



TENNESSEE DEPARTMENT OF TRANSPORTATION

**IN COOPERATION WITH
THE FEDERAL HIGHWAY ADMINISTRATION**



**LOCAL GOVERNMENT GUIDELINES
FOR THE MANAGEMENT OF
FEDERAL AND STATE FUNDED
TRANSPORTATION PROJECTS**



**ISSUED BY THE PROGRAM DEVELOPMENT AND
ADMINISTRATION DIVISION**

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Foreword

Local Programs Development is the area within the Tennessee Department of Transportation (TDOT) that serves Local Governments (LGs). Personnel in this office are always available to assist local officials with answers to their questions about the manual. Personnel names and phone numbers can be found at <http://www.tn.gov/tdot/topic/local-programs-staff>.

This manual is intended to provide LGs with the procedures that are required by law, regulation, rule, policies and standard for the use of Federal Highway Administration (FHWA) and State Highway funds for transportation projects. If the procedures included in this manual are not followed, federal and/or state funding may be withdrawn from the project. Considerable effort has been made to provide guidance on how to accomplish the work, document the results, and to incorporate the flexibility options provided by the Moving Ahead for Progress in the 21st Century Act ([MAP-21](#)) and the applicable State of Tennessee laws, rules, regulations and policies. Numerous committees were involved in the development of this manual, directly and indirectly. A special thanks to the Local Government Guidelines (LGG) Committee members, the TDOT advisors, and the FHWA for their active participation in the development of this manual.

As FHWA funding programs and eligibility requirements change, the manual will be updated. When changes are necessary, TDOT will make those changes to the manual posted on the [Local Programs Development Office \(LPDO\) website](#). To minimize confusion, technical guides are incorporated into the manual by reference. LGs may access the technical guides online or download these for ready field reference. In the rare instance that a LG does not have Internet capability, a hard copy will be provided. However, changes to the manual will be made only in the online version. LGs are strongly advised to check the website frequently for changes to the manual. Updates will be listed in the front of the manual for easy reference. Each time a form or checklist is used, the LG shall check the web-based version of the form or checklist to verify it is the latest version. If you have questions, observations and/or recommendations regarding this manual, please use the Local.Programs@tn.gov email address to submit your comments or contact the Transportation Manager for the LPDO at (615) 741-5314. Your input in making this a better document is appreciated.

TDOT will review the process defined herein every two years.



John Schroer
Commissioner

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PREFACE

FREQUENTLY ASKED QUESTIONS

The following should answer some of the most frequently asked questions regarding local projects. These questions are grouped by the phase of development for a local project.

NEPA:

1. How long is my environmental document valid?

Upon approval by TDOT and, if applicable, the Federal Highway Administration (FHWA), an environmental document is valid for up to three years, assuming there are no major changes in scope during the development of the project. If there are any changes in scope, it is best to touch base with Local Programs Development Office (LPDO) to ensure the change would not require a re-evaluation of the approved environmental document. If a project has not advanced to construction within three years of the environmental document approval date, the document must be re-evaluated.

DESIGN:

2. What newspapers must I advertise in when hiring an engineering firm when services are projected to exceed \$150,000?

You are not required to advertise in a newspaper. You must place a request for qualifications/proposals on your website (or LPDO's) and in a general media outlet. If your local procurement advertisement policy is stricter, then follow the local policy. There is no length of time associated with this advertisement.

When it comes to advertising for a construction contractor, there are specific requirements for how many newspapers, which ones, and how long the ad must run. See the answer to Question 35 for requirements regarding construction advertisements.

3. Do plans need to follow TDOT formatting, i.e. title block, signature block?

Yes. Although projects administered through the LPDO are not "TDOT" projects, it is highly recommended that plans follow the TDOT format as closely as possible to ensure quality plans and for a quick plans review turnaround. The [Roadway Design Division Website](#) provides more details on formatting.

Please note that instead of having TDOT-specific information, the Title Sheet on a locally managed project will have the Local Government (LG) information, as the LG is the project owner. [Checklists](#) for various stages of design are provided as guidance for your submittals, to ensure that you follow TDOT Design Guidelines.

For identification purposes, it is required to provide the PIN, Federal Project Number and State Project Number at least on the Title Sheet. It is best to have this information in a block on every sheet.

4. How many times should I submit design plans for review to LPDO?

You may be asked to submit plans for review and comments up to three times: 1. preliminary plans, 2. right-of-way plans, and 3. construction plans. Communicate with the

LPDO during the Initiation Phase with each new project to determine how many times you need to submit plans since the size and complexity of the project will dictate the number of times you need to submit plans for review and comment. It is up to the designer to make revisions per TDOT's review comments.

5. What is the difference between a sidewalk and a multi-use path?

The minimum width of a sidewalk is 5 feet. The minimum width of a multi-use path (also referred to as a greenway) is 10 feet.

6. Must all projects consider Americans with Disabilities Act (ADA) requirements?

Yes. Any project that includes the construction or alteration of a facility that provides access to pedestrians must be made accessible to persons with disabilities. The design will need to follow the appropriate [ADA Accessibility Guidelines \(ADAAG\)](#) and [Public Rights-of-Way Accessibility Guidelines \(PROWAG\)](#), depending on project type.

Right-of-Way (ROW)

7. Do I have to follow the Uniform Act when using both federal AND State money?

Yes. No matter the funding type, TDOT mandates compliance with the Uniform Relocation Act on all projects administered through LPDO.

8. Do I need to contact TDOT ROW Offices prior to beginning plans preparation?

Yes. It is a good idea to contact the Regional ROW Office prior to beginning plans preparation but not required. There are specific items that the Department will need to be addressed in the plans. Contacting the ROW Office early could help avoid potential project delays.

Once the Notice to Proceed (NTP) for ROW has been issued to the Regional ROW Office from LPDO, the Regional ROW Office will contact you in order to provide relevant ROW documents.

9. Can I start acquiring property before the ROW plans are prepared?

No. Property cannot be acquired until LPDO issues an NTP for ROW. The environmental document must be approved and ROW plans must be completed in accordance with State and federal rules and regulations prior to proceeding with property acquisition.

In some cases, a misstep with acquiring property cannot be rectified with FHWA, and you could lose federal funds. It is best to speak with the Regional ROW Office prior to appraising properties and to continue asking questions through the ROW Phase.

10. I acquired property for the project before the project was initiated with the Department. Do those records need to be reviewed?

Yes. Property that was acquired prior to the project authorization will need to be reviewed by the Regional ROW Office and, possibly, by FHWA. If property was acquired in a manner that did not comply with the Uniform Relocation Act, you may be required to make remedial measures to get into compliance. If remedial measures are not possible, State and federal funding for the project may be in jeopardy.

However, if the property was acquired for an unspecified future use and there is sufficient documentation, generally there is no issue.

11. What property must be acquired for the project and included into the plans?

All property acquisitions shall be shown on the plans as: 1. fee simple, 2. construction easements, 3. slope easements, or 4. permanent drainage easements. An acquisition table of all affected owners must be listed on the project plans. Each of these acquisitions has to be considered in the offer being made to the property owner. Plans should **not** have utility easements shown on the plans.

12. Do I need an appraisal on every property?

Yes and No. A Nominal Parcel Payment (NPP), which is determined by the LG's administrative staff person which has real estate experience and knowledge, can be processed if the anticipated acquisition is less than \$10,000. If the property owner accepts the NPP offer and waives their right for an appraisal, then an appraisal is not required.

All other properties must have an appraisal. Note: a summary appraisal is not acceptable.

13. When can I first contact the property owner?

Formally, after the NTP for ROW, but the property owners will be aware of the project as a result of the required public hearings held during the NEPA and Design Phases. A "notice of proposed acquisition" with Property Owners' Rights Booklet or Brochure included, must be sent to the property owner and dated prior to initial contact. This is done prior to the appraisal. The property owner will have received a notification prior to the appraiser arranging to view the property.

14. My project will be on State-owned property or State highway ROW. Will we need to do anything special?

Yes. Changes to State-owned property may need to go through a license agreement review process, which will be coordinated by the Regional ROW Office. Please note that a license agreement may be required for greenways, new sidewalks, and other non-roadway components that are outside of the existing roadway. Six months should be taken into account to accommodate this process. Early contact with the Regional ROW Office is critical to determine if a license agreement is needed.

If NEPA clearance is available, this process may be shortened.

15. Will I need to document every time we talk to a property owner?

Yes, absolutely. A negotiating log shall be maintained by the negotiator for each property owner. ALL written and oral communication should be documented in the log. This critical documentation is for compliance as well as to protect your government agency. Keep in mind that this log can be used in legal proceedings, so ensure entries are factually related to the acquisition and not a commentary of the events.

16. Can a firm that performed the initial appraisal hire a sub-consultant to perform the review appraisal?

No. This would be considered a conflict of interest. A sub-consultant should not be hired to perform the review appraisal. There must be a separation of functions.

17. The railroad is barely outside of 200 feet from the project. Do we have to coordinate with the railroad?

Yes. The 200-foot rule is not used anymore. The basis of the decision whether to coordinate with the railroad company or not is “will the project have an effect on the railroad.” If an at-grade crossing is nearby, will there be additional traffic on the roadway? This will affect the requirements for protective devices at the grade crossing. Will the construction affect the railroad property during construction, with drainage, or construction activities? This will affect the coordination and railroad protective agreements with your contractor. The LG is addressing potential litigation issues, and due diligence is warranted. It is important to discuss the project with the TDOT HQ Railroad Coordinator if there is a railroad near your project.

18. All of the utilities are owned by the LG. Are we required to formally coordinate utilities?

Yes. Federal rules and regulations require coordination of utilities for compliance. To properly document that this has been performed, it is best not to deviate from the standard procedures.

TITLE VI/DBE**19. Who is responsible for implementing a viable Title VI Program?**

The LG must designate a Title VI Coordinator for Title VI issues and complaints within the organization. The coordinator is the focal point for the Title VI implementation and monitoring of programs and/or activities receiving federal financial assistance from TDOT.

Title VI of the Civil Rights Act of 1964 is the Federal Law that protects individuals and groups from discrimination on the basis of their race, color, national origin in programs and activities that receive federal financial assistance.

20. Where can I get Title VI training?

The TDOT Civil Rights Office provides online and regional training. To participate in the online training or learn about the regional training dates please visit <https://www.tn.gov/tdot/article/title6-training>. Also, specialized training is offered to subrecipients upon request.

21. Are all projects required to have an On-the-Job Training (OJT) Program?

All contractors with a contract of \$10,000 or more must have an established OJT Program; however, it is up to the LG whether an OJT requirement is added to the construction contract or not.

22. Must all Form FHWA-1273s be attached to all prime and subcontractors contracts?

Yes. These forms must be physically attached to all prime and subcontractor contracts on all federal-aid projects.

23. What is a Disadvantaged Business Enterprise (DBE)?

A DBE is a for-profit small business that is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged. In the case of a corporation, 51 percent of the stock is owned by one or more such individuals whose management and daily business operations are controlled by one or more of the socially and

economically disadvantaged individuals who own it. TDOT's DBE list can be found here: <https://www.tdot.tn.gov/APPLICATIONS/DBEDirect/>.

24. When must I set a DBE goal on a project?

A DBE goal must be set when the total construction amount is anticipated to be \$500,000 or more.

Invoicing/Billing

25. Do I need to wait until the end of the project to bill LPDO?

Per your contract with TDOT, you must invoice LPDO at least quarterly, if not monthly, on each project. You can submit two invoices on one project if they are invoices for different phases. Don't forget that you must wait for a Notice to Proceed (NTP) before reimbursable project activities can occur.

26. Who can sign invoices?

The only LG persons that can sign off on invoices are the persons identified on the reimbursement signatures form. Contact the LPDO to change/revise the persons on the form. These forms are project specific.

27. During what phase should I request reimbursement for pre-construction activities?

Request reimbursement for pre-construction in the right-of-way phase.

Bid Documents/Pre-Construction

28. How many additive alternates are allowed?

None. Additive alternates/options, or deductive options, are not permissible. Either/or type alternates are permissible. Refer to [Section 8.1.4.3](#) for more information.

29. Which contract provisions are to be used; AIA, NSPE, or ASCE?

None of these. TDOT Standard Specifications, Special Provisions, and Standard Drawings are to be used. When TDOT does not have a standard or provision, the LG may develop a project specific provision or address the requirements in the plans, this includes creating a unique item number.

30. How do I revise a contract proposal after I have already advertised the project and sold project materials to qualified contractors?

You must issue an addendum to the proposal contract. All bidders that purchased a proposal contract/bid book must acknowledge the addendum. Also, addendums should be issued to the bidders allowing adequate time prior to the bid opening date to change their bid, if needed.

31. Can I withhold retainage on my project?

No. Retainage is never allowed on projects administered by LPDO.

32. Can I specify a particular brand name for an item on my project?

Yes. This is acceptable when the appropriate certification is attained through TDOT. There are two types of proprietary item certifications that you can request in order to specify a particular brand name on an item. Refer to [Section 5.4.1](#) on how to go through this certification process. Your item(s) must be approved and posted on TDOT's [website](#) prior to proceeding with construction.

Construction**33. What does LPDO need when a change order is needed?**

LPDO needs copies of ALL change orders. LPDO will review and approve each change order for eligibility. LPDO is checking to ensure that there is enough money programmed on the project to cover the change order, if applicable, and that the items included on the change order are eligible for reimbursement.

34. How is materials testing handled on locally managed projects?

Except for Verification and Independent Assurance Testing, all testing is performed by the LG or a hired consultant firm. Verification and Independent Assurance Tests must be performed by TDOT Materials & Tests in accordance with Standard Operating Procedures. TDOT will bill the LG directly for testing and all lab work.

Close-Out**35. What newspapers must I advertise in for contractor claims on my project prior to closing it out?**

You must advertise in a paper with circulation in the county in which the construction work took place.

REFERENCES

Resource	Website
Federal-Aid Policy Guide	http://www.fhwa.dot.gov/legsregs/directives/fapgtoc.htm
Federal Regulation 23 CFR	http://www.ecfr.gov/cgi-bin/text-idx?gp=&SID=5074dc1c987e7c0c2cfb56fc3febebc8&mc=true&tpl=/ecfrbrowse/Title23/23tab_02.tpl
TDOT Standard Drawings	https://www.tn.gov/tdot/topic/chief-engineer-design-standard-drawings-library
TDOT Construction Home	http://www.tn.gov/tdot/section/tdot-construction-division
TDOT Standard and Supplemental Specifications	http://www.tn.gov/tdot/article/transportation-construction-2015-standard-specifications
TDOT Special Provisions	http://www.tn.gov/tdot/article/special-provisions
TDOT Construction Circular Letters	https://www.tn.gov/tdot/topic/transportation-construction-circular-letters
TDOT Roadway Item Lists	https://tn.gov/tdot/topic/chief-engineer-design-roadway-item-lists
TDOT Materials and Tests Home	http://www.tn.gov/tdot/section/materials-and-tests-home
TDOT Materials and Tests SOP's	http://www.tn.gov/tdot/topic/materials-and-tests-sop
TDOT Qualified Products List	http://www.tn.gov/tdot/topic/qualified-products
T.C.A., Title 54	http://www.lexisnexis.com/hottopics/tncode/
Federal Accounting Standards	http://www.gao.gov/govaud/ybk01.htm
TDOT Rules and Regulations for the Accommodation of Utilities	http://tennessee.gov/sos/rules/1680/1680-06/1680-06-01.pdf
Uniform Audit & Accounting Guide	https://bookstore.transportation.org/home.aspx
State Consultant Excluded/Debarment List	http://www.tn.gov/assets/entities/tdot/attachments/Const_excludedparties.pdf
Federal Consultant Excluded/Debarment List	http://www.epls.gov
Tennessee Environmental Procedures Manual	http://www.tn.gov/assets/entities/tdot/attachments/local_programs_2011_Revised_Tenn_Envir_Procedures_Manual.pdf
Tennessee Environmental Streamlining Agreement	http://www.tn.gov/tdot/article/tennessee-environmental-streamlining-agreement

Table P-2 – References

TDOT CONTACTS

TDOT Organizational Structure

http://www.tn.gov/assets/entities/tdot/attachments/TDOT_PhotoOrgChart.pdf
<http://www.tdot.state.tn.us/orgstructure.htm>

TDOT Headquarters Railroad Coordinator – 615-741-3196

TDOT Regional Offices

Region 1: 7345 Region Lane
Knoxville, TN 37914
Phone: 865-594-2400
Fax: 865-594-2642

Region 2: 4005 Cromwell Rd.
Chattanooga, TN 37421
Phone: 423-892-3430
Fax: 423-899-1636

Region 3: 6601 Centennial Blvd.
Nashville, TN 37243-0360
Phone: 615-350-4300
Fax: 615-350-4396

Region 4: 300 Benchmark Place
Jackson, TN 38301
Phone: 731-935-0100
Fax: 731-935-0195

Traffic:

Region 1: 865-594-2456
Region 2: 423-892-3430
Region 3: 615-350-4189
Region 4: 731-935-0191

Construction:

Region 1: 865-594-2408
Region 2: 423-892-3430
Region 3: 615-350-4380
Region 4: 731-935-0207

Right-of-Way:

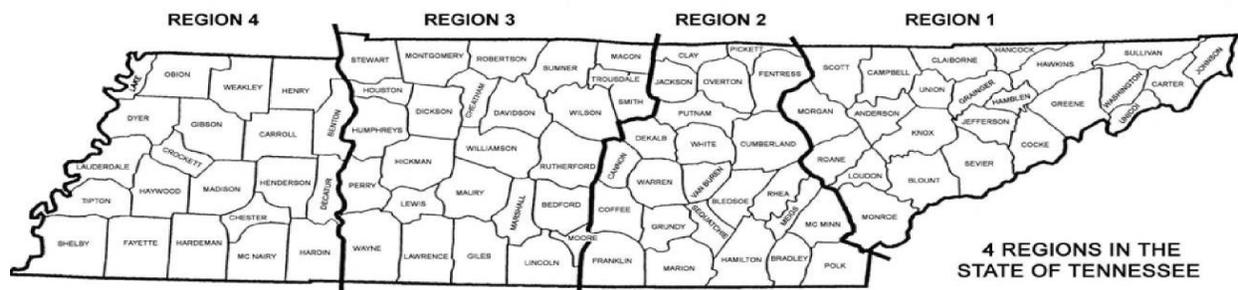
Region 1: 865-594-2496
Region 2: 423-510-1100
Region 3: 615-350-4200
Region 4: 731-935-0134

Utilities:

Region 1: 865-594-2683
Region 2: 423-510-1243
Region 3: 615-350-4233
Region 4: 731-935-0101

Materials and Tests:

Region 1: 865-594-2655
Region 2: 423-510-1134
Region 3: 615-350-4310
Region 4: 731-935-0222



ACRONYM LIST

AA	Affirmative Action
AASHTO	American Association of State Highway and Transportation Officials
ADA	Americans with Disabilities Act
ADAAG	Americans with Disabilities Act Accessibility Guidelines
ADAM	Advanced Traffic Data Management
ADHS	Appalachian Development Highway System
ADT	Average Daily Traffic
APWA	American Public Works Association
ARC	Appalachian Regional Commission
ARAP	Aquatic Resource Alteration Permit
ARRA	American Recovery and Reinvestment Act of 2009
ASTM	American Society for Testing and Materials
ATR	Automate Traffic Recorder
AVMT	Annual Vehicle Miles Traveled
BRAT	Bicycle Ride Across Tennessee
BRR	Bridge Replacement, Rehabilitation
BRZ	Bridge Replacement
CAAA	Clean Air Act Amendments of 1990
CARB	California Air Resources Board
CARTA	Chattanooga Area Regional Transit Authority
CATS	Crash Analysis Tracking System
CCR	Contract Compliance Reviews
CE	Categorical Exclusions
CEI	Consultant Engineering and Inspection
CEQ	Council on Environmental Quality
CFR	Code of Federal Regulations
CFS	Cubic Feet per Second (Flow)
CMAQ	Congestion Mitigation and Air Quality Improvement Funds
CPFF	Cost Plus Fixed Fee
CRD	Community Relations Division
CRO	Civil Rights Office, Community Relations Officer(s)
CSS	Context Sensitive Solutions
CTS	Correspondence Tracking System
DBE	Disadvantaged Business Enterprise
DEIS	Draft Environmental Impact Statement
DEMO	Demonstration Project
DMS	Dynamic Message Sign(s)
DOL	Department of Labor
DOT	Department of Transportation
DVD	Digital Video Disk
DVMT	Daily Vehicle Miles Traveled
EA	Environmental Assessment
EEO	Equal Employment Opportunity
EIS	Environmental Impact Statement
EJ	Environmental Justice
ELT	Executive Leadership Team

EO	Executive Order
EPA	Federal Environmental Protection Agency
EPSC	Erosion Prevention and Sediment Control
ER	Emergency Relief
ESA	Endangered Species Act
ESA	Environmental Site Assessment
EVE	Roadway Efficiency Evaluation Program
FAA	Federal Aviation Administration
FAPG	Federal-Aid Policy Guide
FAQS	Frequently Asked Questions
FBD	Ferry Boat Discretionary
FBE	Female Business Enterprise
FEIS	Final Environmental Impact Statement
FEMA	Federal Emergency Management Agency
FERC	Federal Energy Regulatory Commission
FFATA	Federal Funding Accountability and Transparency Act of 2006
FFY	Federal Fiscal Year
FHWA	Federal Highway Administration
FIRMS	National Flood Insurance Rate Maps
FLH	Federal Lands Highway
FMIS	Federal Management Information System
FMV	Fair Market Value
FONSI	Finding of No Significant Impact
FORCE ACCOUNT	Local Forces as Opposed to Consultant or Contractor
FSR	Final Scoping Reports
FTA	Federal Transit Authority
FY	Fiscal Year
GHSO	Governor Highway Safety Office
GIS	Geographic Information Systems
GPS	Geographic Positioning System
HBRRP	Highway Bridge Replacement and Rehabilitation Program
HDAP	Highway Deficiency Analysis Program
HERMES II	High Speed Electromagnetic Roadway Mapping and Evaluation System
HESP	Hazard Elimination Safety Program
HOV	High Occupancy Vehicle
HPC	High Performance Concrete
HPMA	Highway Pavement Management Analysis
HPMS	Highway Performance Monitoring System
HPP	High Priority Project
HPR	Highway Planning and Research
HQ	Headquarters
HRRRP	High Risk Rural Roads Program
HSIP	Highway Safety Improvement Program
HUD	Federal Department of Housing and Urban Development
ISTEA	Inter-modal Surface Transportation Efficiency Act of 1991
ITE	Institute of Transportation Engineers
ITS	Intelligent Transportation Systems
LATTS	Latin America Trade & Transportation Study

LF	Linear Feet
LG	Local Government
LGG	Local Government Guidelines
LIC	Local Interstate Connector
LM	Log Mile
LOS	Level of Service
LPDO	Local Programs Development Office
LRFD	Load and Resistance Factor Design
LRSI	Local Roads Safety Initiative
L RTP	Long Range Transportation Plan
LTAP	Local Technical Assistance Program
LTPP	Long Term Pavement Performance
LWCF	Land and Water Conservation Fund
MAP-21	Moving Ahead for Progress in the 21 st Century Act
MBE	Minority Male Business Enterprise
MFBE	Minority Female Business Enterprise
MOA	Memorandum of Agreement
MOU	Memorandum of Understanding
MPO	Metropolitan Planning Organization
MSA	Metropolitan Statistical Area
MTSU	Middle Tennessee State University
MUTCD	Manual on Uniform Traffic Control Devices
N/A	Not Applicable
NAAQS	National Ambient Air Quality Standards
NACHP	National Advisory Council for Historic Preservation
NBI	National Bridge Inventory
NBIS	National Bridge Inspection Standards
NCAT	National Center for Asphalt Testing
NCHRP	National Cooperative Highway Research Program
NEPA	National Environmental Policy Act
NHCBP	National Historic Covered Bridge Program
NHPA	National Historic Preservation Act
NHS	National Highway System
NHTSA	National Highway Traffic Safety Administration
NICET	National Institute for Certification in Engineering Technologies
NOA	Notice of Availability
NOC	Notice of Coverage of NPDES Permit
NOI	Notice of Intent to Discharge (NPDES Permit)
NOT	Notice of Termination (NPDES Permit)
NPDES	National Pollution Discharge Elimination System Permits
NPS	National Park Service of the Federal Department of the Interior
NRHP	National Register of Historic Places
NSBP	National Scenic Byways Program
NTP	Notice to Proceed
NTSB	National Transportation Safety Board
OA	Obligation Authority
OFCCP	Office of Federal Contract Compliance Programs (Department of Labor)
OJT	On-the-Job Training

OMB	Federal Office of Management and Budget
PCC	Portland Cement Concrete
PDF	Portable Document Format (Adobe® Acrobat®)
PE	Preliminary Engineering; also Professional Engineer, or Product Evaluation
PFE	Project Funding Estimate
PL	Public Law (also Metropolitan Planning Funds)
PL	Metropolitan Planning Funds (also Public Law)
PM	Project Manager
PMS	Pavement Management System
PROWAG	Public Right-of-Way Accessibility Guidelines
PPRM	Program, Project & Resource Maintenance System
PR	Planning Report
PS&E	Plans, Specifications, and Estimates
QA	Quality Assurance
QC	Quality Control
QPL	Qualified Products List
RAC	Research Advisory Committee; also Record a Comment
RD&TT	Research Development and Technology Transfer
RFP	Request for Proposals
RHP	Replacement Housing Payment
RHRS	Rock Hazard Rating System
RIP	Research In Progress
RMS	Rockfall Management System
ROD	Record of Decision
ROW	Right-of-Way
RPO	Rural Planning Organization
RR	Railroad
RTA	Regional Transit Authority
RTP	Recreational Trail Program
SAFETEA-LU	Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users*
SASHTO	Southeastern Association of State Highway and Transportation Officials
SBDP	Small Business Development Program
SEA	Systems Engineering Analysis
SEIS	Supplemental Environmental Impact Statement
SHPO	State Historic Preservation Office
SHRP	Strategic Highway Research Program
SIA	State Industrial Access Road
SIP	State Implementation Plan
SMSA	Standard Metropolitan Statistical Area
SOP	Standard Operating Procedure
SPR	State Planning & Research
SR	State Route
SRTS	Safe Routes to School
SSWMP	Statewide Storm Water Management Plan
STIP	State Transportation Improvement Program
STP	Surface Transportation Program

SWPPP	Storm Water Pollution Prevention Plan
T2	Technology Transfer
TAC	Technical Advisory Committee
TAZ	Traffic Area Zones
TCA	Tennessee Code Annotated
TCM	Transportation Control Measures
TCSP	Transportation, Community, and System Preservation
TDEC	Tennessee Department of Environment and Conservation
TDM	Transportation Demand Management
TDOT	Tennessee Department of Transportation
TE	Transportation Enhancement
TEA-21	Transportation Equity Act for the 21st Century (1998-2004)
TIP	Transportation Improvement Program for MPO areas
TMA	Transportation Management Areas
TN	Tennessee
TNUCP	Tennessee Uniform Certification Program
TPO	Transportation Planning Organization
TPR	Transportation Planning Report
TRB	Transportation Research Board
TRIMS	Tennessee Roadway Information Management System
TRIS	Transportation Research Information System
TSIS	TDOT SmartWay Information System
TSM	Transportation System Management
TTAP	Tennessee Technical Assistance Program at the University of Tennessee
TTU	Tennessee Technological University
UA	Urbanized Area
ULAM	Urban Land Analysis Model
UM	University of Memphis
UPWP	Unified Planning Work Program
USACOE	U.S. Army Corps of Engineers
USC	United States Code
USCG	United States Coast Guard
USDA/USDOA	United States Department of Agriculture
USDOJ	United States Department of Justice
USDOL	United States Department of Labor
USDOT	United States Department of Transportation (same as DOT)
USFS	United States Forest Service
USFWS	United States Fish and Wildlife Service (also F&WS)
UT	University of Tennessee
UZA	Urbanized Area
VE	Value Engineering
VMT	Vehicle Miles Traveled
WMBE	White Male Business Enterprise
2-R	Resurfacing and Restoration
3-R	Resurfacing, Restoration, and Rehabilitation
4-R	Resurfacing, Restoration, Rehabilitation and Reconstruction

PURPOSE OF MANUAL

The Local Government Guidelines (LGG) manual is intended to help Tennessee's Local Governments (LGs) conduct environmental processes and clearances, comply with federal civil rights laws, rules and regulations, design, construct, and maintain transportation facilities. To assist governments in accomplishing these goals, the manual describes the processes, documents, and approvals necessary to obtain Federal Highway Administration (FHWA) and State funds to develop local transportation projects and defray their costs.

The LGG manual is a compilation of information from many sources and is a reference source for administrative and field personnel in any governmental agency.

ORGANIZATION OF MANUAL

Using the table of contents, flow charts and the cross-references, readers should be able to find answers to most questions regarding procedural requirements for FHWA and State assisted transportation projects. The manual is organized to reflect the flow of a project through the major phases of development and to incorporate the various developmental needs of different projects. That flow chart text is hyperlinked to subsections within the manual and other online documents. Form references are linked to the website therefore; LGs shall utilize the electronic version of the document and the online forms to ensure the latest version is being used.

A flow chart that depicts the overall process is also available on the [Local Programs Development Office \(LPDO\) website](#).

[Chapter 10](#) provides direction for LGs pursuing Non-Traditional Projects. Non-Traditional projects are divided into two categories as outlined below:

- **Non-Roadway Construction** projects include, but are not limited to building, preservation, rehabilitation, and installation projects that involve construction activities (most often on vertical structures).
- **Non-Construction/Service Contract** projects include, but are not limited to safety, educational, training, and outreach activities, diesel emission reduction projects, transit projects, carpool, vanpool, rideshare, and alternative fuel vehicle projects, software projects, and alternative fuel infrastructure projects.

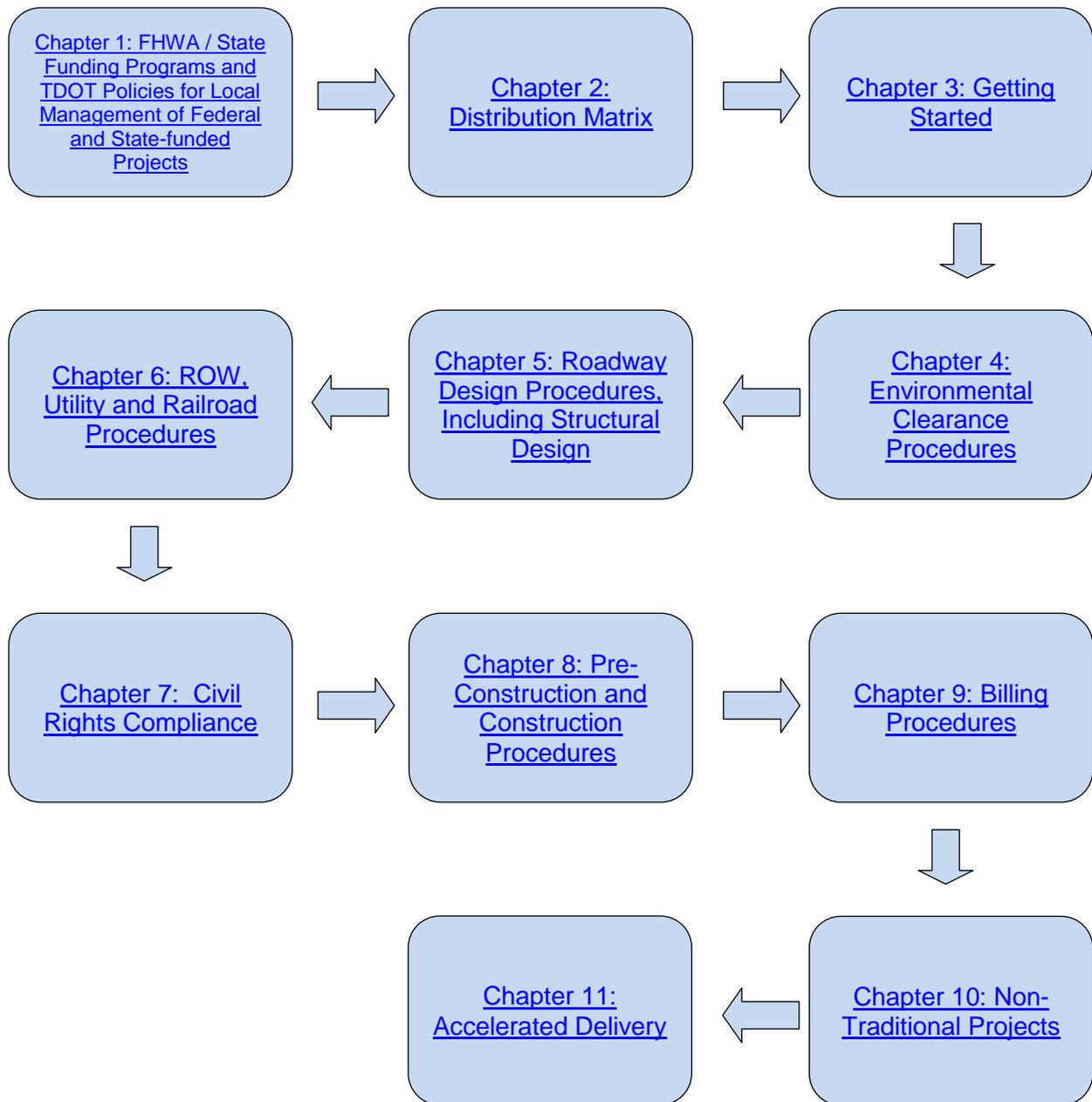


Figure P-1 – Main Flow Chart

CHAPTER 1 - FUNDING PROGRAMS AND TDOT POLICIES FOR LOCAL MANAGEMENT OF FEDERAL AND STATE-FUNDED PROJECTS

1.1 FHWA/STATE FUNDING PROGRAMS

Federal Highway Administration (FHWA) and State funds may be used to pay project costs for general transportation planning, preliminary engineering (i.e. NEPA/design), right-of-way (ROW) acquisition, construction, and audits. These funds cannot be used for lobbying efforts. The procedures to include a project in the State Transportation Improvement Program (STIP/TIP) are not covered in this manual.

1.2 FHWA FUNDING PROGRAMS

FHWA funds may only be expended after authorization through TDOT by FHWA. Any work done by the Local Government (LG) prior to the effective date on the Notice to Proceed (NTP) will not be reimbursable. A separate NTP will be given for each phase: Environmental and Preliminary Engineering (PE), Design, ROW Acquisition, and Construction.

1.2.1 FEDERALLY FUNDED PROGRAMS AVAILABLE TO LOCAL GOVERNMENTS

Federally-funded Projects	Minimum Local Share¹
Surface Transportation Program (STP)	20%
Congestion Mitigation and Air Quality Improvement (CMAQ)	20%
Bridge Replacement and Rehabilitation (BRR)	20%
Transportation Enhancement Grant (TE)	20%
Spot Safety	20%
Transportation, Community, and System Preservation (TCSP)	20%
High Priority Program Projects	20%
Safe Routes to School (SRTS)	0%
Roadscapes	20%
Ferry Boat Discretionary Program (FBD)	20%
National Historic Covered Bridge Preservation Program (NHCBP)	20%
Highway Safety Improvement Program (HSIP)	10% ²

¹ Certain safety-related work, such as but not limited to traffic signals, striping, signing and guardrail installation are eligible for 100% federal funding.

² Depending on the type of improvements, the project may be 100% federally funded or it may require a local match as required under [23 USC 120](#). Refer to [Highway Safety Improvement Program](#) for further information.

For a complete list of federally-funded programs available to LGs, refer to: http://www.fhwa.dot.gov/federalaid/guide/guide_current.cfm

1.3 STATE FUNDED PROGRAMS AVAILABLE TO LOCAL GOVERNMENTS

State Funded Projects	Minimum Local Share¹
Local Interstate Connector (LIC)	50% ¹
State Industrial Access Road (SIA)	0% ²
Interchange Lighting	50%
Multimodal Access Grant	5% ³

¹ TDOT's share is typically limited to \$2 million

² For a typical project, TDOT pays 100% of the cost of construction and/or engineering and 50% of ROW.

³ Project total is limited to \$1 million

Details, including applicable project types and application instructions, for each funding program are provided at: <http://www.tn.gov/tdot/article/local-funding>.

1.4 TDOT POLICIES FOR LOCAL MANAGEMENT OF FEDERAL AND STATE-FUNDED PROJECTS

- I. The process described in this manual assumes the project being considered is included in the TIP (in the case of urban areas over 50,000 population) or is included in the STIP and has been presented to the Rural Transportation Planning Organization (in the case of rural areas). The steps required to include projects into the TIP/STIP are not covered in this manual. In addition, information regarding air quality conformity for CMAQ projects is not included. Information about these processes can be obtained from the Metropolitan Planning Organization (MPO) or Rural Planning Organization (RPO).
- II. Projects to be considered in this manual are primarily all other functionally classified routes **except** rural minor collector and local roads. They are funded in whole or in part with federal and/or state funding. This criterion does not apply to Transportation Alternatives type projects or bicycle/pedestrian facilities.
- III. TDOT's position is that LGs shall manage and construct projects on the local system of roads. LGs must, however, be staffed and equipped to manage and construct these projects. LGs shall submit to TDOT the information and documents outlined in [Chapter 3: Getting Started](#) before beginning work on a project. Approvals are based on federal regulations and determined after a review of the submitted materials by the Local Programs Development Office (LPDO). Approvals are also based on TDOT's assessment of the LG's ability to perform the work.
- IV. In accordance with Federal Regulation [23 CFR 635.105](#), the LG must provide a full time employee of the LG to be in "responsible charge" of the project. This person does not have to be an engineer. This person is required even when consultants have been retained by the LG to manage the entity's engineering activities, including design and construction engineering and inspection services. This person is identified as a part of the initiation packet ([Form 3-1](#)). As the responsible charge changes during the life of the project, the LG will be asked to resubmit this page ([Form 1-1](#)) to keep LPDO's records up-to-date.
- V. LGs may request technical assistance from TDOT at any time.
- VI. The LPDO is the primary TDOT point of contact for project correspondence throughout the life of a project. The LPDO shall be copied on all transmittal letters when sending correspondence to other offices or divisions directly as noted in the manual. All submittals should be distributed in electronic format either by emailing Local.Programs@tn.gov or by FTP submittal to the LPDO. Because of the volume of projects managed by TDOT, **LGs are required to place the Project Identification Number (PIN), an eight digit number (Example: 716055.00), on all correspondence with TDOT.**
- VII. A Legal Disclaimer, allowing for the withdrawal of federal funding and other penalties if the guidelines for all activities on federal projects is not followed, is included on all requests for payment submitted by LGs.
- VIII. LGs shall use TDOT's standards, specifications and item numbers.

1.5 FUNDING ELIGIBILITY

State governments, LGs, Indian tribes, MPOs, and RPOs are eligible for funding. Each of these can partner with public, private, and non-profit entities. Refer to http://www.fhwa.dot.gov/federalaid/guide/guide_current.cfm for a guide to current programs and projects.

1.6 CONSULTANT SELECTION

- I. LGs shall use TDOT pre-qualified consultants for every phase and follow TDOT's approved Local Version of TDOT Consultant Selection Policy ([Form 1-2](#)). TDOT's approved Consultant Selection Policy provides for a small procurement process to be used when consulting fees are anticipated to be less than \$150,000. Contact the LPDO for approval to proceed with this process. The TDOT approved list of consultants can be viewed at:
<http://www.tn.gov/assets/entities/tdot/attachments/firmdisciplines.pdf>.
- II. LGs shall formally adopt through board or council TDOT's approved Local Version of TDOT Consultant Selection Policy ([Form 1-2](#)). LGs shall provide proof of adoption to the LPDO.
- III. LG should select consultants who are TDOT pre-qualified in the required area of expertise.
- IV. The consultant's overhead rates must be approved by TDOT prior to the consultant beginning work on the project. The maximum overhead rate for a state funded project is 145%.
- V. The initial consultant selections for the project may occur before the *NTP with the PE Phase for Environmental Only* is received, but the LG is not authorized to begin work until the effective date on the NTP. Any cost incurred prior to the effective date on the NTP will not be reimbursed (such as placing an advertisement). If expecting reimbursement, the advertisement date may be no earlier than the effective date.
- VI. The LG may select a single consultant for the PE/Design/ROW phase of the project but must provide separate work orders for each of these phases.
- VII. Selection of all consultants used in the ROW phase (appraisers, review appraisers, negotiators, closing and relocation agents) shall also follow the TDOT Consultant Selection Policy.
- VIII. The LG shall hire an independent consulting firm for Construction Engineering Inspection (CEI) services to monitor the project and complete all the necessary inspection and documentation as outlined in the [TDOT Proposed Scope of Work for CEI](#). The LG may use the same consultant for both the design phase and CEI phase of the project for small size projects only. **For mid-range and large size projects, the selected CEI consultant shall not be associated with any other aspect of the project.** Please refer to [Section 3.1](#) and to the Local Version of TDOT Consultant Selection Policy ([Form 1-2](#)) for further information on this important requirement. The selected CEI consultant shall be a pre-qualified consulting firm on the TDOT pre-qualified list. All CEI staff shall be qualified in accordance with TDOT requirements.

The LG shall send a copy of the advertisement or requests for proposals/qualifications that were sent to each consultant, a letter indicating the selection process used and the name of the consultant selected to the LPDO, and a copy of the signed contract.

Depending on the type, amount, and difficulty of work, the LG may request that its own qualified forces be used to document and inspect the work in accordance with these guidelines. The use of local forces must be pre-approved by TDOT. Refer to [Chapter 3](#) and contact the LPDO for additional information.

CHAPTER 2 - DISTRIBUTION MATRIX

The Local Programs Development Office (LPDO) acts as guardian to all phases in locally managed projects in order to establish accountability and to ensure that all activities meet applicable standards. The office provides “Notice to Proceed” documents for NEPA, Design, Right-of-Way (ROW), and Construction phases of project development. Overall, the LPDO is Tennessee Department of Transportation’s (TDOT)’s single point of contact for project correspondence and submittals throughout the life of a project. During certain phases of project development, the LG will be required to provide information directly to TDOT personnel and/or other entities. Documents listed in Table 2-1 should be distributed as follows.

