so there is time to incorporate any necessary comments into the plans before they are finalized.”

#### 6. Define the key messages

The project (or key) messages are the project facts and beliefs that people should understand and, ultimately, accept. These messages also include description of the project benefits. They should be simple, easy to understand and non-technical. The messages will evolve and will be incorporated into all aspects of the public involvement plan and activities.

#### 7. Approvals

Ensure that the WisDOT project manager and RCM review and approve the public involvement plan prior to implementation; preferably during the scoping phase of the project development process.

Both the WisDOT project manager and the RCM must sign off on the plan. Review the plan periodically and update as the project progresses. Contact the RCM regarding any questions.

### 10.3 Considerations for an Effective Public Involvement Plan

Communication should be conducted in the right place at the right time with a lot of thought and research given to the targeted audiences. The level of communication will vary depending on the project and the related impacts.

Methods used to communicate the proposed improvements should reach the target audiences using several techniques. It is important to leverage relationships and take time to listen to those audiences to learn about what they value, their interests and beliefs, and to obtain their input on the project. Asking the right questions can result in answers that may not be obvious initially. In addition, the PIP should align with other land use and transportation plans at all levels so that conflict is limited. Creativity, innovation, and thinking “outside the box” are encouraged in order to produce the best results. PIPs should be dynamic and may require periodic updates and modifications as the project evolves. Include alterations as soon as they are identified and provide an opportunity for the public to comment in order to maintain the integrity of the document.

### 10.4 Staff Roles

It is imperative to have a well thought out PIP that involves many or all of the following WisDOT stakeholders. There should be agreement early in the process identifying who has what role, who is responsible for which decisions, activities to be conducted, follow-up, and communication. A timeline will help to clarify these details. See Office of Public Affairs (OPA) guidance for more information on roles for:

- WisDOT Project Manager
- WisDOT Consultants
- WisDOT Region Communications Manager, Design Team, Corridor Manager, PI Staff
- WisDOT Region Tribal Liaison (as applicable)
- WisDOT Region Environmental Coordinator (as applicable)

### FDM 6-5-15 Techniques

September 19, 2014

The public involvement process will vary based on the complexity of issues presented, the amount of controversy, project impacts, political interest, and other variables. It is important to understand the complexities of the project and put into place an appropriate PIP based on the particular project. Projects both large and small could involve a fair amount of public involvement.

There are numerous techniques available to conduct the public involvement process. Strive for flexibility and informality when using any public involvement techniques. Project managers are encouraged to be creative with selecting or devising techniques to use on a project. Some techniques can be used to achieve more than one objective (see [FDM 6-1-1](#)), although not all techniques are appropriate for every project.

Using various methods is very important because many methods can be combined into integral parts of a community or region’s regularly scheduled events. It is important to understand the context of a project: talk to community members, research historical documents, and/or attend community events to find out who understands current issues and history. These will provide insights that may not be found in other ways. Collaborate with them to conduct business in a non-threatening way that is convenient and helpful for WisDOT, its partners, and the community.

It is important to “right-size” the techniques to fit the project. Many of the techniques are relatively simple, low-cost methods of involving the public. Others are complex, high-cost techniques that should be implemented only after carefully considering the potential return on the investment. Some techniques may be required by law under certain scenarios (i.e., public hearings) and must be included as part of the public involvement process.

The Office of Public Affairs (OPA) has developed a Public Involvement Best Practices guide found in Chapter 13 of the Mega Projects Guideline site at:

<https://wisconsin.gov/rdwy/mega/mg-pub-invol.pdf>

This guide provides a detailed explanation of possible techniques and guidelines as well as a brief synopsis. The Public Involvement Best Practices matrix provides a two-page synopsis of the guide and is also found on the same website.

The following are some examples and descriptions of techniques that could be included in the PIP:

1. **Develop targeted mailing lists and set up databases including online or electronic versions to streamline processes and reduce duplication of efforts.** Compile up-to-date mailing lists of property owners, businesses, special interest groups, tribes, and others who are affected by or who have an interest in the project. Use tax listings, telephone books, online searches, and utility customer lists as possible sources. Expand lists by adding interested parties from sign-in sheets at public involvement meetings, emails, or phone calls from the public to make it as comprehensive as possible.
2. **Contact property owners.** Contact property owners by letter, phone, or other personal means. In any case, inform property owners adjacent to a project of all major developments to ensure they are aware of scheduled meetings and basic project concepts.
3. **Hold public involvement meetings.** These meetings are held during the project development process to share ideas or details with the public and receive public feedback. Whether informal or formal, they provide direct communication between department staff and the public. Always provide an opportunity for input and feedback from all interested stakeholders regardless of their position. See [FDM 6-10](#) for details about the public involvement meeting process.
4. **Open house.** This allows informally exchanging information and collecting data by providing a highly visible, two-way communication process between the department and community. Staff should be familiar with the project and overall development process. This technique can be used for large and/or sensitive projects where the cost of having project staff on duty at remote locations is warranted.
5. **Conduct a survey.** Surveys provide detailed information from the public while allowing them to voice their concerns. Surveys can be mailed, emailed, etc. to affected parties, distributed throughout communities at various locations, handed out at public involvement meetings and hearings. Additional public involvement questions could be included during an origin-destination study. It is important to understand that responses should be received from a representative portion of the population affected. Contact the RCM regarding the department’s process and coordination.
6. **Conduct meetings with local officials and interested groups.** Similar to a public involvement meeting, targeted meetings allow for personal interaction in an informal setting. These meetings are organized for a specific neighborhood or interest group rather than the general public. They help define and address concerns from a particular group and provide focused assistance.
7. **Establish a citizen advisory committee.** The advisory committee is responsible for gathering data from the constituents and making recommendations to decision makers. Ensure that their voices are heard, input is considered in a timely manner, and that they understand their feedback is important.
8. **Construct a display model or computer-enhanced photos of the project for public use.** Display models and computer-enhanced photos can help the public visualize project concepts and potential impacts. They may also help minimize misconceptions about the proposed improvements. Consider using “before and after” photos of similar projects or visual aids such as the photo log of the project, or photographic/computer modeling.
9. **Hold a public hearing.** When public hearings are held for environmental documents, the hybrid-style public hearing shall be used. Hybrid-style public hearings provide more options in presentation styles and how testimony is taken. Testimony from the audience can be either provided orally in traditional, town-hall style format, one-on-one with a court reporter, or in written form. See [FDM 6-15](#) for details about the public hearing process.
10. **Make public appearances.** Proactively seek out and accept invitations to appear on radio or television programs, public schools, chamber of commerce meetings, special community events, or other local

venues. News media and other public appearances inform large numbers of people about specific projects as well as the decision-making process, which encourages the public to be more involved.

11. **Compile a fact sheet for project news releases/events.** Submit a fact sheet to the RCM when the PS&E is submitted to the central office. The fact sheet will be used as the basis for project news releases and developing publicity for groundbreakings and ribbon cuttings. Collaborate with the RCM to develop news releases throughout the project and at key points such as when the contract is awarded, when construction starts or ends, or when there are changes in traffic flow. Information concerning the project and scheduled meetings can be distributed to the public through news releases, feature articles, notices placed in local newspapers, television and radio, and/or electronically. Large groups of people can be reached for minimal cost.
12. **Monitor the news media through newspaper clippings, media reports and the internet.** Use these to learn the local perspective on issues, problems, and values important to a particular community and to discover issues that may be controversial.
13. **Create project brochures and newsletters.** Work with the RCM to create brochures and newsletters that are concise, clearly written, and appealing. Follow WisDOT style guidelines and, when possible, use the WisDOT project information template.

<http://www.dot.wisconsin.gov/library/publications/pi-guidelines.htm>

The message should be relevant, simply stated, and reinforced with graphics, pictures, or other visuals to enhance understanding. Publications can be handed out during public meetings, mailed to selected stakeholders, distributed throughout communities, made available at WisDOT field or region offices, and posted on the Internet.

Consultants should contact the RCM for a project template and style guidelines.

14. **Contact legislators.** WisDOT takes an active role in building good relationships with legislators by providing them information about specific transportation projects and responding to their requests in a timely manner. WisDOT encourages legislators to contact Region Directors and RCM's as key sources for project information. Collaborate with the RCM to brief legislators on larger or sensitive projects through email, personal visits, or phone calls. Make sure legislators are on all mailing lists; they should be invited to all public involvement meetings and public hearings. Keep legislators informed about construction starts and emerging project issues that may result in constituent contacts.
15. **Involve affected area businesses.** Work with the RCM to meet with area businesses early during the design phase of the project and stay involved during construction. The "In This Together" campaign offers a comprehensive plan including a workbook, case studies, promotional samples and WisDOT staff contacts. The campaign includes suggestions and advice for Wisconsin businesses that face construction impacts. The manual can be obtained through the RCM or at:
 

<https://wisconsinindot.gov/Pages/doing-bus/eng-consultants/cnslt-rsrcs/default.aspx>

The worksheet includes a timeline and associated tasks for up to 18 months in advance of the project beginning and continues through post construction.
16. **Help organize and participate in groundbreakings/ribbon cuttings.** For most events, the decision to hold a groundbreaking/ribbon-cutting event is made by the local community/communities. The RCM then works in cooperation with the communities and the Office of Public Affairs to select a date and location and to help organize the event. Refer to the Fact Sheet Ribbon-Cutting/Groundbreaking Ceremony.

<https://wisconsinindot.gov/Pages/doing-bus/eng-consultants/cnslt-rsrcs/environment/formsandtools.aspx>

The Federal Highway Administration does not consider ribbon cutting events as a necessary cost of a project. Costs associated with ribbon-cutting events are not eligible for federal participation and should be charged to non-participating projects.

17. **Web pages on the Internet.** Work with the RCM to gather appropriate project information for development on project web pages and submit information to the RCM following Department Style Guidelines and the approval process. Keep the RCM informed about project developments and changes for updates to the project web page. Project web pages cannot be placed on a consultant web-site; pages must be posted on the WisDOT web-site. Web-sites developed by consultants must follow WisDOT Style Guidelines and approval process.

18. **Social media.** Social media is quickly becoming a primary means of communication through the Internet and mobile devices such as cell phones. Blogs, Facebook, Twitter, email blasts, QR codes and other forms of social media, as they emerge, should be considered for use in the public involvement process. The use of social media must be implemented according to the WisDOT Transportation Administrative Manual (TAM) Directive COM 105. COM 105 includes social media purpose, general operations and administration, setting up an account, responsibilities and roles and references or related WisDOT policies. Consult with specialists if COM 105 does not include information that is adequate to address your needs.
19. **Ethnic, cultural or religious venues.** Communities include various ethnicities, cultures, and religions. They may share common beliefs, values, rituals, history or other characteristics that are deeply integrated into everyday living. These may be openly expressed by preferences in housing, clothing, meeting in a common location, rituals, etc. Research the ethnic, cultural, and religious groups that currently exist in the community and those that have existed in the past. Understand how, why and where these groups find commonalities amongst each other and what is most important to include, avoid and/or understand about the project.

