

Guidance for Locally Administered Projects

Funded Through the NJDOT/MPO Program Funds Exchange

August 27, 2013

Revised September 15, 2014

This document establishes guidelines for administering the program established by the Memorandum of Understanding dated January 7, 2014 between the New Jersey Department of Transportation, the North Jersey Transportation Planning Authority, the Delaware Valley Regional Planning Commission, and the South Jersey Transportation Planning Authority.

Project Selection Criteria

Projects must meet the following requirements.

- Projects located on the National Highway System or roads with functional classification other than rural minor collector, rural local collector, or urban local. Projects must be surface transportation related.
- Bridges must be included on the most recent National Bridge Inventory, Highway Bridge Replacement and Rehabilitation List. Bridges not on Federal-aid highways are eligible.
- Culverts on the National Highway System or roads with functional classifications other than rural minor collector, rural local collector, or urban local are eligible.
- Design Costs should be a minimum of \$100,000
- Construction costs should be a minimum of \$250,000

Project Selection Process

- The Metropolitan Planning Organizations will continue to be responsible for project intake and project selection.
- A single line item will be included in the Transportation Capital Program, with funding identified per MPO.
- Individual projects for each MPO will be identified in the STIP and include the program amount and program year for each phase of work (PE, DES, ROW, and CONS). Construction Engineering and Construction Inspection costs are eligible and may be included in the total dollar amount programmed for the Construction phase of work.

Design Plans, Specifications, and Estimates

- All design work shall conform to the applicable American Association of State Highway and Transportation Officials (AASHTO) design criteria.

- Design work for bicycle facilities shall conform to the New Jersey Department of Transportation Bicycle Compatible Roadways and Bikeways Planning and Design Guidelines.
- The design of traffic barriers and drainage systems shall conform to the Department's Roadway Design Manual.
- No deviation shall be allowed without the knowledge of the Department. Design Exception reports will be prepared for all controlling substandard design elements in accordance with the Department's Design Exception Manual. Design Exception reports shall be certified by a New Jersey licensed professional engineer. If there is deviation from those standards, the LPA shall accept any and all responsibility for any injury or damage by such deviation to any person or property and shall indemnify the State. (Indemnification clauses currently included in all State aid and Federal aid agreements for locally administered projects funded by NJDOT Local Aid will be utilized.)
- All design shall also conform to the current "Manual on Uniform Traffic Control Devices" published by Federal Highway Administration.
- All workmanship and materials shall conform to current "New Jersey Department of Transportation Standard Specifications for Road and Bridge Construction" as amended for State Aid.
- All projects must comply with the requirements of the Americans with Disabilities Act.
- Standards for transportation projects other than roads and bridges shall be pre-approved by the Department before the LPA begins design of the project. This is intended to address projects that include elements that are not the typical road and bridge construction projects addressed by AASHTO policy such as those projects that may require specific architectural standards etc.
- Projects that intersect State Highways will require a review and approval by NJDOT.
- Projects that have a railroad crossing within the project limits or 100 feet outside the project limits or could impact traffic flow across the railroad crossing outside the project limits must be submitted for review by the NJDOT Railroad Engineering and Safety Unit prior to submission for authorization of funds.

Environmental Document

- Projects exceeding \$1.0M in construction cost could be subject to EO 215. Projects in excess of \$5.0M may require an EO 215 Environmental Impact Statement.
- Project plans and descriptions for projects exceeding \$1.0 million in construction costs must be submitted to NJDOT as the first task to allow NJDOT to screen project for EO 215 applicability. (Applies to projects not graduating from Local Concept Development (LCD) Phase. Completion of LCD will fulfill this task)