Document Type	Recipients	When	Notes
<i>TDOT Policies</i>			
Responsible Charge Form (Form 1-1)	Local Programs Development Office	During initiation, updated as needed	This is part of the Initiation Packet (Form 3-1).
TDOT Selection Policy (Form 1-2)	Local Programs Development Office	During project initiation	
Consultant Advertisement, Procurement Process, Consultant Contract	Local Programs Development Office	After NTP for NEPA	This submittal normally takes place after the NTP for NEPA; however, consultant procurement can happen prior to the NEPA Phase if no reimbursement is expected.
<i>Project Initiation</i>			
Project Initiation Form and Checklist (Form 3-1)	Local Programs Development Office	Before the contract can be issued	
Certification of Compliance Regarding Third-Party Contracts (Form 3-2)	Local Programs Development Office	Before the contract can be issued	
Tennessee ITS Project Identification Checklist	MPO	Prior to inclusion into the TIP/STIP	If the LG is not in an MPO area, the agency will need to consult with the LPDO.
<i>Environmental Clearance</i>			
Draft Environmental Document	TDOT Local Programs Environmental Coordinator- Environmental Division	After NTP for NEPA	
<i>Design</i>			
Proprietary Product Letter Template (Form 5-1a and 5-1b)	Local Programs Development Office	During the Design Phase, if applicable	A justification letter from the LG must accompany the letter template.
Design Exception Request and Justification Form (Form 5-2)	Local Programs Development Office	If applicable, as soon as a design exception is known	

Non-Motorized Transportation Facility Design Checklist (Form 5-3)	Local Programs Development Office	Required with every non-motorized facility plan submittal	
Design Certification Letter (Form 5-4)	Local Programs Development Office	Required prior to moving to the ROW Phase	
Preliminary Plans	Local Programs Development Office	The first plan submittal in the Design Phase	
ROW Plans	Local Programs Development Office	The second plan submittal in the Design Phase	
Construction Plans	Local Programs Development Office	During the ROW Phase	
Preliminary Construction Estimate	Local Programs Development Office	With the ROW plan submittal	
Preliminary Bridge Layout	Local Programs Development Office	Submitted with Form 5-5	The Local Programs Development Office will submit to TDOT Structures for approval
Roadway Design Policies Checklist (Form 5-5)	Local Programs Development Office	Required with every roadway plan submittal	
Structures Design Checklist (Form 5-6)	Local Programs Development Office	Required with all structures plan submittals	
Final Bridge Plans	Local Programs Development Office	During the ROW Phase, submitted with Form 5-5	The Local Programs Development Office will submit to TDOT Structures
Hydraulic Model Files with Hydraulic Design Summary	Local Programs Development Office	During the ROW Phase	The Local Programs Development Office will submit to TDOT Structures
Final Retaining Walls Plans	Local Programs Development Office	During the ROW Phase	The Local Programs Development Office will submit to TDOT Structures
Final Construction Plans	Local Programs Development Office	During the ROW Phase, prior to NTP for Construction	Submittal only
<i>ROW, Utilities, and Railroads</i>			
Utility Consultant Firm Choice	Local Programs Development Office	During the ROW Phase	Submit the contract, overhead rate, and estimate
Railroad Photos	TDOT Headquarters Railroad Coordinator	During the ROW Phase	If applicable
Railroad Coordination Plans	TDOT Headquarters Railroad Coordinator	During the ROW Phase	If applicable
Railroad Estimate	TDOT Headquarters Railroad Coordinator	During the ROW Phase	If applicable
<i>Civil Right Compliance</i>			
Title VI Compliance	Contact the TDOT Civil Rights Office	Prior to the NTP for Construction	
Uniform Report of DBE Commitments/Awards (Form 7-1)	TDOT Civil Rights Office	Semi-annually	Copy the Local Programs Development Office

<i>Pre-construction</i>			
Proposal Contract Template (Form 8-1 Federal)	Local Programs Development Office	During the ROW Phase	This template cannot be altered; to be used on federally aid projects
Proposal Contract Template (Form 8-1 State)	Local Programs Development Office	During the ROW Phase	This template cannot be altered; to be used on state- funded projects
Construction Advertisement Authorization Checklist (Form 8-2)	Local Programs Development Office	During the ROW Phase, submitted with Form 8-1	
Certification Letter to Attest All Rules Have Been Followed	Local Programs Development Office	During the ROW Phase, submitted with Form 8-1	
Final Construction Estimate	Local Programs Development Office	During the ROW Phase	
Bid Advertisement Template (Form 8-3)	Local Programs Development Office	Prior to NTP for Construction	
<i>Construction</i>			
Bid Concurrence Documents	Local Programs Development Office	Before Awarding Bids	TDOT concurrence required; refer to Section 8.26 for complete list of documents
Construction Engineering and Inspection Consultant Contract	Local Programs Development Office	Before TDOT Bid Concurrence	A copy must be provided to Local Programs Development Office
Signed Construction Contract	Local Programs Development Office	After Bid Award	A copy must be provided to Local Programs Development Office
Contractor and Construction Engineering and Inspection Consultant Information	Local Programs Development Office	Before Pre- Construction Conference is Held	This list of items required are detailed in the Bid Concurrence email from Local Programs Development Office
Plans, Contract Proposal, and Construction Estimate	TDOT Regional Operations/ TDOT Regional Materials and Tests	Before Pre- Construction Conference is Held	Copy the Local Programs Development Office
Construction Work Order	TDOT Regional Operations/Local Programs Development Office	Soon After it is Issued to the Prime Contractor	
Commercially Useful Functional Checklist (Form 8-9)	TDOT Civil Rights Office	As Soon as DBE Starts Work	Copy the Local Programs Development Office
Pre-Construction Conference Notice (Form 8-10a)	TDOT Regional Operations/TDOT Regional Materials and Tests	14 Days Prior to Pre-Construction Conference	The complete list of stakeholders to copy is listed in Form 8-10a
Pre-Construction Conference Minutes (Form 8-11a)	All Attendees	Following the Pre- Construction Conference	Copy the Local Programs Development Office
Railroad Completion Notice (Form 8-15)	Local Programs Development Office	Upon Completion of Work	The complete list of stakeholders to copy is listed in Form 8-15

Start Notice (Form 8-17)	Local Programs Development Office	As Soon as Possible After Work Begins	Copy the TDOT Regional Operations and TDOT Regional Materials and Tests Offices
Bridge Construction Inspection Checklist (Form 8-22)	TDOT Structures	Upon Completion of Work	Submitted with contract drawings
Structures Construction Checklist (Form 8-26)	TDOT Structures	Upon Completion of Work	Copy Local Programs Development Office; submitted with shop drawings, as-built drawings, and final foundation type
Prompt Payment (Form 8-29)	TDOT Civil Rights Office	Submitted Monthly by Prime Contractor	This is in regard to sub- contractors
Change Order (Form 8-30)	Local Programs Development Office	As Needed	All change orders must be submitted to the Local Programs Development Office
Local Government Contact Information Form	TDOT Headquarters Materials and Tests Office	Before Testing	This is for TDOT Materials and Tests charges
Local Programs Materials and Tests Certification (DT-1696LP)	Local Programs Development Office	When Testing is Complete	Submit along with the supplement form and failing tests and corrective actions
Completion Notice (Form 8-33)	Local Programs Development Office	Upon Construction Completion	Copy the contractor, TDOT Operations Office, TDOT Materials and Tests Office, and the Surety
Advertisement for Claims	Newspaper Where Work was Performed	Upon Construction Completion	Copy Local Programs Development Office, the Surety, and the contractor
Summary Change Order	Local Programs Development Office	Upon Construction Completion	Use Form 8-30 ; submitted with final quantities
End of Job Certificate (Form 8-36)	Local Programs Development Office	Upon Construction Completion	No invoices can be submitted after this form is submitted
<i>Billing Procedures</i>			
A-133 Audit Information	Local Programs Development Office	Initiation Phase	This is part of the Initiation Packet (Form 3-1).
Authorized Signature Form (Form 9-1)	Local Programs Development Office	Initiation Phase, as needed	This is part of the Initiation Packet (Form 3-1).
Local Government Main Invoice for Preliminary Engineering (Form 9-2)	LPD.invoices@tn.gov	During the NEPA Phase	These must be submitted no more often than monthly, but at least quarterly
Local Government Invoice for Design (Form 9-3)	LPD.invoices@tn.gov	During the Design Phase	These must be submitted no more often than monthly, but at least quarterly
Local Government Main Invoice for ROW (Form 9-4)	LPD.invoices@tn.gov	During the ROW Phase	These must be submitted no more often than monthly, but at least quarterly
Local Government Construction Invoice (Form 9-5)	LPD.invoices@tn.gov	During the Construction Phase	These must be submitted no more often than monthly, but at least quarterly

Table 2-1 - Distribution Matrix

CHAPTER 3 - GETTING STARTED

3.1 PROJECT INITIATION AND REQUIRED INFORMATION

When a Local Government (LG) desires to manage and let a federally or state-funded project, it must first submit to [Local Programs Development Office](#) (LPDO) a Project Initiation Form and Checklist ([Form 3-1](#)) or competitive grant documentation. The basic requirements are outlined in this chapter.

3.1.1 CRITERIA FOR ALLOWING LOCAL GOVERNMENTS TO MANAGE PROJECTS

- A. **Small projects** (transportation alternatives, intersection improvements without significant right-of-way (ROW), Safe Routes to School, resurfacing, striping, signing, guardrail installation, signalization, and some bridge replacement projects under one acre of disturbance, non-construction/service contract projects, low-risk and non-SEA ITS projects)

Requirements:

- LG can use the same consultant for the entire project (planning, preliminary engineering, and CEI).
- Must have a full-time employee on staff with experience managing transportation projects.
- Must hire consultants for all phases of the project from TDOT's pre-qualified list if the LG has not been approved by TDOT to use their own forces. The consultants must be qualified in the required area of expertise.

Method:

- Written statement of qualifications followed by an on-site interview.

- B. **Mid-range projects** (minor roadway widening, realignment of existing roadway, signalization projects with the addition of turn lanes, intersection improvements with significant ROW involving over one acre of disturbance, bridge replacement projects requiring significant land acquisition over one acre of disturbance, projects with environmental requirements greater than a categorical exclusion but less than an EIS, high-risk ITS)

Requirements:

- The selected CEI consultant shall not be associated with any other aspect of the project.
- Must have qualified full-time professional engineer on staff.
- Must hire consultants for all phases of the project from TDOT's pre-qualified list. The consultants must be qualified in the required area of expertise.

Method:

- Written statement of qualifications.

- C. **Large projects** (construction of new facilities, widening of existing roadways, realignment of existing roadways that require significant land acquisition over 10 acres, environmental clearances that require an EIS)

Requirements:

- The selected CEI consultant shall not be associated with any other aspect of the project.
- Must have qualified full-time professional engineer on staff with extensive experience working with federally-funded transportation projects.
- Must hire consultants from TDOT's pre-qualified list for all phases of the project. The consultants must be qualified in the required area of expertise.

Method:

- Written statement of qualifications.

3.1.2 REQUIREMENTS OF PROJECT INITIATION PACKAGE

- I. Description of the project. Project descriptions shall outline the scope of the project, include termini (beginning and end), and should be referenced as running west/east and south/north. It should also include the log miles for the route in question, if available, route numbers, location on map, functional classification, railroad information, and budget.
- II. A list of the LG's staff who will be overseeing the work, including names and qualifications of those performing environmental, civil rights, design, and construction work for the project. These employees **must be full-time employees** of the LG and cannot be hired just for the management of this project. This differs from the requirement for force account work in that those employees who oversee contract labor for any phase need not have the credentials to perform the work, but must have experience and expertise in supervising or overseeing consultants and/or contractors. The LG must designate a qualified Local Government Project Supervisor and a Local Government Official who will be the responsible charge for the administration of the project, including, but not limited to: requesting authorization of funds, requesting award of contract, supervision of the CEI, authority to approve changes, and accountability for contract compliance ([23 CFR 635.105](#)). If the responsible charge changes through the course of the project, the LG must notify the LPDO, and resubmit [Form 1-1](#).
- III. List of consultants involved with the project at this point if they have already been selected. Expenses incurred prior to authorization date would not be eligible for reimbursement.
- IV. LG must have a civil rights coordinator on staff that has completed the Title VI training, which is available online. Designate appropriate person(s) responsible for ensuring compliance with Title VI, EEO, and DBE requirements. (Title VI Coordinator, EEO Officer, DBE Liaison) This person should have a responsible position in the LG and have easy access to the head of the LG.
- V. A statement of the LG's experience in managing projects similar to the one being contemplated, as well as including their resumes and qualifications.

- VI. Information about any proprietary items the LG may wish to use in its performance of the contract. [Proprietary items](#) are those that can be obtained from only one source. Federal law requires approval of these items before they can be used. Approval must come from TDOT through the LPDO. Refer to [Chapter 5](#) for additional information on proprietary items.
- VII. The LG shall provide the LPDO a completed [Form 9-1](#), with the signatures of persons authorized to sign as “Local Government Project Supervisor” and “Local Government Official”. The LPDO will verify the original signatures on each invoice submitted for payment. Invoices received that do not contain the signature of an authorized person will be returned.
- VIII. The purpose and need statement shall be provided for all projects. The purpose and need should be based on at least one (1) of the following factors:
- A. **Safety** – Are the proposed improvements necessary to correct an existing or potential safety hazard? Is the existing crash rate excessively high? Why? How long will the proposed improvements improve the crash rates?
 - B. **System Linkage** – Is the roadway under study a “connecting link?” How does it fit in the transportation system?
 - C. **Capacity** – Is the capacity of the present facility inadequate for present traffic? Projected traffic? What capacity is needed? What is the level(s) of service for existing and proposed facilities?
 - D. **Transportation Demand** – Including relationship to any statewide plan or adopted urban transportation plan together with an explanation of the project’s traffic forecasts that are substantially different from those estimates from the [23 U.S.C. 134](#) planning process (<http://www.fhwa.dot.gov/hep/guidance/index.cfm>).
 - E. **Legislation** – Is there a Federal, State, or Local Governmental mandate for the improvements?
 - F. **Social Demands or Economic Development** – New employment, schools, land use plans, recreation, etc. What projected economic development/land use changes indicate the need to improve or add to the highway capacity?
 - G. **Modal Interrelationships** – How will the proposed improvements interface with and serve to complement airports, rail and port facilities, mass transit services, bicycle and pedestrian facilities, etc?
 - H. **Roadway Deficiencies** – Are the proposed improvements necessary to correct existing roadway deficiencies (i.e. substandard geometrics, load limits on structures, inadequate cross section, or high maintenance costs)? How will the proposed changes improve the existing facility?

The following websites provide additional information on the importance of the purpose and need statement to the NEPA process:

<http://www.environment.fhwa.dot.gov/projdev/tdmneed.asp>
<http://www.environment.fhwa.dot.gov/projdev/tdmelements.asp>

- IX. A copy of any agreements, contracts, and memorandums of understanding or other legal instruments the LG has entered into with parties other than TDOT that may have bearing on or affect the project in any way. If there are no such agreements, the LG shall sign a certification of compliance to that effect (Certification of Compliance Regarding Third Party Contracts) ([Form 3-2](#)).
- X. A statement about the method of bidding the LG wishes to use for the project. [Federal law requires that the competitive method of bidding \(let to contract\)](#) be used unless there is pre-approval of some other method of bidding.
- XI. Information regarding donated services or land.
- XII. ROW Training Certification ([TTAP Training & Workshops](#))
- XIII. Local Programs Training Certification ([TTAP Training & Workshops](#))
- XIV. At the time of application to the LPDO, the LG shall submit the most current A-133 Audit Documentation. This document must state the LG has sufficient accounting controls to properly manage federal funds. LGs receiving funds under this program are subject to compliance audits by the TDOT Finance Office.
- XV. Copy of the TIP project page.
- XVI. Copy of traffic study warrant for new signal

3.1.3 ITS PROJECTS

Intelligent Transportation Systems (ITS) Projects receiving Federal or State funding require adherence to specific implementation guidelines. The requirements that apply to ITS projects are detailed in [23 CFR 940](#) and the Tennessee Department of Transportation (TDOT) [ITS Design Manual](#). [23 CFR 940.3](#) defines ITS projects as the following: “any project that in whole or in part funds the acquisition of technologies or systems of technologies that provide or significantly contribute to the provision of one or more ITS user services as defined in the [National ITS Architecture](#).” The classification of a roadway project as an ITS project should be determined prior to inclusion in the Transportation Improvement Program (TIP) or State Transportation Improvement Program (STIP). This determination will be made with the [Tennessee ITS Project Identification Checklist](#) by the MPO, which will be submitted to TDOT Traffic Operations. This checklist will help to determine whether a Systems Engineering Analysis (SEA) is required. The checklist should be included with [Form 3-1](#) and submitted to the [LPDO](#).

3.1.4 OTHER INFORMATION

More detailed information about accounting matters can be found in [Chapter 9: Billing Procedures](#).

Reduced requirements for Non-Traditional projects can be found in [Chapter 10: Non-Traditional Projects](#).

CHAPTER 4 - ENVIRONMENTAL CLEARANCE PROCEDURES

The Local Government (LG) is required to perform all work in accordance with the National Environmental Policy Act (NEPA). Due to the unique nature of Local Programs projects, it is recommended that the LG or its consultant speak to the Local Programs contact within Tennessee Department of Transportation (TDOT) Environmental Division before beginning any NEPA work. The Environmental Division will provide the LG with information and the appropriate forms for project coordination and documentation. All environmental documentation must be prepared in accordance with the TDOT [Tennessee Environmental Procedures Manual](#) (TEPM) and Federal Highway Administration (FHWA) guidance. Once a project advances to the Environmental Phase, the Local Programs Development Office (LPDO) will direct the LG or its consultant to the appropriate contact within the Environmental Division for assistance throughout the environmental clearance process.

The NEPA process identifies the potential environmental impacts of federally funded projects and the mitigation measures that may be required to address these impacts. NEPA requires federal agencies to consider environmental issues prior to making any major decisions on projects that have federal involvement (e.g., funding or permitting). To determine a project's potential benefit or harm to the environment, NEPA requires an assessment of environmental impacts and an evaluation of alternatives to avoid any identified adverse impacts to the environment. The environmental regulations and requirements discussed in this chapter apply to Local Programs projects that have a federal nexus, such as the use of federal-aid funds or actions on federal or tribal lands. If federal-aid funds are used for any part of a Local Programs project, whether or not federal-aid funds are used for environmental documentation activities, the LG must follow the procedures included in this chapter. Certain state-funded projects will also require environmental coordination and documentation of a Tennessee Environmental Evaluation Report (TEER).

The TDOT Environmental Division oversees the environmental clearance process and is responsible for ensuring that applicable regulations are followed. The TDOT Environmental Division is also responsible for reviewing environmental documents to ensure that they comply with environmental requirements and may serve as the signing authority on documents that do not require FHWA review.

Throughout the NEPA process, LGs are responsible for obtaining all information and data needed to prepare reports, studies, and environmental documents in accordance with TDOT processes for compliance with NEPA requirements and other environmental regulations. While the Environmental Division's Local Programs contact is available for guidance and will facilitate agency coordination, LGs are responsible for the preparation of coordination materials, required studies, and the environmental document itself.

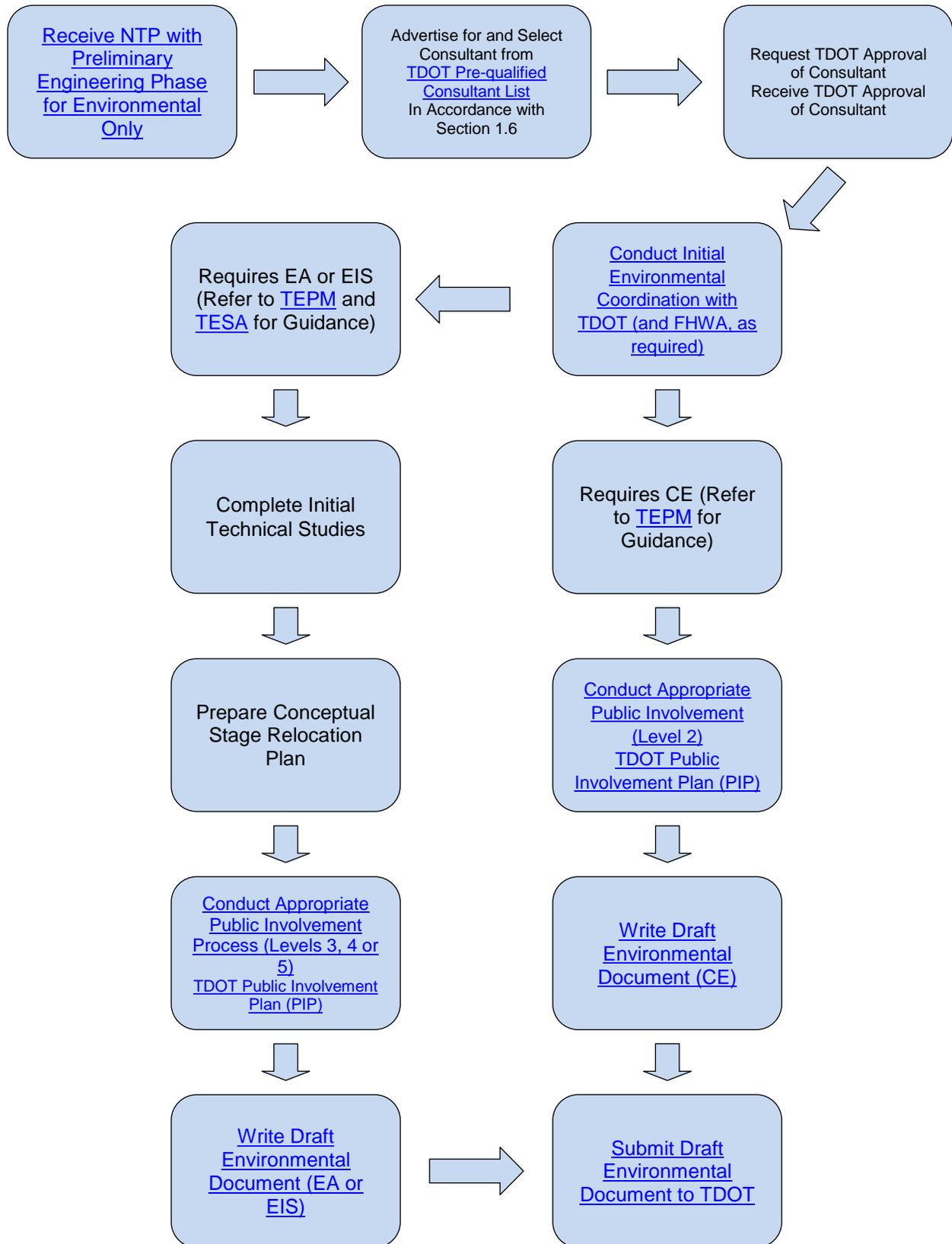


Figure 4-1 – Public Involvement/NEPA Flow Chart

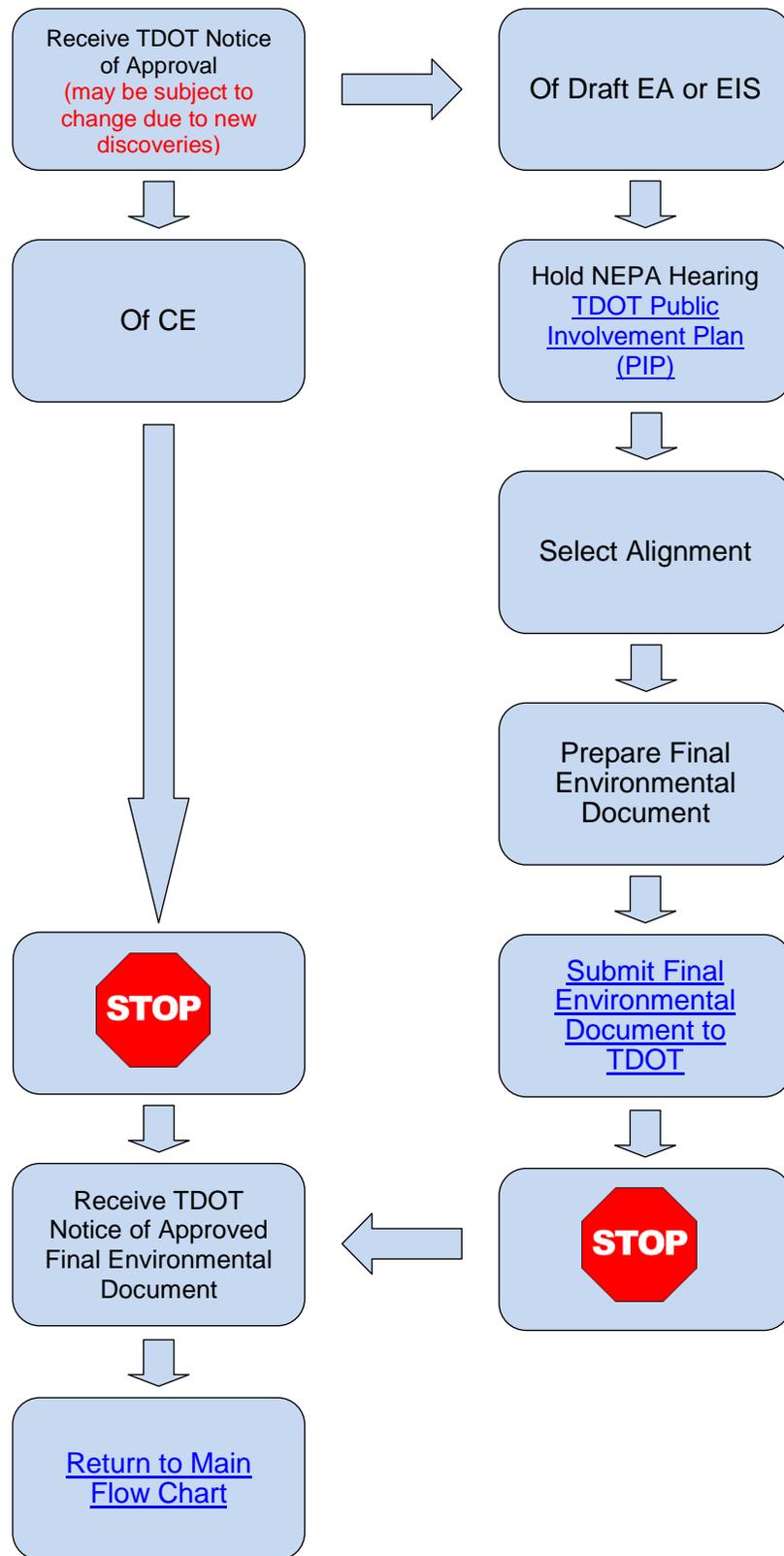


Figure 4-1 – Public Involvement/NEPA Flow Chart (continued)

**NOTICE TO PROCEED WITH THE FUNDED
PRELIMINARY ENGINEERING PHASE
(ENVIRONMENTAL ONLY)
OF PROJECT DEVELOPMENT**

PIN:
FEDERAL PROJECT NUMBER:
STATE PROJECT NUMBER:
ROUTE (STREET NAME):
FROM:
TO:
CITY:
COUNTY:
REGION:

Effective Date:
Date of Transmittal:

This letter serves as your official Notice to Proceed with the above referenced phase of work for the subject project. The Local Government shall perform this phase of project development in accordance with the Local Government Guidelines provided on the Local Program Development Office website at <http://www.tn.gov/tdot/section/local-programs>. Work may not be performed for any later phase of project development until an additional Notice to Proceed is issued. Any work performed ahead of a Notice to Proceed’s Effective Date will not be reimbursed.

You may procure, in accordance with law, a consulting engineering firm to do all phases of preliminary engineering at this time. Please refer to Section 1.6 of the Local Government Guidelines for guidance on consultant selection, if needed. Please provide a copy of the executed contract with the consultant and a copy of the notice sent to the consultant indicating the date work was authorized on the phase of the project mentioned above. These documents should be addressed to Manager, Local Program Development Office and sent by email to Local.Programs@tn.gov. **Note:** If the person in responsible charge for this phase of the project has changed since Form 3-1 (Project Initiation Form) was submitted, the Local Government shall resubmit the responsible charge page (Form 1-1) at this time to the Local Programs Development Office at the email below.

If you have questions or concerns regarding this matter, please direct them to Kip Mayton at 615.741.5314 in the Local Programs Development Office. You may contact us by email at: Local.Programs@tn.gov.

Figure 4-2 – NTP with Preliminary Engineering Environmental Only

PLEASE NOTE: LGs should not proceed with any preliminary engineering work for which they expect reimbursement until they receive the above document from TDOT.

4.1 NEPA PROCESS

Signed into law on January 1, 1970, NEPA establishes national environmental policy and goals for the protection, maintenance, and enhancement of the environment. For proposed actions with a federal nexus, NEPA provides a mechanism for meeting many environmental reviews and approvals.

Due to their wide variety and varying complexity, transportation projects have the potential to affect the environment in many different ways and degrees. Locally-let projects are required to follow the NEPA process to ensure that projects are properly evaluated, the necessary environmental commitments are identified, and the appropriate documentation necessary to obtain environmental clearance is completed. Before undertaking a proposed action, the LG, with input from TDOT and FHWA, must identify whether or not a proposed action or alternative has the potential to result in significant environmental impacts.

While the Local Government Guidelines (LGG) manual provides a basic outline and guidance for environmental clearance and documentation of locally-let projects, it does not replace the [Tennessee Environmental Procedures Manual](#) (TEPM), but rather serves as a complement to the TEPM. The TEPM should be consulted for more detailed environmental clearance and documentation information.

4.2 DEFINING THE STUDY AREA

Before initiating the NEPA process, the project's area of potential effect (APE) must be defined. A project study area should expand beyond the actual footprint of a project and include anticipated detours, equipment staging areas, new right-of-way (ROW), and both temporary and permanent easements. A clearly defined APE based on the purpose and need that incorporates all aspects of the project can minimize project delays and additional costs. Studies and documents developed to support an environmental document will include a more clearly defined project area that is relevant to the actual project footprint and specific to the project area being analyzed.

4.3 LEVELS OF NEPA DOCUMENTATION

Depending on the type of action and severity of potential environmental impacts, there are three levels of evaluation and documentation for projects. These include Categorical Exclusions (CE), Environmental Assessments (EA), and Environmental Impact Statements (EIS). The LG should contact the TDOT Environmental Division to determine what level of documentation and assessment will be required for environmental clearance.

- CEs are completed for projects that cause lesser or mitigated social, economic, or environmental impacts. CEs are described in further detail later in this chapter.
- EAs are completed for larger-scale projects that do not meet the requirements for a CE, projects that can have environmental impacts reduced through mitigation, and projects in which the significance of the environmental impact is not clearly established.
- EISs are completed for actions that significantly impact the quality of the human and natural environment.

4.3.1 CATEGORICAL EXCLUSIONS (CE)

CEs are actions which meet the definition contained in [40 CFR 1508.4](#), and, based on past experience with similar actions, do not involve significant environmental impacts. They are actions which: do not induce significant impacts to planned growth or land use for the area; do not require the relocation of significant numbers of people; do not have a significant impact on any natural, cultural, recreational, historic, or other resource; do not involve significant air, noise, or water quality impacts; do not have significant impacts on travel patterns; or do not otherwise, either individually or cumulatively, have any significant environmental impacts. CEs are divided into 3 categories, C-List, Programmatic and D-List, further details of the CE document type follow:

- **C-List CE**

C-List CEs are primarily non-construction actions, such as planning grants for training and research, or limited construction actions, such as pedestrian facilities, utility installations, landscaping, and fencing. Experience has shown that because of their limited nature, these types of activities never or almost never cause significant environmental impacts.

- **Programmatic Categorical Exclusion (PCE)**

Some types of projects are processed programmatically. On July 7, 2011, FHWA and TDOT entered into a “Programmatic Categorical Exclusion Agreement,” in which TDOT and FHWA agreed in advance with the classification of certain projects as identified in [23 CFR Part 771.117\(d\)](#) as CEs.

TDOT currently uses the [Streamlined Documentation Checklist](#) (SDC) for C-List CEs and PCEs. In the case of locally-let projects, the LG is responsible for completing the SDC and submitting to the TDOT Environmental Division for approval. C-List CEs and PCEs do not require FHWA review.

- **D-List Categorical Exclusion (CE)**

A D-List CE includes those activities that have a higher potential for impact, but the impacts would still be minor in nature, thus allowing the action to meet the criteria for a CE. Some documentation must be provided for an action that falls into the D-list category so that the FHWA can determine if the CE classification is appropriate. The level of information is dependent upon the action’s potential level of impact, controversy, or inconsistency with other agencies’ environmental requirements. Where adverse environmental impacts are likely to occur as a result of the project, the level of analysis should be sufficient to define the extent of the impact, identify appropriate mitigation measures, and address known and foreseeable agency and public concerns.

Please refer to the TEPM or contact the Environmental Division for more information on classification and levels of environmental documentation.

4.4 STATE FUNDED PROJECTS – TENNESSEE ENVIRONMENTAL EVALUATION REPORT (TEER)

While locally-let projects that are state funded are not subject to NEPA, these projects undergo environmental review and clearance. Many of these projects go through the same

coordination process and receive the same level of clearance. While many state-funded projects call for the completion of a TEER, some are eligible for “No TEER Required” documentation. The LG will need to contact the Environmental Division’s Local Programs contact to discuss the project details and determine the level of documentation and review that will be required.

4.5 DOCUMENT COORDINATION

During the environmental clearance process, there are four main areas of environmental review that are addressed: Ecology, Air & Noise Quality, Hazardous Materials, and Cultural Resources. Coordination with State and Federal agencies and TDOT technical sections provide the necessary clearance for each of these areas of review.

4.5.1 ECOLOGY

The Environmental Division’s Local Programs contact will coordinate with and distribute materials to all technical and agency reviewers for the project. At the minimum, Local Programs projects are reviewed by U.S. Fish and Wildlife Service, Tennessee Wildlife Resource Agency, Tennessee Department of Environment & Conservation, and the U.S. Army Corps of Engineers. The LG will prepare a letter that includes an initial environmental review of the project. The Environmental Division’s Local Programs contact will review and distribute the completed package to requesting agencies. Depending on the agencies’ reviews and comments, additional work and evaluation may be requested. While in certain cases an agency may defer to the judgment and requirements of another reviewing agency, coordination must be completed with and clearance provided by each agency. Depending on the project scope, programmatic agreements and memorandums may apply.

4.5.2 TDOT AIR QUALITY & NOISE AND HAZARDOUS MATERIALS

Project information will also be sent to TDOT Air Quality & Noise and Hazardous Materials Ecology sections for review. Necessary clearance will be provided or additional work will be requested. Any studies or assessments that are required will be conducted by the LG and submitted to the Environmental Division.

4.5.3 CULTURAL RESOURCES AND NATIVE AMERICAN CONSULTATION

All projects receiving federal funding through TDOT are required to comply with Section 106 of the [National Historic Preservation Act](#) (NHPA). The NHPA is a stand-alone law but is required for NEPA compliance. Section 106 requires the identification of historic properties (including prehistoric & historic archaeological sites, buildings, structures, objects, and districts) that are listed in or eligible for listing in the National Register of Historic Places. After identification, the effects the proposed project would have on historic properties must also be evaluated. For more information about the Section 106 process and terms used in this guidance, visit www.achp.gov. A Section 106 submission is required for all Local Programs projects. The level of report is dependent on the type of project and its potential to affect historic properties. In general, the basic [Local Programs Section 106 Cultural Resources Template](#) will be sufficient; however, when deemed necessary by the TDOT Cultural Resource staff, the LG may be required to hire qualified archaeology and/or historic preservation consultants to complete more in-depth studies. A copy of the basic Local Programs Section

106 template will be provided to you by the Environmental Division's Local Programs contact; and for more in-depth reports, a copy of TDOT's Archaeology and Historic Preservation Scopes of Work can also be provided by TDOT staff. Once TDOT Historic Preservation and Archaeology staff vet the Section 106 submission and are satisfied it meets TDOT's and the Tennessee State Historic Preservation Office's (SHPO) requirements, the TDOT Cultural Resources staff will send the Section 106 submission and related documents to the SHPO for review and concurrence.

4.6 APPROVAL OF ENVIRONMENTAL DOCUMENT

After all coordination is completed, a record of correspondence and clearance will be recorded in the appropriate environmental document. The LG will be responsible for preparing and submitting the document to the Environmental Division's Local Programs contact who will then review. Once any requested revisions have been made, the document will be sent off for appropriate signature(s). When all necessary signatures have been received, the Environmental Division will distribute the approved document. After approval, an environmental document is valid for three years.

4.7 RE-EVALUATIONS OF ENVIRONMENTAL DOCUMENTS

In the event of design changes or the expiration of an environmental document prior to the obligation of funds for the next phase, a re-evaluation will be completed to determine if the previous environmental clearance remains valid. If previous clearance does not remain valid, the project will have to be re-coordinated with appropriate agencies. Supplemental reports, studies, and documents may be requested. In the event of design changes or new federal regulations, re-evaluations may require new technical studies. Depending on project details, some re-evaluations may be able to be processed internally through the TDOT Environmental Division while others may require agency coordination and FHWA review.

4.8 PUBLIC INVOLVEMENT

Public involvement, a component of environmental scoping, is a critical activity during the NEPA process. The goal of public involvement is to promote an exchange of information between the public and the project team. The level of public involvement will depend on the nature and complexity of the project. The LG will need to coordinate with the Environmental Division to determine the appropriate level of public involvement. Public involvement activities may be as simple as informal conversations with the affected public, notification letters to property owners, or announcements in local newspapers. While not all CEs require public involvement, for projects requiring clearance through EAs and EISs, public involvement is more in depth.

TDOT provides specific direction for coordinating the initial public involvement scoping effort to determine the level of public involvement. Refer to the [Public Involvement Plan](#) or contact the Environmental Division's Local Programs contact for more information.

For all other questions, contact the Environmental Division at 615-741-3655.



The LG must proceed no further with project development until it receives approval of the final environmental document.

CHAPTER 5 - ROADWAY DESIGN PROCEDURES, INCLUDING STRUCTURAL DESIGN

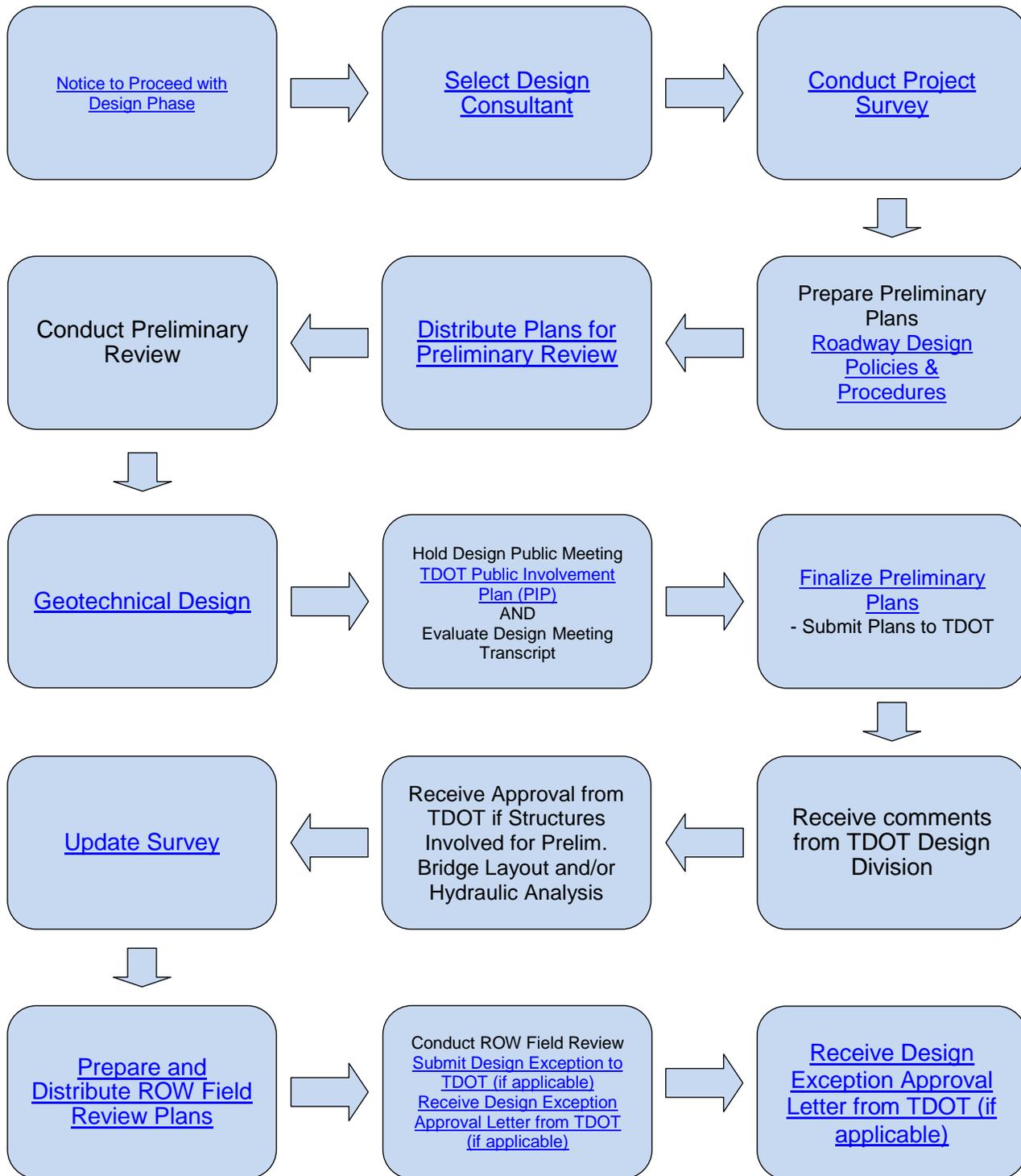


Figure 5-1 – Design Phase Flow Chart

**NOTICE TO PROCEED WITH THE FUNDED
PRELIMINARY ENGINEERING FOR FINAL DESIGN PHASE
OF PROJECT DEVELOPMENT**

PIN:
FEDERAL PROJECT NUMBER:
STATE PROJECT NUMBER:
ROUTE (STREET NAME):
FROM:
TO:
CITY:
COUNTY:
REGION:

Effective Date:
Date of Transmittal:

This letter serves as your official Notice to Proceed with the above referenced phase of work for the subject project. The Local Government shall perform this phase of project development in accordance with the Local Government Guidelines provided on the Local Program Development Office website at <http://www.tn.gov/tdot/section/local-programs>. Work may not be performed for any later phase of project development until an additional Notice to Proceed is issued. Any work performed ahead of a Notice to Proceed’s Effective Date will not be reimbursed.

You may procure, in accordance with law, a consulting engineering firm to do all phases of design at this time. Please refer to Section 1.6 of the Local Government Guidelines for guidance on consultant selection, if needed. Please provide a copy of the executed contract with the consultant and a copy of the notice sent to the consultant indicating the date work was authorized on the phase of the project mentioned above. These documents should be addressed to Manager, Local Program Development Office and sent by email to Local.Programs@tn.gov. **Note: If the person in responsible charge for this phase of the project has changed since Form 3-1 (Project Initiation Form) was submitted, the Local Government shall resubmit the responsible charge page (Form 1-1) at this time to the Local Programs Development Office at the email below.**

If you have questions or concerns regarding this matter, please direct them to Kip Mayton at 615.741.5314 in the Local Programs Development Office. You may contact us by email at: Local.Programs@tn.gov.

Figure 5-2 – NTP with Design Phase

PLEASE NOTE: LGs should not proceed with any design work for which they expect reimbursement until they receive the above document from TDOT.

5.1 INITIAL RIGHT-OF-WAY, UTILITY AND RAILROAD COORDINATION

The Local Government (LG) shall contact the Tennessee Department of Transportation (TDOT) Regional Right-of-Way (ROW) Coordinator, the TDOT Regional Utility Coordinator and the TDOT Headquarters Railroad Coordinator as early as possible after receiving the Notice to Proceed with the Design Phase in order to coordinate design considerations, determine process for railroad coordination and avoid possible delays.

Railroad Coordination should begin at the preliminary plans stage in order to incorporate railroad requirements into the final ROW plans. For information on Railroad Procedures, refer to [Section 6.2: Utility Relocation and Railroad Procedures](#).

5.2 PROJECT SURVEY

The survey for any roadway project shall be tied to the Tennessee Geodetic Reference Network. Project plans shall show the horizontal datum, vertical datum, and the datum adjustment factor on all sheets that contain survey information. Control points, benchmarks, horizontal controls, and vertical controls are to be shown in the project plans as well. All surveys shall comply with the most current version of the [TDOT Survey Manual](#) and [TDOT Roadway Design Guidelines](#).

5.3 GEOTECHNICAL STUDIES

All geotechnical studies shall be prepared according to the [Geotechnical Report Manual](#).

5.4 ROADWAY DESIGN

All projects which involve a roadway shall be designed in accordance to [TDOT Design Policies and Procedures](#). Local management of projects on a state route or the National Highway System will require additional oversight from TDOT. The funding for each Locally Managed Project may come from federal-aid and/or State Funds combined with Local Funds, or solely from federal-aid or State Funds.

For ITS projects, a Systems Engineering Analysis (SEA) document may be required based on a risk determination. TDOT sub-categorizes ITS projects into three levels (High Risk, Low Risk, or Non-SEA). As projects are submitted for inclusion in the TIP each project should be evaluated by the submitting agency to determine if the project includes any ITS elements. If the project contains any ITS elements, the submitting agency must complete and send the [Tennessee ITS Project Identification Form](#) electronically to the TDOT Traffic Operations office at TDOT.TrafficOps@tn.gov. It is the responsibility of TDOT to validate if a project is an ITS project, make the risk determination, and notify in writing the Planning Organization and the project sponsor of the determination and of any additional required documentation. Please refer to the TDOT Intelligent Transportation System Project Guidelines for further information on ITS projects.

Non-Roadway Construction projects such as building projects, public art installation, and historic preservation, rehabilitation and operation of historic transportation buildings, structures, or facilities are covered in [Chapter 10: Non-Traditional Projects](#).

Non-Construction projects such as safety, educational, training, and outreach activities, diesel emission reduction projects, transit projects, carpool, vanpool, rideshare, and alternative fuel vehicle projects, software projects, and alternative fuel infrastructure projects are covered in [Chapter 10: Non-Traditional Projects](#).