No matter which techniques are used, the best practices listed in Table 15.1 should be applied.

**Table 15.1 Public Involvement Best Practices**

- Deliver timely and accurate information.
- Inform all stakeholders using various methods and tools to reach the widest audiences.
- Apply WisDOT policies and guidelines in a consistent manner.
- Notify legislators, local officials, and other stakeholders as early as possible about project meetings or hearings.
- Build relationships with elected officials by providing frequent briefings or project updates.
- Ensure that all contracts and agreements are clear, complete, and well defined.
- Involve the RCM early in the process regarding all education and information efforts.
- Implement techniques to gain informed consent when dealing with the public on all projects.
- Ensure all key staff attends meetings and is prepared to answer questions.

#### **FDM 6-5-20 Special Public Involvement Considerations**

December 20, 2013

It is particularly important that any special public involvement requirements are incorporated in the PIP. This includes announcements in English and other languages for news, media, and minority publications. Consider using multi-lingual experts to interpret comments during the meetings with non-English speaking attendees. ADA requirements including public accommodations for those who are deaf or hard of hearing, or blind or have low vision must be met as well.

Thoroughly research any federal or state requirements, Executive Orders, agreements, or other policies, guides or resources so staff not only know who is impacted, but how they are impacted.

When conducting public involvement, be sure to research and collect information about all populations that may be affected by the project. Communities such as, but not limited to, Wisconsin tribes, Hmong, Latino, or other cultures should be considered. Include the elderly, disabled, and low-income populations that may be impacted.

Identify key community leaders and open the lines of communication in a way that is most meaningful to them. It is important to understand their cultural practices and methods for interacting effectively. This will vary depending on the situation. Involve the populations early and often to ensure their needs, goals and vision for the project are considered. Different techniques and strategies may be needed depending on their comfort level of participating in the technique or using the technology; the availability to technology (such as computers or smart phones), and frequency of participation required to have meaningful involvement.

#### **20.1 Executive Order 12898 - Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations**

To be effective, a technique must provide appropriate public input for the project phase, be affordable, and reach the appropriate customers using effective practices. In addition, Environmental Justice requires the department to consider disproportionately high and adverse effects on minority and low-income populations. To accomplish this, the department should:

- Actively and aggressively identify populations within the project's area of influence.
- Involve affected populations in the determination of whether the effect is adverse or beneficial, and if

adverse, whether it falls disproportionately on that population.

Any public involvement should incorporate techniques that seek out and interact with minority and low-income populations to adequately inform them about the project and to obtain their input. Possible techniques and practices include:

- Contact community leaders to determine the best method of involving the populations.
- Ask the community leaders to participate in public presentations.
- Offer to give a project presentation at regularly scheduled meetings that the population conducts.
- Place meeting notices near mailboxes, at grocery stores, places of worship, community centers and other public gathering areas.
- Put meeting notices in local newspapers that serve the populations. Print the publications in languages other than English.
- Run radio announcements on stations that serve the populations. This is especially important in areas of large Hmong populations.
- Consider providing special public transportation methods so people without vehicles or those living in areas without access to public transportation can get to the meeting.
- Consider providing childcare services at the public meeting.

## **20.2 Tribal Public Involvement**

The "tribal public" is comprised of the entire community with all of its diverse interests and points of view. It also includes a range of groups within or adjacent to the community who are likely to be impacted by the transportation decisions that are made. The project team is encouraged to consider a wide range of groups and individuals such as:

- Tribe leaders
- Tribal elders
- Tribe members
- Tribal government officials
- Non-tribal residents living within the area
- Neighboring jurisdictions, including local and county governments
- Economic development or tourism groups
- Employers
- School and health officials
- Individuals or groups who do not drive (pedestrians, bicyclists, transit riders)
- Transportation service providers

Written materials and presentations used to engage and inform tribal communities should respect and be compatible with the tribe's values, reflect their technical understanding of the topic, and highlight their interests in the subject matter. Visual tools (pictures, maps, drawings, charts, graphs) are good ways to help tribal members understand the problems, proposed solutions, and how these will affect their community.

Special techniques and methods for engaging tribal communities, such as clearly defining project-related terms commonly used by transportation project team members, can play a critical part in conveying information and receiving meaningful feedback. The project team is encouraged to work with the Region Tribal Liaison for assistance in understanding tribal values and cultures when conducting tribal public involvement.

There are often tribal events planned for other purposes that provide opportunities to engage attendees in a discussion about transportation planning. This strategy might draw in Tribe members who are unlikely to participate in meetings held specifically to engage the public in transportation planning. These events might include:

- Tribal pow wows
- Dances
- Rodeos
- Church events
- Elder community events
- School events
- County fairs
- Casino events



- Health fairs
- Job fairs

### **20.3 Americans with Disabilities Act**

The Americans with Disabilities Act of 1990 (ADA) stipulates involving the community, especially those with disabilities in the development and improvement of services. An individual with a disability is defined as a person with a physical or mental impairment that substantially limits one or more major life activities; a person who has a history or record of such impairment, or a person who is perceived by others as having such impairment. Sites of public involvement activities and the information presented must be accessible to persons with disabilities. Special efforts are needed to comply with statutory requirements.

Include those with sight, hearing, or mobility limitations and provide adequate access and services such as sign language, listening assistance, and telecommunication for the deaf and hard of hearing (TDD).

ADA requires specific participation activities including:

- Outreach - developing contacts, and notification to participate
- Consultation for those with disabilities
- A chance for public comments
- Accessible formats
- Public hearings
- Summaries of main issues during the public comment period
- Ongoing efforts to involve the community in planning

For public involvement meetings and public hearings, ADA requirements must be met under federal requirements. Elements to consider when making meetings and hearings ADA compliant include verifying that:

- Has an accessible site for the public involvement meeting or hearing been selected?
- Are primary entrances easily accessible?
- If the meeting is held on an upper or lower level of the building, is there an elevator or other method for making the meeting location accessible?
- Is there space for wheelchairs throughout the room and at the front of the room?
- Are microphones accessible to persons in wheelchairs?
- Is the meeting site accessible by public transportation or have other arrangements been made to provide persons with disabilities the opportunity to attend?
- Is there disabled parking available?
- Have requests been made by persons with disabilities for alternative methods of providing input to or receiving information from the department? For example, have listening aids, interpreters or sign language translators been requested?
- Is a separate meeting needed for ADA persons at an alternative meeting location?

For additional ADA information, refer to 42 USC 1201.

### **20.4 ADA Title II, State, Local, and Tribal Government Activities**

This covers all activities of State and local governments regardless of the size of the project or use of federal funds. It requires these governments to give those with disabilities an equal opportunity to benefit from all of their programs, services, and activities, including but not limited to transportation and town meetings.

For additional ADA Title II information, refer to 28 CFR Part 35.

### **20.5 Wisconsin Telecommunication Relay System**

Those who are deaf, hard of hearing, blind, have low vision or speech disabled can use the Wisconsin Telecommunication Relay System (WTRS). The service provides a link between text telephone users and conventional telephone users. Callers can access the relay 24 hours through a toll free number or by dialing 711. Operators will be able to assist you. There are different ways to contact the WTRS:

- Dial 711
- TTY 1-800-947-3529
- Voice 1-800-947-6644
- ASCII 1-800-272-1773
- Fast ASCII 1-800-267-8867

- Speech to Speech 1-800-833-7637
- Spanish to Spanish 1-800-833-7813
- For further assistance go to [www.hamiltonrelay.com](http://www.hamiltonrelay.com)

**FDM 6-5-25 Other Public Involvement Requirements**

August 17, 2020

In addition to the general National Environmental Policy Act (NEPA) public involvement requirements described in 23 CFR 771.111, other Federal laws and regulations have distinct requirements for public involvement activities. In many cases, these requirements may be integrated into the project's planned public involvement efforts, avoiding the need to hold duplicate meetings. During the preparation of the public involvement plan, project staff should give careful attention to public involvement requirements outside of the standard NEPA requirements. Project staff should communicate early in project development with staff from other State and Federal agencies to ensure that all applicable public involvement requirements are incorporated into the PIP and implemented during project development.

Examples of other Federal laws and their implementing regulations requiring public involvement follow, although this list is not exhaustive.

- National Historic Preservation Act (NHPA) of 1966, as amended; 36 CFR 800.2(d)
- Section 4(f) of the Department of Transportation Act of 1966; 23 CFR 774.5
- Section 404 of the Clean Water Act of 1972, as amended; 33 CFR 325 & 327

**25.1 Stormwater**

The Wisconsin Department of Transportation (WisDOT) has a Wisconsin Department of Natural Resources (WDNR) General Permit to discharge stormwater under the Wisconsin Pollutant Discharge Elimination System (WPDES) General Permit No. WI-6066800-1. WisDOT is permitted to discharge stormwater from its Transportation Separate Storm Sewer System (TS4) to waters of the state in accordance with the conditions set forth in this permit.

WisDOT's Transportation Separate Storm Sewer System (TS4) Permit requires WisDOT distribute an educational pamphlet at public involvement meetings to aid the public's understanding of WisDOT's Stormwater Management Program.

<https://wisconsindot.gov/Pages/doing-bus/eng-consultants/cnslt-rsrces/environment/stormwtr-mgmt.aspx>

The pamphlet is required to be available at public involvement meetings for all WisDOT Mega Projects and at least 50 percent of all Major Projects.

The pamphlet is suggested to be available at public involvement meetings where changes to the existing stormwater management system are being proposed.

Project staff familiar with the project's stormwater design should also attend the public involvement meeting.

**FDM 6-5-30 Public Involvement and the Administrative Record**

December 20, 2013

The administrative record for a project consists of the project files, emails, and other electronic documents related to the project. Maintaining a complete record of public involvement actions is a critical part of the project development process. At a minimum, the Public Involvement Plan and all documentation and correspondence regarding the public involvement process shall be transmitted to the project file.

**FDM 6-5-35 Public Communications Record (PCR)**

December 20, 2013

**35.1 General**

With program responsibility that affects virtually every citizen in the state, WisDOT employees are called upon to answer questions from the public, local officials, the legislature, and news media. Most of these public contacts are routine. Others may fall under the Public Communications Record (PCR) requirement. PCRs are an important part of the department's communication system. PCRs provide an "early warning" system alerting the Secretary's Office to emerging issues, as well as feedback regarding public/media/legislative interest in transportation programs, proposals, or plans.

Per Transportation Administrative Manual (TAM) COM 103, WisDOT employees are required to submit PCRs when contacted by legislators, local officials, private sector officials, or news reporters for information or



comments.