- For all projects, regardless of construction costs, a project screening as well as project plans and description must be submitted that identifies involvement with: Historic Sites Council, Green Acres Program, NJDEP Site Remediation and NJDEP Permits.
- An Alternatives Analysis, prepared by the LPA, will be required for Historic Sites Council, Green Acres and NJDEP individual permits.
- NJDOT's Division of Environmental Resources will conduct the above referenced screening and provide guidance to LPA for completing the required tasks for the process(es) identified upon request.
- The LPA is responsible for preparing the EO 215 document. NJDOT will coordinate any approvals with NJDEP on behalf of the LPA.
- NJDOT may elect to prepare the EO 215 document on behalf of the LPA upon request.
- The EO 215 document can be developed concurrent with the project design phase.
- If project scope meets the requirements of the NJDOT/NJDEP Memorandum of Agreement dated September 3, 1992 the project may be exempt from EO 215.
- Projects with approved NEPA documents are exempt from EO 215.
- Projects that have already initiated NEPA will be evaluated on a project by project basis to determine how to proceed.
- Projects that require Army Corps or Coast Guard permits will require a NEPA document due to the federal action. The lead federal agency for the NEPA document will be established on a case by case basis.
- Completion of required environmental process(es) noted above, as well as incorporation of any required commitments or mitigation elements into the bid documents must be provided with Final Plans, Specifications & Estimates and in some cases with Right of Way Certifications (Green Acres, Site Remediation)

Preliminary Engineering and Design Authorization

- The LPA is responsible for performing consultant selection for projects that require professional services for Design.
- Consultants performing design services may be procured to perform subsequent construction engineering and/or inspection services provided a qualified full time employee of the LPA is in responsible charge of the project and the LPA has established necessary controls to ensure a conflict of interest does not exist or have procedures to mitigate any conflict or potential for a conflict.
- The LPA should submit the following to NJDOT Local Aid with their request for authorization of Design funds:
 - Documentation of the consultant selection process or use of in-house forces
 - Final consultant cost proposal

- Design schedule. Schedule should include at a minimum the submission dates for submission of project plans and descriptions for EO 215 Determination; submission of Environmental Screening; submission of Environmental Permits/Approvals; Preliminary Plans, Specifications, and Estimates; and the submission date for the Funding Authorization Request Package.
- Funds will be authorized upon NJDOT approval of the Design authorization submission.
- Projects authorized for Design must be awarded to Construction within ten years. Failure to comply with the requirements of this provision will result in the recovery of all funds previously expended.
- The use of in-house staff is allowable subject to approval by the MPO/NJDOT. In order to utilize in-house staff, an LPA must undergo a review of its project accounting systems and be cost basis approved by NJDOT.

Construction Authorization

- The LPA shall be responsible for engaging a professional engineer(s) licensed in the State of New Jersey to prepare construction plans and specifications and to provide construction engineering, inspection, and material testing as required.
- Funding Authorization Request - The LPA must submit the following to NJDOT in support of the LPA's request for authorization of Construction funds:
 - Final Plans, Specifications, and Estimates
 - Approved Design Exception if applicable.
 - Approved environmental document or EO 215 exemption.
 - SHPO review and approval if required
 - Permit Certification
 - Right of Way Certification
 - Utility Certification
 - Railroad Certification
 - Designer's Certification
 - Construction Schedule
- NJDOT will review the authorization request package and notify the LPA of any deficiencies.
- Funds will be authorized by NJDOT upon approval of the Construction Funding Authorization Request. Authorization of funds will be based on the approved Plans, Specifications, and Engineer's Estimate.
- NJDOT will provide a written notice to the LPA for authorization of funds.

- The authorized amount will be adjusted to the actual award amount at the time of NJDOT award concurrence
- The LPA shall commence advertisement within 60 days from NJDOT's authorization. The sponsor shall not advertise the project until written authorization to proceed is received from NJDOT.
- Award to construction must occur within six months of authorization by NJDOT. Initial billing to NJDOT must occur within three months of initial billing from contractor or six months from award whichever is first.