5.4.1 ROADWAY DESIGN POLICIES AND PROCEDURES

For roadway projects, LGs shall utilize the criteria contained in the following documents:

1. [Standard Roadway Drawings, TDOT Design Division, current edition](#)
2. [Standard Structures Drawings, TDOT Structures Division, current edition](#)
3. [Standard Traffic Operations Drawings, TDOT Traffic Operations Division, current edition](#)
4. [Roadway Design Guidelines, TDOT Design Division, current edition](#)
5. [Survey Manual, TDOT Design Division, current edition](#)
6. [Design Division Drainage Manual, TDOT Design Division, current edition](#)
7. [Geotechnical Report Manual, TDOT Materials and Tests Division, current edition](#)
8. [2010 ADA Standards for Accessible Design](#)
9. [Public Rights-of-Way Accessibility Guidelines \(PROWAG\)](#)
10. [Manual on Uniform Traffic Control Devices \(MUTCD\), FHWA, current edition](#)
11. [Traffic Design Manual, TDOT Design Division, current edition](#)
12. [TDOT Work Zone Safety & Mobility Manual](#)

LGs shall also utilize the guidance contained in the following documents to supplement the documents listed above:

1. [A Policy on Geometric Design of Highways and Streets, AASHTO, edition adopted by TDOT](#)
2. [Guide for the Development of Bicycle Facilities, AASHTO, current edition with addenda](#)
3. [Standard Specifications for Structural Supports for Highway Signs, Luminaries, and Traffic Signals, AASHTO, current edition with addenda](#)
4. [Roadside Design Guide, AASHTO, current edition](#)
5. [Highway Capacity Manual, TRB, current edition](#)
6. [Load and Resistance Factor Design \(LRFD\) Bridge Design Specifications, AASHTO, current edition with addenda](#)
7. [Highway Safety Manual, AASHTO, current edition](#)
8. [Guide for the Planning, Design, and Operation of Pedestrian Facilities, AASHTO, current edition](#)
9. [TDOT Special Provision Regarding Retaining Walls, SP 624](#)

Additionally, it is the policy of both the United States Department of Transportation and TDOT that bicycle and pedestrian accommodations be incorporated into transportation projects as a means to improve the mobility, access, and safety of non-motorized traffic within the transportation system. In order to comply with these policies, LGs may utilize the guidance contained in the following documents:

1. [USDOT Policy Statement on Bicycle and Pedestrian Accommodation \(March 2010\)](#)
2. [TDOT Bicycle and Pedestrian Policy \(July 2015\)](#)

The contract and/or plans shall not contain any proprietary items, unless specified in accordance with [23 CFR 635.411](#) and approved in advance by TDOT through the Local Programs Development Office (LPDO). [TDOT Standard Operating Procedure 1-5](#), covers this topic. There are two types of proprietary item certification: project-level certification and agency (city/county-wide) certification. Templates are available via the links below.

- Project-Level Proprietary Product Certification Letter Template ([Form 5-1a](#))
- Agency Proprietary Product Certification Letter Template ([Form 5-1b](#))

These templates must be used and submitted in Word format along with a letter from the LG requesting this certification to the [LPDO](#) for processing. Once the Assistant Chief Engineer approves the product, the certification will be placed on the [webpage](#) in the Current Proprietary Products Certifications listing. The proprietary items must be approved for use prior to submitting the bid documents for review.

On a case-by-case basis as permitted under [23 CFR 625.3 \(e\)](#), roadway geometric design standards may not be applicable to traffic engineering, safety, and preventive maintenance projects which include very minor or no roadway work. LGs shall request a determination by TDOT. This request should be sent to Local.Programs@tn.gov. This will permit implementation of projects addressing safety and operational concerns in a timely manner without requiring design exceptions for those elements of the roadway that are beyond the scope of purpose and funding of these types of projects.

5.4.2 DESIGN SOFTWARE

The Department does not require LGs to design projects using particular software. However, plan submittals shall be in PDF format.

5.4.3 DESIGN EXCEPTIONS FOR ROADWAY PROJECTS

For roadway projects that do not meet the criteria for the controlling elements of design listed in Chapter 3 of the [TDOT Roadway Design Guidelines](#), or any current Instructional Bulletins pertaining to design exceptions, a formal design exception is required. The criteria for the controlling elements of design are also located in “A Policy on Geometric Design of Highways and Streets” published by AASHTO. It is the sole responsibility of the LG and/or their consultants to identify the need for a design exception based on the criteria for the controlling elements of design.

Design exception requests shall be made at the earliest practical point in the project development process and prior to completion of the ROW plans.

When a design exception is required, the “Design Exception Request and Justification Form” ([Form 5-2](#)) should be completed as described in Chapter 3 of the [TDOT Roadway Design Guidelines](#), or any current Instructional Bulletins pertaining to design exceptions. The “Design Exception Request and Justification Form” and supporting documentation should be distributed in electronic format either by email or FTP to the LPDO. When the design exception has been approved, one copy of the “Design Exception Request and Justification Form” will be returned to the LG through the LPDO. A copy of the “Design Exception Request and Justification Form” and supporting documents will also be maintained by the TDOT Design Division.

Design exceptions cannot be justified solely by costs or costs savings. The rationale for the design exception justifications are outlined in the referenced documents for each category.

The LG shall not proceed with the design until the design exception approval letter is received from TDOT, if applicable.

5.4.4 NON-MOTORIZED TRANSPORTATION FACILITY DESIGN

A non-motorized transportation facility is a bike and/or pedestrian facility provided as an alternative to motorized vehicular routes within the state transportation system. Any facility designed, designated or constructed strictly for recreational use is not eligible for the Surface Transportation Funds (STP). Non-motorized transportation facilities include, but are not limited to, greenways, bicycle/pedestrian facilities, and shared use (multi-modal) paths. They can be categorized for individual bicycle use, individual pedestrian use or as a shared-use facility for both bicyclists and pedestrians.

The following design guidelines must be adhered to during the design of a non-motorized transportation facility:

1. [Guide for the Planning, Design, and Operation of Pedestrian Facilities, AASHTO, July 2004](#)
2. [ADA Accessibility Guidelines \(ADAAG\), September 26, 2013](#)
3. [2010 ADA Standards for Accessible Design](#)
4. [Public Rights-of-Way Accessibility Guidelines \(PROWAG\)](#)
5. [Manual on Uniform Traffic Control Devices \(MUTCD\), FHWA, current edition](#)
6. [Guide for the Development of Bicycle Facilities, AASHTO, Current Edition](#)
7. [Roadway Standard Drawings](#)

All of the facilities listed above should be designed to provide ADA access. The Non-motorized Transportation Facility Design Checklist ([Form 5-3](#)) should be submitted with all plan submittals. If the facility cannot meet the ADAAG Guidelines, this form should include the rationale for that determination. **The checklist must also be submitted to the LPDO and maintained in the LG project file.**

5.4.5 DESIGN CERTIFICATION

It is the sole responsibility of the LG and its consultant to ensure that the design follows the Roadway Design Policies and Procedures. This includes the preparation of project plans and related procedures such as public hearings/meetings. LGs shall submit a Design

Certification Letter for each project via email to Local.Programs@tn.gov. The Design Certification Letter is required for the LPDO to issue a NTP for ROW.

For all projects except non-motorized projects, the Design Certification Letter shall contain statements indicating all federal and state laws and regulations have been followed and appropriate standards and guidelines were used during the development of the project. The letter shall further state that all TDOT Policies and Procedures have been followed and the criteria for the controlling elements of design have been met or formal approval of a Design Exception has been received. Refer to example Design Certification Letter ([Form 5-4](#)). For non-motorized projects, the design certification letter is not required.

The Design Certification Letter shall also enumerate any project commitments made to third-parties during the environmental, planning, ROW, utilities, or construction phases of the project development.

Acceptance of the Design Certification Letter by TDOT does not signify TDOT's approval of the project design.

5.4.6 ROADWAY QUANTITIES

Roadway quantities for all projects shall be calculated using TDOT pay items, descriptions, and units, along with any required footnotes, from the TDOT Roadway Design Policies and Procedures referenced above. Quantities shall be included in the construction plans. This includes all geotechnical and utility related quantities.

5.4.7 PRELIMINARY CONSTRUCTION ESTIMATE

An itemized preliminary construction estimate, based on plans quantities and using TDOT item numbers shall be provided at the time the final ROW plans are submitted. The preliminary construction estimate shall be comprehensive, including structure cost, retaining walls, utility cost (if included in construction), etc., as well as project and roadway features. The preliminary construction estimate shall not contain any contingency items. This preliminary construction estimate shall be updated and submitted every 12 (twelve) months from the date of the original. The preliminary construction estimate shall list the item number, description, quantity, units, cost per unit, item cost, and total cost.

5.4.8 PROJECT PLANS

Project plan sheets shall meet the requirements for the Preliminary, ROW, and Construction Plans Checklist in Section 1-105.00 of the [TDOT Roadway Design Guidelines](#). Existing and proposed ROW shall be included on all projects.

Construction plans shall have **all** applicable plan sheets as specified in Section 4-133.00 of the TDOT Roadway Design Guidelines.

Note: These are not TDOT-managed projects. Plans should not show a TDOT coversheet, TDOT signature block or TDOT heading. The plans should reflect information identifying the LG. The final plans should be electronically stamped and signed by a licensed TN Professional Engineer. Project plan sheets shall be scanned in black and white at a minimum of 300 dpi (in PDF format) for email distribution if not electronically sealed.

The Title Sheet for the project plans shall have “**Locally Managed Project**” printed in the upper right corner for all phases of the plans development. If the project will also be bid by the LG, the title sheet shall also have “**Locally Let Project**” in the upper right hand corner. The Professional Engineer in charge of the development of the project plans shall place his/her electronic seal, including signature and date on the plans as specified in Section 3-105.10 and 4-115.10 of the TDOT Roadway Design Guidelines. The title sheets shall also have the Project Identification Number, Federal Project Number, and State Project Number affixed thereon.

5.5 PROJECT PLANS DISTRIBUTIONS

The LG shall send Preliminary, Final ROW, and Construction plans to the LPDO for a review to ensure federal and State guidelines and the TDOT Roadway Design Policies and Procedures are being followed. These plans shall be submitted in electronic form (email or FTP). The Design Procedures Checklist ([Form 5-5](#)) should be submitted with all plan submittals to Local.Programs@tn.gov.

Submitted plans will be distributed internally within TDOT according to the Local Programs Multi-Divisional Review Process. This process distributes plans for review to the appropriate TDOT divisions. For locally managed and locally let projects that are located on non-state routes, the Roadway Design Division will only check for the controlling elements. Other divisions will review the plans depending on project type. A more in-depth review will be required by the Roadway Design Division for projects on state routes that are locally managed and locally let or are locally managed and state let.

A Notice to Proceed will not be provided for the ROW (land acquisition) Phase until the Design Division has reviewed the Final ROW Plans and all comments/changes have been addressed by the LG.

5.6 STRUCTURES DESIGN

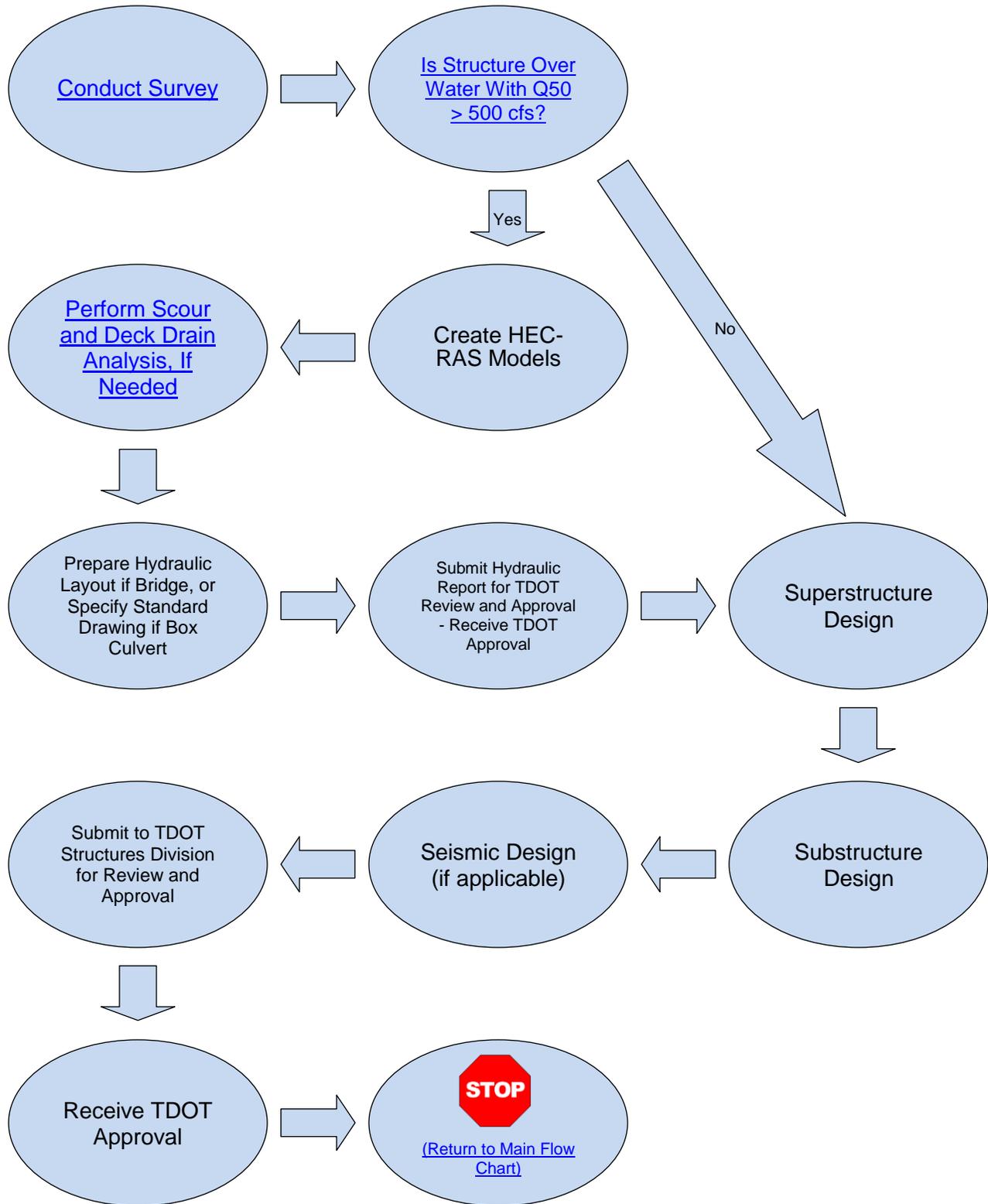


Figure 5-3 – Structural Design Steps Flow Chart

5.6.1 BRIDGES

Bridges are defined as any grade or drainage structure over 20 feet in length measured along the roadway centerline.

No state route bridge construction or repairs shall be performed by the LG without TDOT approval.

Construction of span and box bridges and culverts shall be in accordance with the procedures in the [TDOT Standard Specifications for Road and Bridge Construction](#), current edition.

Materials for bridge construction shall be only those approved by the TDOT Materials and Tests Division for use on TDOT projects.

Geotechnical investigations for determining foundation design shall be conducted in accordance with the [Load Resistance Factor Design \(LRFD\) Bridge Design Specifications, AASHTO, current edition with addenda](#).

Timber bridges or components shall not be used. All bridge decks shall be constructed compositely with supporting beams using reinforced or pre-stressed concrete.

A preliminary bridge layout shall be provided electronically to the LPDO who shall then forward preliminary bridge layout to TDOT Structures Division for review and approval prior to purchase of any ROW. Multiple crossings with a 50 year flood of 500 cubic feet per second (CFS) or greater on a single road project shall be submitted together for review and approval of the Structures Division. The Structures (Design) Checklist ([Form 5-6](#)) shall be submitted with all structural plans.

Final bridge plans electronically stamped by a licensed engineer in the State of Tennessee shall be submitted electronically to the [LPDO](#) who shall then forward to the TDOT Structures Division for review and approval prior to letting of the project to contract. The Structures (Design) Checklist ([Form 5-6](#)) shall be submitted with all structural plans.

Shop drawings will be required for all items identified in Section 105.02 of the [TDOT Standard Specifications for Road and Bridge Construction, current edition](#). The Engineer of Record will be required to review and approve.

All bridge rails shall be specified according to current TDOT standards or be rails meeting the requirements of [AASHTO Manual for Assessing Safety Hardware, 2009](#).

Box and Slab type bridges shall be specified according to the LRFD Bridge Design Specifications, AASHTO, current edition with addenda.

Pre-cast concrete boxes and three sided pre-cast concrete structures shall be specified according to manufacturer plans and specifications and shall be only those approved for use by TDOT for roadway projects.

All design exceptions shall follow TDOT policy. Structures design exceptions shall be submitted to the LPDO for approval by TDOT Structures Division.

Structural design shall be by LRFD Bridge Design Specifications, AASHTO, current edition with addenda.

5.6.2 GRADE CROSSINGS

The bridge length shall be the minimum required to accommodate the road or railroad plus the fill slopes (usually 2:1 unless otherwise specified by Geotechnical Study), ditches, and sidewalks, if required.

The minimum horizontal clearance for a bridge over a road shall be a distance equal to the width of shoulders plus ditches except that for bridges over federal-aid systems shall be 30'-0" from the edge of the travel lane to any substructure. The minimum horizontal clearance for a bridge over a railroad shall be 25'-0" measured from the top of the rail elevation to any substructure or fill slope.

A minimum vertical clearance of 14'-6" shall be provided across the full extent of travel lanes for bridges over local roads and 16'-6" over state routes and interstates. Multimodal or pedestrian bridges shall provide a minimum vertical clearance of 17'-6" over local routes, state routes, and interstates. For bridges over railroads, the minimum vertical clearance shall be 23'-6" above the top of rail.

Any greenways, bicycle or pedestrian lanes shall be accounted for in bridge design.

5.6.3 HYDRAULIC CROSSINGS

All hydraulic design shall be done according to the [Tennessee Hydraulic Memoranda \(THM\)](#).

The hydraulic model files electronically stamped by an Engineer licensed in the State of Tennessee and completed [Hydraulic Design Summary Form](#) shall be electronically submitted to the [LPDO](#) who shall then forward design file and summary to the Hydraulics Section. This file shall include a hydraulic model of span and box bridges and culverts with a 50 year flow of 500 cubic feet per second (CFS) or greater according to the TDOT Design Procedures for Hydraulic Structures using the U.S. Army Corps of Engineers HEC-RAS software for review and approval prior to purchase of ROW. A No-rise Certification is required if any portion of the project affects the FEMA AE Zone (100-year Floodplain).

Where Federal Emergency Management Agency (FEMA) Flood Insurance Studies are available for a hydraulic crossing, the flow information and water surface profile starting elevations shall be used unless a hydraulic or hydrologic study is performed to determine if other data is more appropriate.

All hydraulic designs shall demonstrate that flooding conditions will be at least no worse than existing conditions.

A hydraulic layout sheet electronically stamped by an Engineer licensed in the State of Tennessee shall be electronically submitted along with the hydraulic design file to [LPDO](#) who shall then forward hydraulic layout sheet to TDOT Hydraulics Section for approval on all span bridges.

A scour analysis will be required according to procedures in the [FHWA publication HEC-18](#) for all span bridges in TDOT Region 4 (west Tennessee) and any other part of the state where foundations will not be placed on bedrock.

Bridge deck drainage analysis will be performed according to procedures in the [FHWA publication HEC-21](#) and submitted with the hydraulic design file for all span bridges unless the [TDOT Standard Drawing STD 7-1 \(Open\) bridge rail](#) is used.

5.6.4 BRIDGE REHABILITATION VERSUS REPLACEMENT

Local rehabilitation of deficient bridges located off the state and interstate system of highways is allowed. Any hydraulic opening modifications will require a hydraulic and scour analysis.

Bridge rehabilitation projects shall meet all current AASHTO guidelines and standards, or have an approved design exception, refer to [Section 5.6.1](#).

Every two years, TDOT inspects all bridges across the state, determines their condition in accordance with NBIS and provides a rating that indicates the safe weight that can use the bridge. Bridges with a rating of 15 tons or less are added to TDOT's bridge replacement list, ranking them from the worst bridge to the best. A sufficiency rating of less than 80 is eligible for rehabilitation and bridges with a sufficiency rating less than 50 are eligible for replacement. Rehabilitated bridges must have a sufficiency rating greater than 80 at project completion.

5.6.5 RETAINING WALLS

Retaining walls for locally managed projects shall conform to the [SP624](#) found at the [Construction Division website](#).

The Geotechnical consultant shall review retaining wall shop drawings for verification that all recommendations in the geotechnical report were addressed. A letter certifying the recommendations have been met shall be submitted to the LPDO.

Final retaining wall plans electronically stamped by a licensed engineer in the State of Tennessee shall be electronically submitted to the [LPDO](#) who shall then forward to the Structures Division for review and approval prior to letting of the project to contract.

5.6.6 LIGHTING, SIGNING SUPPORTS AND TRAFFIC SIGNAL SUPPORTS

The lighting, signing supports and traffic signal supports shall be designed by the [Standard Specifications for Structural Supports for Highway Signs, Luminaries, and Traffic Signals, AASHTO, current edition with addenda](#).

5.6.7 DESIGN NOTES AND CALCULATIONS

All design notes and calculations related to structures shall be retained with the project records and submitted to TDOT along with the bridge plans for review.

5.6.8 CONSTRUCTION INSPECTION OF STRUCTURES

For details regarding the inspection of structures, refer to [Section 8.2.18](#).

CHAPTER 6 - RIGHT-OF-WAY (ROW), UTILITY AND RAILROAD PROCEDURES

The Notice to Proceed for the ROW Phase will be provided to the Regional ROW Manager who will advise the LG of the requirements and will also indicate which processes should begin. (LGs shall not contact property owners, appraise property or proceed in any manner until they meet with the TDOT Regional ROW Coordinator.)

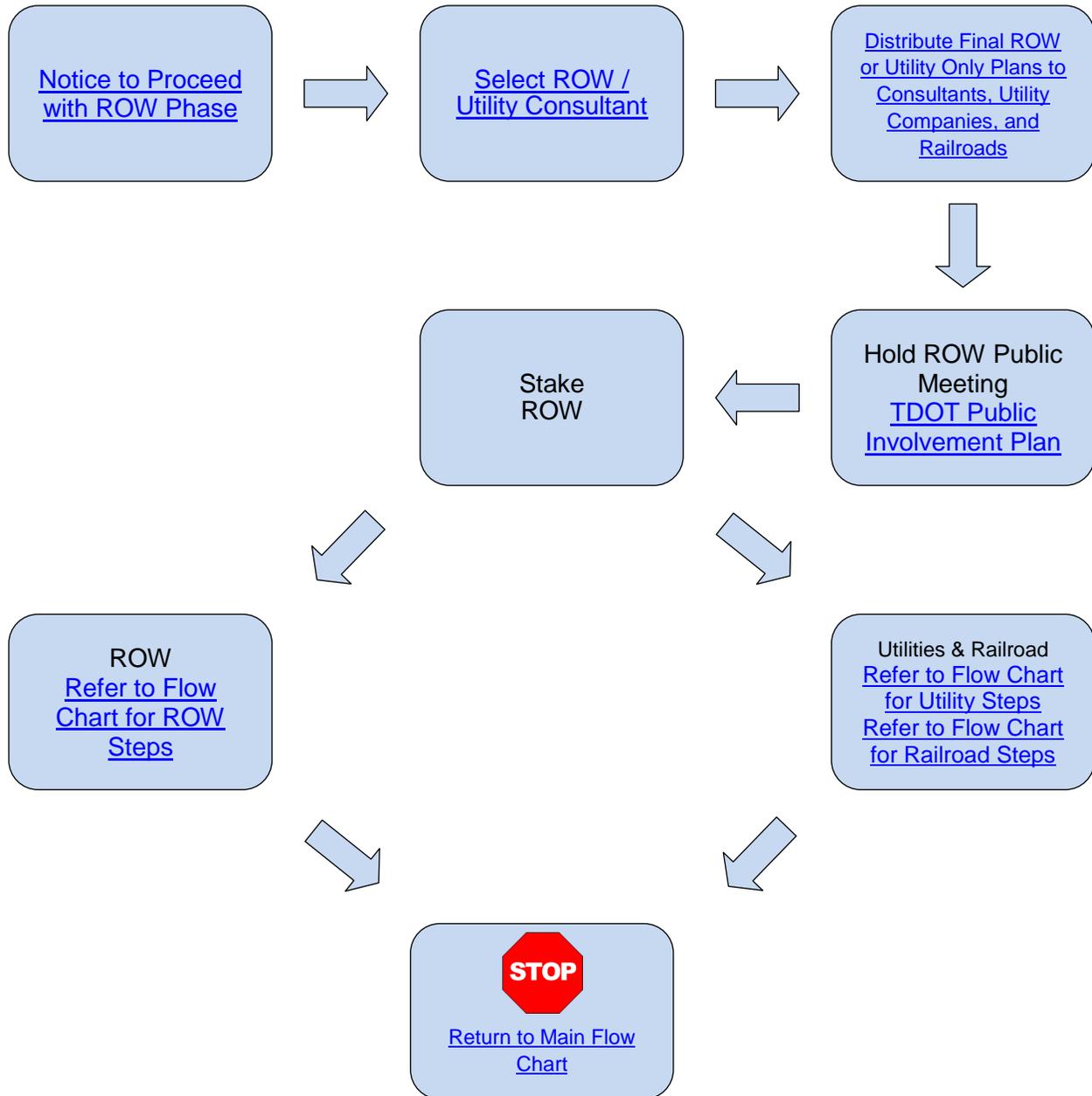


Figure 6-1 – ROW Phase Flow Chart

* Note: ROW Phase includes design elements, i.e. refining ROW plans, permit applications & preparation of construction plans.

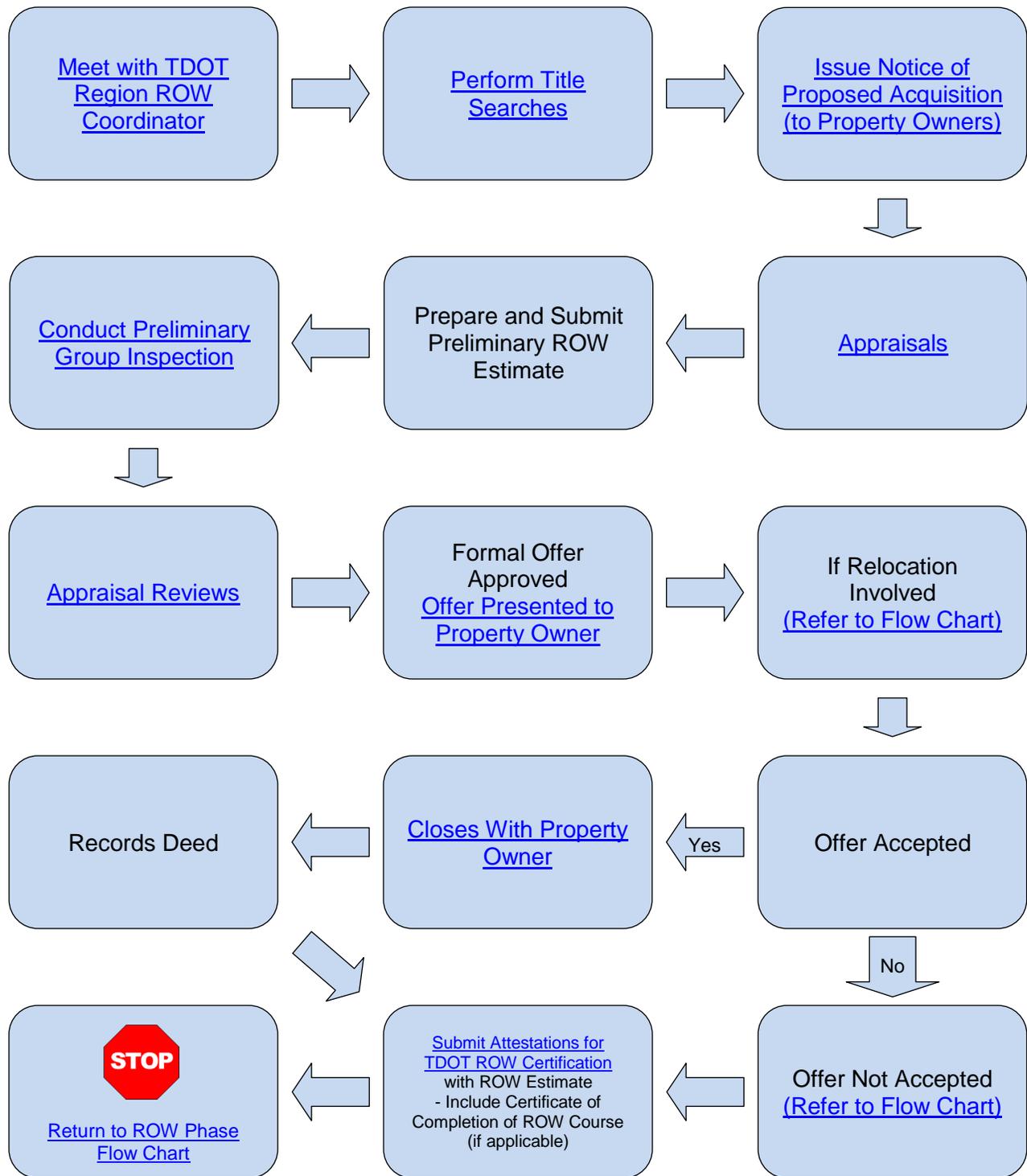


Figure 6-2 – ROW Steps Flow Chart

(To be used as a reference that complements information in the manual and may vary by project based on guidance from the TDOT Regional ROW Coordinator.)

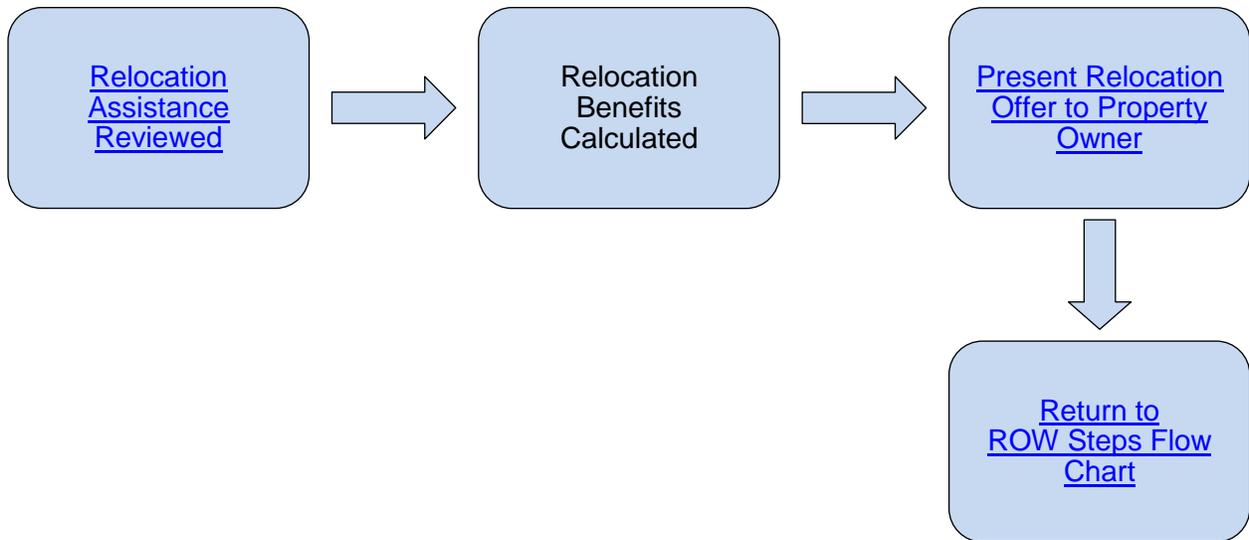


Figure 6-3 – Relocation Involved Steps Flow Chart

(To be used as a reference that complements information in the manual and may vary by project based on guidance from the TDOT Regional ROW Coordinator.)

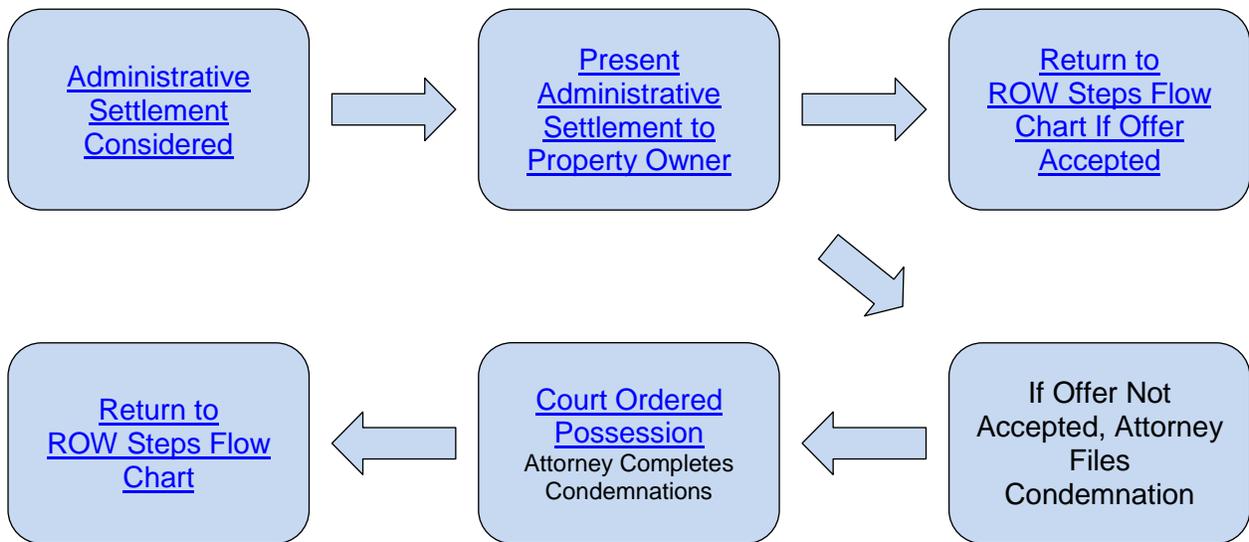


Figure 6-4 – If Offer Not Accepted Steps Flow Chart

(To be used as a reference that complements information in the manual and may vary by project based on guidance from the TDOT Regional ROW Coordinator.)

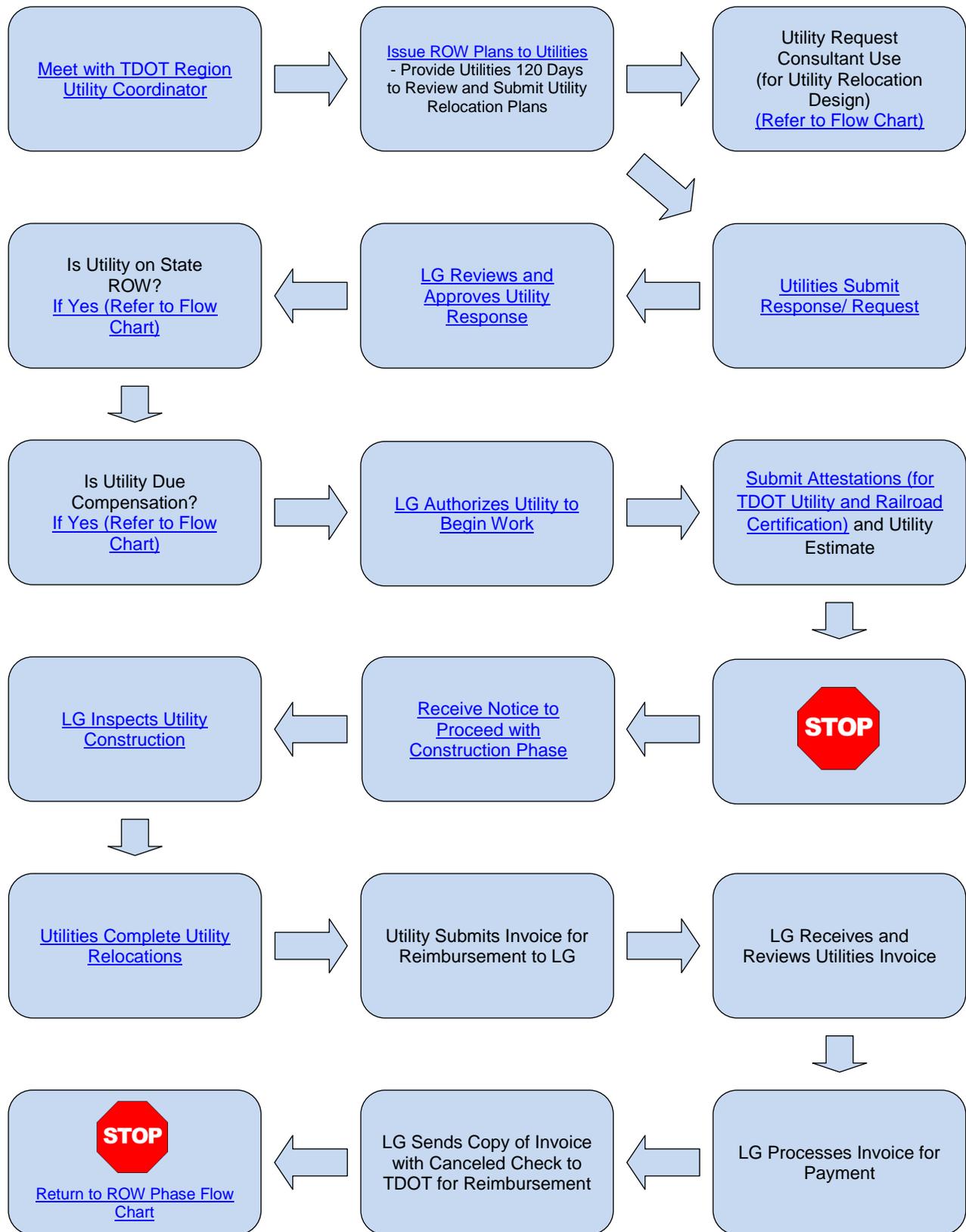


Figure 6-5 – Utility Steps Flow Chart

(To be used as a reference that complements information in the manual and may vary by project based on guidance from the TDOT Regional Utility Coordinator.)

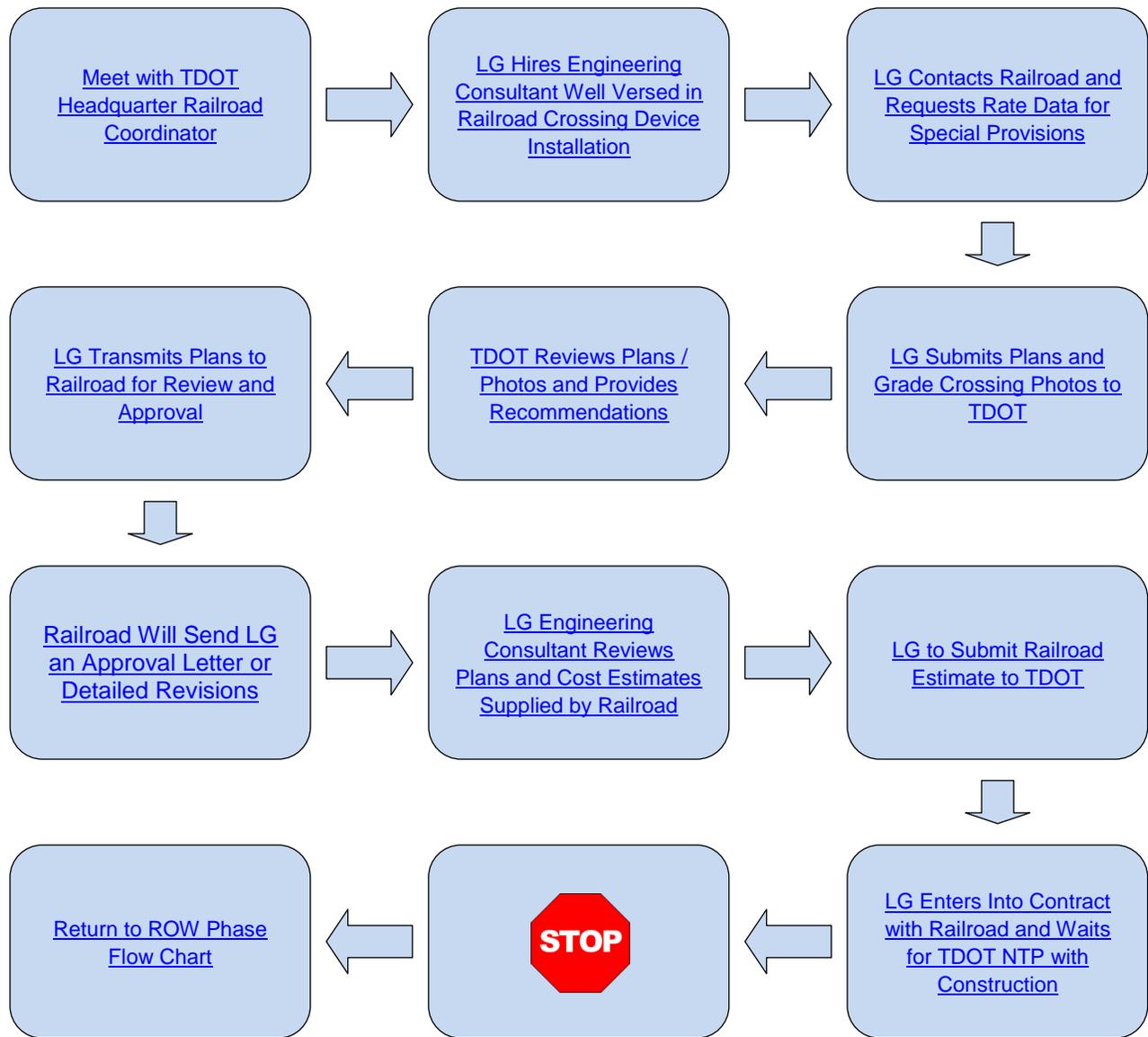


Figure 6-6 – Railroad Steps Flow Chart

(To be used as a reference that complements information in the manual and may vary by project based on guidance from the TDOT Headquarters Railroad Coordinator.)

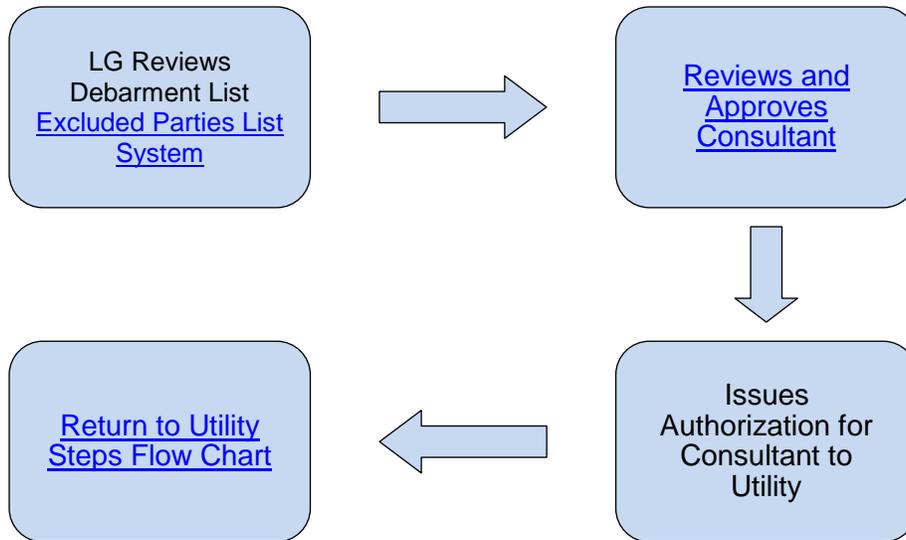


Figure 6-7 – If Utility Requests Consultant Steps Flow Chart

(To be used as a reference that complements information in the manual and may vary by project based on guidance from the TDOT Regional Utility Coordinator.)

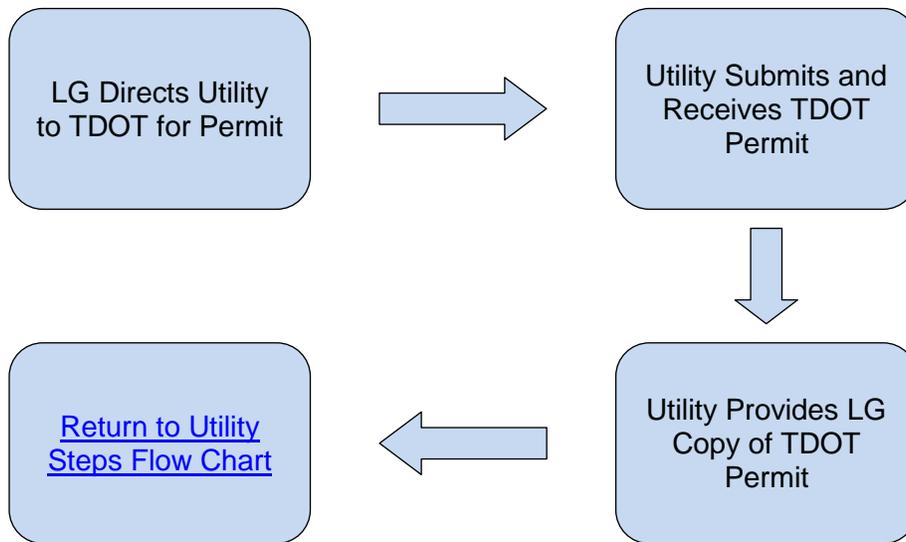


Figure 6-8 – If Utility Is On State ROW Steps Flow Chart

(To be used as a reference that complements information in the manual and may vary by project based on guidance from the TDOT Regional Utility Coordinator.)