### **35.2 When is a PCR Required?**

PCR's should be filed as soon as possible and no later than the end of the day the contact occurred. They should be filed when there is reason to believe that:

- Communication is likely to result in radio, television, or newspaper coverage
- Subject matter is, or potentially will be, controversial or sensitive in nature
- The caller may be gathering information from others within the department
- Contact is about a subject of local importance that may become controversial
- Subject matter relates to a legislative issue
- Question suggests a major issue may be emerging
- Communication is likely to result in a call to the Secretary's Office, Governor's Office or an elected official

PCRs are not required when the:

- Subject is of local or limited interest
- Caller is referred to somebody else
- The contact is non-controversial (examples might include the status of a drivers license record, schedule of a highway project, or a request for procedural information).

### **35.3 How to File a PCR**

Region staff should contact their RCM to determine the process for filing a PCR. The RCM is responsible for completing and filing daily PCRs on behalf of the region. Other staff should consult TAM COM 103 for instructions.

## **FDM 6-5-40 Freedom of Information Act (FOIA) and Wisconsin Open Records Law** *December 20, 2013*

There are legal requirements associated with both the Freedom of Information Act and Wisconsin Open Records Law requests. The request must be handled in a timely manner prescribed by law. It is important that you involve the right people as soon as a request is received.

### **40.1 Freedom of Information Act (FOIA)**

FOIA requests are typically filed with FHWA. If you receive a FOIA request, information about the FOIA process can be found by contacting the WisDOT Office of General Counsel.

### **40.2 Wisconsin Open Records Law at DOJ**

The WisDOT Office of General Counsel Wisconsin Open Records and Privacy Guide 2012 is available at:

<https://wisconsindot.gov/Pages/about-wisdot/who-we-are/exec-offc/default.aspx>

It provides guidance on how WisDOT complies with The Wisconsin Open Records Law which is set forth in Wis. Stat. §§ 19.31 to 19.39 and has been in effect since January 1, 1983.

Central Office staff should coordinate the open records request with the Central Office Records manager.

Region staff should coordinate the open records request with the Region Records manager. The RCM should also be informed about the situation.

A PCR (see [FDM 6-5-35](#)) is often required when an open records request is made.



## FDM 6-10-1 Public Involvement Meetings (PIM)

September 19, 2014

### 1.1 Description

A public involvement meeting (PIM) is used for WisDOT to disseminate information and to give the public an opportunity to voice their viewpoint about a particular plan, project, or alternative. This is only one of many possible techniques (see [FDM 6-5-15](#)) that could be used to involve the public, and is one of the most effective tools to achieve that goal.

PIMs provide an opportunity for face-to-face communication between staff and interested citizens. The meetings are informal and held at various times depending upon the audiences' needs. Handouts, exhibits, and displays should be available to inform the public about proposed actions and facilitate questions in return. Project staff should be stationed at key locations in the meeting area to interact with those in attendance.

A formal presentation can be given to convey key information about a project. Often the project manager or a consultant will act as the presenter. He or she should have an in-depth understanding of the project, the challenges, opportunities, and threats, as well as the proposed alternatives. Using visuals such as PowerPoint may enhance understanding of the project. The person presenting should be comfortable answering questions following the presentation or be able to refer them to on-site staff. Presenting is a skill that not everyone has; be professional, engaging, and insightful when conducting a presentation.

Informal meetings are often held with legislators and local officials, preceding, and following those held with the general public. These meetings are an opportunity to give legislators and local officials a preview of what their constituents will be seeing or to tell them what we heard at the public involvement meeting. Briefing legislators and local officials before and after a public involvement meeting will prepare them to answer constituent questions and concerns about the project.

The region or the project consultant schedules meetings according to the Public Involvement Plan (see [FDM 6-5-10](#)).

### 1.2 Public Involvement Meeting(s) Needed

Some method to inform the public about a proposed project and allow the public to provide feedback should be included as part of the Public Involvement Plan for every project.

An internal WisDOT meeting prior to scoping is a good format to discuss whether there is a need to hold a PIM(s) or if another format is appropriate for gathering public input. Consider inviting local officials to this meeting to get their opinion on public involvement methods. The unit of government sponsoring the project should hold a meeting prior to scoping to make this determination when the project is part of the Local Roads Program.

It is the project manager's responsibility to ensure PIMs or other opportunities to gather public comment are included in the Public Involvement Plan as appropriate.

### 1.3 Number of Public Involvement Meeting(s) to be Held

There is no requirement to hold a specific number of PIMs. The appropriate timing of conducting PIMs depends on various factors. Holding PIMs at major project-development milestones is a good guideline for making this determination. If the project corridor is long and goes through multiple municipalities, consider holding multiple PIMs on separate nights.

#### 1.3.1 Project Scoping

A PIM at the earliest stage of project development is especially important on projects that:

- are controversial
- have a high degree of community/political opposition
- have the potential for substantial impacts on the socio-economic, natural, or physical environment
- require capacity improvements that will increase the footprint of the roadway
- projects in which concerns have been raised by the local officials or the community

PIMs held during public-level scoping activities of the Concept Definition Phase provide an opportunity to involve the public in an upcoming project at the earliest possible point in the design process. It lets the public discuss

issues and concerns about the project and the roadway itself, comment on project purpose and need, and allows designers to collect information from the public.

These meetings should take place before the project design plans start to prevent the public perception that project staff have already decided the course of action. This fosters trust and openness between the project staff and the public. The goal of these meetings is to reach concurrence with the public on project scope before entering the investigation phase of the design process.

### **1.3.2 Preliminary Alternative Screening**

If the project is complex and involves screening of multiple alternatives, another PIM should be held when preliminary alternatives are available for public review and comment. Displays with all alternatives being considered and those that have been eliminated from further consideration should be available for review.

Provide markers so the public can provide layouts of other alternatives they believe may meet the project purpose and need. Have notepads available so the public can include comments about specific alternatives and make notes of errors or omissions that may be found on the aerial.

### **1.3.3 Final Alternative Screening**

If the project included multiple preliminary alternatives that were narrowed down, another PIM should be considered to get public input on those alternatives remaining and the reasons for elimination of other alternatives. The reasons for those alternatives retained and those eliminated from further consideration should be clearly explained at this meeting.

Another primary focal point of this meeting should be a more detailed explanation of the potential impacts of the remaining alternatives. This will allow the public to provide specific comments on those impacts identified by the project team and assist the project team in ensuring all potential impacts have been evaluated.

Efforts made to avoid impacts and opportunities to minimize, mitigate, or compensate for potential avoidable impacts should be identified to the extent practicable.

### **1.3.4 Selected Alternative Screening**

When a final alternative has been selected and a public hearing on the decision is not required (see [FDM 6-15](#)), it may be appropriate to hold another PIM to inform the public of the decision.

### **1.3.5 Project Scope Change**

If a change in project scope is made after the last public involvement meeting, an additional public involvement meeting is required.

Changes in project scope that require an additional public involvement meeting include, but are not limited to:

- Change in the proposed WisDOT Project Classification
- Substantial addition to or reduction in the length of the project
- Substantial addition of work on a connecting roadway
- The addition of a new roadway to the proposed project
- Substantial increase to the context or intensity of project impacts.

Another public hearing may be required if the project scope change occurred after the public hearing on the draft environmental document.

### **1.3.6 Design Change**

Additional public involvement opportunities may be needed when there is a change in the proposed project design.

Changes in the proposed project design are typically modifications that don't result in a substantial increase to the context or intensity of project impacts. Some examples are: changing the intersection type, a minor addition to the length of the project, a minor addition of work on a connecting roadway, changing from a ditch cross-section to curb and gutter, minor changes to the roadway width, etc.

If a design change occurs to the proposed project after the last public involvement meeting or the public hearing, the project team must consult with the Environmental Process and Document Section Region Liaison to determine if additional public involvement is required. The Environmental Process and Document Section Region Liaison will determine if FHWA Wisconsin Division Office staff should be included in the decision making process.

The level of additional public involvement needed can also vary based on the type and location of the proposed design change. Additional public involvement could include meeting with individual property owners, holding a

public involvement meeting for those members of the public directly impacted by the design change or holding another public involvement meeting for the entire public. The appropriate level of public involvement will be determined during the consultation process.

In rare cases, another public hearing may be required if the project scope change occurs after the public hearing on the draft environmental document.

### **1.3.7 Time Lapse Between the Last Public Involvement Meeting**

If there has been a time lapse of two (2) years or more between the last public involvement meeting and final environmental document approval, the project team must consult with the Environmental Process and Document Section Region Liaison to determine if additional public involvement is required. The Environmental Process and Document Section Region Liaison will determine if FHWA Wisconsin Division Office staff should be included in the decision making process.

### **1.3.8 Time Lapse Between Major Project Actions**

When each major project action occurs, following the approval of a draft or final environmental document, the document is re-evaluated to determine whether or not the environmental document is still valid. If the re-evaluation determines that there have been changes in the project scope, changes in project impacts, changes to the existing environment of the project area, changes in proposed mitigation measures or changes in laws that would result in the need to prepare a supplemental or new environmental document, additional public involvement will be required. Major actions include: final environmental document approval, PS&E approval, substantial acquisition of right-of-way, and construction.

Additionally, if it is determined that a substantial time lapse has occurred between major project actions, typically three (3) years or more, a written re-evaluation (see [FDM 20-40-10](#)) will likely be required.

If a written re-evaluation is required, the project team must consult with the Environmental Process and Document Section Region Liaison and FHWA Wisconsin Division Office staff to determine if additional public involvement is required and the appropriate level of public involvement.

### **1.3.9 Pre-construction and Construction**

Holding PIMs prior to the start of construction and during construction (as needed) allows the project manager and contractor to provide the affected public with timely updates regarding access closures, utility interruptions and location of work activity. It also gives the public an opportunity to ask questions about potential construction impacts and inform the construction team of any concerns related to those impacts.

### **1.3.10 Issue-Specific Project Development Actions**

There are other issue-specific project development actions that may require a separate public involvement meeting and other actions for which the project team could consider holding a separate public involvement meeting.

When noise barriers have been determined a feasible and reasonable method of noise abatement, a separate public involvement meeting must be held (See [FDM 23-35-20](#)).

If Community Sensitive Solutions will be incorporated in final design, the project team could consider conducting a separate public involvement meeting to receive input from the general public. This public involvement meeting would typically occur late in the project development process when a selected alternative has been identified.

