

# Chapter 14      *Developing Federally Funded Projects Using the Local Agency Guidelines*

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## 14.1    **General Discussion**

The previous three chapters of this manual explained how local agencies may qualify to receive Federal Highway Administration (FHWA) funding for their transportation projects. The remainder of the manual explains procedures for developing specific projects.

Once a local agency has qualified to receive FHWA funds, as described in [Chapter 12](#), the next action is to apply for funds to develop specific projects in its transportation program. Depending on their size and complexity, different projects may require different development procedures. The remaining chapters of the manual are arranged to reflect these differences.

**For projects selected by HQ Local Programs** – Once a project has been awarded funds, the local agency is to complete the project as selected. In the event unforeseen conditions (e.g., environmental, right of way) are encountered requests for scope, schedule and budget adjustments may be considered.

General Project Development Processes, describe activities required during preliminary engineering on all projects.

Special Project Development Processes, describe activities that may be required on some projects.

Design, and Construction and Post Construction, offer the local agency a choice of procedures, depending on whether its projects are located in urban or rural areas and whether it or the state will administer its construction contracts.

Local Agency Force Projects, describes procedures from project design approval through the closing of an FHWA project, using the agency's labor, equipment, and materials.

The specific requirements for a project may change as project development progresses and as more information about a project becomes available. Further details of the specific requirements are shown in the Project Development Process Flowchart ([Appendix 14.51](#)) and Project Development Checklist (Form [140-552](#)).

The meanings of unfamiliar terms may be found in the Glossary. Once the local agency has identified the steps required on a particular project, only the parts in the manual that deal specifically with those steps need be referred to.

## 14.2 Project Development Process Overview

This section describes the project development process by setting forth project phases, documentation requirements, options for construction administration, and required reviews and approvals.

### .21 Phases of Authorization – FHWA funds may be authorized for the following project phases:

1. Preliminary engineering or separate planning study.
2. Right of way acquisition.
3. Construction.

**Phase Requirements When Utilizing FHWA Funds** – For all phases, and at the time of each phase authorization, all funds necessary to complete the scope of work being authorized for the phase must be secured.

**Preliminary Engineering Phase** – FHWA Funds in PE Phase Only. For FHWA funds to be used in the PE phase of the project, the environmental documentation including FHWA NEPA approval, must be completed prior to advertising the project for construction. With no federal funds in the right of way or construction phases, the local agency must still follow federal environmental regulations and the Uniform Relocation Assistance and Real Property Acquisition Policies Act. A NEPA document must be approved by FHWA and all environmental commitments must be incorporated into the right of way and construction phases. If any phase of a project (PE, RW, CN) within the scope of a NEPA document is awarded using Federal-aid funding, then the Buy America provisions will apply to all construction phases within the scope of the NEPA document, regardless of the source of funding. Right of way must be acquired per the *Right of Way Manual* and acquisition may proceed during the PE Phase in accordance with the manual.

Any study projects are excluded from NEPA approval, planning studies must be completed and a copy provided to WSDOT to close the project.

**Note:** The Infrastructure Investment and Jobs Act (IIJA)/Bipartisan Infrastructure Law (BIL) amended 23 USC 102 by eliminating the requirement for repayment of preliminary engineering (PE) costs reimbursed with FHWA funds if a project does not advance to construction or right of way phase within 10 years of the funds being authorized, also known as the '10-year PE rule.'

**Right of Way Phase** – FHWA Funds in Right of Way Phase. For FHWA funds to be used in the right of way phase of the project, the environmental documentation including FHWA NEPA approval, approved relocation plan (if applicable), Project Funding Estimate and approved right of way plan must be completed prior to FHWA R/W authorization. All property acquisitions and relocations must be completed prior to advertising the project and must comply with the Uniform Act and 49 CFR part 24 or the local agency is at risk of repayment of all federal funds used in the project. All environmental commitments must be incorporated into the R/W and construction phases. (See also “Determining Whether or Not Land or Property Rights or interest are Needed” flowchart in [Appendix 25.174.](#))

**Note:** Construction of the project must start prior to the close of the tenth federal fiscal year following the federal fiscal year in which right of way was authorized.

**Construction Phase** – FHWA Funds in Construction Phase. All federal laws are triggered with federal funds in the construction phase; examples include NEPA, Title 23 USC, Uniform Relocation Assistance and Real Property Acquisition Policies Act, Buy America, Buy America/Build America, and Davis-Bacon. After approval of the NEPA document, right of way certification, and the DBE/Training goals are established the construction phase can be authorized by FHWA. Once FHWA authorizes construction funding, the local agency has authority to advertise the project. For Intelligent Transportation Projects (ITS) or projects that include ITS components (cameras, signal interconnect, fiber optic, etc.), agencies must complete and submit the ITS information form with the construction authorization request.