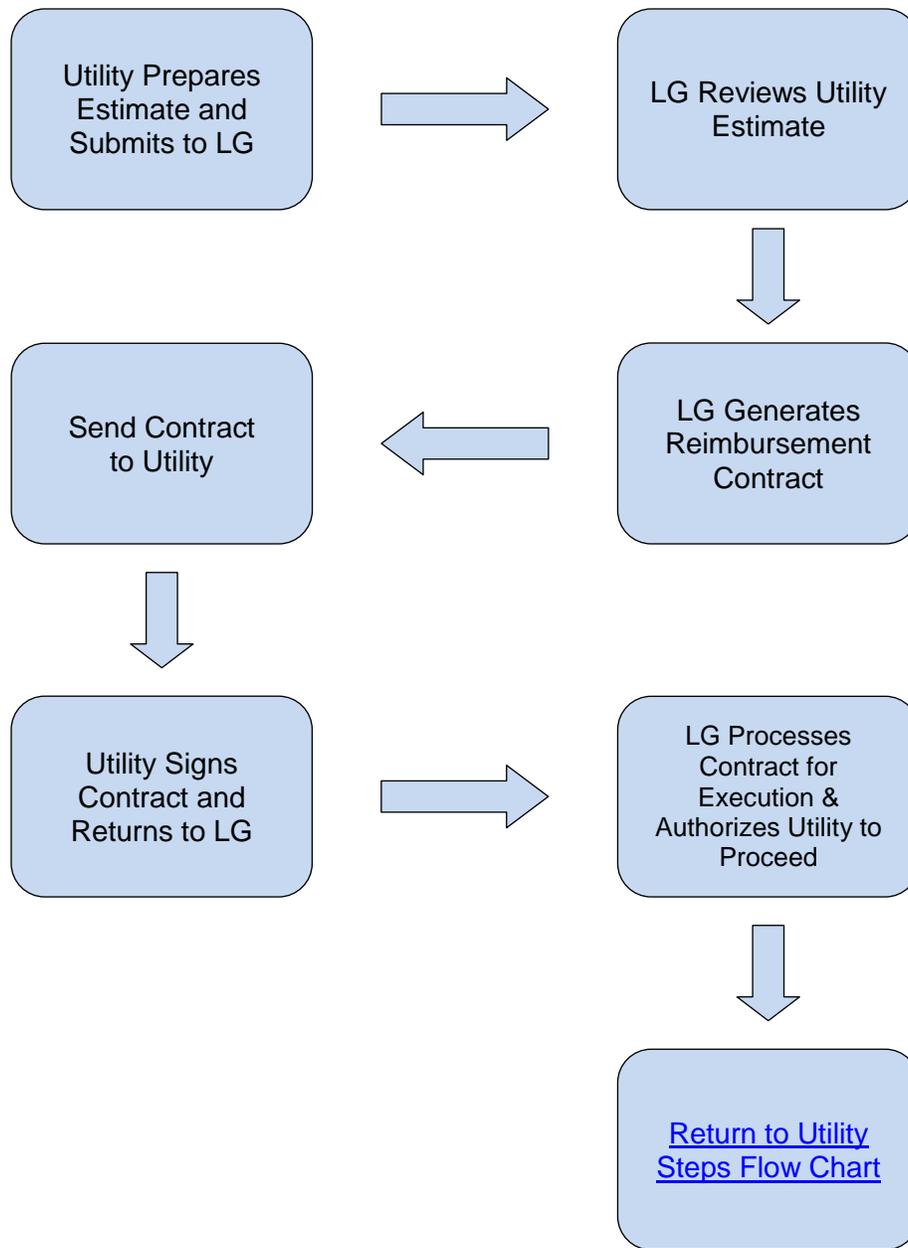


Figure 6-9 – If Utility is Due Compensation Steps Flow Chart

(To be used as a reference that complements information in the manual and may vary by project based on guidance from the TDOT Regional Utility Coordinator.)

**NOTICE TO PROCEED WITH THE FUNDED
RIGHT-OF-WAY PHASE
OF PROJECT DEVELOPMENT**

PIN:
FEDERAL PROJECT NUMBER:
STATE PROJECT NUMBER:
ROUTE (STREET NAME):
FROM:
TO:
CITY:
COUNTY:
REGION:

Effective Date:
Date of Transmittal:

This letter serves as the official Notice to Proceed with the above referenced phase of work for the subject project. The Local Government shall perform this phase of project development in accordance with the Local Government Guidelines provided on the Local Program Development Office website at <http://www.tn.gov/tdot/section/local-programs>. Work may not be performed for any later phase of project development until an additional Notice to Proceed is issued. Any work performed ahead of a Notice to Proceed’s Effective Date will not be reimbursed.

You may procure, in accordance with TDOT regulations, an acquisition/relocation consultant firm to do all phases of right-of-way at this time. Please refer to Section 1.6 of the Local Government Guidelines for guidance on consultant selection, if needed. Please provide a copy of the executed contract with the consultant and a copy of the notice sent to the consultant indicating the date work was authorized on the phase of the project mentioned above. These documents should be addressed to Manager, Local Program Development Office and sent by email to Local.Programs@tn.gov. **Note: If the person in responsible charge for this phase of the project has changed since Form 3-1 (Project Initiation Form) was submitted, the Local Government shall resubmit the responsible charge page (Form 1-1) at this time to the Local Programs Development Office at the email below.**

If you have questions or concerns regarding this matter, please direct them to Kip Mayton at 615.741.5314 in the Local Programs Development Office. You may contact us by email at: Local.Programs@tn.gov.

Figure 6-11 – NTP with ROW Phase

PLEASE NOTE: LGs shall not proceed with any work pertaining to land acquisition for which they expect reimbursement until they receive the following document from TDOT’s Regional ROW Coordinator. (LGs shall not contact property owners, appraise property or proceed in any manner until the above form is received.)

6.1 RIGHT-OF-WAY (ROW) PROCEDURES

The following is an outline guide of the basic necessities and procedures for acquiring ROW by a Local Government (LG) in compliance with Tennessee Department of Transportation (TDOT) policies and the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act.

Complete detailed requirements can be found in the [Code of Federal Regulations 49 CFR Part 24, “Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-Assisted Programs”](#) and the TDOT’s ROW Procedures Manual Chapters 7, 8, 9, and 10 (available from the TDOT Regional ROW Coordinator). Adherence to the above referenced regulations and procedures are mandatory.

These guidelines are presented in an effort to assist any LG utilizing federal funding or expecting federal participation in any phase of a proposed project.

This outline is general in nature, but covers all phases of the acquisition process. If a LG needs clarification of a point, has any questions or a specific problem, it is urged to contact the TDOT ROW Division at 615-741-3196. The LG may contact the TDOT Regional ROW Coordinator for the region in which it is located. Refer to information on TDOT regions at [TDOT ROW Division's Region Offices webpage](#).

6.1.1 VARIOUS ROW ROLES & RESPONSIBILITIES

- I. LG Staff
 - A. Procure various ROW service contracts (Review Appraiser should be hired prior to hiring the Appraiser)
 - B. To authorize offer of approved compensation
 - C. To authorize administrative settlements in excess of the approved amount of just compensation
 - D. To authorize condemnation
 - E. To authorize legal settlements (must have TDOT ROW and Tennessee Attorney General concurrence)
- II. Review Appraiser
 - A. Shall be licensed and/or certified to conduct real estate appraisals in Tennessee
 - Shall not be the Appraiser, Negotiator (Buyer) or Closing Agent
 - May be from LG staff
 - May be a fee (contract) appraiser – shall be from TDOT’s approved list of appraisers
 - May not have any interest, direct or indirect, in the lands being appraised
 - Establishes just compensation by approval of appraisal or by use of revised or additional data along with justification for its use
 - B. To develop the scope of work for the Preliminary Group Inspection (PGI)

C. To be the point of contact for appraisal team

III. Appraiser

- A. Shall be licensed and/or certified to conduct real estate appraisals in Tennessee and be consistent with the [Uniform Standards of Professional Appraisal Practices \(USPAP\)](#).
- Shall not be the Review Appraiser, Negotiator (Buyer) or Closing Agent
 - May be from the LG staff
 - May be a fee (contract) appraiser – shall be from TDOT’s approved list of appraisers
 - Shall not have interest, direct or indirect, in the lands being appraised.
- A. Negotiator (Buyer) Shall not be the Appraiser, Review Appraiser or Closing Agent
- B. May be from the LG staff
- C. May be a contracted party – shall be from TDOT’s approved list of acquisition/relocation consultants
- D. Makes written offer to purchase
- E. Carries on negotiations
- F. Shall not approve administrative or legal settlements
- G. Shall not close transaction
- H. Shall not have interest, direct or indirect, in the lands being acquired.

IV. Closing Agent

- A. Shall not be the Review Appraiser, Appraiser, or Negotiator (Buyer)
- B. May be another official of the acquiring agency such as county or city attorney or disinterested third party
- C. May be a local abstract or title company
- D. Shall not have interest, direct or indirect, in the lands being acquired.

V. Relocation Agent

- A. May be from the LG staff
- B. May be a contracted party – shall be from TDOT’s approved list of acquisition/relocation consultants
- C. Provides relocation advisory services
- D. Computation of relocation benefits
- E. Provides Property Management
- F. Shall not have interest, direct or indirect, in the lands being acquired.

6.1.2 NOTICE OF PROPOSED ACQUISITION

Property owners shall be notified in writing as soon as possible that their properties will be acquired or affected.

6.1.3 PROPERTY OWNERS RIGHTS

Property owners are entitled:

- A. To be advised of their rights by written statement or brochure
- B. To the opportunity to accompany the appraiser who appraises their property
- C. To receive just compensation. This shall not be less than the approved appraisal of the fair market value
- D. To a written statement of the amount of just compensation and a written summary of the basis for that amount, a copy of the appraisal and documentation of the approved offer
- E. To receive agreed upon purchase price before being required to vacate property
- F. To have deposited with the court, by the LG, in the case of condemnation, the amount of estimated just compensation before surrendering possession of the property
- G. To a determination of just compensation by a court of law
- H. To a reimbursement of expenses incidental to transfer of title to the acquiring agency such as: recording fees, transfer taxes, fees for partial discharge of mortgage, etc
- I. To relocation assistance and payments when applicable
- J. To have at least 90 days written notice from date of possession to vacate occupied property
- K. To the right to have the acquiring agency purchase uneconomic remnants

6.1.4 TITLE EVIDENCE

A title report and/or abstract and search of county records are required for each parcel. The LG Official shall obtain TDOT Regional ROW Coordinator review, before proceeding to the next phase.

6.1.5 APPRAISAL

- I. The Market Study:
 - A. Shall be based on examination of an adequate sample of current sales of comparable properties
 - B. Is used to estimate values; narrative discussion should indicate appraiser has clear understanding of the specific property types encountered, the competitive environment, and the value elements that influence price

- C. If used to establish minimal just compensation (under \$10,000), shall be approved by party with the authority to approve offers and settlements
- II. An appraisal is not required if the property owner is donating the property and releases the agency from its obligation to appraise the property; or the agency determines that an appraisal is unnecessary because the valuation problem is uncomplicated and the anticipated value of the proposed acquisition is estimated at \$10,000 or less, based on a review of available data (appraisal waiver).
 - A. However, the property owner shall be offered the opportunity to have an appraisal made
 - B. TDOT and Federal procedure requires an appraisal if estimated compensation is over \$10,000
- III. The appraisal may be a formal appraisal or an FPA (Formal Part-Affected) appraisal, in addition to those elements required by the [Uniform Standards of Professional Appraisal Practice \(USPAP\)](#), [TDOT Appraisal Guidelines](#), and the [Uniform Act](#).
 - A. Each format shall include a statement that the property owner is offered the opportunity to accompany the appraiser on an inspection of the property
 - B. Each shall include a statement of value of the land to be acquired, improvements to be acquired, and a separate statement of damages to remaining lands, if any
 - C. Each shall include a date of valuation
 - D. Each shall contain a description of physical characteristics of the land and improvements being appraised and a description of the lands being acquired, including improvements, if any
 - E. Each shall contain descriptions of comparable sales
 - F. Each shall include a statement that project influence has been disregarded in arriving at the “before” value estimate, but given due consideration in the “after” value estimate in arriving at the recommended compensation
 - G. The LG shall obtain TDOT Regional ROW Coordinator review, before proceeding to the next phase

6.1.6 APPRAISAL REVIEW

- I. Establishes the opinion of fair market value to be offered to the property owner
- II. The reviewer reviews each appraisal for:
 - A. Compliance with [TDOT Appraisal Guidelines](#), the [Uniform Act](#) and [USPAP](#)
 - B. Accuracy and completeness in all relevant approaches to value
 - C. Confirmation of data or information, used in the appraisal, makes a determination as to whether the market data are capable of addressing the value characteristics of each parcel
 - D. Explains fully, **in writing**, any changes, revisions, or corrections made to the appraisal being reviewed
 - E. Signs Certificate of Review

F. Signs Just Compensation Document (must also be signed by LG Official)

III. The LG shall obtain TDOT Regional ROW Coordinator review, before proceeding to the next phase

6.1.7 NEGOTIATION – ACQUISITION

I. Negotiations shall be made by **personal contact**.

II. Negotiations may be carried out by correspondence if the property owner is a non-resident of the area.

III. A written offer to purchase shall be given to the property owner. This written offer establishes the Initiation of Negotiations.

A. The offer shall be no less than the amount of the approved just compensation.

B. The offer shall stipulate the amount being offered for real property and the amount to be paid as damages to remaining lands and/or improvements.

IV. A summary statement of the basis for the offer shall be given to the property owner, along with a legal description of the area to be acquired including any easements, a tract map and a copy of the appraisal and the determination of value or the appraisal waiver form.

V. The property owner shall be given a reasonable length of time to consider the offer made.

VI. Counter offers by property owner shall be considered.

VII. No coercion or threat shall be used to influence a property owner to accept the offer made.

VIII. Negotiations shall include an offer to acquire any uneconomic remnants of land. The property owner may decline this offer.

IX. The negotiator or buyer shall prepare and maintain negotiators' logs for each parcel. The negotiators' logs shall record dates, times and locations of each contact with the property owner or their representative. It shall also include names of those present, a brief summary of the discussion and any counter offers and all data required for civil rights compliance.

X. Donations of ROW may be accepted, provided the property owner has been appraised of his/her rights to just compensation, and has signed a statement or affidavit that he/she has been offered the opportunity to receive payment of just compensation, but has chosen to donate the necessary ROW.

XI. The LG shall obtain TDOT Regional ROW Coordinator review before proceeding to the next phase.

6.1.8 ADMINISTRATIVE AND COURT SETTLEMENTS

I. An administrative settlement for an amount greater than the approved appraised value may be accepted.

A. It shall be approved by the LG Official.

- B. The approval shall be based upon the proposed settlement being reasonable, prudent and being in the public interest; it shall be in writing and signed by the appropriate authority.
- C. The settlement shall include a breakdown of values.
- II. If a legal settlement is reached, after condemnation action has commenced, it must be recommended by the acquiring agency counsel and approved by the LG Official, TDOT ROW Division, and the Tennessee Attorney General.
- III. A legal settlement may also be stipulated and ordered by the court.
- IV. The LG shall obtain TDOT Regional ROW Coordinator review before proceeding to the next phase.

6.1.9 CLOSING

- I. A closing statement is required showing the disbursement of funds to the property owners, mortgages, land contract vendors, lien holders, or to unpaid taxes.
- II. Incidental expenses shall be paid by the acquiring agency, or reimbursed to the property owner, such as:
 - A. Recording fees
 - B. Transfer taxes
 - C. Fee for partial discharge of mortgage
 - D. Mortgage prepayment penalties.
- III. The LG shall obtain TDOT Regional ROW Coordinator review before proceeding to the next phase.

6.1.10 PROPERTY MANAGEMENT

- I. Property Management is the control and administration of the lands and improvements acquired. This includes the maintenance, protection, occupancy, rental, and disposal of those improvements.
- II. For those properties or improvements rented on a temporary basis, the rent shall be at current fair market value for short term rentals.
- III. For additional information concerning property management policies, contact the TDOT Regional ROW Coordinator.
- IV. The property owner may be given the opportunity to retain at a salvage value and move any improvements located within the ROW being acquired. If a property owner elects to retain and move improvements, a refundable performance deposit shall be collected. This option is only valid if the property is acquired by deed.
- V. The LG shall obtain TDOT Regional ROW Coordinator review before proceeding to the next phase.

6.1.11 RELOCATION

- I. The Relocation Agent shall document all required information such as gender, ethnicity, etc. of all displacees in order to comply with federal environmental justice policies.
- II. Residential displacees may be entitled to:
 - A. Relocation Advisory Services
 - B. Moving cost for personal property
 - C. Replacement Housing Payment (RHP)
 - D. 90 Day Owner
 - RHP of up to \$31,000 based on price differential **and**;
 - Incidental expenses relating to the purchase of replacement housing **and**;
 - Mortgage interest differential **or**;
 - Rental assistance payment not to exceed the amount that the displacee is eligible for under item a above (\$31,000)
 - E. Tenant or less than 90 Day Owner
 - Down payment assistance up to \$7,200
 - Rental assistance payment up to \$7,200
- III. A displaced business, farm or non-profit organization may be entitled to:
 - A. Relocation Advisory Services **and either**;
 - B. Moving costs for personal property and up to \$25,000 in reestablishment expense **or**;
 - C. A fixed payment in lieu of moving cost and reestablishment expense not to exceed \$40,000
- IV. The owner of personal property displaced by a project who does not qualify as a residential displace, a displaced business, farm, or non-profit organization may be entitled to:
 - A. Relocation Advisory Services
 - B. Moving cost for personal property

NOTE: The entitlements listed are general in nature. For detailed instructions concerning eligibility, calculation of these benefits and explanation of the exceptions to these monetary limits, please refer to the TDOT ROW Procedures Manual, Chapter 6 (available from the TDOT Regional ROW Coordinator). For more information concerning relocation benefits, qualification and exclusions, **PLEASE CONTACT TDOT REGIONAL ROW COORDINATOR FOR THE REGION IN WHICH YOU ARE LOCATED.** The LG shall obtain TDOT Regional ROW Coordinator review, before proceeding to the next phase.

6.1.12 CERTIFICATION

- I. At the completion of the ROW Phase of the project, the LG shall attest to TDOT that all ROW was acquired in accordance with the Uniform Act. Files shall be made available upon request by TDOT staff for review. TDOT will certify the project upon review of the files to ensure compliance with both state and federal rules and regulations.
- II. Complete detailed requirements can be found in the Code of Federal Regulations 49 CFR Part 24 “Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-Assisted Programs” and the TDOT ROW Procedures Manual Chapters 7, 8, 9, and 10 (available from the TDOT Regional ROW Coordinator). Adherence to the above referenced regulations and procedures are mandatory.

DOCUMENTS IN A TYPICAL PARCEL FILE

- Notice of intent to acquire
- Title information
- Donation form
- Appraisal
- Appraisal review **or** waiver of appraisal
- Offer to acquire real property
- Legal description
- Tract map
- Agreement of sale
- Right of entry form
- If administrative settlement – Written statement approving amount
- Instrument of conveyance – Warranty Deed Or Easement
- Closing statement
- Negotiator’s logs

If relocation is required –

- Determination of Eligibility
- Offer of Relocation Assistance, including list of available properties
- Determination of Benefits
- Copies of all Claims and receipts to verify payments
- Copy of pertinent notices

If condemnation is required –

- Petition for Condemnation
- Order of Possession

- Consent Judgment **or** Final Decree

6.2 UTILITY RELOCATION AND RAILROAD PROCEDURES

The Utility Relocation and the Railroad Involvement are considered part of the ROW Phase and there is not a separate Notice to Proceed. The Notice to Proceed issued by the Local Programs Development Office (LPDO) will also include Utility and Railroad Coordination. If the LG has received this Notice to Proceed and they have met with the TDOT Regional Utility Coordinator, and communicated with the TDOT Statewide Railroad Coordinator (if necessary), they may proceed.

The Utility Project Checklist ([Form 6-1](#)) **SHALL** be used to ensure all requirements are met.

6.2.1 PROJECT DEVELOPMENT PHASE

During the planning and development phases of any roadway project, it is advisable to be in early contact with the utility companies that will be affected by your project. Time and money can be saved with advanced coordination and planning regarding utility facilities. TDOT recommends early contact with the potentially affected utility companies. This serves several purposes such as assuring that you have the proper contacts for your project and this also allows the utilities to plan and budget for your project. You shall contact the TDOT Regional Utility Coordinator for your county. Early communication with the TDOT Regional Utility Coordinator will help you avoid mistakes, and since the TDOT Regional Utility Coordinator is responsible for the review and approval of the project utility certification, you can avoid delays by frequently communicating the project progress, and required documentation. Documentation provided by the LG to fulfill guidelines requirements may be done by electronic email at the direction of the TDOT Regional Utility Coordinator. The LG should check with the TDOT Regional Utility Coordinator to determine what type of correspondence will be acceptable. Refer to information on TDOT regions at [TDOT Contacts](#).

During the planning and development phase of the project, it is advisable to assess the involvement of railroads. If there is a railroad or railroad property near the project limits, you are strongly encouraged to contact the TDOT HQ Railroad Coordinator. Mitigation may be required to address the railroad, and this will impact funding of the project. The railroad issues need to be addressed as early as possible. The TDOT Headquarters Railroad Coordinator will have to certify the project for railroad involvement prior to authorization being granted for construction to proceed. Refer to [Procedures For Railroad Involvement On a Local Government Federally-Funded Project](#) for additional information regarding railroads.

The LG seeking consultant services to manage utility coordination for the project shall follow procedures in [Section 1.6](#) and [23 CFR 172](#).

6.2.2 RIGHT-OF-WAY PLANS DISTRIBUTION

The LG shall provide one (1) copy of the ROW plans with one (1) copy of the cross-sections to each utility. A letter should accompany the plans, which states the specifics of the project including the projected schedule and specific dates by which the utility must submit its proposed relocation plan to the LG. TDOT highly recommends the LG obtain proof of plans delivery by use of Certified Mail, Return Receipt Requested.

At this point, the LG shall attest to TDOT that plans have been delivered and accepted by the utility.

The LG shall notify the utilities involved that if the relocation of existing facilities conflict with construction, resulting in utility facilities being constructed within State ROW on the State or Interstate System, the utility will be responsible for acquiring a permit from TDOT prior to construction.

1. Projects on State or Interstate System will be required to meet TDOT Rules and Regulations for accommodating utilities within highway ROW ([1680-6-1](#)).
2. Projects on LG maintained/owned facility will be subject to any rules and regulations the LG maintains. The LG shall document to TDOT that a variance from State rules was allowed and cite any LG rules that apply.
3. LGs shall notify utilities and railroads during project development to solicit comments on potential conflicts. ([T.C.A. 54-05-853](#))
4. LGs shall provide ROW plans to utilities and railroads, requesting that relocation plans, estimates, and work schedules be submitted within 120 days after receipt. ([T.C.A. 54-05-854](#))
5. LGs shall provide revisions to the ROW to utilities and railroads, requesting that revised relocation plans, estimates, and work schedules be submitted within 45 days after receipt. ([T.C.A. 54-05-854](#))

6.2.3 AFTER ROW PLANS ISSUANCE

Upon receipt of the Final ROW plans, the utility may request the use of a consulting firm if they do not have adequate staff to perform the relocation design. The proper [Consultant Forms](#) must be used to comply with federal regulations.

The LG will submit the consultant's overhead rates and estimated costs to the LPDO to determine the approved rates for the consultant requested. The use of the consultant shall be approved by the LG prior to any formal engineering work being completed or this work will not be eligible for any potential reimbursement. The procedures in [23 CFR 172](#) shall be used as guidance when reviewing and approving consulting services.

After the LG has approved the use of all consultants, it shall attest to TDOT that all consultants have been approved in accordance with [23 CFR 172](#).

6.2.4 UTILITY SUBMITS RELOCATION PLAN

The utility shall submit its proposed relocation plan to the LG by the date specified by the LG. A complete submittal would include:

- A. Estimate of construction cost
- B. Percentage of facilities located on private easements
- C. Estimate of any proposed betterment costs
- D. Request for method by which the relocation work to be performed (i.e.: move prior, or move in the project contract and what the utility's cost will be in the contract).

The LG shall then review and approve the utility's proposed relocation plan and estimate in accordance with applicable federal and state rules and regulations. If the utility is eligible for reimbursement, a contract shall be executed between the LG and the utility for the relocation work. Said contracts must comply with federal and state rules and regulations. If the utility desires to make upgrades to their system as part of the relocation, provisions must address upgrades in reimbursements or if the utility construction is included in the highway contract. Provisions must be made for deposit of funds by the utility for the portions of the relocation that is attributed to upgrades.

After the LG has approved the relocation plan(s) and estimate(s), it shall attest to TDOT that the plan(s) and estimate(s) have been reviewed and approved. If reimbursement is due the utility(s), the LG shall attest to TDOT that contract(s) have been executed with the utility(s).

The LG will find guidance for relocation, adjustment, and reimbursement in [23 CFR 645](#). TDOT's utilities forms and additional information can be provided by the TDOT Regional Utility Coordinator. Additional information pertaining to contracts may be found in [23 CFR 635](#).

6.2.5 CERTIFICATION

The LG shall request certification from the TDOT Regional Utility Coordinator that all conflicting utilities have been contacted and the utilities have provided relocation plans, if applicable. This certification shall be received before the Notice to Proceed with the Construction Phase of the project will be issued. In order for the TDOT Regional Utility Coordinator to make that review, the following shall be required:

- I. Documentation for project accommodation of utilities on ROW:
 - A. Utilities comply with TDOT rules & regulations
 - B. LG has an approved variance from TDOT rules & regulations
 - C. Utilities comply with FHWA & TDOT approved rules & regulations
 - D. Utilities comply with clear zone requirements
 - E. Utilities issued permit for installations on State-owned ROW (TDOT issued)
- II. Date utilities/railroads first notified of project
- III. Dates of all project development meetings where utilities/railroads were invited to comment on plan development
- IV. Date utilities/railroads provided project ROW plans and/or revisions (45 Days provided for response to revisions)
- V. Date utilities/railroad returned relocation plans, estimates, and work schedules for facility conflicts on project (120 days provided)
- VI. Documentation that project complied with Federal rules and regulations regarding utility reimbursement
- VII. Documentation on all identified utilities/railroads contacted for coordination on the project:
 - A. Utilities contacted which have No Facilities on project
 - B. Utilities contacted that have No Conflict on the project

- C. Utilities contacted that will relocate at No Cost to project
- D. Utilities contacted that have executed contracts for the reimbursement of cost to the project and costs were in accordance with applicable federal accounting standards (Contracts for reimbursement)

The LG can expect that TDOT will audit the project for compliance.

6.2.6 UTILITY CONSTRUCTION

The LG shall not authorize utilities to begin work until after approval of utility relocation plans. The LG shall be responsible to issue written authorization for the utility to begin its relocation work. The LG shall be responsible for inspection of the relocation work performed and shall attest that installation is done in accordance with the approved relocation plans. The LG shall be responsible for making payments as they are submitted by the utilities for work completed.

The LG shall attest to TDOT that utility relocation work has been authorized. The LG shall be required to attest that the utility relocations have been completed as per the approved plans and that all relocation costs, if applicable, have been paid.

Should you have ANY questions, please call the TDOT Utility Coordinator for your Region.

[Return to
ROW Phase Flow
Chart](#)

6.3 PROCEDURES FOR RAILROAD INVOLVEMENT ON A LOCAL GOVERNMENT FEDERALLY- FUNDED PROJECT

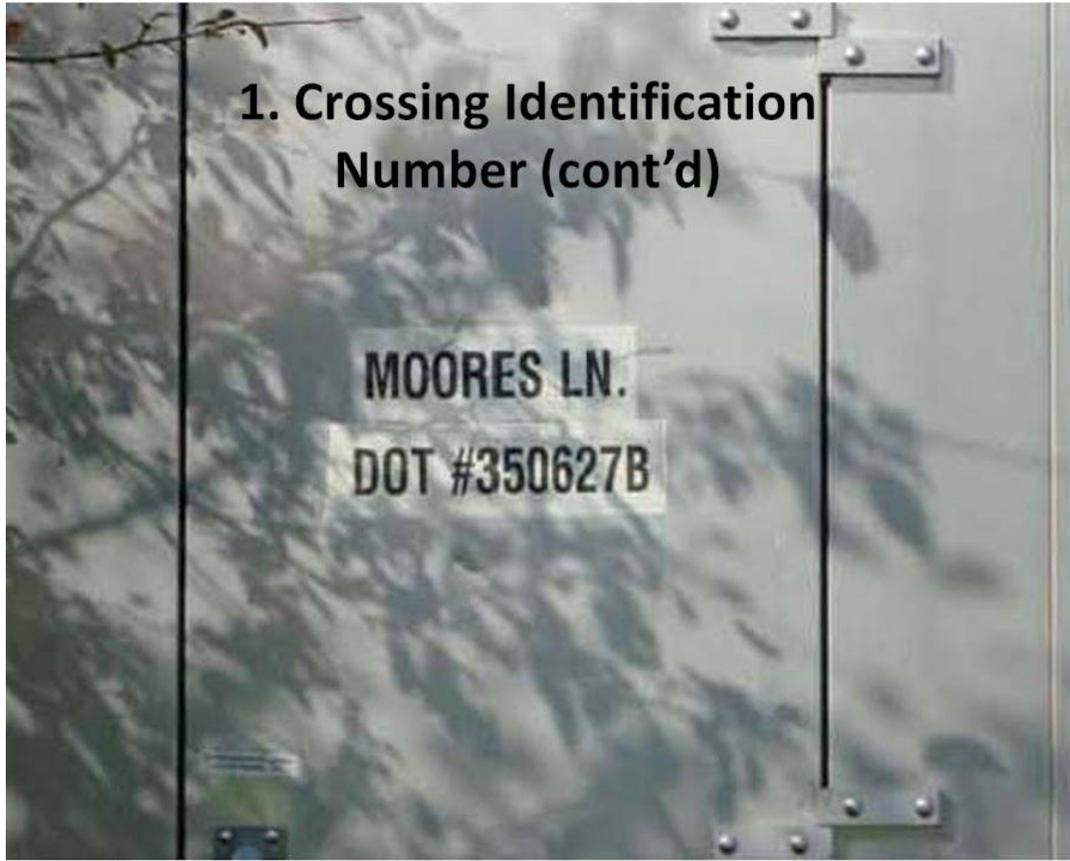
FHWA and TDOT, in compliance with the Supreme Court Shanklin judgment, require that ANY highway-rail grade crossing that could potentially be impacted by a federally-funded highway project ([FHWA Railroad Coordination and Certification Requirements video](#)) MUST be assessed to determine adequate protective devices. Every grade crossing should have adequate passive warning devices as described in the current Manual on Uniform Traffic Control Devices (MUTCD) on each approach to the crossing. The identification of those highway-rail grade crossing locations is the responsibility of the LG. The Multimodal Transportation Resources Division, Rail Crossing Safety Office will make a recommendation for adequate protection. This office can be contacted through the TDOT Headquarters Railroad Coordinator at (615) 741-3196.

The LG shall be required to request an estimate of cost and engineered plans from the railroad based on the State recommendation. The cost of the protection is participating to the project, which means the LG will be reimbursed for the cost of the railroad protection in accordance with the funding ratio previously established for the project. However, this reimbursement will not necessarily increase the amount of funding available for project development. This requirement is effective regardless of the type of improvement being

considered. **LGs should be well-versed in railroad crossing device installation and safety to review any grade crossings near the project limits, as well as review the estimated cost and engineered plans prepared by the railroad.**

1. Once a highway-rail grade crossing that could potentially be impacted by a federally funded project has been identified, the LG shall contact the TDOT Railroad Coordinator and submit photos of the grade crossing that clearly depict each of the following items:





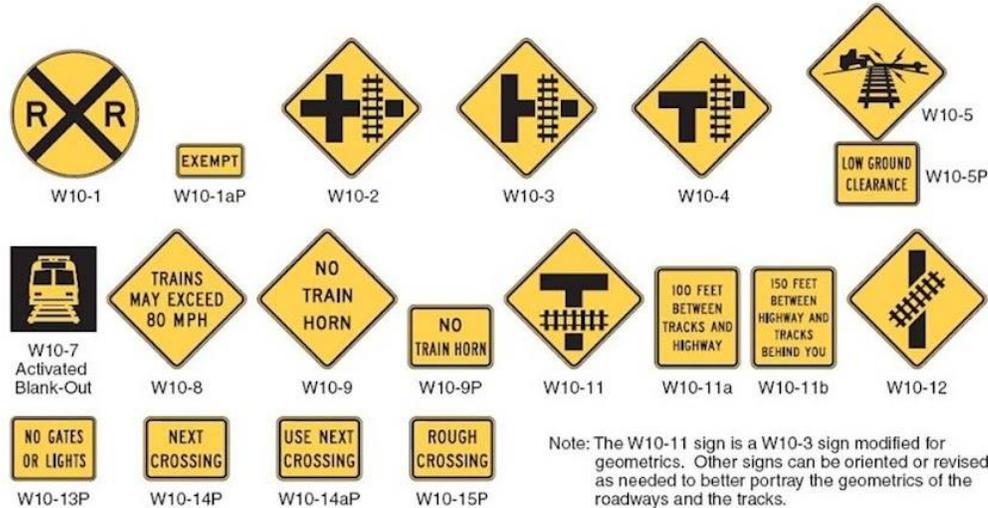


3. Railroad Pavement Markings



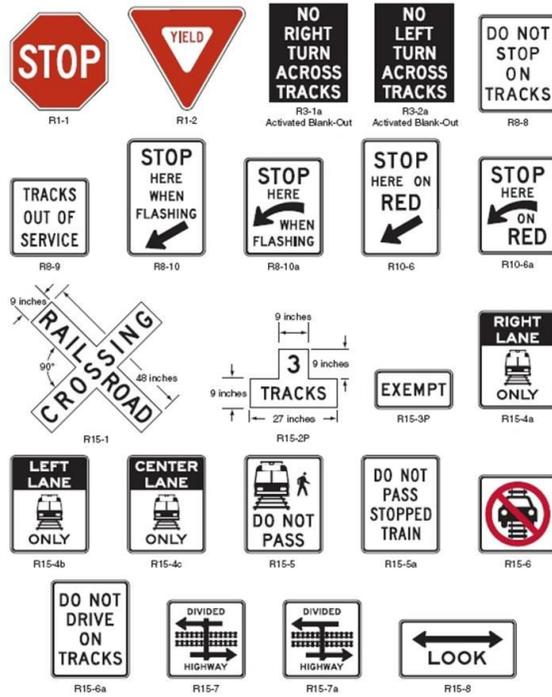
4. All Grade Crossing Warning Signs & Plaques

4. All Grade Crossing Warning Signs & Plaques (cont'd)



5. All Grade Crossing Regulatory Signs & Plaques (cont'd)

Figure 8B-1. Regulatory Signs and Plaques for Grade Crossings





**6. Side Roads Parallel to Tracks
Near a Crossing**



**6. Side Roads Parallel to Tracks
Near a Crossing (cont'd)**



7. Speed Limit of Road and Side Roads Near a Crossing



Note: Make sure to label all photos appropriately, especially where there are side roads and/or more than one crossing involved.

2. The LG shall then contact the railroad and begin a dialogue about the proper protection devices for the grade crossing in question. The dialogue will request the train traffic/railroad flagging rate data used for construction contract Special Provisions governing flagging issues and protection of railroad interests. In the project construction contract, the contract shall include the Railroad Special Provisions. **Note: If the project involves fiber-optic or electric wire-line crossings over railroad ROW, the LG shall send the plans for, and pre-pay the processing fees to the Railroad's Property Services or Permit Department for execution of a wire-line crossing agreement.**
3. When plans have been prepared, the LG shall submit them to the TDOT Headquarters Railroad Coordinator in electronic format either by email or FTP. Existing Fiber Optic facilities installed on the railroad property, not owned by the railroad, are to be processed as a utility relocation, by either the LG or the State, depending on who has the responsibility by project agreement. The TDOT Multimodal Transportation Resources Division, Rail Crossing Safety Office will then provide the recommendation for adequate protection on any highway-rail grade crossings affected by the project.
4. When the recommendations have been addressed, the LG shall transmit the plans to the railroad for review and approval. LG coordination with the railroad will require a letter stating the following:
 - The recommended crossing mitigation
 - Whom to contact concerning coordination
 - Who will be paying the railroad for engineering
 - If drainage structures or conduit is involved, specifications of the material, proposed installation method, etc.
5. Railroad companies may request separate engineering and construction contracts.
6. The railroad shall send a letter either approving the plans as they are designed or detailing the revisions needed to protect railroad interests, if required.
7. The LG shall send the revised plans to the railroad for approval and request the railroad to provide a detailed cost estimate.
8. The LG Official or the LG's engineering consultant should review and approve the estimate.
9. The LG shall send a copy of the estimate to the TDOT Headquarters Railroad Coordinator.
10. Once the estimate has been approved, the LG shall enter into construction contract agreement with railroad. When the contract is fully executed, the LG, after obtaining the Notice to Proceed with the Construction Phase, shall officially authorize the railroad to begin work. **The LG shall send a copy of the letter authorizing such work to the LPDO at Local.Programs@tn.gov.**

CHAPTER 7 - CIVIL RIGHTS COMPLIANCE

The Local Government (LG) assumes all responsibilities to meet and maintain all Civil Rights compliance requirements relative to Title VI nondiscrimination laws, rules, regulations and Executive Orders. Additionally, the LG is responsible for the administration of both an Affirmative Action Program and the Disadvantaged Business Enterprise (DBE) Program as set forth by the United States Department of Transportation (USDOT). The LG shall designate an appropriate staff person(s) responsible for ensuring compliance with Title VI, External Equal Employment Opportunity (EEO) and Disadvantaged Business Enterprise (DBE) requirements. This may be accomplished by appointing a staff person(s) to be held responsible for Civil Rights compliance.

The LG will be responsible for Title VI/nondiscrimination compliance by ensuring that no person on the grounds of race, color, or national origin is excluded from participation in, denied benefits of, or subject to discrimination under a program or activity receiving federal financial assistance. Compliance reviews, training, complaint investigations, and technical assistance is to be provided by the LG to ensure that their contractors, consultants, and any subrecipients are also ensuring nondiscrimination in federal-aid programs and activities.

The LG will be responsible for implementing an Affirmative Action Program to ensure External Equal Employment Opportunities. This will include the LG ensuring that its contractors, subcontractors and consultants are in compliance with the terms of their contract.

The LG will be responsible for implementing the federal DBE program and ensuring compliance with all applicable provisions of the federal code of regulations. This includes the placing of DBE goals on federal-aid projects.

A PowerPoint overview of Civil Rights Compliance may be accessed at [LG Training Presentation](#) in addition to the specific programmatic guidance that follows. The Civil Rights Office will, upon request, provide training for LGs on Civil Rights compliance.

7.1 TITLE VI COMPLIANCE

Nondiscrimination provisions apply to all federally assisted programs and activities of federal-aid recipients, and subrecipients (including consultants and contractors) regardless of tier. The provisions prohibit any use of federal financial assistance to subsidize, promote, or perpetuate discrimination based on race, color, national origin, sex, age, disability/handicap, or income status. Recipients are responsible for determining and obtaining compliance by their subrecipients (including consultants and contractors).

7.1.1 RESPONSIBILITIES OF LOCAL GOVERNMENTS

The LG, as a recipient of federal financial assistance, shall have a comprehensive and proactive Title VI enforcement program to eliminate and prevent discrimination. The LG shall take a proactive approach to monitoring federally assisted construction contractors/subcontractors to ensure they do not discriminate in any of its projects and activities. Every agency that extends federal financial assistance covered by Title VI is subject to the United States Department of Justice's (USDOJ) coordination regulations and guidelines ([28 C.F.R. 42, Subpart F \(1994\)](#); and [§ 50.3](#)). Federal Highway Administration (FHWA), for example, is required to obtain assurances of compliance with Title VI from TDOT per these

regulations ([28 C.F.R. § 41.5\(a\)\(2\)](#), [42.407\(b\)](#)). In addition, [Executive Order 12250](#) requires each agency to issue appropriate regulations or policy guidance to implement the nondiscrimination provisions of the statutes subject to [Executive Order 12250](#), §1-402, 3 C.F.R. 298 (1981), reprinted in 42 U.S.C. § 2000d-1 (1988)). Accordingly, TDOT is required to issue appropriate regulations or policy guidance to LGs to assist them in implementing the nondiscrimination provisions of the Title VI statutes.

The LG is responsible for implementing, developing, and establishing adequate procedures for identifying and addressing Title VI issues as prescribed by FHWA.

7.1.2 TITLE VI/NONDISCRIMINATION MINIMUM REQUIREMENTS AND OBLIGATIONS

The LG, acting as a subrecipient, shall:

I. Develop a Title VI Program

The LG shall develop a Title VI Program that consists of policies and procedures for implementing Title VI. The program should include checks and balances throughout its processes that include procedures for the monitoring and review of subrecipients, vendors, consultants, and contractors.

II. Designate a Civil Rights Coordinator

The LG's Civil Rights Coordinator must have completed [Title VI training](#) and designate appropriate person(s) responsible for ensuring compliance with Title VI, EEO and DBE requirements (Title VI Coordinator, EEO Officer, DBE Liaison). This person should have a responsible position in the LG and have easy access to the head of the LG.

III. Endorse Nondiscrimination Assurances

IV. Ensure that there is "Nondiscriminatory Language" in all contracts

V. Develop a Limited English Proficiency Plan (LEP)

<http://www.tn.gov/tdot/article/title6-limited-english-proficiency>

The LG shall ensure that a plan has been developed to communicate in oral and written form to LEP persons. LEP persons are defined as persons whose primary language is not English, and they do not read, speak nor understand English well. Additionally, the LG must ensure that its staff is trained on the LEP procedures that have been developed and implemented.

VI. Develop a Public Participation Plan

<http://www.tn.gov/assets/entities/tdot/attachments/pip.pdf>

One of the principles of Title VI, especially Environmental Justice (EJ), is to ensure the full and fair participation of all potentially affected communities in the transportation decision-making process. Public involvement should include a process for seeking out and considering the needs of the LEP, low income, and/or minority population. Title VI implementation begins at the inception of a proposed project, and continues through to the completion of the project. One of the most important aspects of a compliant Title VI Program is the public notification and involvement. When using public funds for a project, persons in the affected communities must be included in the decision-making process.

The Public Participation Plan, at a minimum, should include:

1. A coordinated effort to provide outreach/notification to communities impacted by a proposed project;
2. A coordinated effort to reach the minority and low-income communities that may be impacted by the proposed project;
3. A developed plan for the utilization of appropriate media (to include, a list of minority media outlets, stakeholders, and community leaders) to reach impacted communities, particularly the minority and low-income communities;
4. Title VI information for dissemination to the general public and, where appropriate, in languages other than English;
5. A plan for notifying the public about public meetings and document/plan reviews that allows for a minimum 45 day comment period;
6. A coordinated effort to ensure public meetings are held at accessible locations and meeting times;
7. A provision for ensuring timely dissemination of information about transportation issues and processed to citizens, affected public agencies, representatives of transportation agency employees, private providers of transportation plans, programs and projects;
8. A developed plan that demonstrates how consideration and responses to public input received during the planning and program development stage will be addressed; and,
9. Ensure that all local programs and activities provide for a fully coordinated process (i.e., data collection and analysis of effects of transportation actions, public involvement that includes a process for seeking out and considering the needs of the minority and low income communities).

VII. Develop Procedures for Prompt Processing and Disposition of Title VI Complaints

<http://www.tn.gov/assets/entities/tdot/attachments/NondiscriminationComplaintProcedures.pdf>

The LG must keep a list of active investigations, complaints, and lawsuits that allege discrimination by the recipient or subrecipient on the basis of race, color, or national origin.