## **1.4 Developing a Public Involvement Meeting**

The following guidelines may be used for developing an effective PIM:

### **1. Before the Meeting**

- A. Determine a time for the meeting that is convenient for most community members (not conflicting with local functions). Evening meetings are often more suitable for the public. Contact local officials to find out a time that is most convenient and the best location for the meeting.
- B. Before booking a site, be sure the meeting place is accessible as required under the Americans with Disabilities Act (ADA) of 1990 (see [FDM 6-5-20](#)). WisDOT or its consultants may not hold public meetings without providing wheelchair accessibility to the meeting.
- C. Inform citizens and groups of the meeting's purpose, date, and time. Announce meeting two to three weeks in advance. Mailings and notices in local newspapers can be effective for this purpose. All notices should include information on how people who are deaf or hard of hearing or blind or have low vision can access services. This includes using TDD or the Wisconsin

Telecommunication Relay System (see [FDM 6-5-20.5](#)), as well as the option to request an interpreter at the meeting.

- D. For projects that may involve the acquisition of right-of-way interest, a notice of the PIM should be mailed to all property owners adjacent to the project.
- E. Assign tasks to specific people. A meeting checklist with timeline, task list, and task assignments is helpful and alleviates confusion.
- F. Schedule a "dry run" of the meeting to anticipate any problems with logistical or technology issues. Resolve all problems before the meeting begins.
- G. Determine staff who will be present and make sure they know what their role is so they are adequately prepared. Departmental staff working on the project should be there to respond to audience questions in their areas of expertise.
- H. Be sure one staff person is assigned to handle questions from the media. Let all staff working at the PIM know who has been assigned that role.
- I. All visual material shown at the meeting must be easy to see by everyone, use clear language, and be easy to understand.
- J. Arrive early to allow time for setting up exhibits, computers, displays, tables and chairs, and other needed logistics. Make sure to test all audio/visual equipment. If a project statement is used, clearly identify it so participants understand the different components.

## 2. During the Meeting

- A. Be warm and welcoming. Thank attendees for participating and ask them to put their name and address on the sign-in sheet so that they will be informed of future project developments.

Provide attendees with a Public Involvement comment form. Explain that the form can be filled out and submitted at the meeting or returned by the date specified on the form.

A handout providing proposed project details and project team contact information should be considered for use at the public involvement meetings.

These above-mentioned forms are on the environmental programs forms and tools website.

<https://wisconsin.gov/Pages/doing-business/eng-consultants/cnslt-rsrcs/environment/formsandtools.aspx>

- B. All staff attending the PIM should also add their name to the sign-in sheet. It may be important to prove you attended later.
- C. If there are legislators in the attendance, ask them before the meeting if they would like to be introduced. Make a special effort to talk to the legislators to determine if there is any additional information they require about the proposed project.
- D. When responding to audience questions, do not dominate the discussion with lengthy comments. Keep answers short and speak in non-technical language. Give direct responses, but if you do not know an answer, find a staff member that can help.
- E. Use an informal or semi-formal structure that encourages citizen input and responses. A group presentation with an optional question and answer can be a valuable tool in getting additional public input for the proposed project and should be strongly considered for incorporation in the PIP. If a group presentation is made, the public will typically expect an opportunity to ask question and get answers.
- F. Use simple visual aids, photo-log, etc., to clarify the project and have enough information so people are well informed.
- G. Be receptive to citizen input even if it is emotional; note their reactions and suggestions and ask them why they feel that way. Be professional and objective when comments or criticisms are directed at the project design. Maintain a calm demeanor, but do not let one or two people take over the meeting with continued negativity.
- H. Present all viable alternatives at the meeting. Alternatives can be presented using maps, renderings, hypothetical examples or case studies, photographs of sites, project overlays, etc. Clearly explain the advantages and disadvantages using qualitative or quantitative methods in clear, understandable terms. It is important that all participants understand the alternatives presented and that their input and viewpoint is important.

- I. Also include an exhibit of all alternatives previously analyzed that have been eliminated from further consideration.
  - J. Remember that you are representing the Department. Assume every statement you make about the proposed action could be cited by another source.
  - K. Staff may choose to record individual comments or group presentations. If individual comments will be recorded, staff should first get verbal permission from the person. If a group presentation will be recorded (either by video, audio, or both), the presentation facilitator should announce that the entire presentation, including public comments and questions, will be recorded. The recordings must be made part of the administrative record and retained similar to other items included as part of the administrative record.
3. After the Meeting
- A. Be sure to respond to unanswered questions in a timely fashion if a response was requested by a member of the public or a legislator.
  - B. Retain notes of individual or group discussions in the project file.
  - C. Consider holding a debriefing session after the PIM so everyone has a chance to hear what you heard. This technique is especially valuable when the PIM is held in multiple rooms or on multiple days.

### **1.5 Standardized Public Involvement Meeting Sign-In Sheet and Comment Form**

The Public Involvement Meeting Sign-in Sheet and the Public Involvement Meeting Comment Form are the only form formats that should be used at PIMs. The reverse side of the Public Involvement Meeting Comment Form should include a mailing label and pre-paid postage. These forms are on the environmental programs forms and tools website.

<https://wisconsin.gov/Pages/doing-business/eng-consultants/cnslt-rsrcs/environment/formsandtools.aspx>

### **1.6 Public Involvement Meeting and Section 4(f) *De Minimis* Findings**

Be sure to provide the public with a reasonable opportunity to comment on the impacts of the proposed project as they relate to Section 4(f) resources. This is particularly important if a Section 4(f) *De Minimis* finding could be applicable to any of the proposed actions.

Displays at the PIM should be clearly labeled to identify all Section 4(f) resources. For example, an exhibit should identify the boundaries of a park or parkway including appropriate labels to indicate the name of the resource and other important features. The proposed build alternative(s) displays should clearly show the impacts that will occur throughout the project as well as those impacts on the 4(f) resource. If handouts are provided, include a description of the 4(f) resources and a brief discussion of the potential impact(s). There is no requirement to use the words "Section 4(f)" or "*De Minimis* finding".

### **1.7 Facilitating Public Events and Meetings**

Facilitating meetings, hearings, or other events is critical and used to gain valuable information to move forward. A facilitator should know the audience, anticipate questions, acknowledge behaviors, and be able to negotiate skillfully. Understand what facilitation tools can be used and how to use them. Not only will the meeting run smoother but better outcomes will likely result.

### **1.8 Local Unit of Government Board and Committee Meetings**

Providing a presentation during a local unit of government board meeting or other regularly scheduled committee meeting is a method for satisfying PIM requirements for some types of low-impact projects such as roadway resurfacing. When this method is used, the project team should ensure that the project is included in the governmental board or committee's agenda.

Written notification of the project team presentation should be mailed to property owners who use the roadway to access their property or depend on the roadway for customer access to their business.

A separate news release, indicating that the project team will be making this presentation at the board or committee meeting, should also be issued in the local newspaper encouraging attendance by those persons interested in the project.

Prior to issuing the news release, the project team should determine what level of public input will be allowed by the board or committee. If no public input is allowed, the project team should make arrangements to stay after their presentation to answer questions in another location of the building. If project controversy is anticipated, other methods of public involvement should also be incorporated into the Public Involvement Plan.





## FDM 6-15-1 Introduction

December 20, 2013

A public hearing is a more formal event than a public involvement meeting and is typically required by law. The purpose of the public hearing process is to obtain public comment/testimony and to ensure that transportation decisions are consistent with the goals and objectives of federal, state, and local entities.

Public hearings provide a forum for gathering formal comment and testimony on the project's conformity to federal, state, and local plans, project purpose and need, alternative locations, design features, the potential social, economic and environmental effects related to each alternative, efforts to avoid impacts, and opportunities to minimize, mitigate, or compensate for potential avoidable impacts.

Public hearings or opportunities for public hearings for projects engineered by a local unit of government or their consultant are the responsibility of the local unit of government or their consultant. They are responsible for scheduling activities; including preparing and implementing the Public Involvement Plan, creating, publishing and distributing the legal public hearing notice and other notices, and preparing the public hearing exhibits and handout materials. They conduct the public hearing, obtain a verbatim transcript of the proceedings, and prepare the public hearing record. Copies of the public hearing record must be prepared and distributed as described in [FDM 6-15-45](#). The Region typically monitors the local unit of government or consultant as appropriate to assure their compliance with all state and federal requirements.

When public hearings for state highway projects or federal-aid local projects are conducted by other agencies, department policies and procedures described in the section must be followed.

## FDM 6-15-5 Public Hearing Requirements

December 20, 2013

### 5.1 Actions Requiring a Public Hearing

Public hearings are required to be eligible for Federal-aid and are required under 23 USC 128 and 23 CFR 771. In addition, public hearings must be held for highway projects falling in the categories listed below.

1. Section 84.02 of the Wisconsin Statutes requires that due notice be given to localities concerned when changes or discontinuances in the State Trunk Highway System are anticipated. Whenever a change proposes to lay a highway on new location and the deviation from the existing location exceeds 2-1/2 miles, a public hearing in or near the Region affected is required prior to making the change. See [FDM 4-5-1](#) for a discussion of State Trunk Highway System changes.
2. A public hearing is required for any local bridge constructed or reconstructed under Section 84.11 of the Wisconsin Statutes. See [FDM 4-10-1](#) for details. The time and place of the public hearing shall be fixed by the department within 60 days of receipt of a petition for construction of a bridge. Publication of a Class 2 Hearing Notice is required (two insertions in the official newspaper(s) of the area).
3. A public hearing is required for all bridge projects over any state boundary waters which are developed under Section 84.12 of the Wisconsin Statutes. See [FDM 4-10-5](#) for details. The public hearing time and place shall be fixed as indicated under "item 2" above. Publication of a Class 2 Hearing Notice is required.
4. Section 84.25 of the Wisconsin Statutes authorizes the department to designate as controlled access highways the rural portions of the State Trunk Highway System on which the average traffic potential is in excess of 2,000 vehicles per 24-hour day. See [FDM 7-15-5](#) for details. Such action cannot be effected until after a public hearing in the matter has been held in the county courthouse or other convenient public place following notice by publication of a Class 3 Hearing Notice. There shall be three publications, once each week for consecutive weeks, the last of which shall be at least 7 days before the public hearing. It is suggested that 4 publications be made to create a safety net to assure that at least 3 of the publications meet the legal requirements, in case one of the publications is later than requested. The Class 3 hearing notice must be published in a newspaper published in the county in which the action occurs. For some projects, several newspapers will be used in order to generate broad coverage and assure proper notice to the public.
5. Section 84.295(10) of the Wisconsin Statutes provides the department with the authority to establish and reserve the location and approximate widths of rights-of-way for future freeways or expressways.



See [FDM 7-40-1](#) for details. A notice of the public hearing shall be published in a newspaper having general circulation in the area affected by the project as a Class 3 Legal Notice as described in Statute 985. There shall be three publications, once each week for consecutive weeks, the last of which shall be at least 7 days before the public hearing. It is suggested that 4 publications be made to create a safety net to assure that at least 3 of the publications meet the legal requirements, in case one of the publications is later than requested. For some projects, several newspapers will be used in order to generate broad coverage and assure proper notice to the public. For a programmed improvement project, this public hearing can be held in conjunction with any other official public hearing for that project, so long as the s. 84.295 declaration is identified as an item on the agenda for that meeting.