Civil Rights – Contract Compliance

- LPA's must meet NJDOT's goals set by the Division of Civil Rights and Affirmative Action to ensure the participation of Small Business Enterprises as subcontractors in accordance with [N.J.A.C. 17:14](#)

Bidding Procedures

- Advertisement and award of the construction contract shall be in accordance with the Provisions of the Local Public Contracts Law, N.J.S.A. 40:11-1 et seq.,
- Within 30 calendar days following the award of the contract to the lowest responsible bidder or rejection of bids, the LPA shall submit the following to the Department's Local Aid and Economic Development District Office:
 - One copy of the summary of construction bids showing all bid quantities, unit prices and amounts for the construction of pay items.
 - A fully executed and sealed resolution awarding the contract to the lowest responsible bidder, subject to the approval of the Department
 - A certification from the appropriate LPA official that all right-of-way is available for the project if such a certification was not already provided prior to advertisement
 - The LPA shall be advised in writing of the NJDOT's award concurrence once all information relative to the bidding has been approved by the Department,
 - Projects that appear to have unbalanced bids may be considered ineligible for funding. Please note that awards are based on the total lump sum bid as correctly determined by multiplying the unit price by the pay item quantity. (Refer to FHWA's publications entitled "Contract Administration Core Curriculum Participant's Manual and Reference Guide 2006" available at www.fhwa.dot.gov.programadmin/contracts/coretoc.htm and "Guidelines on Preparing Engineers Estimate, Bid Reviews, and Evaluation (Jan 2004)" available at www.fhwa.dot.gov/programadmin/contracts/ta508046.cfm).

- Any construction taking place prior to approval of the award of contract by the Department will be considered non-participating.

Pre-Construction Requirements

- After approval of the award by the Department, a Pre-Construction meeting shall be scheduled by the Sponsor. This meeting should be attended by representatives of the engineer's office, the contractor, police, utility companies and others involved in the project. The NJDOT Local Aid District Office shall be invited to all pre-construction meetings. Minutes of the meeting will be provided to NJDOT. Topics of discussion could include:
 - Construction Schedule
 - Utility Relocation and Coordination
 - Maintenance and Protection of Traffic
 - Subcontractors
 - Items of Construction
 - Material Questionnaire (Form SA-11)
 - Construction Methods
 - Material Sampling Requirements
 - Change Orders
- If possible, prior to the meeting, the contractor will submit to the engineer for transmittal to the District Office, the Material Questionnaires (SA-11). A copy of this form can be obtained through the Division of Local Aid and Economic Development website. This form must contain an original signature of the contractor. Any material source of supply listed from a non-approved Department source will be considered non-participating unless that source is approved by the District Office prior to the start of construction. All hot mix asphalt (HMA) and concrete mixes must list the approved serial numbers as determined by the New Jersey Department of Transportation Bureau of Materials.
- The District Office should be notified in writing at least three (3) days in advance of both the start of construction and anticipated completion date. No work should commence until all required documents have been reviewed and the award of contract has been approved by the Department.

Construction and Material Testing

During construction, the project may be visited on a periodic basis by a representative from the Local Aid District Office in order to assure conformance with the plans and specifications. Any construction or safety deficiencies must be corrected immediately to avoid the possibility of funds being withdrawn. Upon completion of the paving, the HMA will be tested in accordance with the current "HMA Coring, Testing and Analysis" procedure. Test results will be submitted on or DS-8S to the engineer for review, approval and signature prior to the

submission to the District Office. It is not the responsibility of the District Office to perform the adjustment calculations.

- Form DS-8S can be obtained through the District Office.
- Any private laboratory performing the testing of HMA must be accredited by the AASHTO Materials Reference Laboratory. A list of the approved laboratories or laboratories currently seeking accreditation may be obtained by contacting:

American Association of State Highway and Transportation Officials
444 N. Capitol Street, NW Suite 225
Washington, DC 20001
(202) 624-5800

- Random testing of the HMA may also be performed by the Department.
- HMA penalties which are not assessed against the contractor will be assessed against the allotment amount or could result in the entire item becoming non-participating.
- All other material such as concrete, soil aggregates, castings, etc. will be tested or certified by the local engineer in accordance with the standard specifications.
- Upon completion of the project, a final inspection will be conducted by a representative of the District Office. Final inspection comments will be communicated to the Sponsor
- The agreement can be closed-out upon verification of completion of any corrective action, submission of all required documents and final payment