1. The public must be made aware of their rights under Title VI.
2. The LG must advertise that all programs and activities operate without regard to race, color, or national origin.
3. The LG must advertise that the public can request additional information about the obligations of the recipient or subrecipient and that there are procedures that can be taken if a person feels that they have been discriminated against.

VIII. Develop Procedures for the Collection of Statistical Data

The LG must collect the race, color, sex, and national origin of participants in, and beneficiaries of federally funded programs (i.e., relocatees, impacted citizens and affected communities, DBE participation on goal and non-goal projects).

1. Provide a method to solicit certified DBEs and other small minority and women owned businesses.
2. Provide a method to solicit certified DBE and other small minority and women owned businesses.

IX. Ensure that Programs and Activities Provide for a Fully Coordinated Process

The LG should collect and analyze data to determine the effects of transportation actions, public involvement that includes a process for seeking out and considering the needs of those traditionally underserved.

1. Use a multidisciplinary approach, monitor and evaluate recipients' and subrecipients' efforts to prevent, resolve or mitigate issues/situations that could lead to Title VI violations.
2. Develop a program to conduct Title VI reviews of program areas and subrecipients to determine the effectiveness of Title VI Programs.
3. Ensure that transportation related decision-making boards/committees are diverse, representative of the communities for which decisions are being made.
4. Develop Title VI information for dissemination to the general public and, where appropriate, in languages other than English.
5. Ensure that Title VI Training is conducted with staff, recipients, and subrecipients annually.

X. Ensure that Beneficiaries are Aware of Their Rights Under Title VI

The LG should post nondiscrimination posters in areas where the public can easily view them and include them on any websites the public can utilize.

1. Develop Title VI information for dissemination to the general public and, where appropriate, in languages other than English.
2. Ensure that notices/posters include the statement that the LG operates its programs and activities without regard to race, color, or national origin; procedures for filing a Title VI complaint; and who to contact for more information (should be the LG's Civil Rights Coordinator).

7.1.3 REPORTING

The LG will have a triennial Title VI Program compliance review, either by a desk audit or onsite review. Annually, the LG shall submit an annual "No-Change Affidavit" to the TDOT Civil Rights Office, affirming there have been no changes in their Title VI Program or documenting any changes that may have occurred within the three-year period. A signed assurance statement must be submitted with the annual No-Change Affidavit.

Additionally, prior to beginning construction work on any State or federal-aid funded project (within the three-year period), the LG must contact the Civil Rights Division, confirming its Title VI compliance status and providing the project number, description, and amount of funding.

7.1.4 SELECTED NONDISCRIMINATION AUTHORITIES AND EXECUTIVE ORDERS

Regulation/Executive Order	Description
49 CFR Part 21	US DOT Title VI Regulations
23 CFR 200	FHWA regulation implementing Title VI of the Civil Rights Act of 1964
Executive Order 12898:	The Executive Order requires that each

<p>Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations</p>	<p>Federal agency shall, to the greatest extent allowed by law, administer and implement its programs, policies, and activities that affect human health or the environment so as to identify and avoid "disproportionately high and adverse" effects on minority and low-income populations.</p>
<p>US DOT Order 5610.2 to Address Environmental Justice in Minority Populations and Low-Income Populations</p>	<p>This Order sets forth a process by which DOT and its Operating Administrations will integrate the goals of the Executive Order into their operations. This is to be done through a process developed within the framework of existing requirements, primarily the National Environmental Policy Act (NEPA), Title VI of the Civil Rights Act of 1964 (Title VI), the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), and other DOT applicable statutes, regulations and guidance that concern planning; social, economic, or environmental matters; public health or welfare; and public involvement. The Order is an internal directive to the various components of DOT and does not create any right to judicial review for compliance or noncompliance with its provisions.</p>
<p>FHWA Order 6640.23A</p>	<p>FHWA Actions to Address Environmental Justice in Minority Populations and Low-Income Populations – establishes policies and procedures for the FHWA to use in complying with EO 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, dated February 11, 1994.</p>
<p>Executive Order 13166: Limited English Proficiency</p>	<p>Requires all agencies that provide federal financial assistance to issue guidance on how recipients of that assistance can take reasonable steps to provide meaningful access consistent with Title VI and the Title VI regulations. The Order also requires that agencies create plans for ensuring that their own activities also provide meaningful access for persons who are limited English proficient.</p>

FHWA Age Discrimination Act	"No person shall on the basis of AGE, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."
The 1973 Federal-Aid Highway Act (prohibits discrimination based on sex)	The focal point of nondiscrimination law is Title VI of the Civil Rights Act of 1964 (42 United States Code (U.S.C) §2000d), which prohibits discrimination on the basis of race, color, or national origin in any program or activity receiving Federal financial assistance. However, the broader application of nondiscrimination law is found in other statutes, regulations and Executive Orders. Section 324 of the Federal-Aid Highway Act of 1973 prohibits discrimination based on sex.
The Restoration Act	An Act to restore the broad scope of coverage and to clarify the application of title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and title VI of the Civil Rights Act of 1964.
Section 504 the Rehabilitation Act of 1973	The primary purpose of the Federal Highway Administration's (FHWA) Americans with Disabilities Act (ADA) program is to ensure that pedestrians with disabilities have opportunity to use the transportation system in an accessible and safe manner. As part of FHWA's regulatory responsibility under Title II of the ADA and Section 504 of the Rehabilitation Act of 1973 (504), the FHWA ensures that recipients of Federal-aid and State and local entities that are responsible for roadways and pedestrian facilities do not discriminate on the basis of disability in any highway transportation program, activity, service or benefit they provide to the general public; and to ensure that people with disabilities have equitable opportunities to use the public rights-of-way system.

Table 7-1 – Selected Authorities

7.2 DBE PROGRAM GUIDELINES

7.2.1 BACKGROUND

The DBE Program was created to ensure nondiscrimination in the award and administration of federal-aid projects. It seeks to create a level playing field for minority and women owned firms by removing barriers to participation in contracts. It also aims to assist businesses to grow so that they may compete successfully outside of the DBE program. It applies to all contracts that include federal funds. General regulations for the program are set forth in [49 CFR Part 26](#). Additional training on DBE goal setting is provided in the [DBE Goal Setting Tutorial](#).

DBE is the official name of the federal program, and is the generic term used for those listed below:

- MBE – Minority Male Business Enterprise
- MFBE – Minority Female Business Enterprise
- FBE – Female Business Enterprise

The LG will utilize certified DBE firms to ensure that contract opportunities are provided and shall submit the semi-annual Uniform Report of DBE Commitments/Awards and Payments ([Form 7-1](#)) to the [TDOT Civil Rights Office](#) with a copy provided to the [Local Programs Development Office \(LPDO\)](#). The LG has the ultimate responsibility for determining contract goals and awards. The following guidelines are intended to provide a framework for making decisions on how DBE participation should be addressed on federal-aid projects.

7.2.2 DETERMINING WHICH FIRMS ARE CERTIFIED DBE FIRMS

The Tennessee Uniform Certification Program (TNUCP) Directory of Certified DBEs is the official register of eligible DBE firms. This directory is available online at <http://www.tn.gov/tdot/topic/small-business>. Check the online [TNUCP DBE Directory](#) regularly for updates.

7.2.3 DETERMINING WHEN A DBE PROJECT GOAL SHOULD BE SET

Federal regulations require each project to be analyzed to determine the potential for DBE utilization. The intent is to provide contract opportunities to DBEs on all types of federal-aid contracts. Therefore, DBE goals on locally let contracts are to be assessed. The goal attainment at the end of the federal funding year should be based on all dollars available for award to DBEs which includes all work let and assigned to consultants.

Criteria to consider when determining potential for a DBE goal include:

- The availability of DBE firms, as identified in the directory, should be a primary factor in establishing the goal. Consulting firms are required to be on TDOT's list of prequalified consultants.
- Construction contracts greater than \$500,000 (comprised of any combination of funding sources) shall have a DBE goal that must be met or exceeded.

7.2.4 ADVERTISING OPPORTUNITIES FOR WORK ON FEDERAL-AID CONTRACTS

Opportunities to include DBE firms in the contract should be considered even if no formal DBE goal is set. This can be done by notifying available DBE firms of the upcoming work and by encouraging the prime contractor to seek out DBE firms for subcontracting work.

It is required that the following phrase be included in the Bid Advertisement and Requests for Proposal (RFP) when no DBE project goal is set: “No Disadvantaged Business Enterprise (DBE) goal has been set on this contract. However, the use of DBE or minority/women owned firms are encouraged.”

7.2.5 DOCUMENTATION SUBMITTED BY BIDDERS (OR CONSULTANTS) TO DEMONSTRATE THEIR GOOD FAITH EFFORTS TO USE DBE FIRMS

All firms submitting a bid/proposal for contracts with a DBE goal should provide sufficient documentation for reporting requirements to achieve the goal. This information should include the DBE firms contacted, a list of those DBE firms who submitted a quote to perform work on the contract, and an explanation of the reasons why each DBE who submitted a quote was not used. The documentation with the bid/proposal should be sufficient for the LG to determine the reasonableness of the goal attainment.

7.2.6 LOCAL GOVERNMENT’S RESPONSIBILITY TO REVIEW CONTRACTOR’S GOOD FAITH EFFORT TO USE DBE FIRMS

To meet the good faith effort criteria, the prime contractor/consultant must take all reasonable steps needed which would reasonably be expected to achieve the DBE goal. The LG should consider the quality, quantity, and intensity of the efforts the contractor/consultant has documented to demonstrate an active and aggressive effort to meet the goal.

7.2.7 WHAT TO REPORT AND WHEN TO SUBMIT THE INFORMATION

If a proposal contract contains a DBE Goal ([TDOT SP 1247](#)), the contractor must submit with its bid, or within three (3) business days of the bid opening, the names, ethnicities, and genders of the TNUCP certified DBEs that will be used on the project, and the amount of subcontracts to be completed by the DBE Information Award Form ([Form 8-5](#)), or provide the necessary requirements for good faith efforts as specified in [SP 1247](#). The LG must submit this form with their bid concurrence package to the [LPDO](#) and copy the [TDOT Civil Rights](#).

After the project is completed, provide the actual payment data utilizing the CC-3 Form ([Form 8-35](#)) and submit to the TDOT Civil Rights Office via their e-mail address (tdot.dbe.program@tn.gov).

7.2.8 REPLACING A DBE ON A GOAL PROJECT

If a DBE is unable to perform the work which they committed to at award, the prime contractor/consultant should notify the LG and the defaulting DBE is required to notify the TDOT Civil Rights Office immediately. Adequate effort should be made to replace the dollar amount of the lost DBE commitment. Please refer to [TDOT Special Provision \(SP\) 1247](#) and <http://www.tn.gov/tdot/topic/small-business>. **The DBE goal is a mandatory contractual obligation. The prime contractor shall replace the lost dollar amount of the DBE**

commitment with a DBE replacement approved by the TDOT Civil Rights Office. Refer to the [Civil Rights Office Small Business Development Program's website](#) for more information on achieving DBE goals.

7.2.9 COMMERCIALY USEFUL FUNCTION (CUF)

The CUF needs to be assessed by the LG DBE Liaison for all DBEs ON ALL PROJECTS and submitted as outlined in [Section 8.2.10 – DBE Subcontracts and Civil Rights Contract Compliance](#). Refer to [Circular Letter 1247-01](#) for more details. The CUF Checklist ([Form 8-9](#)) should be completed whenever a DBE performs work (even if there is no goal assigned to the project) and submitted to the TDOT Civil Rights Office via their e-mail address (tdot.dbe.program@tn.gov). Work performed by DBEs on non-goal projects will be counted as race-neutral.

Near the beginning of the Construction Phase of the project, once the subcontractor information is received from the prime contractor, the Local Government DBE Liaison shall complete the DBE Company Profile ([Form 8-8a](#)) and the DBE Material Supplier/Trucker Certification ([Form 8-8b](#)) for each DBE.

7.3 EXTERNAL EQUAL EMPLOYMENT OPPORTUNITY

The External Equal Employment Opportunity Compliance (EEOC) Program is designed to ensure that federal-aid funds are not spent in a manner which encourages, supports, subsidizes or results in discrimination. Through development, monitoring and effective implementation of the Affirmative Action (AA) Program, the LG will carry out its responsibility for assuring that contractors and consultants do not discriminate in their employment and contracting practices based on race, color, religious creed, national origin, sex, age, disability, political affiliation or veteran status. External Equal Employment Opportunity (EEO) requirements/obligations will be included in all non-exempt federal-aid contracts in excess of \$10,000 and External Equal Employment Opportunity Contract Compliance Reviews (CCR) will be conducted to determine a contractor's compliance with requirements. A link to the Local Government Contract Data Report (CDR) is provided in the Technical Aids ([Section 7.3.8](#)) to assist the LGs in monitoring Contractor's compliance with External Equal Employment Opportunity requirements to include:

- Non-discrimination in selection and retention of subcontractors, material suppliers and vendors;
- Maintenance of non-segregated facilities;
- Adequate representation (number) and utilization (work hours) of minorities and women (by craft/trade) in the contractor's workforce;
- Good Faith Efforts (GFE) on meeting on-the-job training (OJT) and training special provisions (TSP) contained in [TDOT Special Provision 1231](#);
- Fair treatment in all terms and conditions of employment; and
- Adherence (if applicable) to employment preferences in Appalachian contracts and Indian preference provisions.

7.3.1 ON-THE-JOB TRAINING

The contractors' OJT Programs shall be approved by the LG's Civil Rights Coordinator prior to the pre-construction conference. Construction cannot begin until the LG Project Supervisor receives this approval.

7.3.1.1 GUIDELINES AND PROCEDURES USED TO SELECT PROJECTS FOR TRAINING SPECIAL PROVISIONS (TSP)

1. Availability of minorities, women and disadvantaged individuals for training
2. The potential for effective training
 - Review of [TDOT Special Provision 1232](#) for minority and female employment goals
 - Review of US Census EEO Residence Data and Department of Labor Data
3. Duration of contract
 - Timeframe in which training hours could be completed
4. Total value of contract
 - Larger the dollar value larger the training potential
5. Total normal work force that the average bidder could be expected to use
 - Review work estimates and duration of contract to determine potential workforce
 - 23 CFR workforce vs. trainees goal – 1:10 to 1:25
6. Geographic location
 - Review of US Census EEO Residence Data and Department of Labor Data
7. Type of work
 - Review all crafts/trades needed for project to determine training classifications
8. The need for additional journeymen in the area
 - Review of US Census EEO Residence Data and Department of Labor Data
9. Recognition of the suggested minimum goal for the State
 - State training goal submitted to FHWA
10. A satisfactory ratio of trainees to journeymen expected to be on the contractor's workforce during normal operations
 - According to 23 CFR, satisfactory ratio is 1:10 to 1:25 of total potential workforce

7.3.2 PROGRAM AUTHORITY

The LG shall reference the following Executive Order (E.O.), laws, regulations, policies, and forms to ensure non-discrimination and EEO/AA on federal-aid highway projects without regard to race, color, religious creed, national origin, sex, age, disability or veteran status.

7.3.3 EXECUTIVE ORDER

Although [E.O. 11246, as amended](#) applies, it remains a requirement to include specific EEO goals and timetables in all construction project contracts with a value of \$10,000 or more, the U.S. Department of Labor's (DOL) Office of Federal Contract Compliance Programs (OFCCP) has **SOLE** authority to determine compliance with [E.O. 11246, as amended](#) and its implementing regulations ([41 CFR 60](#)). The LG's authority to make compliance determinations and correct deficiencies is under the authority of contract law and the rights and obligations of parties to the contracts.

7.3.4 LAWS

1. [The Civil Rights Act of 1964, Title VI](#)
2. [The Civil Rights Act of 1964, Title VII](#)
3. [The Civil Rights Restoration Act of 1987](#)
4. [The Age Discrimination Act of 1975](#)
5. [The Rehabilitation Act of 1973](#)
6. Federal-Aid Highway Act of 1968, [23 U.S.C. 140](#), [324](#)

7.3.5 REGULATIONS

1. [23 CFR 230, Subpart A, Appendix A](#) (EEO Special Provisions)
2. [23 CFR 230, Subpart A, Appendix B](#) (OJT and Training Special Provisions)
3. [23 CFR 230, Subpart C, Appendix A](#) (EEO Program Format)
4. [23 CFR 230, Subpart D](#) (FHWA Contract Compliance Procedures)
5. [23 CFR 633](#) Required Contract Provisions
6. [23 CFR 635.117](#)(d) and (e), Construction and Maintenance-Indian Preference
7. [41 CFR 60-1](#), Obligations of Contractors and Subcontractors
8. [41 CFR 60-4](#), Affirmative Action in Construction Goals and Timetables and "Standard Federal Equal Employment Opportunity Construction Contract Specifications".

7.3.6 POLICIES

1. [FHWA Orders 4710.8](#), (Authority and Responsibility under EO 11246 and cancels the use of FHWA Form 86-Compliance Data Report)
2. [FHWA Notice 4720.7 \(g\)](#), (Indian Preference)

3. Local Government EEO Assurances

7.3.7 FORMS

1. [FHWA-1273](#), Required Contract Provisions Federal-Aid Construction Projects (Including Appalachian contract provisions)
2. [FHWA-1391](#), Federal-aid Highway Construction Contractors Annual EEO Report
3. [FHWA-1392](#), Federal-aid Highway Construction Summary of Employment Data

7.3.8 LOCAL GOVERNMENT TECHNICAL AIDS

1. [Contractor's Technical Assistance Guide](#)
2. [Local Government Contract Data Report \(CDR\)](#)
3. [On-The-Job Training Desk Reference](#)
4. [Local Programs Civil Rights Compliance Presentation](#)

7.3.9 IMPLEMENTATION

The LG shall take a proactive approach to monitoring federally assisted construction contractors/subcontractors to ensure they do not discriminate in employment and that they are taking appropriate steps to ensure EEO/AA in their workforces. A basic step in this process is ensuring that construction contractor's and subcontractor's EEO/AA obligations are clearly specified in all federally funded bid solicitations and construction contracts/subcontracts over \$10,000. This is accomplished through the inclusion of "State of Tennessee Contract Special Provisions (SP)" in all federally funded bid solicitations and construction contracts. All Special Provisions are available on the [TDOT Construction Division website](#). Obligations identified in the SP include:

- [SP 1232](#) - Affirmative Action: A "Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity" must be included in bid solicitations for all federal assisted construction contracts and subcontracts in excess of \$10,000. The Notice, published at [41 CFR 60-4.2](#), informs the contractor/bidder of the EEO/AA requirements imposed under E.O. 11246, to include the specified goals for minority and female participation. Currently the federal utilization goal for female workers is 6.9% of total work hours and applies to all of a contractor's construction sites regardless of where the federally assisted contract is being performed. The utilization goals for minority participation are determined by economic area. A listing of utilization goals for minority participation in Tennessee construction projects, by Standard Metropolitan Statistical Area (SMSA) counties and Non-SMSA counties, is included in SP 1232. Although it remains a requirement for LG to include specific EEO/AA goals and timetables in all construction project contracts with a value of \$10,000 or more, only the U.S. DOL's OFCCP has authority to determine compliance with E.O. 11246 and its implementing regulations. The LG's authority to make compliance determinations and correct deficiencies is under the authority of contract law and the rights and obligations of parties to contracts.

- [SP 1230](#) ([Form FHWA - 1273](#)), [1231](#) and [1290](#) – EEO/AA Clauses: The LG’s incorporation of required contract provisions regarding EEO/AA responsibilities as identified in Form FHWA - 1273 (a standard form containing required contract provisions and proposal notices physically required to be incorporated in each federally assisted highway construction contract and subcontracts [at any tier] of \$10,000 or more), constitutes the contractor’s EEO/AA standards for that contract.

Both SP 1230 and Form FHWA - 1273 require the contractor and subcontractors to submit to the LG an annual report each July during which work is performed indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on [Form FHWA -1391](#) and a copy shall be submitted to the [TDOT Civil Rights Office](#) and the [LPDO](#) by August 15th in order to generate TDOT’s annual Federal-aid Highway Construction Summary of Employment ([Form FHWA - 1392](#)) report to the FHWA.

Each original FHWA 1391 shall remain in the contractor’s file with a copy in the LG’s End of Job file.

The non-discrimination in employment notification to bidders, as required by [41 CFR 60-1.4](#), is provided in SP 1290.

As provided by SP 1231, federally assisted construction contracts and subcontracts in excess of \$10,000 must also include the “Standard Federal Equal Employment Opportunity Construction Contract Specifications,” which are found at [41 CFR 60-4.3](#). The sixteen (16) specifications contained therein (Paragraph 7 (a) – (p)) set forth the specific affirmative action steps the construction contractor must implement in order to meet, or make Good Faith Efforts (GFE) to meet, EEO/AA requirements.

- [SP 1240](#) – Training Special Provisions (TSP): In accordance with the TSP requirements as outlined in [23 CFR 230 Appendix B to Subpart A](#), TDOT has formulated SP 1240 that is incorporated in selected federally funded contracts. The intent of the TDOT program is to increase the number of minority and female workers in the industry. Selected contracts will contain this SP 1240 that requires contractors to provide on-the-job training to develop employees to the full journey-level based on the contractor’s needs and the availability of personnel skilled at the journey-level in the recruitment area. LGs should make the determination whether to include a training SP in their contracts.
- [SP 1246](#) & [1247](#) – Disadvantaged Business Enterprise Participation and DBE Contract Goals, respectively: DBE, as defined in [49 CFR Part 23/26](#), shall have the maximum opportunity to participate in the performance of contracts let by LGs. The contractor is notified of this opportunity through SP 1246, which provides the anti-discrimination statement regarding the award of subcontracts and establishes requirements for submittal of copies of any agreements with DBE, upon execution, to the LG.

SP 1247 sets the DBE contract goal and identifies specific policy regarding the use of DBE to include: determination of bidder’s responsibilities, Commercially Useful Functions (CUF), GFE, non-compliance determination and resolution procedures, and maintenance/submittal of required records/forms.

CHAPTER 8 - PRE-CONSTRUCTION AND CONSTRUCTION PROCEDURES

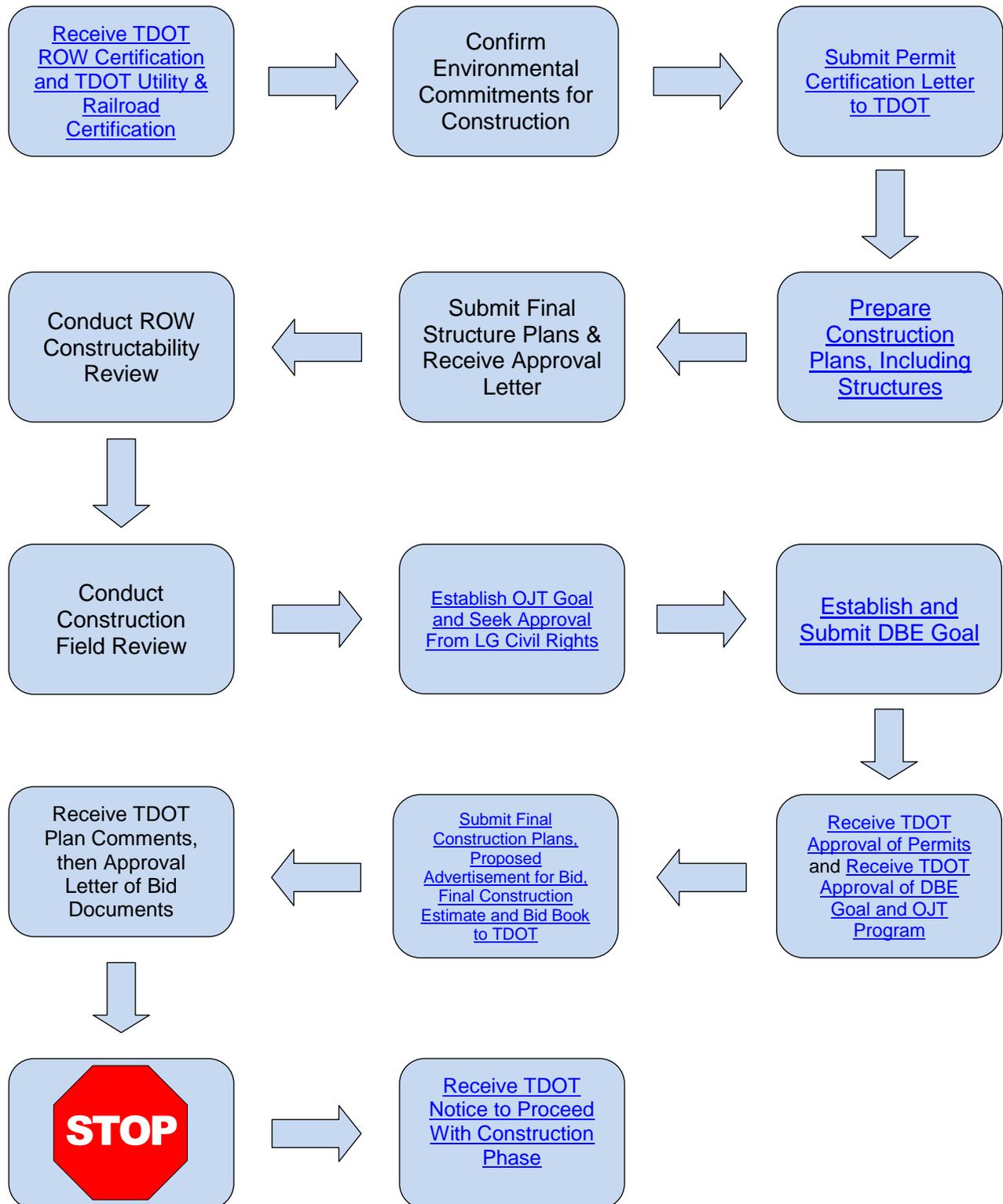


Figure 8-1 – Pre-Construction & Construction Flow Chart

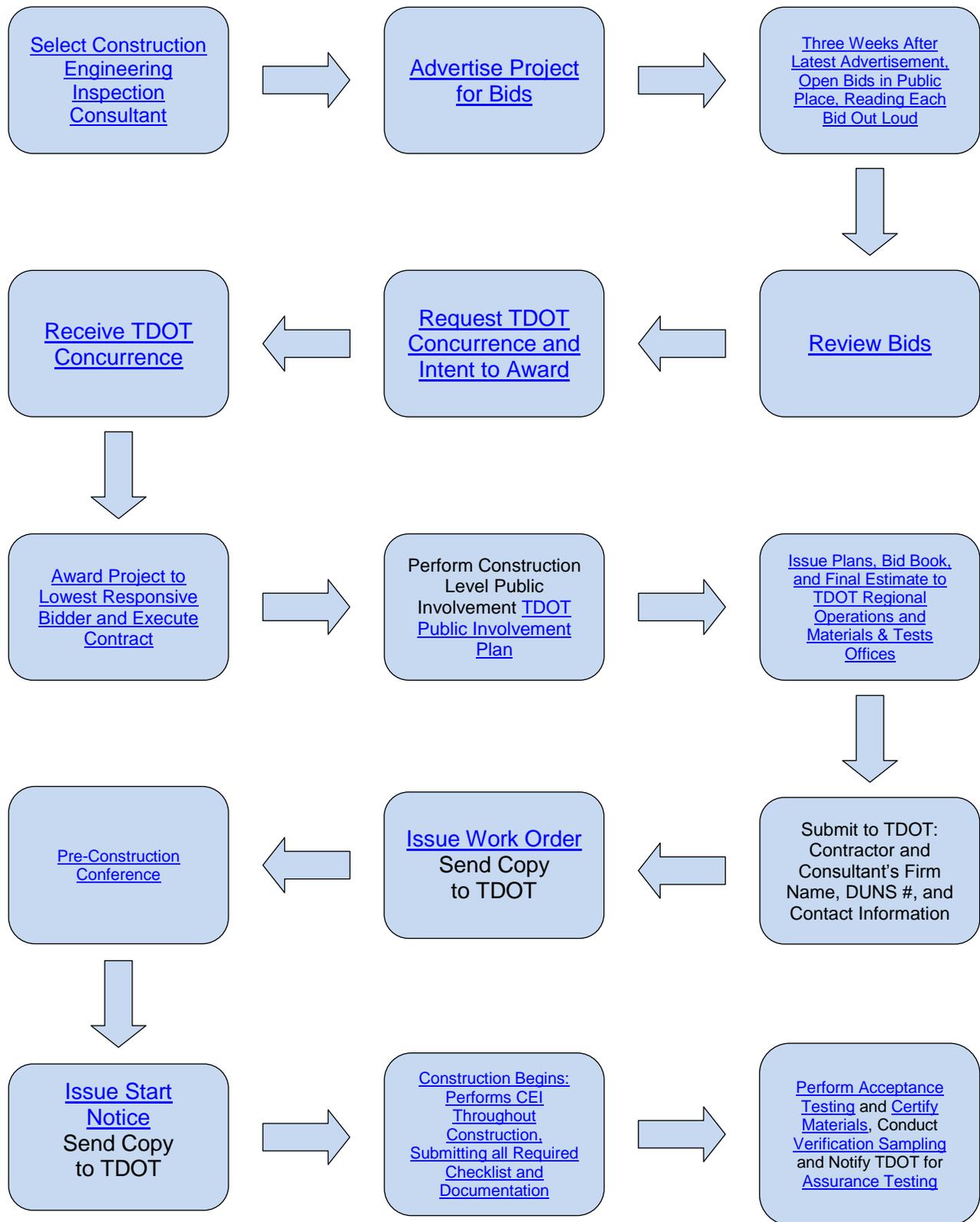


Figure 8-1 – Pre-Construction & Construction Flow Chart (continued)

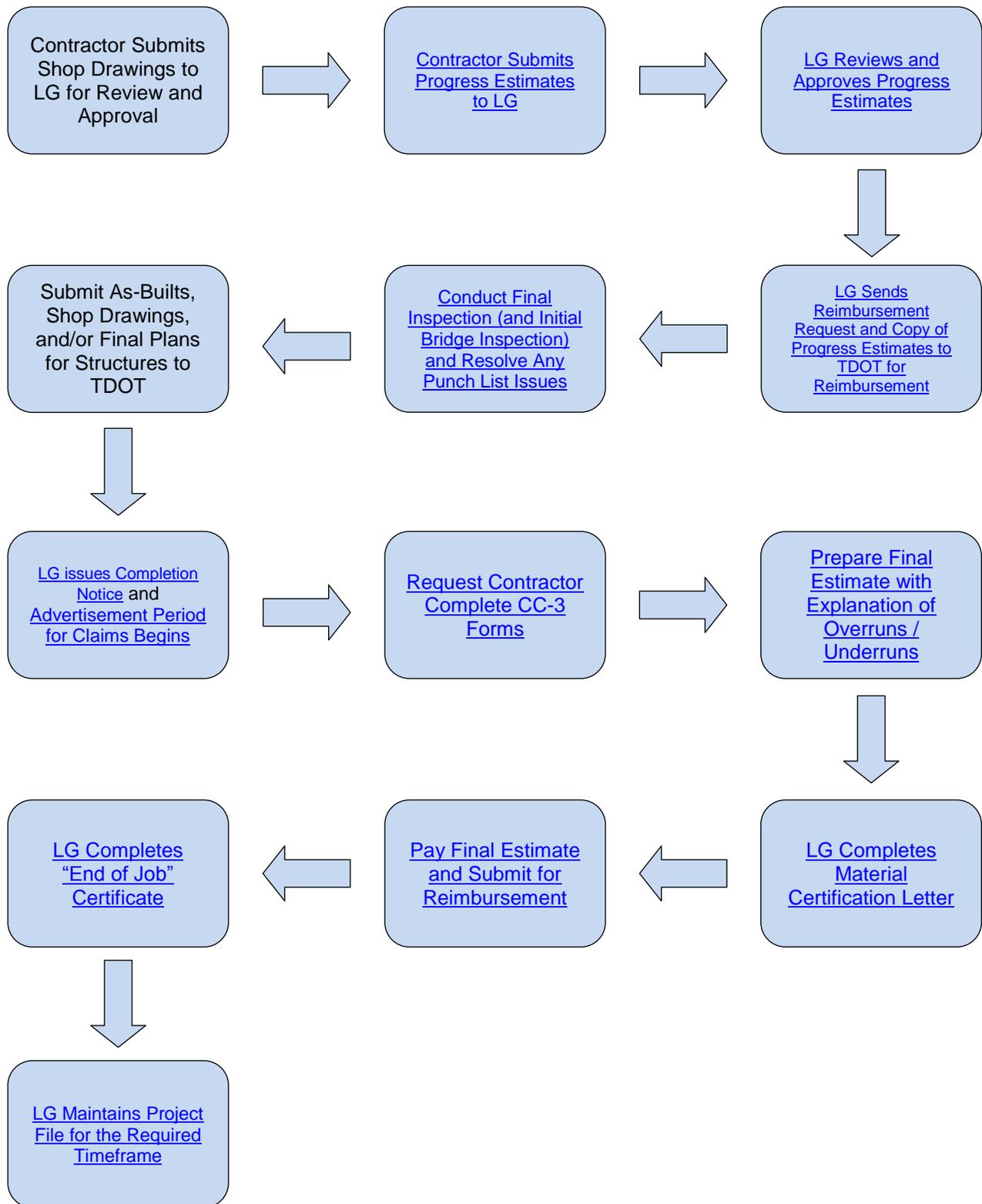


Figure 8-1 – Pre-Construction & Construction Flow Chart (continued)

8.1 PRE-CONSTRUCTION

8.1.1 LOCAL GOVERNMENT REPRESENTATIVE

The Local Government (LG) must designate a Project Supervisor and an Official who will be responsible for the administration of the project, including, but not limited to: requesting authorization of funds, requesting award of contract, supervision of the CEI, authority to approve changes, and accountability for contract compliance ([23 CFR 635.105](#)) as outlined in [Chapter 3: Getting Started](#).

The LG will act on the behalf of the Tennessee Department of Transportation (TDOT) for the administration of construction projects and that in accordance with federal regulations, funds may be withheld for non-compliance of federal rules and regulations ([23 CFR 1.36](#)):

“If the Administrator determines that a State has violated or failed to comply with the Federal laws or the regulations in this part with respect to a project, he may withhold payment to the State of Federal funds on account of such project, withhold approval of further projects in the State, and take such other action that he deems appropriate under the circumstances, until compliance or remedial action has been accomplished by the State to the satisfaction of the Administrator.”

8.1.2 DISADVANTAGED BUSINESS ENTERPRISE (DBE) GOALS

DBE goals set on federally funded projects must use the following general guidelines:

- While all projects should be assessed for DBE goals, projects of more than \$500,000 (comprised of any combination of funding sources) shall have a Disadvantaged Business Enterprise (DBE) goal. This goal will be set by the LG and submitted to the [TDOT Civil Rights Office](#) with a copy provided to the [Local Programs Development Office \(LPDO\)](#).
- Projects less than \$500,000 (comprised of any combination of funding sources) do not require DBE goals. Opportunities to include DBE or minority and women owned firms in the contract should be made even if no project DBE goal is set. This can be done by notifying available DBE firms of the upcoming contract and by encouraging the prime contractor to seek out DBE firms for subcontracting work.
- The [LPDO](#) must be advised of all goals set by the LG. All DBE goals established must be met in the absence of unusual circumstances. Adequate effort should be made to replace the dollar amount of the lost DBE commitment. The contractor shall have another DBE perform the item of work or have a DBE perform other items to replace the original DBE commitment amounts. If a replacement cannot be obtained the contractor shall provide the LG with documentation of good faith efforts.
- The [TDOT Directory of Certified Disadvantaged Business Enterprises](#) shall be utilized. It is the official register of eligible DBE firms. Amendments to this directory are updated weekly and are available from the [Small Business Development Program \(SBDP\) Office](#).
- Opportunities for work must be advertised on federally funded projects.

The TDOT Civil Rights Division should be consulted for information on availability of DBE firms to perform work on all types of federal-aid contracts.

Additional guidance and policy requirements for the DBE program are located in [Chapter 7: Civil Rights Compliance, Section 7.2](#) of this manual.

The Special Provisions that are applicable for DBE Goal Federal-Aid Contracts including training are as follows:

- [SP 1230](#), [SP 1231](#), [SP 1232](#), [SP 1240](#), [SP 1246](#), [SP 1247](#).

Circular Letters related to DBE Goal Federal-Aid Contracts including training are as follows:

- [1240-01](#), [1247-01](#), [1273-01](#), [1273-02](#), [1273.02-01](#), [1273-03](#), [1273-04](#), [1273-04.01](#), [1273-05](#), [1273-06](#).

8.1.3 PERMITTING

Before a project can be advertised, the following must be completed and all requirements must have been fulfilled, including, but not limited to: all necessary National Pollutant Discharge Elimination System (NPDES), Aquatic Resource Alteration Permit (ARAP), United States Army Corps of Engineers (USACE), Coast Guard, Tennessee Valley Authority (TVA), and/or any locally-required environmental permits, Design Exceptions, and the Plans, Specifications, and Estimates (PS&E) package.

It is understood and agreed that the LG shall obtain all permits and assumes all responsibilities of the permittee as indicated in the permit that relate to protection of the "waters of the United States" and/or "waters of the State of Tennessee" pursuant to the following:

1. [Section 404 of the Federal Clean Water Act](#) (33 U.S.C. §1344), and all implementing regulations, including without limitation regulations of the USACE governing permits for discharges of dredged or fill material into waters of the United States in [33 CFR Part 323](#),
2. [The Tennessee Water Quality Control Act \(T.C.A. 69-03-101, et seq.\)](#) and all implementing regulations, including without limitation the [Rules of the Tennessee Department of Environment and Conservation \(TDEC\) governing NPDES permits in Chapter 1200-4-10, and ARAP in Chapter 1200-4-7](#); and <https://tn.gov/environment/article/permit-water-aquatic-resource-alteration-permit>,
3. [Section 26a of the TVA Act of 1933 as amended \(49 Stat. 1079, 16 U. S. C. sec. 831y1.\)](#) and all implementing regulations, including without limitation the regulations of the TVA governing construction in the Tennessee River System in [18 C.F.R., Part 1304](#),
4. TDEC Class V Injection Well Permits ([T.C.A. 69-03-101 et seq.](#)) and all implementing regulations, including without limitation The Water Quality Control Act of 1977, as amended. Additional information at <http://tn.gov/environment/article/permit-water-underground-injection-control-permit#sthash.tNCu40KO.dpuf>;
5. [The Tennessee Wildlife Resources Agency \(TWRA\) Reelfoot Lake Watershed Management permit program \(T.C.A. section 70-05-001,\)](#), and all implementing regulations, including without limitation regulations authorizing

any activity, practice, or project which has or is likely to have the effect of diverting surface or subsurface water from the Lake or have the effect of draining or otherwise removing water from Reelfoot Lake, and

6. Construction, reconstruction, and/or repair of bridges over navigable waterways could require a United States Coast Guard Bridge Permit. The regulations governing Coast Guard Bridge Permits are codified in [33 CFR 114-118](#). Additional information regarding this program can be obtained from the [Coast Guard Office of Bridge Administration](#).

The LG shall obtain any additional permits required by the method of construction, including without limitation staging areas, haul roads, temporary channels or temporary ditches, or off-site waste and/or borrow areas.

In addition to the environmental permits listed above, the Local Government must obtain stormwater permit coverage as required. As authorized by the Clean Water Act, the NPDES permit program controls water pollution by regulating point sources that discharge pollutants into waters of the United States. Please note that the LG and their operators of construction sites involving clearing, grading or excavation that result in an area of disturbance of one or more acres, and activities that result in the disturbance of less than one acre if it is part of a larger common plan of development or sale, must obtain a NPDES Stormwater Construction Permit from TDEC.

Prior to advertising the project for construction, the LG or their designee must certify to the TDOT Environmental Permits Section via email that all required environmental permits have been received. The certification email must include correspondence from the TDOT Ecology Section indicating that appropriate ecological study procedures were used to identify and delineate streams, wetlands and threatened and endangered species, a certification statement that permits were or were not required, and copies of required environmental permits obtained for the project. The TDOT Environmental Permits Section will review certification emails and will reply when it concurs that all applicable permitting has been completed by the Local Government. A copy of the [Environmental Permit Certification Procedures memorandum](#) can be found on the LPDO website.

The LG shall be responsible for implementing the provisions of the water quality permits (including, but not limited to, TDEC ARAP, TDEC 401 Water Quality Certification, USACE404, TVA Section 26a, TWRA Reelfoot) and NPDES Storm Water Construction Stormwater General Permit coverage. General information regarding water quality permits may be found in [Circular Letter 107.08-01](#).

In addition, TDOT is an authorized Municipal Separate Storm Sewer System (MS4) permit Operator. As such, discharge of stormwater runoff to the TDOT ROW must occur within a natural occurring drainage way and be free of any pollutants in accordance with federal and state laws and regulations. No man made ditches, conveyances, piping or other designed drainage structures shall discharge water onto the States ROW without the expressed written consent of the Commissioner of TDOT or his designee.

8.1.4 BID DOCUMENTS

The proposal contract, or “bid book”, shall include all applicable State and federal contract provisions ([23 CFR 633](#)). Depending on the funding sources used, there are different

requirements for proposal contract submittals. To meet the requirements when using any Federal funds, the TDOT provided Proposal Contract Template ([Form 8-1 Federal](#)) shall be used. To meet the requirements when using State or Local Government funds and without any Federal funds, the TDOT provided Proposal Contract Template ([Form 8-1 State](#)) shall be used. All [TDOT Supplemental Specifications](#) are incorporated by reference for bidding purposes and will be printed with the Contract after award. Any changes to the TDOT bid book template shall be approved by TDOT Legal and Construction Offices prior to their use.

The bid book shall not contain any contingency items.

The “Construction Advertisement Authorization Checklist” ([Form 8-2](#)) shall be completed, signed, and submitted by the Local Government Official with the certification letter noted below. The LG shall send a certification letter to the LPDO by electronic means (email) at Local.Programs@tn.gov. This letter shall attest that ALL necessary requirements have been met. In addition, ROW certification, railroad agreements, and utility agreements requirements must be met. The process for fulfilling these requirements is addressed in [Chapter 6: Right-of-Way \(ROW\), Utility and Railroad Procedures](#). **The bid book will not be reviewed by TDOT without the submittal of the required checklists.**

8.1.4.1 TDOT SPECIAL PROVISIONS (FEDERAL FUNDING)

The following [TDOT Special Provisions](#) shall be included in all proposal contract documents with Federal funds:

- [102I](#): Employing and Contracting with Illegal Immigrants
- [106A](#): Buy America Requirements
- [107FP](#): Permits, Water Quality and Storm Water Permits (with applicable permits located behind this provision within the bid book)
- 108A: Specialty Items
- [1230](#): Equal Employment Opportunity (EEO)
- [1231](#): Standard Federal Equal Employment Opportunity Construction Contract Specifications ([Executive Order 11246](#))
- [1232](#): Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity ([Executive Order 11246](#))
- [1246](#): Disadvantaged Business Enterprise Participation
- [1247](#): Disadvantaged Business Enterprise Contract Goal (if applicable)
- [1273](#): Required Contract Provisions Federal-Aid Construction Contracts (available at: <http://www.fhwa.dot.gov/programadmin/contracts/1273/1273.pdf>). Also refer to [FHWA-1273 Resource website](#). Must be in the original formatting.
- [1320](#): TDOT Minimum Wage Scales (including Federal Wage Rates and State Wage Rates)

8.1.4.2 TDOT SPECIAL PROVISIONS (STATE FUNDING)

The following [TDOT Special Provisions](#) shall be included in all contracts with State funds in lieu of the above Special Provisions:

- [102B](#): Unbalanced Bids
- [102I](#): Employing and Contracting with Illegal Immigrants
- [108A](#): Specialty Items
- [1275](#): Certification regarding Debarment, Suspension, and Other Responsibility Matters Primary and Lower Tier Covered Transactions
- [1280](#): Labor (State Projects Only) (including state labor rates)
- [1290](#): Non-Discrimination in Employment
- [State Wage Rates](#)

8.1.4.3 OTHER SPECIAL PROVISIONS

Note: All Special Provisions that are applicable to the project must be included in the contract even if they are not mentioned in this document.

Various [TDOT Special Provisions](#) can be found on the TDOT website and may be used for the project if appropriate. Some that may be considered are: [109A](#), [109B](#), [624](#), and 730SIG. If the TDOT Special Provisions are used, they shall not contain any modifications. The latest revision date for each TDOT Special Provision is located in the top left corner of the front page. The date on the right refers to the latest TDOT Standard Specification.

In addition, any railroad agreements need to be included in the proposal contract.