6. Projects involving significant environmental impacts, and thereby requiring the development of an Environmental Impact Statement under either the Wisconsin or the National Environmental Policy Acts, require one or more public hearings. Upon publication of a Draft Environmental Impact Statement (DEIS), a combined public hearing may be held to satisfy this and other public hearing requirements. This requirement also applies when a Supplemental Draft Environmental Impact Statement is prepared.
7. In addition to required public hearings as noted in the preceding six categories, a public hearing must be held or the opportunity to request a public hearing must be offered on all projects when an environmental assessment is prepared.
8. In addition to required public hearings, as noted in the preceding seven items, a public hearing must be held or the opportunity to request a public hearing must be offered for any federal-aid or state-funded project which:
  - requires significant amounts of right-of-way
  - substantially changes the layout or functions of connecting roadways or of the facility being improved
  - has a substantial adverse impact on abutting property
  - otherwise has a significant social, economic, environmental or other effect
  - FHWA or the department determines that a public hearing is in the public interest.

## 5.2 Public Hearing Contents

A public hearing or opportunities to request a public hearing should provide for the following:

- A reasonable notice
- Availability of explanatory information about the project and the alternatives considered
- Estimated social, economic, and environmental impacts
- Information about the relocation assistance program
- A request specifically for public comments on historic or archaeological resources that may be located in the project area
- Information about the right-of-way acquisition process
- Procedures for requesting a public hearing or submitting verbal or written testimony about the project
- Any other information required by laws, regulations, or executive order.

## FDM 6-15-10 Types of Public Hearings

December 20, 2013

### 10.1 General

The three types of public hearings held are:

- Traditional-Style Public Hearing - This is often referred to as a Town Hall type of public hearing. A traditional-style public hearing is usually held when there is a strong vocal opposition group that wants the opportunity to present formal testimony. The conduct of a traditional-style public hearing is detailed in [FDM 6-15-40](#).
- Open-Style Public Hearing - This is also referred to as a "Georgia-style" public hearing. A common type of public hearing held by many state highway agencies today is the open-style public hearing. Because a Hearing Chairperson is not required at this type of public hearing, a Chairman's Packet is not required in preparation for the public hearing (see [FDM 6-15-35.5](#)). Typically, an open-style public hearing is similar to a public involvement meeting with written testimony forms available for the public and court reporters located in semi-private areas of the designated building to record verbal

testimony for the public hearing record. The Project Statement may be given verbally, in a written format or by means of an audio/visual presentation.

- Hybrid-Style Hearing - This is a combination of the Traditional-Style and Open-Style Public Hearing types.

## 10.2 Public Hearing Type - Environmental Documents

The department has determined the hybrid-style hearing type will be used when a public hearing is required for an environmental document in an effort to accommodate all public hearing style preferences expressed by the public. Benefits of hybrid-style hearing are:

- Provides a format for people, who are not comfortable speaking in front of a group, the opportunity to present their testimony to court reporters privately
- Provides a private method of testimony for those who have concerns about their differing opinions from the majority or neighbors
- Provides a forum for those who want to have their comments and opinions heard publicly
- Provides an opportunity for those who want hear the comments and opinions of others prior to finalizing their testimony
- Provides flexibility in determining when to give verbal testimony. A person can select any time during the public hearing period to provide verbal testimony. They do not have to wait to give testimony during the traditional-style portion of the public hearing.
- A review of previously held WisDOT public hearings indicates that the department typically receives over three times the amount of public input using the open-style format compared to the traditional-style.

## 10.3 Public Hearing Type - Section 84.02, 84.11, 84.12, 84.25 and 84.295(10) Actions

The hybrid-style public hearing type is optional for Section 84.02, 84.11, 84.12, 84.25 and 84.295(10) public hearings that are not being combined with a public hearing for an environmental document prepared for Section 84.02, 84.11, 84.12, 84.25 or 84.295(10) action. The Region will determine the public hearing type that will be used for these actions.

## FDM 6-15-15 Hybrid-Style Hearings Provisions

*December 20, 2013*

Provisions for conducting an effective hybrid-style public hearing include:

- The public hearing timeframe is typically two to four hours in length. The Region will determine the length of the public hearing by taking into account the level of public interest and controversy experienced during prior public involvement.
- The public hearing room would include exhibits and project representatives to answer general project-related questions. The exhibits and staff would be available during all the entire public hearing period. A brief presentation and/or question/answer session(s) could be held during this time, but is not required. If such a session is held, one session should be held within the first hour of the start of the public hearing and conclude no later than one hour after the start of the public hearing.
- The open-style public hearing portion of the hybrid-style hearing would be available during the entire public hearing period noted in public hearing announcements. A person could present public hearing testimony to a court reporter in a one-on-one format anytime during this period. The court reporter(s) could be located in the same room as the exhibits or a separate room, depending on the room availability of the facility where the public hearing is held. Those persons interested in providing private verbal testimony would be required to complete a "Registration Slip for Verbal Testimony" and present it to the court reporter. Required information on the form would include; name, address, representing (if applicable), speaking in favor/in opposition/for information only.
- The Region should specify the traditional-style public hearing start time in announcements and not include a traditional-style public hearing length. It should be explained that the traditional-style public hearing portion of the hybrid-style hearing will be concluded when all public verbal testimony has been provided or when the hybrid-style hearing timeframe concludes, whichever occurs first.
- At a minimum, the traditional-style public hearing portion of the hybrid-style hearing would be staffed by one project representative serving as the public hearing proctor and one court reporter recording testimony. The project representative and need for additional project representatives would be determined by the lead agencies conducting the public hearing.
- Those persons interested in providing public verbal testimony during the traditional-style public hearing portion of the hybrid-style hearing would be required to complete a "Registration Slip for Verbal

Testimony” and present it to the public hearing proctor. Required information on the form would include; name, address, representing (if applicable), speaking in favor/in opposition/for information only.

- Persons presenting public verbal testimony during the traditional-style public hearing portion of the hybrid-style hearing would be asked to limit their testimony to no more than three (3) minutes. Those interested in providing more than 3 minutes of testimony should be informed that they would be able to provide additional testimony after others wishing to testify have done so.
- The decision to respond to testimony, ask questions and/or provide clarification during the traditional-style public hearing portion of the hybrid-style hearing, would be at the sole discretion of the Hearing Chairperson.
- A format for those interested in providing written testimony at the public hearing would also be provided during the entire public hearing period. It will also be indicated that written testimony will be accepted during the entire environmental document availability period.
- WisDOT or the Local Roads Program Management Consultant would ensure that any information the lead agencies prepare for distribution at the public hearing is identified as lead agency materials. This would assist the public in differentiating between project-sponsor materials and materials that could potentially be distributed by other entities attending the public hearing.
- Other entities would be allowed to distribute information applicable to the matter at hand during the public hearing. It would be required that the information be distributed in written or video format; no audio or amplification devices would be allowed. Those wanting to present information would be required to arrange for tables and chairs, if desired, with the managers of the facility where the public hearing is being conducted.
- The entity distributing materials should clearly label those materials with their name or organization name. If they are distributing the materials from a set location in the public hearing area, that area should also clearly display the name of the entity distributing the materials.
- If materials to be distributed by others will be presented in a location the lead agencies have secured for the public hearing, the location for distribution would be at the sole discretion of the lead agencies conducting the public hearing.

## **FDM 6-15-20 Pre-Hearing Activities**

*September 19, 2014*

### **20.1 General**

Certain activities will define the lead-time required for a public hearing. The timeline depends on the nature of the public hearing and the project as outlined in Table 20.1 below.

**Table 20.1 Recommended Lead Time for Activities Relating to Public Hearings**

Recommended Lead Time Prior to Public Hearing Date	Activity/Application
<b>Seven weeks</b>	<p>If a public hearing includes a presentation, additional lead-time should be allowed (see <a href="#">FDM 6-15-35.6</a> and <a href="#">FDM 6-15-40.6</a>).</p> <p>The Region resolves any key issues listed previously. Prepare and send an internal email of the Public Hearing Internal Notice.</p> <p>Choose a site that is ADA accessible.</p> <p>Consultants submit their draft public hearing notices to the Region for review.</p>
<b>Six weeks</b>	<p>Consultants submit their revised public hearing notices to the appropriate Region.</p> <p>The Region or their consultant arranges a court reporter(s).</p>
<b>Three weeks</b>	<p>The Region or their consultant finishes the public hearing exhibits, the Handout Packet, and the Chairman's Packet if necessary.</p>
<b>Less than fourteen days</b>	<p>The Region staff, or their consultant, should make final arrangements for the public hearing site. Check all logistics such as equipment, lighting, seating, tables and more. Determine if a portable public-address system is necessary. Make sure to meet all ADA requirements.</p>

## 20.2 Internal Coordination

As the project's environmental document is being prepared for public availability, the Region selects a public hearing date based upon their anticipated development timetable. The Region will resolve these issues:

- Develop a statement of public hearing purpose and establish the public hearing scope.
- Confirm the public hearing date, time and place.
- Determine the style of public hearing (traditional, open, or hybrid) if the public hearing is being held for a Section 84.02, 84.11, 84.12, 84.25 or 84.295(10) action and no environmental document is involved.
- Determine who should chair a traditional-style public hearing or traditional-style portion of a hybrid-style hearing.
- Determine if a pre-hearing conference is needed. See [FDM 6-15-35.7](#) for more details.

Complete the internal coordination and the pre-hearing conference, if necessary, prior to releasing the legal notice for publication. This will ensure general agreement on major public hearing aspects before commitments are made. These issues need to be resolved at least seven weeks prior to the anticipated public hearing date. Appropriate documentation of these actions should be in the files.

Notify WisDOT central office managers who are stakeholders in the development of projects with significant public interest. Use [DT1370](#), Public Hearing Internal Notice to communicate internally the proposed plans for a public hearing.

## 20.3 Legal Notice for the Public Hearing

Once the above internal coordination issues are resolved, the Region or their consultant shall prepare the following documents:

- The legal notice (see [FDM 6-15-25](#) for content)
- A list of newspapers where the legal notice will be published and the publication dates
- A list of special recipients of the legal notice. The standard and special distribution lists for public hearing notices are found on the Environmental Programs forms and tools website.

<https://wisconsin.gov/Pages/doing-bus/eng-consultants/cnslt-rsrcs/environment/formsandtools.aspx>

The Region sends the appropriate items to the offices listed in the Table 20.2 prior to the public hearing date. Timing is based on the legal notice publishing requirement of the specific newspaper(s).