<b>Documentation Requirements When Utilizing FHWA Funds</b>	<b>PE Phase:</b> FHWA Funds in PE Phase Only <sup>1</sup>	<b>R/W Phase:</b> FHWA Funds in the R/W Phase <sup>2</sup>	<b>CN Phase:</b> FHWA Funds in the Construction Phase <sup>3</sup>
STIP	X	X	X
Approved NEPA	x <sup>4</sup>	x <sup>4</sup>	x <sup>4</sup>
Approved Relocation Plan (if applicable)		X	
Project Funding Estimate		X	
Approved R/W Plan		X	
WSDOT Approved Right of Way Certification		X	X
DBE/Training Goals	X	X	X
Design per LAG Manual			X
Environmental per LAG Manual	X	X	X
R/W Acquisition per LAG Manual	X	X	X
Construction per LAG Manual			X
Title VI & Buy America provisions	X	X	X
Buy America/Build America provisions			X
Intelligent Transportation Systems Information Form <sup>5</sup>			X

<sup>1</sup>Local Agency must provide documentation after completion of the PE phase that the project has been or will be constructed with non-FHWA funds.

<sup>2</sup>Local Agency must provide documentation after completion of the PE and R/W phases that the project has been or will be constructed with non-federal funds.

<sup>3</sup>Local Agency must provide documentation after completion of the CN phase as documented in this manual.

<sup>4</sup>Any environmental commitments must be incorporated into the R/W and /or CN phases. NEPA is not required if it is a planning study only.

<sup>5</sup>Local Agencies must provide a completed form if the project includes ITS components.

**.22 Documentation Required for Authorization of Funds**

- 1. Planning With STP Funds** – “Urban Transportation Planning” is an interdisciplinary process for developing and monitoring long- and short-range transportation plans and improvement programs. These plans and programs are formulated with due consideration of present and anticipated future social, economic, and environmental factors and the safety and mobility needs of the population of the urban area. It is a dynamic process, in that it is continuously monitored to accommodate changes of land use, economic conditions and other factors influencing travel patterns. Because of the vast amount of capital expenditures required in the implementation of transportation systems (both highway and transit related), these projects could radically influence land use development in an area or region. Due to the substantial influences that transportation improvements have on the character of the land, it is important that transportation improvements reflect the overall regional social and economic objectives pertaining to community development.

FHWA funded planning activities and studies are identified in Title 23, Part 420 USC, as activities not included in a work program but necessary in development of procedures and project identification.

For planning and Transportation Demand Management (TDM) funding, the following documents are required:

- a. Authorization package checklist.
  - b. Project prospectus planning scope of work.
  - c. Local Agency Agreement.
  - d. Evidence of STIP inclusion.
  - e. Documented cost estimate.
  - f. Updated Local Project Report, if required.
2. **Preliminary Engineering Funds** – When applying for preliminary engineering funds, the following documents are required:
- a. Authorization package checklist.
  - b. Project Prospectus.
  - c. Local Agency Agreement.
  - d. Typical sections, vicinity map, and evidence of STIP inclusion.
  - e. Documented cost estimate
  - f. Updated Local Project Report, if required.
3. **Right of Way Funds** – When applying for right of way funds, after preliminary engineering funds have developed right of way plans, the following documents are required, if appropriate:
- a. Authorization package checklist.
  - b. Local Agency Agreement Supplement or original Local Agency Agreement.
  - c. FHWA approval of environmental documents.
  - d. Relocation plan, if relocation is required.
  - e. Approved Right of way plan.
  - f. Right of way Funding Estimate.
  - g. Evidence of STIP inclusion.
  - h. Updated Local Project Report, if required.
4. **Construction Funds** – The following documents must be submitted to request construction funds:
- a. Authorization package checklist.
  - b. Local Agency Agreement Supplement or original Local Agency Agreement. The agency's proposed advertisement date must be noted on the relevant agreement when construction phase authorization is requested.
  - c. Right of way certification (if required).

- d. Final FHWA approval of environmental documents.
- e. Evidence of STIP inclusion.
- f. Updated project prospectus. To ensure utility and railroad work is adequately addressed 23 CFR 635.309(b) local agencies are required to provide an updated, signed project prospectus at time of construction phase authorization.
- g. Engineer's Estimate.
- h. Evidence of assignment of DBE/training goals or approved Local Agency Force PIF, as applicable.
- i. Updated Local Project Report, if required.