Funding Reimbursement and Final Inspection

- Funds will be provided on a reimbursement basis. Reimbursement may be obtained during construction, or upon completion and acceptance of the project.
- Partial payments may be requested. The "Payment Voucher Instructions", will be followed. Payment Voucher Forms (PV) can be obtained through the Local Aid website.
- The LPA should submit the following to NJDOT for reimbursement of partial payment vouchers.
 - Partial payment
 - Progress Report
 - Change Orders (prior approval is required pursuant to NJDOT Standard Specifications for Road and Bridge Construction 2007, Section 104.03)
 - Evidence of costs to date incurred in the form of payroll certification or receipts of contractor payment.
- The LPA should notify NJDOT in writing when the project is substantially complete (all pay items are completed). NJDOT will inspect and inform the sponsor of any necessary corrective actions required. Upon written notification that all corrective action has been completed NJDOT will perform a final inspection.

- Upon completion the LPA will be advised to submit a final payment voucher (within 6 months of final inspection)
- The LPA submits the following to the NJDOT for reimbursement of final payment voucher:
 - A statement of the work performed, certified by the appropriate LPA representative or consulting project engineer, for acceptance and approval of the completed work, a copy of the governing body resolution of project acceptance and/or authorization of final payment,
 - a copy of a resolution authorizing the final change order, or a certification of final payment by an appropriate county official
 - A certification by the chief financial officer that all expenditures are supported by valid documentation and conform with the funding agreement
 - Material certifications
 - Form PV – Payment Voucher with back-up documentation to substantiate all project costs
 - Chief Financial Officers Certification indicating that the final project cost is part of the annual single audit or the final project cost will be made part of the next annual single audit. If neither is the case than an Independent Auditors Certification of final project cost is required.
 - Engineer’s Certification – Project Completion
- The LPA shall maintain complete documentation of the project for a period of three years after project acceptance or final reimbursement by the State, whichever is later. A review of the documentation maintained by the sponsor and the results of the inspection specified above, shall be used by the Department to evaluate the acceptability of work and determine the extent of State participation in project costs.

Right of Way

- Right of way must be programmed as a separate phase of work in the STIP.
- Federal right of way requirements will apply. ROW shall be acquired in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act and 49 CFR Part 24.
- Eligible right of way acquisition costs include costs for acquiring property by fee title, or by permanent or temporary easements, and associated incidental direct costs such as appraisal fees, cost estimates, right- of- way plan preparation, title work, cost of administrative settlements, relocations, and damages, pursuant to 23 CFR 710.203.
- LPAs seeking authorization of funds for right-of-way acquisition are responsible for preparing alignment maps, General Property Parcel Maps, Individual Parcel Maps, and Deed Descriptions.
- Cost shall be the actual purchase price paid for each parcel of land or easement rights acquired for the project as a result of a negotiated purchase agreement or, where

negotiations have failed, the just compensation amount awarded by the courts for a particular parcel as a result of a subsequent condemnation action.

- State participation amounts shall be returned by the LPA to the State for properties acquired with State participation that are later declared by the county as excess to the project and sold.

Utilities

- The following utility facility costs are not eligible for State participation:
 - Relocation costs of utility property and equipment owned by a private utility or a municipal or county utility authority
 - Betterment of any utility property or equipment, whether publicly-owned, privately-owned or owned by a municipal or county utility authority.

Audit Requirements

The LPA shall comply with the State of New Jersey Single Audit Policy defined by the Department of Treasury, Office of Management and Budget (OMB Circular 04-04 or as superseded) and the Single Audit Act of 1984 as amended (Federal OMB Circular A-133). These circulars are available in electronic format on the New Jersey Department of Treasury, Office of Management and Budget website at www.state.nj.us/infobank/circular/circindex.htm and at the Federal Government website at www.whitehouse.gov/OMB.

A Single Audit of the county shall be performed annually by an independent auditor or public Accountant who meets the independence standards specified in generally accepted government auditing standards in conformity with the State Audit Policy.

Audit costs incurred by the county to comply with the subchapter shall not be reimbursable.

September 15, 2014 Revisions

1. Page 1. Date of MOU inserted. "...established by the Memorandum of Understanding dated January 7, 2014..."
2. Page 4. Preliminary Engineering and Design Authorization. 3rd bullet. Revise to "Final consultant cost proposal." Delete the word "negotiated."