**Table 20.2 Summary of Recipient of Documents**

Recipients of Documents	Legal Notice	List of Newspapers and Dates	List of Special Recipients of Notice
Region Purchasing Agent	X	X	----
FHWA Field Operations Engineer	X	X	X
WisDOT Bureau of Technical Services' EPDS Region Liaison	X	X	----
WisDOT Region Communications Manager	X	X	X

At the Region's discretion, the Region may prepare a separate informal news release or display ad for publication using print media and/or radio announcements in addition to the legal notice. As Department policy on social media is enacted; resources such as Facebook, Twitter, blogs or other media may be used. See [FDM 6-15-30](#) for more details.

The Region Purchasing Agent prepares the purchase order to get the notice published. The Purchasing Agent requests affidavits from the newspapers to confirm the notice was published properly. The newspaper(s) must present this affidavit in order to be paid. The designer should request copies of affidavits from each newspaper for the project file.

For state projects engineered by a consultant, the consultant prepares and provides the Region a package consisting of the notice, the list of newspapers and dates, and the list of special recipients.

The Region or their consultant shall send copies of the notice to the recipients listed on the standard and special distribution lists for public hearing notices found on the Environmental Programs forms and tools website.

<https://wisconsin.gov/Pages/doing-bus/eng-consultants/cnslt-rsrcs/environment/formsandtools.aspx>

This includes those on the standard distribution list as well as any unique individual distribution lists for the appropriate Region. The distributions should coincide with the legal notice being placed in newspapers.

For local projects engineered by the local unit of government or their consultant, coordinate details with the Region to assure that the notice fulfills all necessary legal requirements.

#### **20.4 Federal Register Announcement**

For federally funded projects that require a draft, final, or supplemental Environmental Impact Statement (EIS), the document must be posted to the Environmental Protection Agency's (EPA's) electronic National Environmental Policy Act (e-NEPA) website. The posting of the EIS to the e-NEPA website establishes the comment period (minimum 45 days) for draft EIS documents. Additional guidelines for this process follow:

- EPA publishes notices of availability in the Federal Register every Friday (or Thursday when Friday is a Federal holiday). EPA's notices include all complete EIS submittals from the previous week. Consequently, WisDOT staff should submit documents to FHWA a minimum of two weeks prior to the intended date of notice in the Federal Register.
- Prior to posting the EIS on the e-NEPA website, the document must be completely ready for publication and must conform to the format requirements listed in EPA's submittal guide.

<http://energy.gov/nepa/downloads/epa-electronic-submittal-environmental-impact-statements-epa>

In general, it is the responsibility of WisDOT or its consultant to ensure these requirements are met.

- Prior to posting the EIS on the e-NEPA website, the document must have been submitted to the appropriate agencies and other project stakeholders, and made available to the public.
- The 45-day comment period begins on the date the EPA notice is published. See [FDM 6-15-25.3](#) and [FDM 6-15-25.4](#) for WisDOT process for determining public hearing timing.
- Only FHWA environmental staff can post documents to the e-NEPA website. WisDOT project staff must coordinate document transmittal with FHWA early in project development to ensure that project timelines are met. WisDOT project staff must coordinate with the FHWA field operations engineer and applicable environmental staff member(s).
- Posting the EIS to e-NEPA does not remove the requirement to provide EPA Regional staff with paper and electronic copies of the document for their review.

## 25.1 General

This procedure describes how to determine whether to publish a Notice of Opportunity to Request a Public Hearing or publish a Notice of the Public Hearing. Both of these forms are on the environmental programs forms and tools webpage:

<https://wisconsin.gov/Pages/doing-business/eng-consultants/cnslt-rsrcs/environment/formsandtools.aspx>

Preparation and publication requirements of these two documents are detailed in the following sections.

## 25.2 Which Notice to Publish

### Environmental Impact Statements

As discussed in [FDM 6-15-5](#), projects involving significant environmental impacts, and thereby requiring the development of an Environmental Impact Statement under either the Wisconsin or the National Environmental Policy Acts, require one or more public hearings. A Notice of Public Hearing must be published prior to holding the public hearing. This requirement also applies when a Supplemental Draft Environmental Impact Statement is prepared.

### Environmental Assessments

- It is the Region's decision whether to publish a Notice of Opportunity to Request a Public Hearing or a Notice of Public Hearing when an Environmental Assessment is prepared for a proposed project. For projects with unique circumstances, it is recommended that the project team consult with the Bureau of Technical Services' Environmental Process and Document Section Region liaison on the proper notice to publish.
- If a Notice of Opportunity to Request a Public Hearing is published and a request(s) is made to hold a public hearing, a public hearing must be held unless the person(s) provide the Region a written statement rescinding the public hearing request.

### FHWA Type 2c Categorical Exclusion/WisDOT Environmental Report

- For an FHWA Type 2c Categorical Exclusion\* (also called a WisDOT Environmental Report), a public hearing must be held or the opportunity to request a public hearing must be offered if the project meets any of the following criteria:
  1. Requires significant amounts of right-of-way.
  2. Substantially changes the layout or functions of connecting roadways or of the facility being improved.
  3. Has a substantial adverse impact on abutting property.
  4. Has a significant social, economic, environmental, or other effect.
  5. FHWA or the department determines that a public hearing is in the public interest.
- The determination of whether or not the project meets any of the five criteria is included as part of the environmental document. Signature of the environmental document indicates FHWA concurrence with the determination.
- If it is determined that the project meets any of the five criteria, a meeting including Region, Bureau of Technical Services' Environmental Process and Document Section, and FHWA staff should occur to determine if a Notice of Opportunity to Request a Public Hearing or Notice of the Public Hearing will be published.
- If a Notice of Opportunity to Request a Public Hearing is published and a request(s) is made to hold a public hearing, a public hearing must be held unless the person(s) provide the Region a written statement rescinding the public hearing request.

\* The term "environmental report" will be used.

### Section 84.02, 84.11, 84.12, 84.25 and 84.295(10) Actions

As discussed in [FDM 6-15-5](#), Section 84.02, 84.11, 84.12, 84.25 and 84.295(10) actions require a public hearing. A Notice of Public Hearing must be published prior to holding the public hearing. If an environmental document is prepared for any of these actions, a single public hearing may be held to satisfy public hearing requirements for both actions. A hearing notice for a section 84.25 action must be published in a newspaper that is published in the county in which the action occurs at a minimum.



### 25.3 Notice of Opportunity to Request a Public Hearing

After the environmental assessment (or the environmental report if it has been determined that a Notice of Opportunity to Request a Public Hearing will be published) for the project has been approved, the Region, or their consultant, prepares and distributes the legal notice and other public hearing notification documents according to the list and process shown in [FDM 6-15-20.3](#). The Region or their consultant also distributes the legal notice and other documentation to each appropriate recipient listed in the standard distribution for public hearing.

<https://wisconsin.gov/Pages/doing-business/eng-consultants/cnslt-rsrcs/environment/formsandtools.aspx>

Each Region Communication Manager also has a special distribution list of people and organizations to be notified in their Region.

As a minimum, the Notice of Opportunity to Request a Public Hearing contains the following information, as appropriate:

- Brief project description. Include the Notice of Intent to Change State Trunk Highway System, Section 404 project aspects, specific mention of wetland involvement, etc., as appropriate
- Information where additional project information can be requested or viewed
- Availability of relocations assistance
- Procedures to request a public hearing and the deadline to submit a public hearing request
- Availability of the environmental document and the length of the comment period
- Process on how to contact the Region or their consultant for special accommodations and accessibility

The first publication must be at least 30 days prior to the deadline for requesting a public hearing. This 30-day period is, in most cases, also the 30-day availability period required for the environmental assessment or environmental report. A second publication should be published a week later. A copy of the Notice of Opportunity to Request a Public Hearing template is found at:

<https://wisconsin.gov/Pages/doing-business/eng-consultants/cnslt-rsrcs/environment/formsandtools.aspx>

A copy of the Notice is sent to the same individuals, agencies, and organizations who would receive a Notice of Public Hearing. If no requests are received within the allotted time, state this explicitly in the project's final environmental document.

If a Notice of Opportunity to Request a Public Hearing is published and a request(s) is made to hold a public hearing, a public hearing must be held unless the person(s) provide the Region a written statement rescinding the public hearing request. Evidence of this written statement must be included in the project's final environmental document.

### 25.4 Notice of Public Hearing

Region staff and consultants should refer to [FDM 6-15-20.3](#) for guidance on the documents needed to announce a public hearing and how they are to be processed.

#### 25.4.1 Notice of Public Hearing Contents

At a minimum, the Notice of Public Hearing should contain the following information:

- Purpose of the public hearing including the location, design, notice of availability of the environmental document, and state trunk highway system change aspects for the proposed project.
- Description and scope of project plus the extent of right-of-way acquisition. Include Section 404 project aspects, whether the public hearing will be a joint venture of WisDOT and others, and specific details of wetland involvement, etc., as appropriate.
- Date, time, and place of public hearing and the deadline for receipt of additional testimony after the public hearing.
- Information where additional project information can be requested or reviewed.
- Whether property acquisition and construction schedules will be discussed.
- Information on relocation assistance if relocations will occur.
- Provisions for submitting additional written testimony.
- Availability of the environmental document and the deadline date to receive comments on the environment document. The minimum availability and comment period for an EIS is 45 days and 30 days for an EA.
- Request for historic, archeological, or burial information.
- Information on how special needs are met, site accessibility, and availability of interpreters, if needed.



The Notice of Public Hearing template and the standard and special distribution lists for public hearing notices are on the Environmental Programs forms and tools website.

<https://wisconsin.gov/Pages/doing-business/eng-consultants/cnslt-rsrcs/environment/formsandtools.aspx>

#### **25.4.2 Notice of Public Hearing Publication Requirements - Environmental Document Only**

When a public hearing is being conducted for an environmental document only, notices should be published twice in area newspaper(s). The first notice should be published at least 30 days before the public hearing and the second not more than 14 days before the public hearing. If the Region determines these publication timelines can't be met, written concurrence from the Section Chief of the Bureau of Technical Services' Environmental Process and Document Section must be obtained before the minimum publication requirement of one public hearing notice published at least 15 days before the public hearing will be allowed.

#### **25.4.3 Notice of Public Hearing Publication Requirements - Section 84.02, 84.11, 84.12, 84.25 and 84.295(10) Actions Only**

When a public hearing is being conducted for Section 84.02, 84.11, 84.12, 84.25 and 84.295(10) actions only, a notice of the public hearing shall be published in area newspaper(s) as a Class 3 Legal Notice as described in Statute 985. There shall be three publications, once each week for consecutive weeks, the last of which shall be at least 7 days before the public hearing. It is suggested that 4 publications be made to create a safety net to assure that at least 3 of the publications meet the legal requirements, in case one of the publications is later than requested. The notice of public hearing for an 84.25 action must be published in a newspaper published in the county in which the action is proposed as a minimum.

The Notice of Public Hearing must be sent via registered/certified mail to owners of record abutting the roadway on which a public hearing is being held for a Section 84.25 action.