The requirements in [23 CFR 635](#), Construction and Maintenance, shall also apply to locally administered contracts. These contract provisions cover employment, nonsegregated facilities, record of materials and supplies, subletting or assigning the contract, safety, false statements concerning highway projects, termination of a contract, and implementation of the Clean Air Act and the Federal Water Pollution Control Act, and other provisions as shall from time-to-time be required by law and regulation as conditions of Federal assistance.

The contract or plans shall not contain any proprietary items, unless specified in accordance with [23 CFR 635.411](#) and approved in advance by TDOT through the LPDO. Refer to [Section 5.4.1](#) for additional information. The proprietary items must be approved for use prior to submitting the bid documents for review.

The proposal contract must also identify the project completion date.

It is required that LGs use TDOT's standards, specifications and item numbers on ALL projects as stated in [Chapter 5: Roadway Design Procedures, Including Structural Design](#).

The proposal contract shall provide the basis for contract award (i.e. lowest responsible bidder). Additive/deductive options (or alternates) are not allowed on TDOT projects because there is no accepted methodology for determining the low bidder and/or which options will be used in the proposed contract and which will not. Further, the inclusion of additive/deductive options often leads to unbalanced pricing not only in the base bid but in the options as well. These additive/deductive options or alternates are not to be confused with the either/or type of item alternates, which are acceptable.

The two types of options/alternates are discussed below for clarification:

1. Additive/deductive options are often used in conjunction with a base bid when it is desirable to use as much available funding as possible without exceeding a budgeted

amount. On bid forms, these additive/deductive options are often called additive or deductive alternates, or simply alternates.

2. Either/or type alternates **are acceptable** when an item or group of related items make up a significant portion of the overall project. This type alternate is usually used for performance based work and allows competing industries to bid for the same work. An example that's common on TDOT projects is allowing either concrete pavement or asphalt pavement at designated locations on the project. Related items for concrete pavement and base and asphalt pavement and base are grouped together and separated from other items in the bid form so that they can be bid separately. The lowest total alternate bid is then added to the other bid items to determine the lowest overall total bid. Either/or type alternates usually require both an engineering analysis for functional equivalency and cost analysis prior to their inclusion in a contract.

The LG cannot add additional items to the project scope that were not included in the original design. This would be considered a scope change. The LG must consult with the LPDO prior to making a scope change.

8.1.4.4 SPECIALTY ITEMS

If a project contains any of the following items, use Special Provision 108A listing appropriate items used.

TDOT Item Number	Description
105-01 Items	Construction Stakes, Lines and Grades
209 Items	EPSC Items
411-12.** Items	Shoulder Scoring
602-03 Items	Steel Structures
602-04 Items	Steel Structures
602-10.13 & .14 Items	Navigational Lighting
603-02 Items	Repainting Steel Structures
603-05 Items	Containment and Disposal of Waste
604-04.01 Item	Applied Texture Finish (New Structures)
604-04.02 Item	Applied Texture Finish (Existing Structures)
604-04.62 Item	Clean and Texture Finish Median Barrier
604-05.31 Item	Bridge Deck Grooving (Mechanical)
617 Items	Bridge Deck Sealant
705 Items	Guardrail, Anchors, etc.
706 Items	Guardrail Items
707 Items	Fencing Items
712 Items	Traffic Control Items
713 Items	Signing Items
714 Items	Lighting Items
716 Items	Pavement Marking Items
730 Items	Traffic Control Items
791, 792, 793, 794, or 795 Items **	Utility Items
801 Items	Seeding
802 Items	Landscaping Items
803-01 Items	Sodding
805 Items	Erosion Control
806 Items	Project Mowing

8.1.5 FINAL CONSTRUCTION ESTIMATE

An itemized final construction estimate, based on plans quantities and using TDOT item numbers shall be provided before requesting funding, concurrence to advertise and for the

award of the contract. The final construction estimate shall be comprehensive, including structure cost, retaining walls, utility cost (if included in construction), etc., as well as project and roadway features. The final construction estimate shall not contain any contingency items. This estimate is to be updated every 12 (twelve) months from the date of the original and within 6 months prior to letting. The final construction estimate shall list the item number, description, quantity, units, cost per unit, item cost, and total cost. The final construction estimate should be submitted (PDF via email) to the [LPDO](#) along with the bid book. The LPDO shall forward the information to TDOT's Construction Office and TDOT Estimating and Bid Analysis Office for concurrence.

8.2 CONSTRUCTION PHASE PROCEDURES

At this point, the pre-construction activities are complete and the LG shall not proceed with construction phase activities until the Notice to Proceed is received.

**NOTICE TO PROCEED WITH THE FUNDED
CONSTRUCTION PHASE
OF PROJECT DEVELOPMENT**

PIN:
FEDERAL PROJECT NUMBER:
STATE PROJECT NUMBER:
ROUTE (STREET NAME):
FROM:
TO:
CITY:
COUNTY:
REGION:

Effective Date:

Date of Transmittal:

This letter serves as your official **Notice to Proceed** with the above referenced phase of work for the subject project. The Local Government shall perform this phase of project development in accordance with the Local Government Guidelines provided on the Local Program Development Office website at <http://www.tn.gov/tdot/section/local-programs>. **Any work performed ahead of a Notice to Proceed's Effective Date will not be reimbursed.**

You may procure, in accordance with law, a consulting engineering firm to do all phases of construction at this time. Please refer to Section 1.6 of the Local Government Guidelines for guidance on consultant selection, if needed. Please provide a copy of the executed contract with the consultant and a copy of the notice sent to the consultant indicating the date work was authorized on the phase of the project mentioned above. These documents should be addressed to Manager, Local Program Development Office and sent by email to Local.Programs@tn.gov. **Note: If the person in responsible charge for this phase of the project has changed since Form 3-1 (Project Initiation Form) was submitted, the Local Government shall resubmit the responsible charge page (Form 1-1) at this time to the Local Programs Development Office at the email below.**

If you have questions or concerns regarding this matter, please direct them to Kip Mayton at 615.741.5314 in the Local Programs Development Office. You may contact us by email at: Local.Programs@tn.gov.

Figure 8-2 – NTP with Construction Phase

PLEASE NOTE: LGs shall not proceed with any work pertaining to construction (including advertising the project for bids to be received) for which they expect reimbursement until they receive the NTP for construction.

8.2.1 CONSTRUCTION ENGINEERING INSPECTION CONSULTANT (CEI)

Refer to [Section 1.6](#) for information regarding selection of a consultant for the CEI portion of the project.

8.2.2 ADVERTISING FOR BIDS

All work shall be completed in accordance with the most current version of [TDOT's Standard Specifications for Road and Bridge Construction](#) and [TDOT's Standard Roadway and Structures Drawings](#).

A project shall be advertised one time at least 21 calendar days prior to the public bid opening ([23 CFR 635.112](#)). The advertisement shall be made in a newspaper published in the county where the money is to be expended and also in one of the widely circulated daily newspapers in that grand division of the state where the work is being done ([T.C.A. 54-05-114](#)). If there is no newspaper in the county where the work is being done, the advertisement shall be made in some newspaper in an adjacent county. In addition an advertisement must be made in a local minority newspaper (a list of those newspapers can be provided by TDOT Civil Rights Office). The advertisement shall describe the type of work to be performed, where, when, and by what time the sealed bids shall be received. The TDOT provided Bid Advertisement Template ([Form 8-3](#)) is available for LG reference.

For all FHWA projects, bidding opportunities on a nondiscriminatory basis shall be afforded to all qualified bidders regardless of state boundaries, race, sex, color, or national origin. The LG shall comply with the standard USDOT Title VI Assurances by inclusion of the following language in the solicitations for bids:

“The (Local Government) in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation, subtitle A, Office of the Secretary, Part 21, nondiscrimination in federally assisted programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidders that it will affirmatively insure that in any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color or national origin in consideration for an award.”

8.2.3 BID AUTHORIZATION REQUEST

Only prime contractors that have been pre-qualified in the appropriate TDOT work classification, relevant to the project, can be authorized to bid ([23 CFR 635.110](#)). Prospective bidders must request authorization to bid by the LG. Prior to the issuance of a proposal contract, the LG shall evaluate the contractor submitting the bid authorization request and determine if the prospective bidder is prequalified by and in good standing with TDOT to perform the work within the work classification(s).

If a LG chooses to sell a proposal contract to a Contractor who is not pre-qualified with TDOT in the appropriate work classification(s), or the LG has not authorized the contractor, then the proposal contract should be marked “void for bidding”. Contractors who are not prequalified with TDOT in the appropriate work classification(s) should not be authorized to bid. A contractor that has purchased a proposal contract that was marked “void for bidding” can buy another book once they are fully prequalified before the bid date.

In order to facilitate communication with all stakeholder’s (prospective contractors, subcontractors, material suppliers, etc.), the LG shall collect contact information for each recipient of the plans and/or bidding documents. Such information shall be maintained in a list so that announcements of addenda and/or plans revisions can be made in a timely manner to each recipient.

Subcontractors must also be pre-qualified or pending pre-qualification by TDOT (TDOT Standard Specifications §102.01) (Chapter 1680-5-3-.10). TDOT pre-qualified contractors along with their work class are listed on the TDOT website at: <http://www.tn.gov/assets/entities/tdot/attachments/prequal.pdf>. TDOT’s Excluded Parties List can be found at: http://www.tn.gov/assets/entities/tdot/attachments/Const_excludedparties.pdf.

8.2.4 BID DOCUMENT SUBMITTAL AND PUBLIC OPENING OF BIDS

The advertisement will state when and where the sealed bids are to be received. The bid opening shall occur no earlier than 3 weeks after the date of the latest advertisement.

Prior to opening bids, the LG shall review the Contractors to determine their prequalification status. If a bidder is not currently fully prequalified, the bid should remain sealed. All bids are to be opened publicly and read aloud either item-by-item, or by total amount. If a bid is not read, the bidder is to be identified and the reason for not reading the bid announced ([23 CFR 635.113](#)).

8.2.5 CONTRACTOR BIDDING REQUIREMENTS

8.2.5.1 FEDERAL FUNDING

The following instruction to bidders is included in all proposal contract documents on projects funded in whole or in part with Federal funds:

Federal law provides that no contractor shall be required by law, regulation, or practice to obtain a license before submission of a bid or before the bid may be considered for award of a contract on any project funded in whole or in part with Federal-aid funds. However, Federal law does not preclude requirements for licensing of a contractor upon or subsequent to award if such requirements are consistent with competitive bidding and are approved in advance by the Federal Highway Administration ([23 CFR 635.110](#)).

Therefore, in accordance with TDOT policy, as expressed in TDOT Standard Specifications §102.11 and as approved by the Federal Highway Administration, all prime contractors shall be licensed with the State of Tennessee, Department of Commerce and Insurance, Board for Licensing Contractors (BLC), upon award of the contract. A proposal submitted by a contractor that is otherwise prequalified and in good standing shall not be rejected as non-responsive solely because the contractor is not licensed by the BLC at the time of submitting the proposal. If otherwise responsive, the proposal will be considered for

award for twenty-one (21) days after the proposals are opened. If the contractor does not have a license with the BLC on or before the end of the twenty-one (21) days after the proposals are opened, the contractor's proposal will be rejected as non-responsive, and the proposal of the next lowest responsible bidder may then be considered for award. If the next lowest responsible bidder does not have a license on or before the twenty-one (21) days after the proposals are opened, this contractor will also be considered non-responsive, and the subsequent bidder may then be considered. The LG reserves the right to reject all bids at any time.

Prior to recommending award of a contract, the LG will confirm that the lowest responsible bidder is licensed with the BLC. Because TDOT work classifications and the BLC licensing classifications slightly differ, the LG will verify only that the apparent low bidder is licensed in the general classification (e.g., Heavy Construction (HC), Highway, Railroad, Airport Construction (HRA), Specialty (S), Municipal and Utility Construction (MU), or Electrical Contracting (CE)) and not the specific subcategories of these classifications for the type of work involved in the project. This is in recognition that the prime contractor is required to complete 30% of the specific project work and may subcontract the remainder of the work.

Title 48 of Tennessee Code requires all contractors and subcontractors that are domestic or foreign Corporations, Limited Liability Companies, Limited Partnerships, or Limited Liability Partnerships to be in good standing with the Secretary of State (i.e., have a valid Certificate of Existence/Authorization). This includes being duly incorporated, authorized to transact business, and/or in compliance with other requirements as detailed by the Secretary of State.

If a bidder is not in good standing with the Secretary of State on or before twenty-one (21) days after proposals are opened, the bidder will be considered non-responsive and its proposal will be rejected.

8.2.5.2 STATE OR LOCAL GOVERNMENT FUNDING ONLY

The following instruction to bidders is included in all proposal contract documents on projects funded entirely with State or LG funds and without any Federal funds:

State law (T.C.A. 62-06-119) requires that, on construction contracts where the total cost is twenty-five thousand (\$25,000) or more, the contractor shall be licensed with the State of Tennessee, Department of Commerce and Insurance, BLC, and that the bid documents shall be prepared and administered as follows:

62-6-119. Bid documents -- Penalties.

- a) Any person or entity preparing plans, specifications or any other documentation for inclusion in an invitation to bid or comparable bid document including any electronic bidding documents, shall reference this chapter in such documentation and include a specific statement informing the invited bidder that it is necessary for such bidder to be properly licensed at the time of the bid and provide evidence of compliance with the applicable provisions of this chapter before such bid may be considered.
- b) The person or entity involved in the preparation of the invitation to bid or comparable bid documents, including any electronic bid documents, shall direct that the following information be written upon the bid envelope or provided within the electronic bid document:

- 1) The name, license number, expiration date thereof, and license classification of the contractor applying to bid for the prime contract;
 - 2) The name, license number, expiration date thereof, and license classification of the contractor applying to bid for the masonry contract where the total cost of the materials and labor for the masonry portion of the construction project exceeds one hundred thousand dollars (\$100,000);
 - 3) The name, license number, expiration date thereof, and license classification of the contractor applying to bid for the electrical, plumbing, heating, ventilation, or air conditioning contracts except when such contractor's portion of the construction project is less than twenty-five thousand dollars (\$25,000);
 - 4) For each vertical closed loop geothermal heating and cooling project, the company name, department of environment and conservation license number, classification (G, L or G,L) and the expiration date, except when the geothermal portion of the construction project is in an amount less than twenty-five thousand dollars (\$25,000);
 - 5) Prime contractor bidders who are to perform the masonry portion of the construction project which exceeds one hundred thousand dollars (\$100,000), materials and labor, the electrical, plumbing, heating, ventilation or air conditioning or the geothermal heating and cooling must be so designated; and
 - 6) Only one (1) contractor in each of the classifications listed above shall be written on the bid envelope or provided within the electronic bid document.
- c) Failure of any bidder to furnish the required information shall void such bid and such bid shall not be considered. Upon opening of the bid envelope or initial opening of an electronic bid, the names of all contractors listed shall be read aloud at the official bid opening and incorporated into the bid. Prior to awarding a contract, the awarding person or entity and its authorized representatives shall verify the accuracy, correctness and completeness of the required information, and any discrepancies found in the spelling of names of bidders, transposition of license numbers, or other similar typographical errors or omissions may be corrected within forty-eight (48) hours after the bid opening excluding weekends and state-recognized holidays.
- d) No invitation to bid may require that any subcontractor be identified, listed or designated until the final bid submission by the prime contractor, or that any prime contractor accept the bid of any subcontractor until the final bid submission by the prime contractor. This subsection (d) shall apply only to design/bid/build procurements where cost is the primary criterion for the contract award.
- e) Any person or entity, public and private, awarding a bid to a contractor who is not licensed in accordance with this chapter shall be subject to the penalty provided in T.C.A 62-06-120(b).
- f) Notwithstanding the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, relative to the amount of civil penalties that may be imposed, the board may impose a civil penalty not to exceed five thousand dollars (\$5,000) for willful violation of this section.

Because TDOT work classifications and the BLC licensing classifications slightly differ, the Local Government will verify only that the apparent low bidder is licensed in the general classification (e.g. Heavy Construction (HC), Highway, Railroad, Airport Construction (HRA),

Specialty (S), Municipal and Utility Construction (MU), or Electrical Contracting (CE)) and not the specific subcategories of these classifications for the type of work involved in the project. This is in recognition that the prime contractor is required to complete 30% of the specific project work and may subcontract the remainder of the work.

Title 48 of Tennessee Code requires all contractors and subcontractors that are domestic or foreign Corporations, Limited Liability Companies, Limited Partnerships, or Limited Liability Partnerships to be in good standing with the Secretary of State (i.e., have a valid Certificate of Existence/Authorization). This includes being duly incorporated, authorized to transact business, and/or in compliance with other requirements as detailed by the Secretary of State.

If a bidder is not in good standing with the Secretary of State on or before twenty-one (21) days after proposals are opened, the bidder will be considered non-responsive and its proposal will be rejected.

8.2.6 BID REVIEW AND ANALYSIS

Bids shall be reviewed in accordance with the [TDOT Policy No. 355-02 Awards of Construction Contracts](#). Additional FHWA guidance for reviewing bids can be found at:

<http://www.fhwa.dot.gov/programadmin/contracts/index.cfm>

Reasons for not awarding a bid include the bid being unresponsive, often called an irregular bid, or if the bidder is determined to be “not responsible”. The difference between a responsive bid and responsible bidder is that:

- A responsive bid is one that meets all the requirements of the advertisement and proposal contract, while
- A responsible bidder is one who is physically organized and equipped with the financial wherewithal to undertake and complete the contract.

Some reasons for not awarding a bid due to bidding irregularities may include: failure to sign the bid, failure to furnish the required Proposal Bond/Guarantee, failure to include a unit bid price for each item, failure to include a total amount for the bid, failure to prepare the bid in ink, failure to submit a non-collusion affidavit, failure to commit to the achievement of the DBE contract goals or demonstrate good faith efforts to do so, or inclusion of conditions or qualifications not provided for in the specifications.

The LG shall review the apparent lowest responsive bidder’s proposal to ensure the bid is responsive and all applicable signatures and bond/guarantees are included. A bid may only be awarded to the lowest responsive bidder ([23 CFR 635.114](#)). A responsive bidder is defined above. [Form 8-4](#) shall be completed, signed, and submitted with the LG’s letter indicating its intent to award to the low bidder.

The LG shall provide a bid tabulation of at least the three (3) lowest bidders (or all bids if fewer than three (3) are submitted), line item-by-line item, including the engineers estimate that matches the schedule of values for reviewing bids. When more than three bids are received, the total amount of all but the three lowest bids must be submitted. All bids shall be reviewed to determine if they are unbalanced, which is defined as:

- A mathematically unbalanced bid is a bid that contains lump sum or unit bid items that do not reasonably reflect the actual costs (plus reasonable profit, overhead costs, and other indirect costs) to construct the item;
- A materially unbalanced bid is a bid that generates reasonable doubt that award to that bidder would result in the lowest ultimate cost to the government.

Factors that a bid analysis may consider include:

- Number of bids received
- Distribution or range of the bids
- Identity and geographic location of the bidders
- Urgency of the project
- Current market conditions and workload
- Comparison of bid prices with similar projects recently let
- Justification for significant bid price differences
- Potential for savings if the project is re-advertised
- Other factors as warranted

Once the LG has reviewed the bids, the Local Government Official shall submit all of the following documents to TDOT for review (TDOT **will not** review unless **all** documents are submitted):

- A completed [Form 8-4](#)
- An electronic copy of the bid tabulations (Excel™ spreadsheet comparing bids received)
- Documentation certifying that the bids have been reviewed and found responsive
- A letter requesting concurrence in the decision to award signed by the Local Government Official or to reject the bids including the necessary explanations for the request made
- A PDF of the proposal contract for the apparent low bidder
- DBE Award Information, if applicable ([Form 8-5](#))

This information shall be submitted to the LPDO by electronic means (email to Local.Programs@tn.gov) and shall be transmitted by that office to TDOT's Construction Office.

The TDOT Construction Office and TDOT Estimating and Bid Analysis Office will review the bid information and if acceptable, will concur in the intent of the LG to award the contract to the lowest responsive bidder. If all bids have been reviewed and analyzed, and the LG determines that it is not in the best interest of the public to award the job, it shall make such statement and request TDOT's concurrence in its decision to reject all bids. Award or rejection of a contract must be within the time period specified in the proposal as complying with local requirements. The LG shall submit to TDOT the request to award or reject the bids at least fifteen (15) calendar days prior to the local deadline for awarding the project.

In addition, if the LG elects to award the project, it shall submit with the bid tabulations the names and qualifications of the CEI firm and the individuals directly responsible for oversight and inspection of the actual construction of the project, including the Local

Government Project Supervisor and all inspectors. The CEI firm must be selected as described in [Section 1.6](#).

If a proposal contract contains a DBE Goal ([TDOT SP 1247](#)), the contractor must submit with its bid, or within three (3) business days of the bid opening, the names, ethnicities, and genders of the TNUCP certified DBEs that will be used on the project, and the amount of subcontracts to be completed by the DBE ([Form 8-5](#)), or provide the necessary requirements for good faith efforts as specified in [SP 1247](#). The LG must submit this form with their bid concurrence package to the [LPDO](#) and copy the [TDOT Civil Rights Office](#).

8.2.7 AWARD OF THE CONTRACT

The award of the contract shall be in general accordance with [Section 103](#) of the TDOT Standard Specifications.



Until this bid concurrence is received, the LG may not award a contract to the contractor nor may it issue a work order. Failure to follow these procedures could result in a loss of funding for the Construction Phase of project development.

Once the TDOT Construction Office and TDOT Estimating and Bid Analysis Office concurs in the intent to award, the LG can proceed with the execution of the contract with the responsive low bidder. The LG will issue the contractor a copy of the Proposal Contract for signature. The contractor shall return the signed copy to the LG with a fully executed Payment and Performance Bond equal to one hundred (100) percent of the contract amount. The signed proposal contract and bond shall be returned within ten (10) days or the contract may be canceled and the Proposal Bond/Guarantee forfeited. Any necessary railroad insurance must also be submitted in accordance with the railroad agreements prior to the final execution of the contract (twenty (20) calendar days are allowed for this). **The signed contracts shall be distributed such that LPDO, the Contractor, the Surety, and the LG all receive signed copies.**

The LG shall submit all contractor and consultant firm's name, street address (with nine-digit zip code), DUNS number, and contact persons information to the LPDO by electronic means (email at Local.Programs@tn.gov).

At least seven days prior to the pre-construction conference, the LG shall send, by electronic means, a set of plans, a copy of the bid book and final cost estimate to the [TDOT District Operations Engineer/Manager](#) and the [TDOT Regional Materials and Tests Supervisor](#). A copy of this email shall be sent to Local.Programs@tn.gov.

Once all the required signatures, bonds, and insurance have been submitted, the LG will provide the contractor with a work order identifying the effective Date of Construction. The effective date is typically 21 calendar days after the issuance of the work order. **The LG shall also provide a copy of the work order via email to the TDOT District Operations Engineer/Manager and the LPDO.**

A filing system for the construction phase of the project should be in place at this time. Project files shall consist of the contract applicable files as required by [Form 8-6](#). Additional project files may be added as deemed necessary.

8.2.8 PUBLIC RELATIONS AND PUBLIC INFORMATION

The LG, with assistance from the CEI consultant if needed, should provide timely information to the local media regarding lane closures, construction updates, and general project information. It is suggested the LG establish an area on its website for such information.

8.2.9 SUBCONTRACTING OF WORK

The prime contractor may sub-let work in accordance with [Section 108.01](#) of the TDOT Standard Specifications, as allowed in [23 CFR 635.116](#) ([Circular Letter 108.01-01](#)). In no case shall the prime contractor sublet more than seventy (70) percent of the original contract amount excluding specialty items. All subcontractors must be pre-qualified in accordance with TDOT Standard Specifications ([Section 102.01](#)).

The LG shall approve all 1st, 2nd, or greater tier subcontracts. All approved Sub-Contractors shall be on the TDOT Pre-Qualified Contractor List. An approved and executed subcontract form must be on file in the project records (Subcontract File) before a subcontractor can begin work. An approved and executed subcontract form bears all of the required signatures of the appropriate officials. The Prime Contractor shall submit to the LG completed sub-contract forms after they have been collected from the subcontractors. [Form 8-7a](#), [Form 8-7b](#), and [Form 8-7c](#) are provided for 1st, 2nd, and 3rd tier subcontractors.

FHWA requires that all subcontracts at any tier be in writing, per [23 CFR, Section 635.116\(b\)](#). This includes both contracts between the prime contractor and their subcontractors, and contracts between subcontractors and their agents. Each of these subcontracts shall physically contain the following documents. None of these documents can be included by reference only:

- Form [FHWA 1273 "Required Contract Provisions, Federal-Aid Construction Contracts,"](#) and
- The minimum wage rates for the contract as required by [Tennessee Prevailing Wage Rate Act](#) and [29 CFR](#).

It is the responsibility of the LG to ensure full compliance with all required provisions.

8.2.10 DBE SUBCONTRACTS AND CIVIL RIGHTS CONTRACT COMPLIANCE

As soon as possible after the award of the contract, the Contractor shall submit to the Local Government Project Supervisor a copy of the actual signed contract agreement between the contractor and the DBE subcontractor for each DBE. **The actual signed agreement(s) must be on file in the project records before the first progress estimate is paid.**

If a DBE is unable to perform work committed toward a goal, the DBE shall notify the LG by a signed statement that the DBE is unable to complete the work. The contractor shall have another DBE perform the item of work or have a DBE perform other items to replace the original DBE commitment amounts. If a replacement cannot be obtained the contractor shall

provide the LG with documentation of good faith efforts. Please refer to [TDOT Special Provision \(SP\) 1247](#) and www.tdot.state.tn.us/civil-rights/smallbusiness/ for further guidance.

The TDOT Civil Rights Division may be contacted to obtain additional guidance on Good Faith Effort determinations. If a DBE is unable to perform the work which they committed to perform, the prime contractor/consultant should notify the LG. Adequate effort should be made to replace the dollar amount of the lost DBE commitment.

If the contract has a DBE Goal, a copy of the signed sub-contract agreement between the Prime Contractor and the DBE Sub-Contractor must be in the project records (DBE file) before the first progress estimate can be paid. Additional information regarding Disadvantaged Business Enterprises is located in [Chapter 7: Civil Rights Compliance](#).

At the Pre-Construction Conference, the Prime Contractor shall identify all DBE subcontractors indicating approximate dates for their appearance on the project.

The DBE Company Profile ([Form 8-8a](#)) and DBE Material Supplier/Trucker Contract Certification ([Form 8-8b](#)) shall be completed in accordance with [Circular Letter 1247-01](#) once the DBE contracts are in place as outlined in [Section 7.2.9](#). Contact the Local Government DBE Liaison for a copy of the completed DBE Company Profile. A DBE Company Profile and the DBE Material Supplier/Trucker Contract Certification shall be completed for each DBE on the project and kept by the LG for records.

The Commercially Useful Function (CUF) Checklist ([Form 8-9](#)) shall be completed for every DBE on all projects and submitted to the TDOT Civil Rights Office via their web address (tdot.dbe.program@tn.gov). The Local Government Project Supervisor shall assume the responsibility of completing the CUF Checklist. The Project Inspector shall initiate the CUF Checklist as soon as the DBE starts work. The date on the CUF Checklist (Date of Review) should be the date the actual observation was made. The Project Supervisor shall send the original to the DBE Liaison. A copy of the completed DBE Company Profile and a copy of the CUF Checklist shall be sent to the TDOT Civil Rights Office with a copy provided to the LPDO.

All work activities performed by a DBE shall be monitored and documented to ensure compliance. All work performed by a DBE shall be documented separately in the Project Diary. The DBE name, equipment, labor, and the type of work performed shall be documented. The acronym DBE shall be written beside the DBE name to distinguish DBE status. The project inspector shall ensure the DBE is performing the work reflected on the Sub-Contract.

8.2.11 CONSTRUCTION

All construction shall be completed in full compliance with the contract documents, including the Bid Book, TDOT Standard Specifications for Road and Bridge Construction, and TDOT Standard Drawings.

The TDOT Regional Construction Manager and Materials & Tests Manager will each assign a TDOT representative to participate in the project pre-construction conference. The TDOT Construction Representative will conduct routine project reviews (at designated intervals as described in [Circular Letter 105.11-01](#)), attend progress meetings, and participate in the final inspection. For non-traditional projects, the LPDO may elect to utilize a consultant firm to

conduct oversight reviews. The TDOT Regional office will need to verify with the LPDO if an oversight consultant firm will be used.

The TDOT Operations' Circular Letter File contains general guidance and requirements for the proper administration of projects. The Circular Letters can be found at: <https://www.tn.gov/tdot/topic/transportation-construction-circular-letters>.

8.2.12 REDUCED REQUIREMENTS FOR NON-HIGHWAY ROADWAY CONSTRUCTION PROJECTS OR NON-CONSTRUCTION PROJECTS

Reduced requirements for non-traditional projects can be found in [Chapter 10: Non-Traditional Projects](#).

8.2.13 PRE-CONSTRUCTION CONFERENCE

Before any work begins, a pre-construction conference shall be held (Standard Specifications, [Section 105.06](#)) by the Local Government's Project Supervisor to discuss the contractor's plan of operation, required contract provisions, environmental commitments if applicable, erosion control, traffic control/work zone safety, utility relocations, inspection, materials acceptance, independent assurance, quality control plans, certified payrolls, DBE/sub-contractors (approximate mobilization dates), etc. Minutes (Pre-Construction Conference Minutes Form) shall be kept of this conference, including an attendance roster (Pre-Construction Conference Sign-in Sheet), and key decisions shall be fully documented. A copy of these minutes should be emailed to all attendees and to Local.Programs@tn.gov.

A meeting announcement (Pre-Construction Conference Notice) ([Circular Letter 105.06-01](#)) ([Form 8-10a](#)) shall be sent 14 days in advance, to all parties with a vested interest in the project including, but not limited to: prime and sub contractors, material suppliers, permitting agencies, utility owners, the [TDOT District Operations Engineer/Manager](#), [TDOT Regional Materials and Tests Supervisor](#) and other affected LGs.

TDOT Materials & Tests Office and TDOT District Operations Office representatives must be present at the Pre-Construction Conference. If both of these offices are not represented at the Pre-Construction conference, the Pre-Construction conference must be postponed until TDOT representatives can be present.

In the Pre-Construction Conference, the following documents will be required.

- Pre-Construction Notice ([Form 8-10a](#))
- Pre-Construction Conference Meeting Minutes ([Form 8-11a](#))
- Pre-Construction Conference Sign-in Sheet ([Form 8-12](#))

In the case that Erosion Control and/or Utility Conferences are necessary, refer to [Section 8.2.14](#) and/or [Section 8.2.15](#).

8.2.14 ENVIRONMENTAL (EROSION CONTROL CONFERENCE)

An emphasis shall be placed on maintaining the construction project in regard to Environmental requirements. Construction projects require various permits to allow construction work to be performed. Refer to the [Statewide Storm Water Management Plan](#)

[\(SSWMP\)](#). The SWPPP, the erosion control plans, and all applicable environmental permits shall be adhered to on the project.

Various permits require routine inspections of erosion control measures, documentation of environmental issues that arise, and completion of various reports. The LG shall be responsible for compliance with all applicable environmental regulations, including reporting and records keeping ([Circular Letter 209.01-02](#), [Circular Letter 209.01-03](#), [Circular Letter 209.01-04](#), [Circular Letter 209.01-05](#), [Circular Letter 209.06-01](#)).

In the case that a separate Erosion Control Conference is necessary due to the magnitude of environmental work related to the contract, the following documents will be required.

- Erosion Control Conference Notice ([Form 8-10b](#))
- Erosion Control Conference Meeting Minutes ([Form 8-11b](#))
- Erosion Control Conference Sign-in Sheet ([Form 8-12](#))

8.2.15 UTILITIES AND RAILROADS

For utility steps, flow charts, and details, refer to [Chapter 6: Right-of-Way \(ROW\), Utility and Railroad Procedures](#).

Various highway projects require the adjustment of utility facilities to accommodate the activities of the highway contractor as well as meet the physical requirements to improve the section of the highway. Utility relocation work can be performed as part of the contract or prior to start of construction on the project. In either case, adequate documentation shall be maintained. In various circumstances the appropriate utility may be reimbursed for expenses incurred for the relocation. Reimbursement will be determined before utility work begins.

In the case that a separate Utility Conference is necessary due to the magnitude of utility work related to the contract, the following documents will be required:

- Utility Conference Notice ([Form 8-10c](#))
- Utility Conference Minutes ([Form 8-11c](#))
- Utility Conference Sign-in Sheet ([Form 8-12](#))

8.2.15.1 UTILITY RELOCATION **NOT INCLUDED** IN THE CONTRACT (NON-REIMBURSABLE OR REIMBURSABLE)

There are contracts in which the utility relocation work is not included in the LG contract as bid items. The relocation work is performed before the construction work begins. The appropriate utility shall be directed to notify the Local Government's Project Supervisor when a work begin date is determined. The LG shall provide authorization for the utility to go to work. The Utility shall then submit billings to the LG. LG inspects and certifies that relocation work bill is done in accordance with the approved plans and estimates. LG makes payment of invoices for contracted utility relocation.

The Project Utility Diary (DT-0667) ([Circular Letter 105.07-04](#)) ([Form 8-13](#)) is used to document the relocation work performed. The Project Utility Diary shall be used on all projects requiring utility relocations, to document the relocation work whether the work is reimbursable or not. The Project Utility Diary section "Description of Work Performed": will be the only

documentation required. However, the documentation shall note if the work is reimbursable or not. The work start date and work complete date shall be noted.

8.2.15.2 UTILITY RELOCATION INCLUDED IN THE CONTRACT

Utility relocation work included in the contract requires documentation of utility item installed quantities. The quantities are paid on the progress estimate.

The appropriate utility company shall provide an inspector to document and certify the items used in the utility relocation.

The following documentation is required for utility relocation work included in the contract:

- Project Utility Diary (DT-0667)([Form 8-13](#))
- Utility Item Certification/Final Acceptance (DT-1716)([Form 8-14](#))
- Summary of Installed Utility Items

8.2.15.3 RAILROADS

For projects with railroad involvement, once construction is complete, the LG shall submit a Railroad Completion Notice ([Form 8-15](#)).

8.2.16 PROJECT SITE BULLETIN BOARD

A project site bulletin board is required on all federal-aid projects. The bulletin board must display required posters as noted in [Circular Letter 1273-01](#), Project Site Poster board.

The [Department of Labor and Workforce Development](#) lists on their website all the posters required by the Tennessee State Government and those required by the Federal Government for all Tennessee Employers. The posters may be downloaded off of the website and printed. The posters are located under the Online Services menu option under [Posters](#).

The Civil Rights Division Regional Contract Compliance Officer can provide assistance in locating the posters/documents that are required in regard to DBEs, EEO, and Title VI.

8.2.17 CONTRACT ADMINISTRATION

Quality contract administration is a requirement to ensure that the construction project is built in accordance with the plans, specifications, and special provisions and is completed by the projected completion date. Refer to [Form 8-16](#) for Local Government Construction Checklist.

File Management - Project files shall be neatly organized to adequately document and record all project correspondence, and provide full support for all payments and decisions made including material certifications and test reports, calculations, invoices, etc. in accordance with [23 CFR 635.123](#).

Project files shall consist of the contract applicable files as required by [Form 8-6](#). Additional project files may be added as deemed necessary.

Proposal Contract Book - The executed Proposal Contract contains project information including contract items, item descriptions, unit prices, the total contract bid amount, special provisions, in addition to the required signatures to execute the contract.

Starting Notice - As soon as possible after work starts, the Local Government's Project Supervisor or Local Government Official shall send a notice ([Form 8-17](#)) by email that work has started to the LPDO (Local.Programs@tn.gov) and all others copied on Form 8-17.

Project Meetings - Several project meetings are held throughout construction of the project.

Partnering, scheduling, and progress meetings are held during construction. Detailed meeting minutes shall be documented and kept in the project records "Correspondence File". A meeting sign-in-sheet shall accompany the meeting minutes.

Progress meetings shall be held, at a minimum, quarterly to discuss the status of the project and other project issues. The Local Government's Project Supervisor, Local Government Official and the TDOT representative shall be notified of the scheduled progress meetings.

Attestation of Illegal Immigrants ([Circular Letter 102.01-02](#)) ([Form 8-18](#)) The Prime Contractor shall certify they are not knowingly utilizing the services of illegal immigrants in the performance of each contract.

8.2.18 PROJECT INSPECTION AND DOCUMENTATION

The LG/CEI shall maintain an adequate, qualified staff to administer the inspection and material sampling and testing in accordance with all circular letters, specifications, standard drawings, and contract documents. As previously noted, the services of a qualified CEI firm, unless otherwise approved by TDOT, shall be used for the inspection of work, the sampling and testing for acceptance ([TDOT SOP 1-1](#)), and proper and sufficient documentation of acceptance. The inspection staff shall be qualified and knowledgeable about the type of work taking place, be familiar with the contract documents, and certified in accordance with TDOT Standard Operating Procedures ([TDOT SOP 1-3](#)) when conducting sampling and testing of materials for acceptance.

The TDOT representative will conduct routine project reviews, attend progress meetings, and participate in the final inspection of the project. The Local Government Project Supervisor and the Local Government Official responsible for the project shall be present at project reviews and the final inspection. Refer to [Circular Letter 105.11-01](#) for detailed information on the frequency of the project reviews. Any findings during the project reviews shall be responded to in writing by the Local Government Project Supervisor and the Local Government Official.

The LG/CEI shall conduct all acceptance testing ([TDOT SOP 1-1](#)). A representative from TDOT Regional Materials and Tests shall conduct all verification and independent assurance testing for the local project in accordance with ([TDOT SOP 1-2](#)).

Various methods shall be used to document project activity. Daily activities are documented in the project diary, work item quantities are documented in the field book, adjustments/additions/deductions are calculated using worksheets, and specific reports and checklists are used to establish the quality of work. A Project Diary template and loose-leaf field book templates are available on the [LPDO website](#).

The Local Government's Project Supervisor, project office personnel, and inspectors are required to maintain accurate and complete records of all construction work. All records shall be made available for review at TDOT's request.

It is of prime importance in the administration of a contract that measurements and calculations of contract item quantities are accurate, that records of such quantities are complete and detailed enough to sustain audit, and that records of all other activities pertaining to the contract contain sufficient details and are clear enough to be read and understood by anyone unfamiliar with the project.

Project files shall be neatly organized to adequately document and record all project correspondence, and provide full support for all payments and decisions made including material certifications and test reports, calculations, invoices, etc. in accordance with [23 CFR 635.123](#).

Common types of documentation:

- Project Diary
- Item Documentation
 1. Field book documentation
 2. Item quantity tickets
 3. Work item quantities
 4. Cross-section quantities
- Bridge Foundation Information
- Item Adjustment Worksheets
- Certified Public Weigher Review
- Asphalt
 1. Hot Mix Asphalt Plant Inspector Checklist ([Circular Letter 407.04-01](#)) ([Form 8-19](#))
 2. Hot Mix Asphalt Roadway Inspector Checklist ([Circular Letter 407.14-01](#)) ([Form 8-20](#))
- Bridge Deck
 1. Pre-Pour Checklist ([Form 8-23](#))
 2. During Checklist ([Form 8-24](#))
 3. Post Pour Checklist ([Form 8-25](#))
- Safety
 1. Work Zone Traffic Control Inspection Form ([Circular Letter 712.07-01](#)) ([Form 8-21](#))
- Guardrail
 1. Guardrail and Guardrail Terminal Anchor Daily Field Report ([Circular Letter 705.05-01](#)) All guardrail shall be inspected at the time of installation.

Guardrail end terminals shall be tagged using the appropriate Guardrail Decal.

2. Guardrail Inspection Form for Deficient or Deviated Terminal Units – Deficient Guardrail found upon inspection shall be documented on the Guardrail Inspection Form for Deficient or Deviated Terminal Units
3. The Guardrail Decal and Guardrail Inspection Form for Deficient or Deviated Terminal Units are available from the Regional Materials and Tests office.

8.2.19 CONSTRUCTION INSPECTION OF STRUCTURES

The requirements in [Section 8.2.18](#) shall apply to construction inspection of structures in addition to the following requirements.

The Bridge Construction Inspector's Checklist (Form 8-22) **shall be completed for each bridge on the project and forwarded to the Division of Structures at completion of the work along with an electronic copy of the contract drawings.**

A qualified construction inspector shall be on site to view foundation conditions and substructure construction including but not limited to: driving of piles, concrete pours, girder erection, steel spacing and elevations, deck pouring operations ([TDOT SOP 4-1](#)), and other structural appurtenances as necessary. **This inspector will be responsible for maintaining a daily diary.** A certification from the Engineer of Record confirming compliance with TDOT standard construction procedures shall be required.

For the bridge foundation, the following information must be documented for abutments, piers, etc.

- Footing Elevations
- Pile Cut-off Elevation
- Pile Tip Elevation
- In Place Pile Length

This information shall be documented on the Field Book- Footing Table and the Field Book- Pile Data Table in the Field Book Sheets.

A Pre-Pour Meeting shall be scheduled and conducted prior to any bridge deck pours ([Circular Letter 604.17-01](#)). The following forms are required when pouring a bridge deck.

- Bridge Deck Pre-Pour Checklist ([Form 8-23](#))
- Bridge Deck During Pour Checklist ([Form 8-24](#))
- Bridge Deck Post-Pour Checklist ([Form 8-25](#))

After the bridge is completed to the satisfaction of the LG's inspector, the LG must contact the TDOT Regional Bridge Engineer to arrange an inspection prior to the contractor de-mobilizing. **A minimum four week notice should be provided for the TDOT Regional Bridge Engineer.**

On new bridge construction as well as bridge repair projects, the Local Government Project Supervisor shall contact the TDOT Regional Bridge Engineer to request an initial acceptance inspection, that the bridge construction, not necessarily the whole project is

complete. Even if the approach work is not already in place, the bridge inspectors can do their initial inspection of the structure and document any deficiencies they discover. Their inspection report, listing those deficiencies, can be copied to the Project Supervisor for the contractor to address before leaving the project.

The final closeout of contracts between the LG and TDOT cannot occur without a copy of the TDOT Bridge Inspector's findings and resolution of any listed defects.

A compact disc (CD) containing as-built drawings and final foundation type, including footing elevations and lengths of individual piles, along with all approved shop drawings, shall be furnished to the Division of Structures prior to final payment of funds to the LG. The Structures (Construction) Checklist ([Form 8-26](#)) shall also be submitted with the as-built plans. A copy of the letter transmitting this CD shall be sent to the LPDO at Local.Programs@tn.gov.

8.2.20 PLANS AND WORKING DRAWINGS (SHOP DRAWINGS)

The construction plans, generally, will show sufficient details and dimensions to define the work. When additional details and dimensions are needed, the contractor shall prepare working drawings and submit them to the Engineer of Record for approval. In any case, the fabricator shall be construed to be an agent of the contractor and any changes from the construction plans submitted by the fabricator shall be considered as made by the contractor. All costs for changes will be at the expense of the contractor. Shop drawings for all types of structures shall be submitted by, or on behalf of the contractor, directly to the Engineer of Record unless noted otherwise in plans or specifications, for handling with the checking agency and for distribution. Proof of appropriate fabricator certification (as required by these specifications) for type of structure to be fabricated shall be submitted along with the shop drawings. The following items require submittal of shop drawings by the contractor:

- Structural Steel, Metal Bridge Rails, Bearing Devices (shop drawings not required for plain elastomeric bearing pads), Bridge Deck Drains (shop drawings not required if fabricated according to applicable Standard Drawing), Navigation Lighting Support Brackets, Precast Prestressed Concrete Beams, Precast Prestressed Concrete Deck Panels, Precast Reinforced Concrete Beams, Precast Reinforced Concrete Box Culverts, Post-tensioned Concrete, Roadway Expansion Devices, Steel Stay-In-Place forms, Energy Attenuation Devices, Overhead and Cantilever Sign Structures, Strain Poles, Street Lighting Poles, High Mast Poles with Accompanying Lowering Devices, Photometrics, Cofferdams and any other items when indicated on plans. Also required are erection drawings for steel structures, drawings of falsework, bracing, cofferdams, sheeting, bending of reinforcing steel and other supplementary plans called for by the Engineer of Record.

Each shop drawing sheet shall contain in the title block the following:

- Project number
- County
- Bridge name
- Bridge number (or structure type and number)
- Station
- Contract number

- The words “Locally Managed Project”

Shop drawings shall be submitted in sets with the drawing numbers running consecutively in each set, and, if more than 5 sheets in a set, shall be appropriately bound. Shop drawings marked “APPROVED” or “APPROVED AS NOTED” need not be resubmitted unless specifically instructed.