**.23 Construction Contract Administration** – The local agency has the option of:

1. Administering the contract if it has approved certification acceptance procedures and operates in compliance with this manual.
2. Requesting that WSDOT administer the contract.
3. Using its own forces to perform the work if operating under Certification Acceptance (CA).
4. Requesting that another public agency (one operating under CA) perform the work.
5. Performing contract administration by a consultant (CA).

### 14.3 Projects Within Interstate Rights of Way

Since all projects within the Interstate Rights of Way (R/W) have the potential to impact safety and operations on the Interstate route, they must incorporate Interstate design criteria and construction quality. It is the Federal Highway Administration's (FHWA) policy that all projects within the Interstate R/W should be administered by WSDOT. However, given the scope and extent of non-Interstate projects within the Interstate R/W, it is recognized that local agency administration of some projects may be acceptable, and all requests will be considered on a case-by-case basis.

Whenever a local agency proposes a project within the Interstate R/W, they must develop an agreement with WSDOT that clearly outlines their duties and responsibilities to maintain the integrity of the Interstate facility, from both the safety and quality perspectives. The agreement should be executed prior to design approval and must be executed prior to advertising for bids. The following requirements must be incorporated into the agreement:

**Responsibilities** – WSDOT and the local agency must each assign a project engineer.

**Design** – WSDOT must review and approve all highway plans, profiles, deviations, structural plans, false-work plans, shoring plans, and traffic control plans for any work within the Interstate R/W.

**Plans, Specifications, and Estimates** – WSDOT must review and approve the plans and specifications for any work within Interstate R/W.

**Advertising and Award** – The local agency must confer with the WSDOT project engineer on any pre-award issues affecting the quality and timing of the contract.

**Construction** – All construction, materials, and quality control requirements contained in the current editions of WSDOT *Standard Specifications* and the *Construction Manual* must be incorporated into the agreement.

**Contract Changes** – All contract changes affecting work within the Interstate R/W must have the prior concurrence of the Assistant State Local Programs engineer.

**Final Inspection** – The final inspection of the project must be performed by WSDOT or the Region Construction (Operations) Engineer and must provide proof of their approval.

The agreement must be submitted to FHWA. FHWA reserves the right to assume full oversight of the project.

## 14.4 Project Development Process Flowchart and Checklist

The flowchart in [Appendix 14.51](#) and checklist (WSDOT Form 140-552) depict the sequence of major activities necessary to develop transportation projects using FHWA funds. The forms required for a project are shown on the list of forms.

Since the type of work varies on projects, see *Construction Manual*, for additional required forms.

It is recommended that a copy of the checklist be inserted in the project file and used to initiate and document the activities necessary to complete a project.

## 14.5 Appendices

[14.51](#) Project Development Process Flowchart project.

## 14.6 Forms

[140-552](#) Project Development Checklist

# Appendix 14.51 Project Development Process Flowchart project

Phase	Process Activities	Chapter Reference
Initiate	00 Project Development Checklist	12 and 14
	00 Included in STIP	or
Design	00 Project Development Checklist	21 and 43
	00 Prepare Project Prospectus-Design Report	
	00 If Applicable, Engage Consultant	31
	00 Make Environmental Determination	24
	00 If Applicable, Request Design Deviation	41
Request Preliminary Engineering Funds	00 Project Development Checklist	43
	00 Location/Design, Public Hearing, and Approval	
	00 Complete Environmental Action	24
	00 Develop Right of Way Plans and Estimate	25
	00 Complete Relocation Plan	25
Request Right of Way Funds	00 Supplement to Local Agency Agreement	22
	00 Project Development Checklist	25
	00 Relocation and Right of Way Certification and Project Analysis	
	00 DBE Goals Set	26
	00 PS&E Approval	44
Request Construction Funds	00 Supplement to Local Agency Agreement	22
	00 For State Ad and Award, Financial Responsibility Letter	44
	00 Project Development Checklist	46
	00 Contract Number From the Region Local Programs Engineer	
	00 Notice to Minority Contractors Association (see Region Local Programs for Distribution Centers)	26
Construction Administration	00 Advertise for Bids	46
	00 For Certified Agency (CA), Approve Award and Notify Region Local Programs Engineer	46
	00 For WSDOT Administered Contracts, Award by WSDOT	45
	00 Award Data to Region Local Programs Engineer	46
	00 Preconstruction Conference	52
Project Closure	00 Construction Administration ( <i>Construction Manual M 41-01</i> )	52
	00 Project Development Checklist	53
	00 Construction Completion Notice to Region Local Programs Engineer	
	00 Final Acceptance by FHWA	53
	00 Final Billing and Cost Report to Region Local Programs Engineer	23 and 53
Project Closure	00 Complete DBE Form	26
	00 Final Records	53
	00 Audit	53