#### **25.4.4 Notice of Public Hearing Publication Requirements - Combined Actions**

When a public hearing is being conducted for an environmental document that also includes a Section 84.02, 84.11, 84.12, 84.25 or 84.295(10) action, as a minimum, a notice of the public hearing shall be published in area newspaper(s) as a Class 3 Legal Notice as described in Statute 985. There shall be a minimum of three publications, once each week, for consecutive weeks. The first notice should be published at least 30 days before the public hearing and the third not more than 14 days before but at least 7 days before the public hearing. It is suggested that 4 publications be made to create a safety net to assure that at least 3 of the publications meet the legal requirements, in case one of the publications is later than requested. If it is decided to use a minimum of 3 publications, early coordination with the Bureau of Technical Services' Environmental Process and Document Section must occur to ensure publication timeframe requirements are met. If the Region determines the first publication can't occur at least 30 days before the public hearing, written concurrence from the Section Chief of the Bureau of Technical Services' Environmental Process and Document Section must be obtained. The notice of public hearing for an 84.25 action must be published in a newspaper published in the county in which the action is proposed as a minimum.

The Notice of Public Hearing must be sent via registered/certified mail to owners of record abutting the roadway on which a combined public hearing is being held for an environmental document and a Section 84.25 action.

#### **25.5 Notice Requirements for Section 404 of the Federal Clean Water Act**

Projects involving the placement of fill material into waters of the United States require a permit from the U. S. Army Corps of Engineers (USACE) in accordance with Section 404 of the Federal Clean Water Act. However, before the USACE can issue a permit, their public hearing requirements must be fulfilled. When projects using federal aid are combined with the need to comply with USACE hearing requirements, the public hearing process may be quite extensive. A chronology of the multiple public hearing processes is described below with relevant details in parentheses:

- Notice of Opportunity to Request a Public Hearing or Notice of Public Hearing is published (federal aid requirement, WisDOT public hearing)
- Public Hearing held (federal aid)
- Section 404 application to USACE
- Public notice providing an opportunity for a Public Hearing published (USACE requirement, USACE hearing)
- Hearing notice published (USACE)
- Hearing held (USACE)

To reduce duplicating public hearing efforts, specific Section 404 aspects should be in the Notice of Opportunity to Request a Public Hearing and/or the Notice of Public Hearing for the environmental document. By adding the

404 language to these notices, the scope of the public hearing is expanded to include testimony on Section 404 project aspects. In the event that a person who requested a public hearing for the environmental document and/or who testified at the public hearing on the environmental document subsequently requests a public hearing conducted by the USACE for the Section 404 permit application, the USACE would have justification for considering that their public hearing requirements are met. The USACE could deny the public hearing request citing that the person requesting the public hearing had already been given an opportunity to testify on 404 project aspects through the environmental document public hearing process.

Another possibility for eliminating duplication of effort exists if consideration is given to conducting the public hearing on the environmental document as a joint public hearing, to satisfy requirements of the USACE, FHWA and the Department. For example, if the Notice of Opportunity to Request a Public Hearing or Notice of Public Hearing for the environmental document referred to Section 404 project aspects, consideration could be given to a joint public hearing.

For those projects involving significant or controversial Section 404 project aspects, consider conducting a joint public hearing. Contact the USACE to determine if it is desirable to hold a joint public hearing for these projects. In order for the USACE to meet their hearing procedures, they must receive the 404 permit application at least 90 days before the hearing.

Refer to the Notice of Opportunity to Request a Public Hearing and Notice of Public Hearing Templates found on the Environmental Programs forms and tools website for additional examples of Section 404 language.

<https://wisconsin.gov/Pages/doing-bus/eng-consultants/cnslt-rsrcs/environment/formsandtools.aspx>

## **25.6 Notice Requirements for Wetland Considerations**

If one or more project alternatives affect wetlands, a Public Hearing Notice or Notice of Opportunity to Request a Public Hearing shall indicate if one or more alternatives would be located in wetlands.

This wetlands notice requirement is applicable to all federal aid projects in accordance with FHWA. More details of federal policies and regulations related to wetlands are found in [FDM 20-40](#).

## **25.7 Notice Requirements for Substantial Encroachments on Floodplains**

If one or more project alternatives include substantial encroachment on a floodplain the Public Hearing Notices and Notices Offering an Opportunity to Request a Public Hearing shall indicate that one or more alternatives includes substantial encroachment on a flood plain.

## **FDM 6-15-30 News Releases, Display Ads, Newspaper Graphics and Social Media** *September 19, 2014*

### **30.1 News Releases and Display Ads**

For a public hearing, a news release is required. For a public hearing or public involvement meeting, a display ad is optional. Display ads are typically a paid advertisement and written as informal news.

The Region or their consultant prepares news releases and display ads.

The ad or news release briefly describes the proposal, the public hearing, or public involvement meeting date, and a contact person for additional information.

News releases and display ads are usually sent to the same newspapers as the public hearing legal notice. They can also be sent to newspapers in surrounding areas to provide a wider circulation. Area radio and TV stations can also be provided with copies of the news release.

The Environmental Programs forms and tools website contains templates for these forms.

<https://wisconsin.gov/Pages/doing-bus/eng-consultants/cnslt-rsrcs/environment/formsandtools.aspx>

### **30.2 Newspaper Graphics**

In many instances the Region may wish to supplement a news release with a map or visual to clarify certain aspects of a proposal or to draw attention to the notice. A map should be considered when text alone would not sufficiently describe the project. The map is necessary for additional details and to visually aid in understanding the project proposal. The requirements of the map to be included are:

- Sufficient reference of details to identify the project orientation, street names, direction, etc.
- Shows only pertinent information
- Is drawn to scale when reproduced in the newspaper, if possible
- Is prepared in black-on-white format to simplify reproduction

Size requirements for legal notices and ads will vary according to the publication or newspaper. Many publications handle the production. Contact publications directly for details.

### 30.3 Social Media

Social media tools provide additional ways for public outreach. This includes Facebook, Twitter, and YouTube. WisDOT's policy on social media is in the transportation administrative manual (TAM) as COM 105. This policy must be used to establish new social media sites.

Region communication managers work in coordination with the Office of Public Affairs (OPA) to provide ongoing administration and messaging on established social media sites. A best practice is to only have dedicated Facebook and Twitter sites for mega projects. Other projects can still utilize social media tools via the department's official Facebook and Twitter sites administered through OPA. Work with the Regional communication manager to consider how social media tools might be used.

## FDM 6-15-35 Preparing for a Public Hearing

September 19, 2014

### 35.1 General

This procedure outlines elements related to preparing for a public hearing. Local units of government (city/town/county) or their consultant should use the elements identified in this procedure when they are responsible for the preparing and conducting the public hearing.

### 35.2 Public Hearing Exhibits

Once the need for a public hearing is identified, the Region or their consultant can begin preparing public hearing exhibits. Typically public hearing exhibits include:

- Project background and the purpose/need
- Location of the project alternatives
- Roads to be removed, added or altered, etc.
- Properties to be acquired and owners' names
- The title and date the aerial was taken
- Scales and legends
- Areas of wetland involvement, flood plain encroachment, public lands, etc. Also include Section 106 and Section 4(f) resources unless there is sensitive or confidential information
- Typical cross sections
- Any other information necessary to appropriately explain elements of the project

Public hearings may involve many people; therefore, these exhibits should be large, easily read, in color if possible, and suitable for wall mounting. They should be displayed while the public hearing is in progress.

The Region or their consultant is responsible for taking color photographs of the full-scale public hearing exhibits. The original photos must be in a reproducible format. The photo negatives or the digital medium on which the photos are stored should be included in the Region's copy of the public hearing record.

Copies of the photographs are a required part of the public hearing record transmitted to FHWA and the WisDOT Bureau of Technical Services' Environmental Process and Document Section. The photographs must be clear and you must be able to read lettering to reconstruct the public hearing exhibits from the photos. It is not necessary to be able to read the names of property owners since this is usually the smallest font on exhibits.

### 35.3 Project Statement

The project team shall prepare a Project Statement which is presented at the public hearing. This statement provides a summary of the background, purpose, and planning efforts involved in the development of the proposed project, the exhibits on display, and the alternatives. In addition to a description of the proposed project and the surrounding area, the statement includes a discussion of the anticipated social, economic, and environmental impacts of the alternatives. The Project Statement should be included in the Hearing Handout Packet and detailed during the project presentation.

Refer to the Chairperson's Packet Template, found on the Environmental Programs forms and tools website, for detailed language that must be included as part of every Project Statement.

<https://wisconsinindot.gov/Pages/doing-bus/eng-consultants/cnslt-rsrcs/environment/formsandtools.aspx>

### 35.4 Public Hearing Packet Handout

A packet of materials is prepared for all public hearings by the Region or their consultant to be given to participants at the public hearing. Review and discuss this packet at the pre-hearing conference. Elements of the Hearing Handout Packet are:

- Cover sheet
- Hearing Handout Packet Contents
- Welcome
- Public Hearing Agenda
- Options and Instructions for Providing Testimony
- Project or Study Location Map
- Purpose of the Public Hearing
- Environmental Documentation Process
- Information for the Public Hearing Record
- Project Statement
  - Project Description
  - Project Purpose and Need
  - Alternatives Screening Process and Timeline
  - Description of Alternatives for Detailed Study
  - Alternative Exhibits
- Alternatives Comparison Matrix
- Property Acquisition/Relocation Assistance and Benefits (if applicable)
- Next Steps/Project Schedule
- Description of Public Hearing Exhibits
- Contact Information
- Written Testimony Form (in prepaid mailer format)
- Registration Slip for Verbal Testimony

Not all the elements identified may be required for every hearing handout packet. For example, there may be no relocations required as part of the alternatives carried forward for detailed study.

Follow the format of the Public Hearing Handout Packet Template for all public hearings. Request samples of Hearing Handout Packets prepared for other projects from the Region Communications Manager. The Environmental Programs forms and tools website contains the public hearing handout packet template.

<https://wisconsin.gov/Pages/doing-bus/eng-consultants/cnslt-rsrcs/environment/formsandtools.aspx>

### **35.5 Chairperson's Packet**

A Chairperson's Packet is prepared for all public hearings by the Region or their consultant. Review and discuss this packet at the pre-hearing conference if there is one. The Chairperson's Packet should include:

- Welcome (by the Chairperson)
- Project Presentation and Question/Answer Session
- Opening Statement (by the Chairperson)
- Information for the Record
- Project Statement
- Invitation of Testimony (by the Chairperson)
- Closing Statement (by the Chairperson)

Follow the format of the Chairperson's Packet Template for all public hearings. Request samples of Chairperson's Packets prepared for other projects from the Region Communications Manager. The Environmental Programs forms and tools website contains the chairperson's packet template.