Shop drawings shall be a minimum of 8-1/2 x 11 inches in size. Legible half-size copies (11 x 17 inches) of full size drawings are acceptable for submittal. The minimum number of sets of shop drawings shown below shall be submitted for approval. Only one (1) set will be returned to the fabricator unless specifically requested and the additional set(s) requested to be returned is submitted along with those shown below. For consultant designs, an additional set is required. For railroad structures, three (3) additional sets are required. Copies should be kept in LG’s files.

Two Sets: Structural Steel (Half-size sets shall be submitted for approval. Four (4) additional sets, two (2) full-size and two (2) half-size, will be required after final approval.)

Four Sets: Energy Attenuation Devices, Overhead and Cantilever Sign Structures, Strain Poles, Street Lighting Poles, High Mast Poles with Accompanying Lowering Devices, Photometrics (Submit directly to Special Design Office, Structures Division), Cofferdams

Six Sets: Metal Bridge Rails, Bearing Devices (shop drawings not required for plain elastomeric bearing pads), Bridge Deck Drains (shop drawings not required if fabricated according to applicable Standard Drawing), Navigation Lighting Support Brackets, Precast Prestressed Concrete Beams, Precast Prestressed Concrete Deck Panels, Precast Reinforced Concrete Beams, Precast Reinforced Concrete Box Culverts, Post-tensioned Concrete, Roadway Expansion Devices, Steel Stay-In-Place forms, and any other type of structural shop drawing not specifically listed.

All working drawings shall be approved by the Engineer of Record; such approval shall be general in nature and shall not operate to relieve the contractor of any of his responsibility under the contract for the successful completion of the work. In addition to such approval, working drawings involved in construction over or under railroad tracks will require approval of the railroad company before approval is granted by the Engineer of Record. The contractor shall submit four sets of plans for any cofferdams, sheeting and bracing details for bents or piers adjacent to a track, and falsework for erecting the spans over tracks, and the method of installation for the protection of the tracks, to the Engineer of Record. No work shall be started until these plans are approved by the LG and the Chief Engineer of the railroad. Approval of these plans will not relieve the contractor from liability. The above also applies in connection with the installation of pipes, culverts, etc. adjacent to or under railroad tracks. The cost of preparation of working drawings will not be paid for separately but shall be included in the prices of the respective contract items involved.

8.2.21 EROSION PREVENTION/SEDIMENT CONTROL (EPSC) INSPECTION

It is essential that the SWPPP, SWMPP, and erosion control plans be followed and revised as needed to fully comply with the environmental permits on each project. The LG and the CEI shall conduct routine project inspections and document the findings to ensure that the SWPPP and SSWMP is being followed and that non-compliance is unlikely. Note: As stated earlier in this manual, the SSWMP only applies to projects inside State highway ROW.

The LG is encouraged to acquire the services of an independent, certified professional in Erosion and Sediment Control (CPESC) certified erosion control consultant on projects with an NPDES or ARAP permit to conduct project inspections. The purpose of the inspections is to provide a “third party” independent review to ensure that the EPSC devices are installed and maintained as required, ensure the requirements of the permits are being documented and followed, and, if asked, provide recommendations. The inspections should be conducted monthly, or more frequent if violations or repeat non-conformances occur.

Erosion Prevention/Sediment Control Construction Inspection Report (Form 8-27) - This report shall be completed for the evaluation of erosion and sediment control measures on all projects that are subject to the requirements of the NPDES General Permit for Storm Water Discharges from Construction Activities. This report shall also be used to document Contractor compliance with erosion and sediment control requirements in conformance with ARAP, Corps of Engineers, and/or TVA permits. An Inspection Report template and sample, along with instructions, are noted in [EPSC Inspection Manual](#). The fillable version of the report is available as [Form 8-27](#) on the [LPDO website](#).

Class V Underground Injection Control (UIC) Permit – Circular Letter 209.06-01 establishes the procedures for applying for a UIC Permit on an active construction project in the event that depressions (sinkholes with open throats) are encountered on or bordering the project site during construction activities.

Construction Related Sediment Removal – Circular Letter 209.01-03 establishes the procedures for removal and/or stabilization of sediment discharges caused by active construction projects to non-jurisdictional areas, as well as jurisdictional areas, within or beyond the project’s construction limits.

Waste/Borrow Site Weekly EPSC Inspection Review Report – This report shall be completed for the evaluation of approved project exclusive waste/borrow sites. The contractor is responsible for performing twice weekly EPSC inspections of the site and must have a certified EPSC inspector as required by the TDEC Construction General Permit. Instructions for completing this report are noted in [Circular Letter 209.01-04](#).

Notice of Termination (NOT) (TDEC CN-1175) – Storm Water Discharges Construction Activity (Circular Letter 107.08-01) (Form 8-28) - This form notifies the Tennessee Department of Environment and Conservation of the request to termination of coverage from the General NPDES Permit for Discharges of Storm Water Associated with Construction Activities. Instructions for completing the NOT form are noted in [Circular Letter 107.08-01](#).

Upon concurrence of final stabilization by all involved parties, the NOT form shall be completed by the Local Government Project Supervisor and submitted to the local WPC Environmental Field Office address indicated on the form.

8.2.22 CERTIFIED PAYROLL AND LABOR COMPLIANCE INTERVIEWS

As required in [TDOT Special Provision 1273](#), Section V, ([23 CFR 635.118](#)) the contractor, and subcontractors, shall submit a weekly payroll of wages paid to each employee with a certification statement (refer to [Sample Payroll](#)). [Circular Letter 1273-02](#) provides additional information.

The CEI or LG shall conduct at least one (1) contractor employee interview monthly to verify that the payroll submitted is accurate and employees are being paid properly (hours and

wages). [Circular Letter 1273-03](#) provides additional guidance on the required employee interviews.

8.2.23 PROGRESS PAYMENTS

The LG shall make monthly partial progress payments to the contractor in general accordance with [Section 109.06](#) of the TDOT specifications, [23 CFR 635.122](#), and [Circular Letter 109.02-02](#).

Progress payment reimbursement requests submitted to TDOT shall contain all the necessary documentation and certifications as required in [Chapter 9](#) of these guidelines.

Monthly Engineer's Estimate - Item quantities paid on engineer's estimates shall be supported by field documentation as directed in the Item Documentation instructions. Each item's current estimate quantity documented in the Field Book shall be referenced to the respective engineer's estimate number where payment was made. The reference shall be placed in the remarks field on the Field Book sheet.

Material Certifications covering each item's current estimate quantity shall be on file before payment may be processed. ([Circular Letter 109-02.02](#))

Additional information documented on the progress estimate:

- Documented reason as to why Liquidated Damages are not being assessed on the current progress estimate when the contract days charged has overrun the original contract days allowed.
- Local Government Project Supervisor's signature approving estimate payment also certifies that the required labor interview has been conducted.
- Local Government Project Supervisor's signature certifies that the required material certifications are on file for each item's current estimate quantity.

Monthly Construction Report - At the end of each estimate period a Monthly Construction Report is sent to the Contractor and a copy is sent to the Surety. The Monthly Construction Report documents the status of the project in regard to % of time used vs. % of contract amount paid. A 15% variance of time over amount shall be explained.

8.2.24 PROMPT PAYMENT AND RETAINAGE

The prime contractor shall pay each subcontractor no later than thirty (30) days after payment is received from the LG ([T.C.A. 12-04-707](#)). The Certification Regarding Prompt Payment to Subcontractors and Material Suppliers and DBE/SBE Payment Summary Form ([Form 8-29](#)) must be completed by the Prime Contractor to certify each month that payment has been made to the appropriate subcontractors and submitted monthly to the TDOT Civil Rights Office via their web address (TDOT.DBE.Program@tn.gov). The prompt payment form will run two months in arrears (example: to pay the progress payment for March 2016 the prompt payment form for January 2016 must be on file). More information on certification of prompt payment can be found in [Circular Letter 109.02-05](#). Please refer to [TDOT Special Provision \(SP\) 1247](#) and <http://www.tn.gov/tdot/topic/small-business> for further guidance.

In addition, **the LG may not withhold retainage on progress payments from the prime contractor and the prime contractor may not withhold retainage from their subcontractors.**

8.2.25 ALTERATIONS AND EXTRA WORK (CHANGE ORDERS OR PLAN REVISIONS)

The construction industry recognizes that it is unrealistic to expect that a construction project could be built without deviating from the project plans. Although project designers should be diligent and exercise due care in developing the plans, they are not omniscient. There are many peculiarities (e.g., unforeseen site conditions, utility conflicts, changes in the geology, etc.) that can arise during construction and virtually every project should expect changes. Only the construction engineer is in a position to judge the adequacy of project designs and respond to needed changes. The LG may initiate a Plans Revision.

Extra work shall be completed in accordance with subsections [104.02](#) and [104.03](#) of the TDOT Standard Specifications as outlined in [23 CFR 635.120](#). Any changes to the original proposal contract or plans must be documented by a Local Programs Change Order ([Form 8-30](#)) along with all supporting documentation for costs associated with the Change Order. The request must be submitted to the LPDO for funding eligibility approval prior to proceeding with the Change Order request.

After approval is received from the LPDO, it can then be signed by the contractor, his surety, and Local Government Project Supervisor. An executed copy shall also be submitted to the LPDO. The approved change order becomes part of the contract. In addition, a Summary Change Order shall be prepared and submitted to TDOT as outlined in [Section 8.4.3](#).

Upon receipt of a Plans Revision Request, a plans revision shall be made by the "Engineer of Record" to the plans when an error, omission, correction, or additional detail is needed. Plans revisions shall be documented by the following information:

1. Revision Number – Revisions shall be numbered consecutively throughout the life of the project.
2. Revision Date – The effective date of the revision.
3. Brief Description – A brief description as to the basis of the revision.

8.3 MATERIALS AND TESTS (M&T)

The quality of materials on the project and tests performed must conform to all applicable ASTM and AASHTO Standard Specifications for Transportation Materials and Methods of Sampling and Testing, most current edition.

The LG or CEI shall provide the [TDOT Regional Materials Supervisor](#) a set of plans and a copy of the bid book for each project prior to the Pre-Construction Conference as outlined in [Section 8.2.7](#).

The [Local Government Contact Information Form](#) must be filled out prior to beginning construction to indicate where invoices for material testing charges should be mailed. E-mail the completed form to TDOT.MaterialsTests@tn.gov. Material testing charges are reimbursable. In order to receive reimbursement, the LG must first remit payment back to TDOT. After the invoice payment clears, the LG may then request a Construction Phase reimbursement from the LPDO as outlined in [Chapter 9](#).

Asphalt and concrete mix designs shall meet TDOT specifications. All mix designs should be a TDOT preapproved plant specific design. In the event a non-standard design is called for, approval shall be the responsibility of the LG. These non-standard designs shall be submitted to the LG following the same submittal process as those submitted to TDOT and outlined within TDOT Standard Operating Procedures [SOP 4-4 \(Concrete\)](#) and [SOP 3-4 \(Asphalt\)](#).

Construction Inspection and Approval must conform to Federal-Aid Policy Guide [23 CFR 637 subpart B](#) – Quality Assurance Procedures for Construction.

The Quality Assurance Procedures for Construction as set forth in the federal policy generally consists of the following points:

- All materials used on the project must have test reports, material certifications and/or field testing by certified personnel to document that the material meets appropriate specifications.
- Testing shall be in accordance with a FHWA approved testing program which includes procedures for the sampling, testing and acceptance of materials and products. The source for each type of material must be on [TDOT's Qualified Product List](#) or [Producer/Supplier List](#).

8.3.1 ACCEPTANCE TESTS

Acceptance samples and tests are used for determining the quality and acceptability of the material and workmanship which have been or are being incorporated in the project. The results of these tests are to be used by the LG to determine conformance to contract documents.

LG/CEI shall conduct Acceptance Sampling and Testing in accordance with [TDOT SOP 1-1](#). Acceptance testing may be conducted by a 3rd party laboratory, accredited through the [AASHTO Accreditation Program](#) (AAP). The LG must have the 3rd party laboratory's AASHTO Materials Reference Laboratory (AMRL) and/or Cement and Concrete Reference Laboratory (CCRL) accreditation on file prior to testing. A list of accredited laboratories can be found at the [AMRL website](#).

TDOT Regional Materials & Tests shall conduct all verification and independent assurance testing for the local project in accordance with TDOT Standard Operating Procedure.

All materials incorporated in the construction of the project shall be approved regarding material requirements. Materials used on the project must have test reports, material certifications, and/or field testing by certified personnel to document that the materials meet appropriate specifications.

Estimated item quantities shall not be paid without the proper material certification on file in the appropriate project file. Item payment shall be withheld until the proper approved material certification is in hand.

Materials delivered to the project site used in work shall be in compliance with TDOT Specifications, Qualified Products List or other contract documents when TDOT specifications are utilized.

Materials accepted by certification require a T-2 form attached to the certification. [Form 8-31 \(DT-0044LP\)](#) is the Contractor Material Certification and/or Sampling & Testing Record. Material Certifications shall be date appropriate according to the date the material was used.

Materials not accepted on certification shall have daily reports documenting the actual test results.

The required forms for material certifications/test reports are located at <http://www.tn.gov/tdot/article/transportation-materials-tests-division-field-operations-forms>. Each form has an example completed form.

All Material Certifications/Test Reports shall be documented by the LG/CEI. There shall be a test report totals summary for every item that requires certification/test reports for materials used.

8.3.2 PROJECT MATERIALS ACCEPTANCE

Products delivered to the project site for use in the work shall be in compliance with TDOT Specifications, [Qualified Products List](#), or other contract documents. Products accepted by certification shall have a materials certification attached to a completed [Form 8-31](#), or similar, stating the TDOT test requirements and certified test results. Other products shall have daily reports showing actual test results. Progress payments should not be made on an item if there are insufficient certifications or test data for that item ([Circular Letter 109.02-02](#)).

All materials shall be accepted in accordance with this manual and [TDOT Standard Operating Procedures \(SOP\)](#).

8.3.3 VERIFICATION TESTS

Verification samples and tests are those used for validating the quality of a product which is being incorporated into the project. LG or CEI shall be responsible for obtaining verification samples in accordance with [TDOT SOP 1-1](#) and submitting to TDOT Materials & Tests. TDOT Materials & Tests shall conduct Verification Testing in accordance with [TDOT SOP 1-1](#).

The CEI or the LG shall notify the [TDOT Regional Materials Supervisor](#) at least 72 hours prior to the start of work requiring verification testing.

8.3.4 INDEPENDENT ASSURANCE TESTS

Independent assurance samples and tests are used for the purpose of making checks on the reliability of the results obtained in acceptance sampling and testing. An independent assurance technician will be responsible for observing the acceptance technician conduct the tests to ensure that the proper techniques and procedures are followed.

TDOT Materials & Tests shall conduct Independent Assurance Sampling and Testing in accordance with [TDOT SOP 1-2](#). Independent Assurance testing is only required for projects on the National Highway System (NHS).

The CEI or the LG shall notify the [TDOT Regional Materials Supervisor](#) at least 72 hours prior to the start of work requiring Independent Assurance testing.

Independent assurance sampling shall be conducted at the minimum frequency established in [TDOT SOP 1-2](#). A prompt comparison of acceptance test results with independent assurance test results will be made by the TDOT representative. This comparison must be documented in the project records. If the comparison indicates a problem either with the materials or with the testing methods, action must be taken immediately to resolve the problem.

8.3.5 PROJECT MATERIAL CERTIFICATION

At the completion of the project, the [Local Programs Material and Tests Certification \(DT-1696LP\)](#) with supplement form, including documentation for all failing material tests and the corrective action taken, shall be completed by the LG and submitted to the LPDO. This assures compliance with [23 CFR 637.207](#). The certification document shall be placed in the End of Job file. The intent of the material certification is to ensure that the quality of all materials incorporated into the project is in conformance with the plans and specifications.

8.4 FINAL INSPECTION/ACCEPTANCE

When all work is complete, the Local Government's Project Supervisor and the Local Government Official responsible for the administration of the project shall conduct a final inspection of the project along with the CEI and with TDOT's participation, to determine the quality, completeness, acceptability, and ADA compliance of the work and to ensure that the authorized project was constructed in reasonable conformance with the contract requirements. Refer to [Circular Letter 105.11-01](#) for additional information on resolving issues found during the inspection (Punch List items). [Form 8-32](#) may be used as a template to document punch list items.

All local projects with bridges greater than or equal to 20 feet long shall receive an initial inspection by TDOT bridge inspectors to develop a punch list prior to acceptance. TDOT Standard Specifications [105.15](#) and [108.06](#) provide the general guidance to determine the acceptance date of the project. Final as-built information for structures shall be submitted as outlined in [Section 8.2.19](#).

Any work that has not been completed in accordance with the contract after the established contract completion date (or working days) shall be assessed liquidated damages ([23 CFR 635.127](#)).

Documents relating to the Final Inspection shall be included in the End of Job folder. The Final Inspection Date shall be documented in the project diary. Also, the attendees at the inspection shall be listed and if applicable, the work that must be performed to complete the project (Punch List).

8.4.1 COMPLETION NOTICE

The Local Government Project Supervisor shall send to the LPDO, TDOT Operations Representative, TDOT Regional Materials and Tests Supervisor, contractor, and surety a Completion Notice ([Form 8-33](#)) indicating that all items of work have been inspected and are complete. The notice shall be sent as soon as possible after all items are accepted as complete. The completion date is the date time charges are stopped. This notice shall be sent by email to Local.Programs@tn.gov.

8.4.2 FULL SETTLEMENT/CLAIMS

Full settlement shall be made in accordance with [T.C.A. 54-05-122](#). The LG shall be required to provide the necessary notice in a newspaper of general circulation as stated in T.C.A. 54-05-122. The contractor shall also provide an affidavit ([Form 8-34](#)) as evidence that materials, labor, and payment comply with this statute.

Any claims against the LG should be made in accordance with Sections [105.16](#) and [107.19](#) of TDOT Standard Specifications and [23 CFR 635.124](#).

The LG will issue a Completion Notice to advertise the construction contract for claims. The LG shall have a request for the filing of claims published in an area press service (with the greatest coverage) for two consecutive weeks (one advertisement per week). The notices shall include a due date for claims that meets current T.C.A. guidance, currently at least 30 days from the last published date. The LG will mail copies of the request to the Prime Contractor, Surety Agent, and the LPDO.

8.4.3 FINAL ESTIMATE AND SUMMARY CHANGE ORDER

Contract Finalization - Upon completion of the project, the quantities paid to date shall be compared to the documented final quantities. All differences shall be corrected on the Final Estimate (the presumed last progress estimate). A Summary Change Order must be prepared to adjust the contract amount to an amount that coincides with the final quantities. Provide a copy of this change order to the LPDO along with the End of Job Certificate.

Explanations of Overruns/Underruns – All overruns/underruns shall be explained in accordance with [Circular Letter 109.03-01](#). Explanations shall be attached to the Final Estimate and filed in the End of Job file.

Determination of Time based on Quantity Increase – [Circular Letter 108.07-01](#) provides additional detail on the applicability and process for increasing contract working time based on the increase in quantities of the project.

After the records have been checked by the LG, a document should be sent to the contractor displaying a comparison of the Original Quantities to the Final Quantities. Now is the appropriate time to attach a request to the Contractor for CC3s (if applicable) and any deficient material certifications required to pay the Final Estimate.

Certification Regarding Money Paid to DBEs (CC-3) - As soon as possible after the project is completed; the contractor shall submit a CC-3 form ([Form 8-35](#)) for each DBE on the project to the LG. The CC-3 form certifies the amount of monies paid the DBE for this project. The Final Estimate shall not be processed until all the CC-3s have been received and are on file in the project records. Each original CC-3 shall be filed in the End of Job file. Once the contractor submits the CC-3's, send a copy to the TDOT Civil Rights Office and the LPDO via their web addresses (tdot.dbe.program@tn.gov and Local.Programs@tn.gov).

8.4.4 END OF JOB CERTIFICATE

The End of Job Certificate ([Form 8-36](#)) is completed and signed by the Local Government Project Supervisor upon the approval that the records have been checked and are a true representation of the work that was performed, the item final quantities are correct, and the final quantities are covered by the required material certifications. The Certificate shall

be placed in the End of Job file of the Project Records. **The End of Job Certificate shall be submitted to the LPDO.** For projects with railroad involvement, once construction is complete, the LG shall submit a Railroad Completion Notice ([Form 8-15](#)). This submission will close out the project at TDOT. No requests for reimbursement may be submitted after the End of Job Certificate is submitted. Ensure that all requests for reimbursement have been submitted and processed prior to submitting the certificate to TDOT.

An “End of Job” folder shall be created to retain documents that pertain to events that occur at the completion of the project. The documents listed in this section shall be kept in the “End of Job” file of the project records.

- Final Inspection Documents
- Final Progress Estimate with Overrun/Underrun Explanations
- Completion Notice
- Advertisement for Claims Letter
- Material Certification Letter
- FHWA 1391 Reports
- CC-3 Documentation
- Prompt Payment Forms
- End of Job Certificate

8.4.5 RETENTION OF RECORDS

The LG shall maintain the project records as follows:

The Project Records shall be organized, indexed, and available for review on an as needed basis. An index shall be placed in the End of Job Folder. Boxes shall be numbered consecutively and labeled by Contract Number or Project Number, and County.

All documents shall be kept for a minimum of seven (7) years after everything is closed and finalized. These documents include, but are not limited to copies of the contract, starting notice/work order, correspondence, field books, diaries, material tickets, test reports, progress estimates, final record books, as-built drawings and specifications, contractor payrolls and certifications, field notes, and inspection reports, notice to contractors, estimates, correspondence for advertising and receiving bids, letting advertisements, bid tabulations, bid books (proposal contracts) completed by the contractor, project specifications and provisions, job estimate, contract and bond certificates.

8.4.6 MAINTENANCE OF FACILITY

The LG shall be responsible for the future maintenance of all facilities constructed under the local programs agreement with TDOT that utilize federal or state funds ([23 CFR 1.27](#)).

CHAPTER 9 - BILLING PROCEDURES

At the time of application to the Local Programs Development Office (LPDO), the Local Government (LG) must submit documentation from an appropriate fiscal officer. This documentation must state the LG has sufficient accounting system and internal controls to properly manage federal funds as verified by the A-133 audit ([OMB Circular A-133](#)), a copy of which shall be provided to the LPDO. LGs receiving funds under this program are subject to compliance audits by the Tennessee Department of Transportation (TDOT) Finance Office.

If the LG is approved to use its own forces for preliminary engineering, right-of-way (ROW), or construction purposes, the LG must submit proof of acceptance of its indirect cost rate by the LG's federal cognizant agency to the LPDO. The indirect cost rate must be updated yearly. The LPDO will verify that the rate charged on the invoices submitted for payment does not exceed this rate.

The LG must provide the LPDO with the name(s) of persons authorized to sign as "Local Government Project Supervisor" and "Local Government Official" as a part of initiating a project. The LPDO will verify the signatures on each invoice submitted for payment. Invoices received that do not contain the signature of an authorized person will not be submitted to the TDOT Finance Office for payment. The Authorized Signatures Form ([Form 9-1](#)) can be resubmitted at any time to the LPDO when authorized signatories require updates.

Invoices shall be submitted no more often than monthly, but at least quarterly, per project per phase to LPD.Invoices@tn.gov as a single PDF file, if possible. The LPDO will send acceptable invoices to the Finance Office for processing. NOTE: The LG must submit copies of checks or electronic bank payments proving that payment has been made to all consultants, contractors or vendors in order to be reimbursed for expenditures. Please note that projects for which billings are not received in a timely manner as defined by [23 CFR 630](#) is subject to de-obligation by the Federal Highway Administration (FHWA).

The LG must keep all documentation supporting amounts billed to the State of Tennessee for seven (7) years from the date the project is closed with the FHWA. This is NOT the same date as the last reimbursement from the State of Tennessee. TDOT will notify the LG when the project has been closed with the FHWA.

The Finance Office requires requests for payments to be submitted in a specific format, depending on which phase of work is being billed.

9.1 PRELIMINARY ENGINEERING AND DESIGN

The "Local Government Invoice for PE" ([Form 9-2](#)) or the "Local Government Invoice for Design" ([Form 9-3](#)) must be submitted to the [LPDO](#) for all preliminary engineering and design costs. Invoices shall be submitted no more often than monthly, but at least quarterly, per project per phase. The invoice requires supporting documentation and proof of payment (copies of checks or electronic bank payments) to be included in the request for reimbursement. The invoice must be signed prior to submittal for payment.

The supporting documentation required to be submitted with the request for reimbursement will vary depending upon whether or not the LG hires a consultant to perform the preliminary engineering/design or uses its own forces.

The Summary sheet shall be submitted with each invoice whether the work is performed by Local Forces or by a consultant.

The Cost Plus and Consultant Schedules sheets shall be submitted with each invoice where a consultant performed the work.

If a LG performs the preliminary engineering or design with its own forces, submit the Local Forces form located within appropriate phase [Form 9-2](#) or [Form 9-3](#).

The LG's consultant must sign the invoice prior to submittal for payment.

9.2 RIGHT-OF-WAY

A "Local Government Invoice for ROW" ([Form 9-4](#)) must be submitted to the LPDO for all ROW costs. Invoices shall be submitted no more often than monthly, but at least quarterly, per project per phase. The Local Government ROW Costs Invoice ([Form 9-4](#)), must be submitted with each ROW reimbursement whether the work is performed by Local Forces or by a consultant. The invoice requires supporting documentation and proof of payment (copies of checks or electronic bank payments) to be included in the request for reimbursement. The invoice must be signed by Local Government Officials prior to submittal for payment.

The supporting documentation required to be submitted with the request for reimbursement will vary, depending upon whether or not the LG hires a consultant to perform ROW activities. If the LG hires a consultant to perform ROW activities, the ROW Consultant sheet located within Form 9-4 must be submitted. The consultant must sign the invoice prior to submittal for payment.

If a LG performs the ROW activities itself, the ROW Local Forces located within Form 9-4 must be submitted. Regardless of who performs the ROW activities, the LG must also submit the ROW Purchased sheet located within Form 9-4. This sheet details direct ROW costs.

9.3 CONSTRUCTION

A "Local Government Construction Invoice" ([Form 9-5](#)) must be submitted to the LPDO for all construction costs. Invoices shall be submitted no more often than monthly, but at least quarterly, per project per phase. This invoice requires supporting documentation and proof of payment to the contractor (copies of checks or electronic bank payments) to be included in the request for reimbursement. The invoice from the consultant construction engineer and Local Government Officials must be signed prior to submittal for payment.

The supporting documentation required to be submitted with the request for reimbursement will vary depending upon whether or not the LG hires a contractor to perform all construction work. The Summary sheet must be submitted with each construction invoice whether the work is performed by Local Forces or by a consultant.

If the LG chooses to perform all construction work itself, then the Construction by Local Government Forces sheet shall be submitted. The construction engineering inspection consultant as well as a Local Government Official must sign the invoice prior to submittal for payment.

9.4 CONSTRUCTION ENGINEERING INSPECTION

A consultant engineer must be hired to perform the construction engineering inspection, regardless if the LG chooses to perform the other construction work itself, unless otherwise authorized by the LPDO. The Summary sheet must be submitted with each construction invoice whether the work is performed by Local Forces or by a consultant.

If a construction engineering inspection firm is hired, then the Engineer's Estimate located within [Form 9-5](#) must be submitted as one part of the supporting documentation. The consultant construction engineering inspection firm as well as a Local Government Official must sign this estimate prior to submittal for payment.

CHAPTER 10 - NON-TRADITIONAL PROJECTS

There are federally funded programs available for Non-Highway Construction or Service Contract (NHCSC) transportation-related projects. A Local Government (LG) may have a NHCSC project that is funded under either the current MAP-21 transportation bill or under the previous SAFETEA-LU transportation bill. Eligible projects under each bill and the method in which they must be executed are outlined in this section. Exceptions to typical transportation project guidelines are also discussed in order to provide the LG with the means to execute the project without the need to seek excessive additional approvals.

Applicable project phases and the corresponding chapter information/exceptions are outlined for each type of eligible NHCSC project. **Requirements for Chapter 7 – Civil Rights Compliance and Chapter 9 – Billing Procedures will remain the same for all Non-Traditional projects as they are previously outlined in this manual.** Except where specific exceptions are noted in this chapter, all rules and regulations as previously outlined in this manual apply to all NHCSC projects.

All procedures outlined in this manual are to be adhered to by the agency proposing to pursue the project.

PROJECTS FUNDED UNDER MAP-21

Transportation Alternatives (formerly known as both Transportation Enhancements and Safe Routes to School under SAFETEA-LU) and Congestion Mitigation and Air Quality Improvement (CMAQ) are funding programs that involve projects that may or may not be associated with a Federal-aid eligible roadway, and thus may be considered NHCS projects.

Please note that eligible NHCS project categories may not be the same as those that were formerly eligible under SAFETEA-LU.

NHCS projects funded under MAP-21 (in effect October 1, 2012) are divided into two categories as outlined below:

Non-Highway Construction projects include but may not be limited to:

- Preservation and Rehabilitation of Historic Transportation Facilities
- Building Projects (vertical structures)

Non-Construction/Service Contract projects include but are not limited to:

- Safety and Educational Activities for Pedestrians and Bicycles
- Inventory, Control, and/or Removal of Outdoor Advertising
- Archeological Activities Related to Impacts from Transportation Projects
- Workforce Development, Training, and Education Activities
- Diesel Emission Reduction Projects (diesel retrofits, idle reduction technology)
- Acquisition of Alternative Fuel Vehicles
- Transit Investments (Non-Construction/Service Contract Activities)
- Carpool, Vanpool, Rideshare Projects, Transportation Demand Management, and Education/Outreach
- Software Projects
- Purchase of Integrated, Interoperable Emergency Communications Equipment
- Establishment or Operation of a Traffic Monitoring, Management, or Control Facility
- Electric Recharging, Biofuel Refueling, and Truck Stop Electrification Facilities

10.1 NHCS PROJECTS FUNDED UNDER MAP-21

These types of projects involve construction, but do not involve any type of construction within a highway right-of-way (ROW) and are not linked to a Federal-aid highway project. They serve to preserve transportation-related historic resources and to provide access improvements to such sites.

10.1.1 PRESERVATION AND REHABILITATION OF HISTORIC TRANSPORTATION FACILITIES

This eligible activity includes historic preservation and rehabilitation activities for facilities that contribute to the historic fabric of transportation in America. These types of projects would be funded through the Transportation Alternatives program. If the local agency performing the work belongs to an MPO, the project must be included in the Transportation Improvement Program (TIP). If the LG performing the work does not belong to an MPO, the project must be included in the Statewide Transportation Improvement Program (STIP).

Chapter 3 – Getting Started

Projects will be initiated in the same manner as previously outlined in this manual for Traditional projects.

Chapter 4 – Public Involvement and NEPA Procedures

Environmental procedures and preparation of NEPA documentation will follow the same process previously described in this manual for Traditional projects.

Chapter 5 – Design Procedures

Procedures for the design phase of project development will follow the same process previously described in this manual for Traditional projects, though the design itself will be different from that for roadway construction. All historic preservation projects must adhere to Department of Interior standards and be reviewed and approved by the State Historic Preservation Office. Any architecture firms considered for the project will need to be prequalified by the Tennessee Department of Transportation (TDOT). The design will need to contain enough detail to secure the project's NEPA document. The design will need to follow [ADAAG](#) and [PROWAG](#) guidelines.

Chapter 6 – Right-of-Way, Utility, and Railroad Procedures

ROW procedures must be followed in the same manner as previously described in this manual for Traditional projects.

Chapter 8 – Pre-Construction and Construction

Procedures for the construction phase of work will be followed in the same manner as previously described in this manual for Traditional projects except in the case of the following exceptions:

- On a case-by-case basis, it is permissible for the prime contractor to complete less than 30 percent of the original contracted amount of a project. If a LG feels that their project should qualify for this exception, it should make a request to the Local Programs Development Office (LPDO) for approval.
- Neither the prime contractor nor subcontractors must be TDOT prequalified as a stipulation for qualification to submit a bid proposal. Provided the prime contractor and subcontractors are not on the TDOT Excluded Parties List, they are eligible to submit a bid proposal and to be awarded a contract without being TDOT prequalified. All DBEs must be certified by the Tennessee Uniform Certification Program in order for the work performed to count toward the DBE goal. All contractors and subcontractors must have a Tennessee Contractor's License prior to award and execution of the project contract.

- In accordance with [TDOT Special Provision 1320](#), all contractors and subcontractors, regardless of tier, are required to pay the greater rate of either the Davis-Bacon Act rate or the prevailing state building wage rate for each classification and to utilize the prevailing building wage rate (<http://www.wdol.gov/dba.aspx>) dependent on the specific project region.
- If the project is being constructed within railroad ROW and the railroad will be the sole source to perform the project work, the railroad must demonstrate that they have the expertise on staff to do so. If they cannot justify performing the work for any part of the project, then that portion of the work must be competitively bid. In addition, an agreement must be in place between the railroad and the LG as part of the ROW process before any work can begin.

10.1.2 BUILDING PROJECTS

This eligible activity involves the planning, design, and construction of vertical structures whose purposes serve to complement the transportation system. This includes the construction of new transit facilities and/or improvements to facilities that increase transit capacity. These projects may be developed using various funding programs. If the LG performing the work belongs to an MPO, the project must be included in the TIP. If the LG performing the work does not belong to an MPO, the project must be included in the STIP.

Chapter 3 – Getting Started

Building projects will be initiated in the same manner as previously outlined in this manual for Traditional projects.

Chapter 4 – Public Involvement and NEPA Procedures

Environmental procedures and preparation of NEPA documentation will follow the same process previously described in this manual for Traditional projects.

Chapter 5 – Design Procedures

Procedures for the design phase of project development will follow the same process previously described in this manual for Traditional projects. Any architecture firms considered for the project will need to be prequalified by TDOT. The design will need to contain enough detail to secure the project's NEPA document. The design will need to follow [ADAAG](#) and [PROWAG](#) guidelines.

Chapter 6 – Right-of-Way, Utility, and Railroad Procedures

ROW procedures must be followed in the same manner as previously described in this manual for Traditional projects.

Chapter 8 – Pre-Construction and Construction Procedures

Procedures for the construction phase of work will be followed in the same manner as previously described in this manual for Traditional projects except in the case of the following exceptions:

- On a case-by-case basis, it is permissible for the prime contractor to complete less than 30 percent of the original contracted amount of a project. If a LG feels that their project should qualify for this exception, it should make a request to the LPDO for approval.

- Neither the prime contractor nor subcontractors must be TDOT prequalified as a stipulation for qualification to submit a bid proposal. Provided the prime contractor and subcontractors are not on the TDOT Excluded Parties List, they are eligible to submit a bid proposal and to be awarded a contract without being TDOT prequalified. All DBEs must be certified by the Tennessee Uniform Certification Program in order for the work performed to count toward the DBE goal. All contractors and subcontractors must have a Tennessee Contractor's License prior to award and execution of the project contract.
- In accordance with [TDOT Special Provision 1320](#), all contractors and subcontractors, regardless of tier, are required to pay the greater rate of either the Davis-Bacon Act rate or the prevailing state building wage rate for each classification and to utilize the prevailing building wage rate (<http://www.wdol.gov/dba.aspx>) dependent on the specific project region.

10.2 NON-CONSTRUCTION/SERVICE CONTRACT PROJECTS FUNDED UNDER MAP-21

10.2.1 SAFETY AND EDUCATIONAL ACTIVITIES FOR PEDESTRIANS AND BICYCLES

This eligible activity can include efforts to enhance the safety of pedestrians and bicyclists or educational events and/or materials. These types of projects can only be funded through the Transportation Alternatives or Highway Safety Improvement programs. If the LG performing the work belongs to an MPO, the project must be included in the TIP. If the LG performing the work does not belong to an MPO, the project must be included in the STIP.

Chapter 3 – Getting Started

Projects will be initiated in the same manner as previously outlined in this manual for Traditional Projects.

Chapter 4 – Public Involvement and NEPA Procedures

Environmental procedures and preparation of NEPA documentation will follow the same process previously described in this manual for Traditional projects.

Project Implementation

Once the LG has completed all environmental requirements and has received an approved environmental document, they will receive a final Notice to Proceed. As there would typically not be design work, ROW acquisition activities, or construction, the LG may proceed with implementing the project and subsequently requesting reimbursement for their activities. Project work must be awarded to consultants or vendors using either the small procurement procedure or the competitive bidding process where appropriate. TDOT prequalification requirements do not apply to vendors.

10.2.2 INVENTORY, CONTROL, AND/OR REMOVAL OF OUTDOOR ADVERTISING

This eligible activity includes the inventory, control, and/or removal of outdoor advertising for safety and aesthetic purposes. These types of projects would be funded through the Transportation Alternatives or Surface Transportation programs. If the LG

performing the work belongs to an MPO, the project must be included in the TIP. If the LG performing the work does not belong to an MPO, the project must be included in the STIP.

Chapter 3 – Getting Started

Projects will be initiated in the same manner as previously outlined in this manual for Traditional Projects.

Chapter 4 – Public Involvement and NEPA Procedures

Environmental procedures and preparation of NEPA documentation will follow the same process previously described in this manual for Traditional projects.

Chapter 6 – Right-of-Way, Utility, and Railroad Procedures

ROW procedures must be followed in the same manner as previously described in this manual for Traditional projects.

Project Implementation

Once the LG has completed all ROW requirements and has received ROW certification, they will receive a final Notice to Proceed. As there would typically not be design work or true construction, the LG may proceed with implementing the project and subsequently requesting reimbursement for their activities. Project work must be awarded to vendors using either the small procurement procedure or the competitive bidding process where appropriate. TDOT prequalification requirements do not apply to vendors.

10.2.3 ARCHEOLOGICAL ACTIVITIES RELATED TO IMPACTS FROM TRANSPORTATION PROJECTS

This eligible activity includes archeological activities related to impacts from implementation of transportation projects eligible under Title 23 USC. These types of projects can be funded through the Transportation Alternatives or Surface Transportation programs. If the LG performing the work belongs to an MPO, the project must be included in the TIP. If the LG performing the work does not belong to an MPO, the project must be included in the STIP.

Chapter 3 – Getting Started

Projects will be initiated in the same manner as previously outlined in this manual for Traditional Projects.

Chapter 4 – Public Involvement and NEPA Procedures

Environmental procedures and preparation of NEPA documentation will follow the same process previously described in this manual for Traditional projects.

Chapter 6 – Right-of-Way, Utility, and Railroad Procedures

ROW procedures must be followed in the same manner as previously described in this manual for Traditional projects when ROW is required to complete the archeological activity.

Project Implementation

Once the LG has completed all ROW requirements and has received ROW certification, they will receive a final Notice to Proceed. As there would typically not be design work or construction, the LG may proceed with implementing the project and subsequently requesting reimbursement for their activities. Project work must be awarded to consultants using either

the small procurement procedure or the competitive bidding process where appropriate. In some cases, a university program may be pre-approved to perform the work. Such requests to utilize a university program should be made through the LPDO for review and approval. TDOT prequalification requirements apply except when a university program is utilized.

10.2.4 WORKFORCE DEVELOPMENT, TRAINING, AND EDUCATION ACTIVITIES

Workforce development, training, and education activities are eligible uses of Transportation Alternative, Surface Transportation Program, Highway Safety Improvement Program, and CMAQ Improvement funds. If the LG performing the work belongs to an MPO, the project must be included in the TIP. If the LG performing the work does not belong to an MPO, the project must be included in the STIP.

Chapter 3 – Getting Started

Projects will be initiated in the same manner as previously outlined in this manual for Traditional Projects.

Chapter 4 – Public Involvement and NEPA Procedures

Environmental procedures and preparation of NEPA documentation will follow the same process previously described in this manual for Traditional projects.

Project Implementation

Once the LG has completed all environmental requirements and has received an approved environmental document, they will receive a final Notice to Proceed. As there would typically not be design work, ROW acquisition activities, or construction, the LG may proceed with implementing the project and subsequently requesting reimbursement for their activities. Project work must be awarded to consultants or vendors using either the small procurement procedure or the competitive bidding process where appropriate. TDOT prequalification requirements do not apply to vendors.

10.2.5 VEHICLE EMISSION REDUCTION PROJECTS

This eligible activity includes projects that reduce emissions from motor vehicle engines, such as the purchase of diesel retrofits, idle reduction technology, engine repowers, alternative fuel conversion equipment, or the conducting of related outreach activities. These types of projects would be funded through the CMAQ Improvement Program. If the LG performing the work belongs to an MPO, the project must be included in the TIP. If the LG performing the work does not belong to an MPO, the project must be included in the STIP.

Chapter 3 – Getting Started

Projects will be initiated in the same manner as previously outlined in this manual for Traditional Projects.

Chapter 4 – Public Involvement and NEPA Procedures

Environmental procedures and preparation of NEPA documentation will follow the same process previously described in this manual for Traditional projects.

Project Implementation

Once the LG has completed all environmental requirements and has received an approved environmental document, they will receive a final Notice to Proceed. As there would typically not be design work, ROW acquisition activities, or construction, the LG may proceed with implementing the project and subsequently requesting reimbursement for their activities. Project work must be awarded to consultants or vendors using either the small procurement procedure or the competitive bidding process where appropriate. TDOT prequalification requirements do not apply to vendors.

10.2.6 ACQUISITION OF ALTERNATIVE FUEL VEHICLES

This eligible activity involves the purchase of alternative fuel vehicles and low-emission hybrid vehicles for vehicle pools or fleets. These types of projects would be funded through the CMAQ Improvement Program. If the LG performing the work belongs to an MPO, the project must be included in the TIP. If the LG performing the work does not belong to an MPO, the project must be included in the STIP.

Chapter 3 – Getting Started

Projects will be initiated in the same manner as previously outlined in this manual for Traditional Projects.

Chapter 4 – Public Involvement and NEPA Procedures

Environmental procedures and preparation of NEPA documentation will follow the same process previously described in this manual for Traditional projects.

Project Implementation

Once the LG has completed all environmental requirements and has received an approved environmental document, they will also receive a final Notice to Proceed. As there would typically not be design work, ROW acquisition activities, or construction, the LG may proceed with implementing the project and subsequently requesting reimbursement for their activities. Project work must be awarded to vendors using either the small procurement procedure or the competitive bidding process where appropriate. TDOT prequalification requirements do not apply to vendors.

10.2.7 CARPOOL, VANPOOL, RIDESHARE PROJECTS, TRANSPORTATION DEMAND MANAGEMENT, AND EDUCATION/OUTREACH

These types of projects would be funded through the Surface Transportation and CMAQ Improvement programs. If the LG performing the work belongs to an MPO, the project must be included in the TIP. If the LG performing the work does not belong to an MPO, the project must be included in the STIP.

Chapter 3 – Getting Started

Projects will be initiated in the same manner as previously outlined in this manual for Traditional Projects.

Chapter 4 – Public Involvement and NEPA Procedures

Environmental procedures and preparation of NEPA documentation will follow the same process previously described in this manual for Traditional projects.

Project Implementation

Once the LG has completed all environmental requirements and has received an approved environmental document, they will receive a final Notice to Proceed. As there would typically not be design work, ROW acquisition activities, or construction, the LG may proceed with implementing the project and subsequently requesting reimbursement for their activities. Project work must be awarded to vendors using either the small procurement procedure or the competitive bidding process where appropriate. TDOT prequalification requirements do not apply to vendors.

10.2.8 SOFTWARE PROJECTS

This type of eligible activity can include software purchase and installation for ITS systems, rideshare programs, incident and emergency response, real-time traffic information, transit, multimodal traveler information, etc. These types of projects may be funded under various programs. If the LG performing the work belongs to an MPO, the project must be included in the TIP. If the LG performing the work does not belong to an MPO, the project must be included in the STIP.

Chapter 3 – Getting Started

Projects will be initiated in the same manner as previously outlined in this manual for Traditional Projects. In addition, projects in this category may also be classified as an ITS Project, and must follow the process outlined in [Section 5.4: Roadway Design](#) and the TDOT Intelligent Transportation System Project Guidelines.

Chapter 4 – Public Involvement and NEPA Procedures

Environmental procedures and preparation of NEPA documentation will follow the same process previously described in this manual for Traditional projects.

Project Implementation

Once the LG has completed all environmental requirements and has received an approved environmental document and fulfilled any required ITS project documentation, they will receive a final Notice to Proceed. As there would typically not be design work, ROW acquisition activities, or construction, the LG may proceed with implementing the project and subsequently requesting reimbursement for their activities. Project work must be awarded to a vendor using either the small procurement procedure or the competitive bidding process where appropriate. TDOT prequalification requirements do not apply to vendors. All potential sole source activities in the procurement of proprietary or patient items with Federal funds must comply with TDOT Division of Materials and Tests [SOP 1-5](#).

10.2.9 PURCHASE OF INTEGRATED, INTEROPERABLE EMERGENCY COMMUNICATIONS EQUIPMENT

These types of projects would be funded through the CMAQ Improvement Program. If the LG performing the work belongs to an MPO, the project must be included in the TIP. If the LG performing the work does not belong to an MPO, the project must be included in the STIP.

Chapter 3 – Getting Started

Projects will be initiated in the same manner as previously outlined in this manual for Traditional Projects. In addition, projects in this category may also be classified as an ITS Project, and must follow the process outlined in [Section 5.4: Roadway Design](#) and the TDOT Intelligent Transportation System Project Guidelines.

Chapter 4 – Public Involvement and NEPA Procedures

Environmental procedures and preparation of NEPA documentation will follow the same process previously described in this manual for Traditional projects.

Project Implementation

Once the LG has completed all environmental requirements and has received an approved environmental document and fulfilled any required ITS project documentation, they will receive a final Notice to Proceed. As there would typically not be design work, ROW acquisition activities, or construction, the LG may proceed with implementing the project and subsequently requesting reimbursement for their activities. Project work must be awarded to a vendor using either the small procurement procedure or the competitive bidding process where appropriate. TDOT prequalification requirements do not apply to vendors. All potential sole source activities in the procurement of proprietary or patient items with Federal funds must comply with TDOT Division of Materials and Tests [SOP 1-5](#).

10.2.10 ESTABLISHMENT OR OPERATION OF A TRAFFIC MONITORING, MANAGEMENT, AND CONTROL FACILITY

These types of projects would be funded through the Surface Transportation and CMAQ Improvement programs. If the LG performing the work belongs to an MPO, the project must be included in the TIP. If the LG performing the work does not belong to an MPO, the project must be included in the STIP.

Chapter 3 – Getting Started

Projects will be initiated in the same manner as previously outlined in this manual for Traditional Projects. In addition, projects in this category may also be classified as an ITS Project, and must follow the process outlined in [Section 5.4: Roadway Design](#) and the TDOT Intelligent Transportation System Project Guidelines.

Chapter 4 – Public Involvement and NEPA Procedures

Environmental procedures and preparation of NEPA documentation will follow the same process previously described in this manual for Traditional projects.

Chapter 5 – Design Procedures

Procedures for the design phase of project development will follow the same process previously described in this manual for Traditional Projects. Any architecture or engineering firms considered for the project must be prequalified by TDOT. The design will need to contain enough detail to secure the project's NEPA document. The design will need to follow [ADAAG](#) and [PROWAG](#) guidelines.

Chapter 6 – Right-of-Way, Utility, and Railroad Procedures

ROW procedures must be followed in the same manner as previously described in this manual for Traditional projects.

Project Implementation

Once the LG has completed all ROW requirements and has received ROW certification, and fulfilled any required ITS project documentation, they will receive a final Notice to Proceed. The LG may proceed with implementing the project and subsequently requesting reimbursement for their activities. Project work must be awarded to consultants or vendors using either the small procurement procedure or the competitive bidding process where appropriate. TDOT prequalification requirements do not apply to vendors. All potential sole source activities in the procurement of proprietary or patented items with Federal funds must comply with TDOT Division of Materials and Tests [SOP 1-5](#).

10.2.11 ELECTRIC RECHARGING, BIOFUEL REFUELING, AND TRUCK STOP ELECTRIFICATION FACILITIES

This eligible activity includes the use of funds for facilities serving electric vehicles, alternative-fueled vehicles, and idle-reduction services for heavy-duty diesel trucks (except where this conflicts with prohibition on rest area commercialization). These types of projects would be funded through the Surface Transportation and Congestion Mitigation and Air Quality Improvement programs. If the LG performing the work belongs to an MPO, the project must be included in the TIP. If the LG performing the work does not belong to an MPO, the project must be included in the STIP.

Chapter 3 – Getting Started

Projects will be initiated in the same manner as previously outlined in this manual for Traditional Projects.

Chapter 4 – Public Involvement and NEPA Procedures

Environmental procedures and preparation of NEPA documentation will follow the same process previously described in this manual for Traditional projects.

Chapter 5 – Design Procedures (if applicable)

Procedures for the design phase of project development will follow the same process previously described in this manual for Traditional projects. The design will need to contain enough detail to secure the project's NEPA document. The design will need to follow [ADAAG](#) and [PROWAG](#) guidelines.

Chapter 6 – Right-of-Way, Utility, and Railroad Procedures (if applicable)

ROW procedures must be followed in the same manner as previously described in this manual for Traditional projects.

Project Implementation

Once the LG has completed all ROW requirements (if ROW is required) and has received ROW certification, they will receive a final Notice to Proceed. The LG may proceed with implementing the project and subsequently requesting reimbursement for their activities. Project work must be awarded to consultants or vendors using either the small procurement

procedure or the competitive bidding process where appropriate. TDOT prequalification requirements do not apply to vendors.

PROJECTS FUNDED UNDER SAFETEA-LU

Projects still funded under SAFETEA-LU (in effect August 10, 2005 – September 30, 2012) with funds from Transportation Enhancements, Safe Routes to School, and Tennessee Roadscapes Grants funding programs can involve projects that may or may not be associated with a Federal-aid eligible roadway, and thus may be considered NHCSC projects.

Please note that NHCSC project categories now eligible under MAP-21 that were not eligible with funds under SAFETEA-LU cannot be pursued with SAFETEA-LU funds.

NHCSC projects funded under SAFETEA-LU are divided into two categories as outlined below:

Non-Highway Construction projects include but may not be limited to:

- Building Projects and Parking Improvements
- Public Art Installation (with Construction activities)
- Historic Preservation/Rehabilitation and Operation of Historic Transportation Buildings, Structures, and Facilities

Non-Construction/Service Contract projects include but are not limited to:

- Pedestrian and Bicycle Safety and Education Activities
- Public Art Installation (Non-Construction)
- Acquisition of Scenic Easements and Scenic or Historic Sites
- Inventory, Control, and Removal of Outdoor Advertising
- Archeological Planning and Research Projects
- Software Projects
- Studies

10.3 NON-HIGHWAY CONSTRUCTION PROJECTS FUNDED UNDER SAFETEA-LU

These types of projects involve construction, but do not involve any type of construction on a roadway itself. They serve to preserve historic resources, to provide safety, and to enhance the transportation system.

10.3.1 BUILDING PROJECTS AND PARKING IMPROVEMENTS

This eligible activity involves the planning, design, and construction of vertical structures whose purposes serve to complement the transportation system, including transportation museums and visitors' centers. These projects may be developed using various funding programs. If the LG performing the work belongs to an MPO, the project must be included in the TIP. If the LG performing the work does not belong to an MPO, the project must be included in the STIP.

Chapter 3 – Getting Started

Building projects will be initiated in the same manner as previously outlined in this manual for Traditional projects. The project must also be included in the LG MPO's TIP or in the STIP.

Chapter 4 – Public Involvement and NEPA Procedures

Environmental procedures and preparation of NEPA documentation will follow the same process previously described in this manual for Traditional projects.

Chapter 5 – Design Procedures

Procedures for the design phase of project development will follow the same process previously described in this manual for Traditional projects. Any architecture firms considered for the project will need to be prequalified by TDOT. The design will need to contain enough detail to secure the project's NEPA document. The design will need to follow [ADAAG](#) and [PROWAG](#) guidelines.

Chapter 6 – Right-of-Way, Utility, and Railroad Procedures

ROW procedures must be followed in the same manner as previously described in this manual for Traditional projects.

Chapter 8 – Pre-Construction and Construction Procedures

Procedures for the construction phase of work will be followed in the same manner as previously described in this manual for Traditional projects except in the case of the following exceptions:

- On a case-by-case basis, it is permissible for the prime contractor to complete less than 30 percent of the original contracted amount of a project. If a LG feels that their project should qualify for this exception, it should make a request to the LPDO for approval.
- Neither the prime contractor nor subcontractors must be TDOT prequalified as a stipulation for qualification to submit a bid proposal. By the nature of a project involving a vertical structure, the use of subcontractors may be extensive and would place an undue burden of proof upon the general contractor. Provided the prime contractor and subcontractors are not on the TDOT Excluded Parties List, they are eligible to submit a bid proposal and be awarded a contract without being TDOT prequalified. All DBEs must be TNUCP certified in order for the work performed to count toward the DBE goal.
- In accordance with [TDOT Special Provision 1320](#), all contractors and subcontractors, regardless of tier, are required to pay the greater rate of either the Davis-Bacon Act rate or the prevailing state building wage rate for each classification and to utilize the prevailing building wage rate (<http://www.wdol.gov/dba.aspx>) dependent on the specific project region.
- If the project is being constructed within railroad ROW and the railroad will be the sole source to perform the project work, the railroad must demonstrate that they have the expertise on staff to do so. If they cannot justify performing the work for any part of the project, then that portion of the work must be competitively bid. In addition, an agreement must be in place between the railroad and the LG as part of the ROW process before work can begin.

10.3.2 PUBLIC ART INSTALLATION (WITH CONSTRUCTION ACTIVITIES)

This eligible activity involves the installation of public art. These types of projects would be funded through the Transportation Enhancements program. If the LG performing the work belongs to an MPO, the project must be included in the TIP. If the LG performing the work does not belong to an MPO, the project must be included in the STIP.

Chapter 3 – Getting Started

Public art installation will be initiated in the same manner as previously outlined in this manual for Traditional projects. The project must also be included in the LG MPO's TIP or in the STIP.

Chapter 4 – Public Involvement and NEPA Procedures

Environmental procedures and preparation of NEPA documentation will follow the same process previously described in this manual for Traditional projects.

Chapter 5 – Design Procedures

Procedures for the design phase of project development will follow the same process previously described in this manual for Traditional projects. The design will need to contain enough detail to secure the project's NEPA document. The design will need to follow [ADAAG](#) and [PROWAG](#) guidelines.

Chapter 6 – Right-of-Way, Utility, and Railroad Procedures

ROW procedures must be followed in the same manner as previously described in this manual for Traditional projects.

Chapter 8 – Pre-Construction and Construction Procedures

Procedures for the construction phase of work will be followed in the same manner as previously described in this manual for Traditional projects except in the case of the following exceptions:

- On a case-by-case basis, it is permissible for the prime contractor to complete less than 30 percent of the original contracted amount of a project. If a LG feels that their project should qualify for this exception, it should make a request to the LPDO for approval.
- Neither the prime contractor nor subcontractors must be TDOT prequalified as a stipulation for qualification to submit a bid proposal. By the nature of a project involving a vertical structure, the use of subcontractors may be extensive and would place an undue burden of proof upon the general contractor. Provided the prime contractor and subcontractors are not on the TDOT Excluded Parties List, they are eligible to submit a bid proposal and be awarded a contract without being TDOT prequalified. All DBEs must be TNUCP certified in order for the work performed to count toward the DBE goal.
- In accordance with [TDOT Special Provision 1320](#), all contractors and subcontractors, regardless of tier, are required to pay the greater rate of either the Davis-Bacon Act rate or the prevailing state building wage rate for each classification and to utilize the prevailing building wage rate (<http://www.wdol.gov/dba.aspx>) dependent on the specific project region.

- If the project is being constructed within railroad ROW and the railroad will be the sole source to perform the project work, the railroad must demonstrate that they have the expertise on staff to do so. If they cannot justify performing the work for any part of the project, then that portion of the work must be competitively bid. In addition, an agreement must be in place between the railroad and the LG as part of the ROW process before work can begin.

10.3.3 HISTORIC PRESERVATION/REHABILITATION AND OPERATION OF HISTORIC TRANSPORTATION BUILDINGS, STRUCTURES, AND FACILITIES

This eligible activity includes historic preservation and rehabilitation activities for facilities that contribute to the historic fabric of transportation in America. These types of projects would be funded through the Transportation Enhancements program. If the LG performing the work belongs to an MPO, the project must be included in the TIP. If the LG performing the work does not belong to an MPO, the project must be included in the STIP.

Chapter 3 – Getting Started

Projects will be initiated in the same manner as previously outlined in this manual for Traditional projects.

Chapter 4 – Public Involvement and NEPA Procedures

Environmental procedures and preparation of NEPA documentation will follow the same process previously described in this manual for Traditional projects.

Chapter 5 – Design Procedures

Procedures for the design phase of project development will follow the same process previously described in this manual for Traditional projects, though the design itself will be different from that for roadway construction. All historic preservation projects must adhere to Department of Interior standards and be reviewed and approved by the State Historic Preservation Office. Any architecture firms considered for the project will need to be prequalified by TDOT. The design will need to contain enough detail to secure the project's NEPA document. The design will need to follow [ADAAG](#) and [PROWAG](#) guidelines.

Chapter 6 – Right-of-Way, Utility, and Railroad Procedures

ROW procedures must be followed in the same manner as previously described in this manual for Traditional projects.

Chapter 8 – Pre-Construction and Construction Procedures

Procedures for the construction phase of work will be followed in the same manner as previously described in this manual for Traditional projects except in the case of the following exceptions:

- On a case-by-case basis, it is permissible for the prime contractor to complete less than 30 percent of the original contracted amount of a project. If a LG feels that their project should qualify for this exception, it should make a request to the LPDO for approval.
- Neither the prime contractor nor subcontractors must be TDOT prequalified as a stipulation for qualification to submit a bid proposal. By the nature of a project involving a vertical structure, the use of subcontractors may be extensive and would

place an undue burden of proof upon the general contractor. Provided the prime contractor and subcontractors are not on the TDOT Excluded Parties List, they are eligible to submit a bid proposal and be awarded a contract without being TDOT prequalified. All DBEs must be TNUCP certified in order for the work performed to count toward the DBE goal.

- In accordance with [TDOT Special Provision 1320](#), all contractors and subcontractors, regardless of tier, are required to pay the greater rate of either the Davis-Bacon Act rate or the prevailing state building wage rate for each classification and to utilize the prevailing building wage rate (<http://www.wdol.gov/dba.aspx>) dependent on the specific project region.
- If the project is being constructed within railroad ROW and the railroad will be the sole source to perform the project work, the railroad must demonstrate that they have the expertise on staff to do so. If they cannot justify performing the work for any part of the project, then that portion of the work must be competitively bid. In addition, an agreement must be in place between the railroad and the LG as part of the ROW process before work can begin.

10.4 NON-CONSTRUCTION/SERVICE CONTRACT PROJECTS FUNDED UNDER SAFETEA-LU

10.4.1 PEDESTRIAN AND BICYCLE SAFETY AND EDUCATION ACTIVITIES

This eligible activity can include items or efforts that enhance the safety of pedestrians and bicyclists or educational events or materials. These types of projects would be funded through the Transportation Enhancements, Surface Transportation, Highway Safety Improvement, and Safe Routes to School programs. If the LG performing the work belongs to an MPO, the project must be included in the TIP. If the LG performing the work does not belong to an MPO, the project must be included in the STIP.

Chapter 3 – Getting Started

Projects will be initiated in the same manner as previously outlined in this manual for Traditional Projects.

Chapter 4 – Public Involvement and NEPA Procedures

Environmental procedures and preparation of NEPA documentation will follow the same process previously described in this manual for Traditional projects.

Project Implementation

Once the LG has completed all environmental requirements and has received an approved environmental document, they will receive a final Notice to Proceed. As there would typically not be design work, ROW acquisition activities, or construction, the LG may proceed with implementing the project and subsequently requesting reimbursement for their activities. Project work must be awarded to a vendor using either the small procurement procedure or the competitive bidding process where appropriate. TDOT prequalification requirements do not apply to vendors.

10.4.2 PUBLIC ART INSTALLATION (NON-CONSTRUCTION)

This eligible activity involves the installation of public art and must be related to transportation. These types of projects would be funded through the Transportation Enhancements program. If the local agency performing the work belongs to an MPO, the project must be included in the TIP. If the LG performing the work does not belong to an MPO, the project must be included in the STIP.

Chapter 3 – Getting Started

Public art installation will be initiated in the same manner as previously outlined in this manual for Traditional projects. The project must also be included in the LG MPO's TIP or in the STIP.

Chapter 4 – Public Involvement and NEPA Procedures

Environmental procedures and preparation of NEPA documentation will follow the same process previously described in this manual for Traditional projects.

Chapter 6 – Right-of-Way, Utility, and Railroad Procedures (if applicable)

ROW procedures must be followed in the same manner as previously described in this manual for Traditional projects.

Project Implementation

Once the LG has completed all environmental requirements and has received an approved environmental document, they will receive a final Notice to Proceed. The LG may proceed with implementing the project and subsequently requesting reimbursement for their activities. Project work may be awarded to vendors using either the small procurement procedure or the competitive bidding process where appropriate. TDOT prequalification requirements do not apply. (Please note that a ROW Certification must be obtained in the event that this activity requires the purchase of ROW.)

10.4.3 ACQUISITION OF SCENIC EASEMENTS AND SCENIC OR HISTORIC SITES

This eligible activity involves the acquisition of property for scenic easements and as scenic and/or historic sites. These types of projects would be funded through the Transportation Enhancements program. If the LG performing the work belongs to an MPO, the project must be included in the TIP. If the LG performing the work does not belong to an MPO, the project must be included in the STIP.

Chapter 3 – Getting Started

Projects will be initiated in the same manner as previously outlined in this manual for Traditional Projects.

Chapter 4 – Public Involvement and NEPA Procedures

Environmental procedures and preparation of NEPA documentation will follow the same process previously described in this manual for Traditional projects.

Chapter 6 – Right-of-Way, Utility, and Railroad Procedures

ROW procedures must be followed in the same manner as previously described in this manual for Traditional projects.

Project Implementation

Once the LG has completed all environmental and ROW certification requirements, it will receive a final Notice to Proceed, and it may proceed with implementing the project and subsequently requesting reimbursement for their activities. Project work must be awarded to consultants using either the Brooks Act (qualification-based selection process) small procurement procedure, or the competitive bidding process where appropriate.

10.4.4 INVENTORY, CONTROL, AND REMOVAL OF OUTDOOR ADVERTISING

This eligible activity includes the inventory, control, and/or removal of outdoor advertising for safety and aesthetic purposes. These types of projects would be funded through the Transportation Enhancements program. If the LG performing the work belongs to an MPO, the project must be included in the TIP. If the LG performing the work does not belong to an MPO, the project must be included in the STIP.

Chapter 3 – Getting Started

Projects will be initiated in the same manner as previously outlined in this manual for Traditional Projects.

Chapter 4 – Public Involvement and NEPA Procedures

Environmental procedures and preparation of NEPA documentation will follow the same process previously described in this manual for Traditional projects.

Chapter 6 – Right-of-Way, Utility, and Railroad Procedures

ROW procedures must be followed in the same manner as previously described in this manual for Traditional projects.

Project Implementation

Once the LG has completed all environmental requirements and has received an approved environmental document, they will receive a final Notice to Proceed. The LG may proceed with implementing the project and subsequently requesting reimbursement for their activities. Project work must be awarded to consultants using either the Brooks Act (qualification-based selection process), small procurement procedure or the competitive bidding process where appropriate. TDOT prequalification requirements apply. (Please note that a ROW Certification must be obtained in the event that this activity requires the purchase of ROW.)

10.4.5 ARCHEOLOGICAL PLANNING AND RESEARCH PROJECTS

This eligible activity includes archeological planning and research projects related to transportation projects eligible under Title 23 USC. These types of projects would be funded through the Transportation Enhancements Program. If the LG performing the work belongs to an MPO, the project must be included in the TIP. If the LG performing the work does not belong to an MPO, the project must be included in the STIP.

Chapter 3 – Getting Started

Projects will be initiated in the same manner as previously outlined in this manual for Traditional Projects.

Chapter 4 – Public Involvement and NEPA Procedures

Environmental procedures and preparation of NEPA documentation will follow the same process previously described in this manual for Traditional projects.

Chapter 6 – Right-of-Way, Utility, and Railroad Procedures

ROW procedures must be followed in the same manner as previously described in this manual for Traditional projects.

Project Implementation

A final Notice to Proceed will be received by the LG, and it may proceed with implementing the project and subsequently requesting reimbursement for their activities. Project work may be awarded to consultants using either the Brooks Act (qualification-based selection process), small procurement procedure, or the competitive bidding process where appropriate. In some cases, a university program may be pre-approved to perform the work. Such requests should be made through the LPDO for review and approval.

10.4.6 SOFTWARE PROJECTS

This type of eligible activity can include software purchase and installation for ITS systems, rideshare programs, incident and emergency response, real-time traffic information, transit, multimodal traveler information, etc. These types of projects may be funded under various programs. If the LG performing the work belongs to an MPO, the project must be included in the TIP. If the LG performing the work does not belong to an MPO, the project must be included in the STIP.

Chapter 3 – Getting Started

Projects will be initiated in the same manner as previously outlined in this manual for Traditional Projects. In addition, projects in this category may also be classified as an ITS Project, and must follow the process outlined in [Section 5.4: Roadway Design](#) and the TDOT Intelligent Transportation System Project Guidelines.

Chapter 4 – Public Involvement and NEPA Procedures

Environmental procedures and preparation of NEPA documentation will follow the same process previously described in this manual for Traditional projects.

Project Implementation

Once the LG has completed all environmental requirements and has received an approved environmental document and fulfilled any required ITS project documentation, they will receive a final Notice to Proceed. As there would typically not be design work, ROW acquisition activities, or construction activity, the LG may proceed with implementing the project and subsequently requesting reimbursement for their activities. Project work may be awarded to consultants or vendors using the Brooks Act (qualification-based selection process), small procurement procedure, or the competitive bidding process where appropriate. TDOT prequalification requirements do not apply to vendors. All potential sole source activities in the procurement of proprietary or patient items with Federal funds must comply with TDOT Division of Materials and Tests [SOP 1-5](#).

10.4.7 STUDIES

This eligible activity includes studies to determine transportation-related needs or to research possible benefits of a transportation project prior to implementation. These types of projects could be funded through various funding programs. If the LG performing the work belongs to an MPO, the project must be included in the TIP. If the LG performing the work does not belong to an MPO, the project must be included in the STIP.

Chapter 3 – Getting Started

Projects will be initiated in the same manner as previously outlined in this manual for Traditional Projects.

Chapter 4 – Public Involvement and NEPA Procedures

Environmental procedures and preparation of NEPA documentation will follow the same process previously described in this manual for Traditional projects.

Project Implementation

Once the LG has completed all environmental requirements and has received an approved environmental document, they will receive a final Notice to Proceed. The LG may proceed with implementing the project and subsequently requesting reimbursement for their activities. Project work must be awarded to consultants using the Brooks Act (qualification-based selection process), small procurement procedure, or the competitive bidding process where appropriate. TDOT prequalification requirements apply.

CHAPTER 11 - ACCELERATED DELIVERY

11.1 WHAT IS ACCELERATED DELIVERY?

Accelerated Delivery (AD) is an optional method of delivering locally managed transportation projects in Tennessee. It allows a Local Government (LG) to follow an expedited process that requires less interaction with the Tennessee Department of Transportation (TDOT) during the project development and construction phases. An AD project will bypass the authorization of federal funds for each phase of the project following the completion and approval of a NEPA document. Initially, the LG developing the project will pay for each project phase following approval of the NEPA document using its own funds but will have a goal of receiving a reimbursement in federal funding following the project's completion. The project will be reviewed for compliance with all guidelines contained in this manual and all State and federal rules and regulations when it has been completed. Once TDOT has deemed the work performed in compliance, the LG may seek reimbursement.

The LG will enter into a project agreement with TDOT for the development of a project using AD prior to beginning any project work. The LG must follow this manual and all applicable State and federal rules and regulations, just as if it were developing the project in the traditional manner outlined previously in this manual. All required documentation will remain the same. The main difference between AD and the traditional locally managed process is that in AD, the LG will not be required to wait for federal fund authorization in order to begin the next phase. Another difference is there will be fewer checkpoints which require TDOT concurrence or comments prior to moving forward with the project. Not all checkpoints will be eliminated. This chapter outlines the specific instances where TDOT concurrence or coordination is required.

An AD project will occur in the same manner as a traditional locally managed project until the NEPA document has been completed and approved. This document must be approved before moving forward with any other aspect of the project, or reimbursement with federal funding will not be possible. Once the NEPA document has been approved, the LG will receive a NTP that encompasses all remaining project phases. Then, the LG may move forward with developing the project using its own funds.

In order to qualify for reimbursement using federal funds, a review of the LG's project work and documentation will be conducted by TDOT staff to ensure that the Local Government Guidelines (LGG) and all State and federal laws, rules and regulations have been followed. All project documentation will be reviewed by the respective TDOT offices responsible for each phase of project work. If it is determined that all State and federal laws, rules and regulations were followed during the delivery of the project, the project will be converted into a federally funded project, federal funds obligated, and the LG will then be able to be reimbursed for their work.

The federal project financing tool that grants LGs the ability to choose such a method of project delivery is called Advance Construction ([23 USC 115](#)). TDOT will not allow LGs to use the AD process to construct projects for which they do not have federal obligational authority (do not have a sufficient federal fund allocation for the AD project). For example, an LG that receives a Small Cities Allocation of STP funds could develop a project using AD by identifying

their Small Cites Allocation for use toward the project. The requested project must be included in the current TIP or STIP.

11.2 HOW DOES ACCELERATED DELIVERY WORK FOR LOCAL GOVERNMENTS?

11.2.1 PROCESS STEPS

Each phase of project development using the AD process is described in detail in the following sections of this chapter, but an overview is provided below in order to briefly explain each step of the process:

1. An LG will pursue AD Certification. Information about this process follows this section. Both the LG and their desired AD project will need to be certified in order to proceed with the AD option.
2. If certified, the LG will enter into a contract with TDOT outlining the project's budget, scope, timeline, and the LG's intent to later convert the project to a federally funded project. The contract will detail that the project may be reimbursed using federal funds in the future if the guidelines in this manual and all State and federal laws, rules, and regulations have been met.
3. The LG fulfills the NEPA document requirements for the AD project in the same manner as it would for a project following the traditional LPDO process. Reimbursement will be allowed for this phase of project development.
4. Once the environmental phase of project work has been done and the NEPA document is complete and approved, the LG will receive a NTP which covers the remaining phases of the project development process. It is of utmost importance that the LG follows all guidelines contained in this manual as well as all State and federal laws, rules and regulations as they develop the project, as all project development phases and documentation will be reviewed upon completion of the project.
5. The LG will notify the LPDO at the conclusion of the project construction phase and will request a review of its project.
6. The LPDO will initiate a project review, in which the respective TDOT Divisions and Regions will review aspects of the project for which that Division is responsible. Each Division and Region will review all project documentation and checkpoints to ensure that the guidelines in this manual and all State and federal laws, rules and regulations were followed throughout the development of the project.
7. If each Division and Region deems the work performed to be acceptable and in compliance with all guidelines contained in the LGG as well as all State and federal laws, rules and regulations, TDOT will approve the project and convert it to a federally funded project. TDOT will obligate the appropriate amount of federal funds.
8. The LG may now request reimbursement for all approved project costs incurred following the initial environmental document approval.

11.2.2 PROJECT REVIEW OVERVIEW

Upon completion of a project, the LG will notify the LPDO that the project is complete and ready to be reviewed. The project review itself will involve all applicable TDOT Divisions

and Regions who will review the project for compliance with the guidelines in the LGG and all necessary State and federal laws, rules, and regulations as they apply to each particular Division and Region. Site visits to the project, reviews of the project documentation, and interviews with both the LG's project administrators and consultants may be necessary. Each TDOT Division and Region will review project documentation pertinent to that Division and Region and determine whether the components pass or fail acceptance.

The LG may pass some project phases and fail others during the project review. It is also possible that particular items within a single project phase will be found to be in non-compliance, causing the LG to not receive reimbursement for those items. It will be important the LG cooperates with the LPDO and the TDOT Divisions and Regions during the review process so the LG can receive the maximum reimbursement.

11.2.3 RISK INVOLVED

An LG using the AD method for a federal-aid project must remember that the LG will be developing the entire project, excluding the NEPA Phase, using their own funds, and, until the project has passed the final project review, there is no guarantee the LG will receive federal reimbursement.

AD process applicants must realize the financial risk associated with the process. The LG must be careful to ensure it has complete confidence in its knowledge and understanding of the LGG. It must also have the financial resources necessary to complete the project and a budget to float the cost of the entire project until it can receive reimbursement upon project completion. In the event that oversights occur during the development of the project, the LG would also be wise to consider the consequences of not receiving full reimbursement upon project completion. It is possible that if an LG is deemed to be irresponsible in the attempt of an AD project by not following the guidelines contained in this manual and all State and federal laws, rules, and regulations, they may not be allowed to utilize the AD process in the future. This is in order to protect the LG, the public, and the federal funding available to the LG.

11.3 ACCELERATED DELIVERY CERTIFICATION

11.3.1 APPLICATION PROCESS

1. The LG will submit an AD Certification Interest Letter ([Form 11-1](#)) to the LPDO expressing a desire to become certified to deliver an AD project. The AD Certification Interest Letter will include:
 - description of AD project the LG desires to pursue
 - list of locally-managed State and federally funded projects the LG has pursued in the past five (5) years
 - names and experience summary of LG staff who would administer the AD project
2. The LPDO will have **14** days to respond to the submitted AD Certification Interest Letter. If, upon review of the letter, the LPDO determines that the LG and the desired project qualify for AD Certification, the LPDO will send the LG the AD Pilot Program Certification Application. The application will include:

- an organizational chart for the LG containing the names and positions of all current staff members
 - resumes of LG staff detailing any locally managed project experience
 - proof of any applicable trainings (LGG, ROW, and Construction Engineering Inspection classes) of LG staff members responsible for project administration
 - LG positions responsible for each project delivery function
 - various TDOT Civil Rights Office Requirements
 - description of the LG's accounting system and a copy of the LG's most recent federal A-133 audit
 - disclosure of any recent (past 5 years) TDOT external audit findings
 - LG's consultant selection policy (must be board or council passed)
 - various project-specific questions for the LG
3. The LG will submit the AD Certification Application package to the LPDO. The submitted package will be reviewed by the LPDO AD Certification Committee, consisting of various members of the LPDO. Personnel from the regions or divisions may also be contacted as needed to provide additional information.
 4. The LPDO will respond to the LG within **30** days of receipt of the AD Certification Application detailing any areas of concern and/or indicating items for which the Committee requires further information. If there are areas of concern, the applying LG will review these items and prepare responses for an interview process to follow. If there are no areas of concern, the LPDO will move forward to the decision making process.

11.3.2 INTERVIEW PROCESS

If necessary, the LPDO AD Certification Committee will interview the LG providing the LG with the opportunity to respond to the areas that were a concern in the AD Certification Application package in order to support their bid for AD Certification.

11.3.3 DECISION MAKING PROCESS

The LPDO AD Certification Committee will review the AD Certification Application (and the results of the LG's interview, if applicable) and decide on a recommendation of either approval or denial.

The LPDO Manager will carry this recommendation to the TDOT Chief Engineer who will make the final decision regarding certification of the LG to utilize the AD process.

The LG will be notified of the final decision regarding their AD Certification status via letter from the LPDO Manager.

If the LG succeeds in becoming certified to deliver their desired project via AD, this certification will only be valid for the one project that the LG included on their AD Certification Application.

11.4 PROJECT INITIATION

11.4.1 ELIGIBLE PROJECTS

AD projects will not be allowed on the State or National Highway System. Any AD project that crosses or is adjacent to a State or national highway will require additional TDOT coordination. Projects involving State-owned Right-of-Way (ROW) will not be eligible for AD. The use of local forces will not be allowed on AD projects.

Any non-State route project that is eligible to be constructed using the type of federal funding source from which the LG plans on receiving reimbursement is eligible for AD; however, approval for each individual project shall be obtained during the AD Certification process. The LG will include all project details in the AD Certification Application in order to ensure that it is a project that is well suited for AD.

11.4.2 PROJECT INITIATION PROCESS

All required project initiation information will have been submitted in the AD Certification Application and approved as part of the AD Certification process. It will be important for the LG to coordinate and communicate effectively with TDOT during the AD Certification process in order to ensure both agencies have a clear understanding of the project.

11.4.3 PROJECT CONTRACT

The LG will need to have a fully executed contract with TDOT outlining the responsibilities for funding the project. This step is the same as it is for a typical locally managed project, but the contract itself will be different. An AD project contract will detail that the project has been pre-approved by TDOT as an AD project and that the LG agrees to pay all initial project expenses following the completion and approval of the NEPA document. It will also detail that upon completion of the project, the LG may seek conversion of the project to a federally funded project and pending a project review, the LG may then receive reimbursement for all eligible project expenses. The contract will be executed by both the LG and TDOT. Any failure by the LG to uphold the provisions contained in the contract will cause the LG to be considered ineligible to receive federal funding for the project.

11.5 PUBLIC INVOLVEMENT AND NEPA PROCEDURES

LGs should not proceed with any preliminary engineering work for which they expect reimbursement until they receive a Notice to Proceed with the Preliminary Engineering Phase (Environmental Only) of Project Development.

For AD projects, there is no change in the requirement for the LG to perform all work in accordance with the National Environmental Policy Act (NEPA) or in any of the requirements described in [Chapter 4](#) of this manual. The Public Involvement Process is also required on all AD projects. All environmental documentation must be prepared in accordance with the [TDOT Tennessee Environmental Procedures Manual](#) and FHWA guidance. Special emphasis shall be placed on the LG obtaining review of its ecological studies, including identification and location of water resources and threatened and endangered species, by the TDOT Environmental Division's Ecology Section prior to final approval of the NEPA document.

It will be crucial that the LG requests a re-evaluation of the NEPA document if there is any change in project scope at any point during the development of the project or if the approved NEPA document becomes older than three (3) years.

Eligible expenses for reimbursement that occurred during this phase of the project may be submitted as they would in a traditional locally managed project. Please refer to [Chapter 9](#), Billing Procedures, for guidance.

The LG must proceed no further with the development of their AD project until it receives approval of the final environmental document from FHWA.

11.6 DESIGN PROCEDURES

LGs should not proceed with any design work for which they expect reimbursement until they receive a Notice to Proceed using Accelerated Delivery (Design, ROW, and Construction phases).

All design procedures as outlined in [Chapter 5](#) of this manual will remain the same except for instances where a submittal to TDOT or TDOT concurrence is no longer required during the design phase. Instances do exist where TDOT concurrence is still required despite the AD status of the project, namely Design Exceptions, Proprietary Items Certification, and Structures Design.

11.6.1 INITIAL RIGHT-OF-WAY, UTILITY, AND RAILROAD COORDINATION

The LG must work on its own, with the assistance of its consultants, to coordinate design considerations for ROW and utilities and to determine the process for railroad coordination.

11.6.2 DESIGN EXCEPTIONS

LGs will still be required to identify the need for design exceptions based on the criteria for the controlling elements of design and to submit a “Design Exception Request and Justification Form” ([Form 5-2](#)) to the [LPDO](#). When the design exception has been approved, one copy of the “Design Exception Request and Justification Form” will be returned to the LG through the LPDO. The original copy of the “Design Exception Request and Justification Form” and supporting documents will be maintained by the TDOT Roadway Design Division. **The LG shall not proceed with the design until the design exception approval letter is received from TDOT.**

11.6.3 DESIGN CERTIFICATIONS

LGs must still complete a Design Certification Letter for AD projects according to the information provided in [Section 5.4.5](#) of the LGG; however, there is no required submittal of the letter or the plans to TDOT. The dated Design Certification Letter must be placed in the LG’s project file, and it will be an item examined as part of the project review.

11.6.4 PROPRIETARY ITEMS

Obtaining approval for the use of proprietary items is one area that must still be coordinated and approved by TDOT **during** the course of the project. Refer to [Section 5.4.1](#) for additional information

11.6.5 ENVIRONMENTAL PERMIT CERTIFICATIONS

LGs must still complete a Water Quality Permit Certification and NPDES Construction Stormwater Permit Certification Letter for AD projects according to the information provided in Section 8.1.3 of this manual; however, there is no required submittal of the letter or the plans to TDOT. The dated Permits Certification Letter must be placed in the LG's project file, along with its ecology report, and it will be an item that is scrutinized as part of the project review.

LGs should be aware that failure to properly document their ecology report and permit requirements will not only prevent Federal funding reimbursement; it can also make them liable for regulatory agency notices of violation and resulting fines if construction was performed that was not properly permitted.

11.6.6 PRELIMINARY CONSTRUCTION ESTIMATE

Comprehensive, itemized preliminary construction estimates will still be required as outlined in [Section 5.4.7](#) of the LGG; however they will not be submitted to TDOT. Estimates must be updated every twelve (12) months from the date of the original, and all dated estimates must be kept in the project file to be reviewed when the project is complete.

11.6.7 PROJECT PLANS DISTRIBUTIONS

For AD projects, the LG will not be required to send plans to the LPDO for review by the TDOT Roadway Design Division. The LG's consultants will be responsible for performing quality control on the plans development process, and any mistakes will be addressed by the LG through the errors and omissions procedures.

The Design Procedures Checklist ([Form 5-5](#)) should be completed and be placed in the project file for review during the project review.

11.6.8 STRUCTURES DESIGN

Design procedures for AD projects involving structures will require TDOT oversight. **All procedures as outlined in [Section 5.6](#) of the manual, including TDOT reviews and concurrences, will remain the same.**

11.7 RIGHT-OF-WAY, UTILITY, AND RAILROAD PROCEDURES

All ROW procedures as outlined in [Chapter 6](#) of this manual will remain the same except for instances where a submittal to TDOT or TDOT concurrence is no longer required during the ROW phase. Instances do exist where TDOT concurrence is still required, despite the AD status of the project, namely projects that involve at-grade crossings.

11.7.1 RIGHT-OF-WAY

When ready to proceed with ROW work, the LG will contact its Regional ROW Coordinator in order to procure the packet of necessary ROW forms. The LG will then perform all ROW activities as outlined in [Section 6.1](#) of this manual. All ROW related actions shall be documented and placed in the project file to be made available during the project review.

At the completion of the ROW phase of the project, the LG shall attest that all ROW was acquired in accordance with the Uniform Relocation Assistance Act. A dated ROW certification letter containing this attestation must be placed in the project file for the project review. TDOT will concur with the LG's certification during the project review if it is determined that the LG conducted the ROW phase in accordance with the guidelines in this manual and all State and federal laws, rules and regulations.

11.7.2 UTILITY RELOCATIONS

Utility relocation procedures for AD projects shall follow the guidance outlined in [Section 6.2](#) of the LGG although submittals, reviews and concurrences from TDOT will not be required.

Upon completing utility coordination, the LG will ensure that the list of necessary items contained in [Section 6.2.5](#) of the LGG is represented in the project file. TDOT will use these items during the project review to certify that all utilities involved were properly managed.

11.7.3 RAILROAD PROCEDURES

All railroad procedures as described in [Section 6.3](#) of this manual shall be followed for AD projects. Submittals to the TDOT Railroad Coordinator and LPDO will not be required. All necessary coordination with the railroad must still occur. For additional assistance, refer to [FHWA's Railroad Coordination and Certification Requirements webpage](#), the [Norfolk Southern Public Projects Manual](#), the [CSX Public Policy Manual](#), or the [American Railroad Engineering and Maintenance-of-Way Association Manual](#) (for short line railroads). All documentation of any railroad involvement must be maintained in the project file for the project review.

LGs must still coordinate AD projects with the TDOT Multimodal Transportation Resources Division, Rail Crossing Safety Office when there are at-grade railroad crossings are near the limits of the project, as TDOT is responsible for the review of all Tennessee railroad crossings for adequacy of their warning devices. If an AD project involves construction of a new grade crossing or contains a grade crossing that was previously private that is now being converted to a public crossing, the project must be reviewed and approved by the responsible State Traffic Engineer in accord with [Tennessee's Chapter 1680-9-1 Railroad Grade Crossing Standards](#) (the 1680 Crossing Law).

11.8 CIVIL RIGHTS COMPLIANCE

All civil rights requirements as outlined in [Chapter 7](#) of this manual will be mandatory, except where TDOT submittals, reviews and concurrences are mentioned. There are various items that will be required during the AD Certification process and thus will be completed at an earlier time than the chapter indicates. These instances are explained in the AD Certification Application. TDOT submittals, reviews and concurrences on all remaining civil rights items mentioned in [Chapter 7](#) will not be required during the delivery of the project, but all civil rights-

related documentation must be kept in the project file and will be reviewed for completion during the project review.

11.9 PROCEEDING TO CONSTRUCTION

The LG must have dated proof in its project file that it accomplished the following items at appropriate times and prior to advertising for construction services. If it is discovered during the project review that the LG advertised for construction prior to obtaining these items, reimbursement will be jeopardized.

1. A TDOT-approved Final Environmental Document (and re-evaluation, if applicable) in accordance with [Chapter 4](#)
2. Copy of TDOT-approved Design Exception Request and Justification Form, if applicable, in accordance with [Section 5.4.3](#)
3. A complete set of project plans in accordance with [Section 5.4.8](#), including specifications and estimates
4. A signed and dated Design Certification Letter in accordance with [Section 5.4.5](#)
5. TDOT-approved structures design plans in accordance with [Section 5.6](#), if applicable
6. All ROW/necessary easements acquired, if applicable and a signed and dated ROW Certification Letter in accordance with [Section 6.1.12](#)
7. Dated proof of utility coordination efforts in accordance with [Section 6.2](#), if applicable (TDOT certification not yet required)
8. Dated proof of railroad coordination efforts in accordance with [Section 6.3](#), if applicable (TDOT certification not yet required)
9. All Civil Rights requirements outlined in [Chapter 7](#) of this manual that were not contained in the AD Certification Application packet
10. Dated proof of DBE goal assessment for projects over \$500,000 and/or records of efforts to include DBEs as outlined in [Section 8.1.2](#)
11. Dated proof that all necessary ecology reports have been prepared and all necessary environmental permits have been acquired per [Section 8.1.3](#)
12. A bid book and a signed and dated Construction Advertisement and Authorization Checklist in accordance with [Section 8.1.4](#)
13. A dated final construction estimate

11.10 PRE-CONSTRUCTION AND CONSTRUCTION PROCEDURES

11.10.1 PRE-CONSTRUCTION PROCEDURES

The LG must perform all required pre-construction procedures as outlined in [Section 8.1](#) of this manual. Any mentioned TDOT submittals, reviews and concurrences are not required for AD projects. Documentation of all pre-construction activities must be maintained in the project file for the project review.

11.10.2 CONSTRUCTION PROCEDURES

The LG must perform all required construction procedures as outlined in [Section 8.2](#) of this manual. Any mentioned TDOT submittals, reviews and concurrences are not required for AD projects. Documentation of all construction activities must be maintained in the project file for the project review.

11.11 PROJECT REVIEW

11.11.1 METHOD OF REVIEW

When all AD project construction is complete, the LG will notify the LPDO. This notification will spur the LPDO to initiate a review of the LG's project work and documentation. The various elements of the project will be reviewed by each respective TDOT Division or Region responsible for reviewing that portion of the project. Project reviews will include a site visit by TDOT representatives.

In addition, all project documentation for all phases should be maintained electronically in a standardized format as directed by TDOT. The electronic documentation will be submitted to TDOT via compact discs or DVDs. Contact the LPDO to determine the number of discs needed. Each reviewer will be ensuring that the LG followed the guidelines contained in this manual as well as all State and federal laws, rules and regulations contained in the LGG throughout the delivery of the AD project.

If an AD reviewer discovers that the LG failed to follow any required guidelines, laws, rules or regulations, a decision will be reached regarding whether the failure is an issue that can be brought into compliance retroactively and still be eligible for future reimbursement of federal funds for that item. Any items that cannot be corrected will not be eligible for reimbursement.

A record will be created for the project review that will document all project components both eligible and ineligible for future reimbursement of federal funding. The LG will be notified of these results in order to prepare their request for reimbursement.

11.11.2 CONVERSION OF PROJECT TO A FEDERALLY-FUNDED PROJECT

When the AD project review is complete and the results have been finalized, the LPDO will make a request to FHWA to convert the project to a federally funded project. A reimbursement request may now be created for all AD project items on the project review record that were deemed eligible.

11.12 REIMBURSEMENT PROCEDURES

After the project review results are available, the LG will submit one AD invoice per phase containing eligible project expenses for the design, ROW, and construction phases. All billing procedures as outlined in [Chapter 9](#) of this manual shall apply to AD projects. The LPDO will place priority on AD invoices submitted at this point due to the nature of this program and the initial investment by the LG.