<https://wisconsin.gov/Pages/doing-bus/eng-consultants/cnslt-rsrcs/environment/formsandtools.aspx>

### **35.6 Audio/Visual Project Presentations**

Project presentations using PowerPoint or other technology such as Google Earth are methods that should be utilized at the public hearing to effectively share project information and data. If an audio and/or visual presentation of the Project Statement is made at the public hearing, the final presentation should be shown at

the pre-hearing conference.

### 35.7 Pre-Hearing Conference

The Region will schedule pre-hearing conferences. The pre-hearing conference provides a “practice run” to review the public hearing procedure, exhibits, Hearing Handout Packet, Chairperson’s Packet, project presentation, the Project Statement, and the project status. Region, central office, and consultant staff (as appropriate) typically attend. For projects that are considered major or controversial, the Region director, central office division administrator, and the Secretary’s Office, should also be invited to attend.

At the pre-hearing conference, the public hearing procedure and recent project-related developments are reviewed and the Project Statement is read and discussed. Draft revisions and additions to the material for inclusion in the final project presentation. The pre-hearing conference should be held prior to the release of the legal notice for the first newspaper publication. This assures that all are in agreement before the Department is committed to the published proposal.

## FDM 6-15-40 Conducting the Public Hearing

September 19, 2014

### 40.1 General

The department has determined the hybrid-style hearing type will be used when a public hearing is required for an environmental document. Follow all parts of this procedure for the hybrid-style hearing.

The hybrid-style hearing type is optional for Section 84.02, 84.11, 84.12, 84.25 and 84.295(10) public hearings that are not being combined with a public hearing for an environmental document prepared for the Section 84.02, 84.11, 84.12, 84.25 or 84.295(10) action. The Region will determine the public hearing type to be used for these actions. If the Region determines only a traditional-style public hearing will be held for these actions, [FDM 6-15-40.4](#) Open-Style Portion of the Hybrid Public Hearing of this procedure does not apply.

When a public hearing is conducted by a local unit of government or their consultant, the Region must ensure that legal requirements including appropriate notices, documents, brochures, Hearing Handout Packet, Chairperson’s Packet, etc. are met. All of these elements must be entered into the public hearing record as exhibits. The Region is also responsible for ensuring that the project presentation and Project Statement includes information on relocation assistance, property acquisition, wetland considerations, flood plain encroachments, construction scheduling, etc.

### 40.2 Public Hearing Room Entry Area

Project team members should be seated at a sign-in table located near the public hearing room entry area. Greet members of the public as they approach the table. Thank attendees for participating and ask them to fill out the sign-in sheet. The Environmental Programs forms and tools website contains the public hearing sign in sheet template.

<https://wisconsin.gov/Pages/doing-bus/eng-consultants/cnslt-rsrcs/environment/formsandtools.aspx>

Provide attendees with a Hearing Handout Packet ([FDM 6-15-35.4](#)). Explain that the packet includes a page detailing the different ways verbal and written testimony can be provided at the public hearing and how written testimony can be provided any time prior to the environmental document comment period ending.

Extra copies of the public hearing Written Testimony Form and the Registration Slip for Verbal Testimony included in the Hearing Handout Packet should also be available at the sign-in table.

### 40.3 Informational Discussions

Informational discussions provide an additional opportunity for all interested parties to discuss the proposed project with representatives of the department, government, and consultant staff in an informal atmosphere prior to providing their official testimony. Have staff available in the discussion area during the entire public hearing timeframe. Discussions are typically held in the public hearing exhibit area. Staff should try to separate this area from the area where traditional-style public hearing testimony will occur.

### 40.4 Open-Style Portion of the Hybrid-Style Public Hearing

The open-style public hearing portion of the hybrid-style hearing should be available during the entire public hearing period noted in public hearing announcements. A person could present public hearing testimony to a court reporter in a one-on-one format anytime during this period. The court reporter(s) could be located in the same room as the public hearing exhibits or in a separate room, depending on the room availability of the facility where the public hearing is being held.

Instruct the court reporter to request a completed copy of the Registration Slip for Verbal Testimony prior to the



participant providing testimony.

#### **40.5 Traditional-Style Portion of the Hybrid-Style Public Hearing**

The Region should specify the traditional-style public hearing start time in public hearing announcements and not include a traditional-style public hearing length. It should be explained that the traditional-style public hearing portion of the hybrid-style hearing will be concluded when all public verbal testimony has been provided or when the hybrid-style hearing timeframe concludes, whichever occurs first.

Instruct the public hearing proctor to request a completed copy of the Registration Slip for Verbal Testimony prior to the participant providing testimony.

#### **40.6 Format of the Traditional-Style Portion of the Hybrid-Style Public Hearing**

See the Chairperson's Packet Template, [FDM 6-15-35.5](#) for the traditional-style public hearing format. The format of traditional-style portion of the hybrid-style hearing includes:

- Welcome (by the Chairperson)
- Project Presentation and Question/Answer Session
- Opening Statement (by the Chairperson)
- Information for the Record
- Project Statement
- Invitation of Testimony (by the Chairperson)
- Closing Statement (by the Chairperson)

A project presentation should be given prior to opening statement. The project presentation should be transcribed by the court reporter. A copy of the project presentation script, paper copy of a PowerPoint presentation and/or other visual exhibits used during the project presentation should be included in the public hearing record.

Instruct the court reporter that the question/answer session is not to be transcribed. The Hearing Chairperson should explain to the public that the question/answer portion of the project presentation is for the purpose of assisting the public in preparing their formal testimony and will not be part of the official public hearing record. If members of the public are making statements during the question/answer session, they should be encouraged to include those statements in their official testimony. The Hearing Chairperson should limit the question/answer portion of the project presentation to a reasonable length.

If a detailed Information for the Record and Project Statement are included in the Hearing Handout Packet, the Chairman's Packet need only include a summary of these two traditional-style public hearing elements. The presenter during the traditional-style portion of the public hearing should note that the full Information for the Record and the Project Statement discussion are found in the Hearing Handout Packet. The Information for the Record and Project Statement elements should also be included as part of the project presentation.

#### **40.7 Court Reporter**

Most Regions feel more secure with a professional court reporter hired to transcribe at the public hearing. The court reporter's transcript is accepted in any court of law.

When holding a hybrid-style hearing, consideration should be given to whether additional court reporters should be made available to document verbal testimony. Conditions that may warrant additional court reporters include a highly controversial project, a project with a large number of abutting-property owners, anticipation of a large number of persons attending the public hearing, etc. The Region must take into account all these and other individual factors that may influence the amount of testimony and use their best judgment in hiring the correct number of court reporters.

For the open-style public hearing portion of the hybrid-style hearing, the court reporter(s) could be located in the same room as the exhibits or in a separate room, depending on room availability. It is desirable to have a separate, semi-private area for the court reporters where people can feel comfortable giving one-on-one testimony.

When hiring a court reporter, give them detailed instructions on the required format of the transcript.

The Environmental Programs forms and tools website contains the instruction sheet for court reporters.

<https://wisconsin.gov/Pages/doing-bus/eng-consultants/cnslt-rsrcs/environment/formsandtools.aspx>

#### **40.8 Public Hearing Transcripts**

Verbatim transcripts are prepared by the court reporter(s) for both public and private verbal testimony. At the

public hearing, remind the court reporter(s) that the original transcript plus two copies are required. The Region or their consultant adds the public hearing transcript to the public hearing record (see [FDM 6-15-45](#)).

People attending the public hearing can purchase a copy of the public hearing record from department staff after the formal public hearing has concluded and the transcripts are complete.

#### 40.9 Audio Taping

Some Regions prefer audio taping what was stated at the public hearing. The transcript produced from an audio taping is usually available for reviews and project considerations very quickly after a public hearing. When a public hearing is audio taped, holding the public hearing is not dependent on the court reporter being present.

The format for audio taping the open-style public hearing portion of the hybrid-style is similar to that of when a court reporter is used (see [FDM 6-15-40.7](#) Court Reporter).

Arrangements for audio taping a public hearing should be made early in the preparation process. This is best done at the same time arrangements for a public address system are made. For help with these matters the Region should contact the Creative Communication Services Unit of the Division of Business Management's Bureau of Management Services.

#### **FDM 6-15-45 Public Hearing Record**

May 18, 2020

Federal law and regulation (23 USC 128 and 23 CFR 771) requires WisDOT to provide FHWA with a public hearing certification, public hearing transcripts (including those provided privately to a court reporter), copies of written comments as well as copies of other materials made available at the public hearing. Other materials may include, but are not limited to, presentations, copies of exhibits, and materials that public hearing participants submitted to the department. This requirement is detailed at 23 CFR §771.111(h)(2)(vi), which states; "Submission to the FHWA of a transcript of each public hearing and a certification that a required hearing or hearing opportunity was offered. The transcript will be accompanied by copies of all written statements from the public, both submitted at the public hearing or during an announced period after the public hearing."

WisDOT must provide the public hearing certification and documentation, as described above, to FHWA before the formal approval of the final environmental document (CE, ER, FONSI, ROD). These requirements apply to all Federal Aid projects requiring a public hearing or those that must provide opportunity for a public hearing.

The WisDOT 23 USC 128 Certification must indicate that the Department has afforded the opportunity for such public hearings, and has considered the economic and social effects of the project, its location, its impact on the environment, and its consistency with the urban planning goals and objectives promulgated by the community. In addition, the certification must indicate that the public hearing(s) were held at a time convenient to and accessible by the public, or that WisDOT has afforded the opportunity for such public hearings. The time and location of the public hearing(s), or opportunity for a public hearing(s) must not prohibit the ability for persons living in rural or urban areas through or contiguous to whose property the highway will pass, to express any objections they may have to the proposed locations of such highway.

All verbal and written testimony given by the public along with any verbal or written offerings given to the department by a presenter must be included in the public hearing record.

Distribute copies of the public hearing record with photographs of the exhibits to FHWA, Central Office Environmental Process and Documentation Section Region Liaison, and Region files.

The Region or their consultant adds testimony received after the public hearing into the official public hearing record. Place letters and memos about environmental issues or any testimony from the public hearing in the public hearing record. Take color photographs of the full scale exhibits used during the public hearing and include as part of the public hearing record.

Three official public hearing records are assembled using the Sample Public Hearing Record Table of Contents. Keep one copy at the Region office. Send the other two to WisDOT Bureau of Technical Services' Environmental Process and Document Section and the FHWA Division Office. They are considered legal documents and admissible in court proceedings. If additional copies are needed for local governments, politicians, or others, the Region or consultant can produce them as requested.

For projects sponsored by local units of government or their consultants, which use federal or state funds, the same procedures described above are used for the official public hearing record.

The Environmental Programs forms and tools website contains the sample Public Hearing Record Table of Contents template.

<https://wisconsin.dot.gov/Pages/doing-bus/eng-consultants/cnslt-rsrcs/environment/formsandtools.aspx>