



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**

FOURTH EDITION

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FOREWORD

Local Program Development is the area within the Tennessee Department of Transportation (TDOT) that serves Local Governments. 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.tdot.state.tn.us/local/staff.htm>.

This manual is intended to provide Local Governments 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 If the procedures included in this manual are not followed, federal and / or state funding may be withdrawn from the project.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 Safe, Accountable, Flexible, Efficient Transportation Equity Act - A Legacy for Users ([SAFETEA-LU](#)) 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 Tennessee Department of Transportation (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 Program Development Office](#) webpage. To minimize confusion, technical guides are incorporated into the manual by reference. Local Governments may access the technical guides online or download these for ready field reference. In the rare instance that a Local Government does not have Internet capability, a hard copy will be provided. However, changes to the manual will be made only in the online version. Local Governments 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 Local Government 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 Coordinator for the Local Program Development Office 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.

1. NEPA: What is preliminary engineering?

Preliminary engineering as defined in the National Environmental Policy Act (NEPA) phase is any engineering work required to determine potential environmental impact of the project.

2. DESIGN: Do plans need to follow TDOT formatting, i.e. title block, signature block?

No. These are not TDOT-managed projects. Plans should not show a TDOT coversheet, TDOT signature block or TDOT heading. The plans should contain a cover sheet, signature block, and heading that identifies the Local Government. The final plans should be stamped and signed by a licensed professional engineer.

3. ROW: Do we have to follow federal rules and regulations, in particular the Uniform Act?

Yes. Federal funding mandates compliance for any phase of the project. State funding similar in manner requires compliance with federal rules and regulations, and state statute mandates the compliance with the Uniform Act.

4. ROW: Do we need to contact TDOT ROW Offices prior to beginning plans preparation?

Yes. To avoid any delay to your project. There are specific items that the Department will need on the plans, documentation, and addressed in the project. To address these early will avoid delays.

5. ROW: Will TDOT provide all the forms needed?

TDOT will provide the forms and format for all documentation. The Local Government will have to customize the forms, inserting your government's name, but the content of the documentation can be used as provided. Contact the Regional Right-of-Way Local Government Coordinator as soon as possible to obtain all documentation needed.

6. ROW: If we make a mistake, will we lose federal funding?

Yes. In some cases the misstep can be rectified with FHWA and will cause delays to your project. In some cases the misstep cannot be rectified, or corrected, and the Local Government will lose federal funds. For property acquisition that does not comply with federal rules and regulations, or with the Uniform Act, a mistake could result in federal funds never being authorized for a project involving the property, once the property is tainted by improper acquisition.

7. ROW: Can we start acquiring property before the plans are prepared?

No. Property cannot be acquired until TDOT issues authorization to proceed. Environmental document and plans have to be completed in accordance with Federal rules and regulations prior to property acquisition proceeding. A Notice to Proceed with environmental clearance must be in hand before proceeding.

8. ROW: We owned property before the project was initiated. Do we have an issue?

Yes. Property owned prior to the project authorization will need to be reviewed by the TDOT Right-of-Way Office and possibly by the Federal Highway Administration (FHWA). If the property was acquired by the Local Government for unspecified future use, and there is sufficient documentation, generally there is no issue. If the property was acquired specifically for the project now receiving funds, the Local Government may be required to make remedial measures to comply with FHWA requirements. If remedial measures are not possible, federal and state funding for the project may be in jeopardy.

9. ROW: What property has to be acquired?

All property acquisitions shall be shown on the plans as: 1) fee simple, 2) construction easements (3 year time period stated), 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.

10. ROW: Will we need to appraise every property acquisition?

Yes and No. A Nominal Parcel Payment (NPP) can be processed if the anticipated acquisition is less than \$10,000. This is determined by the Local Government staffed administrative position which has real estate experience and knowledge. If the property owner accepts the offer, then an appraisal has been avoided. Otherwise an approved appraisal is required. An approved appraisal is one that a TDOT prequalified appraiser and a TDOT prequalified review appraiser has determined the market value, and the Local Government administrator has approved the offer. Note that a summary appraisal is not acceptable.

11. ROW: When do we first contact the property owner?

Generally the property owners will be aware of the project as a result of the public hearings held during project development. 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 notification prior to the appraiser arranging to view the property.

12. ROW: How far back should the title search be documented?

Title searches shall be documented for a minimum of 5 years on all privately owned properties with a history.

13. ROW: Our project will be on state owned property or state highway right-of-way. Will we need to address that property for our project?

Yes. All State owned property has to go through a lease / license agreement review by the Regional Right-of-Way Local Government Coordinator. If the project is for a different use of the state ROW, for a greenway or new sidewalk, then a lease / license agreement is required. Generally a roadway or replacement of existing sidewalk will not require such an agreement. A lease / license may delay your project as it is processed, and six months to one year should be allowed to accommodate this process. If NEPA clearance is available, this process may be shortened.

14. ROW: Will we need to document every time we talk to a property owner?

Yes. A negotiating log will be maintained for each tract being acquired. ALL discussions in person, through correspondence, or by phone will be documented in the log.

This is critical documentation for compliance as well as to protect your government. Keep in mind that this log is discoverable in legal proceedings, and as such, entries are factually related to the acquisition, and not a commentary of the events.

15. ROW: 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 has to be a separation of functions.

16. RAILROAD: The railroad is barely outside the 200 feet prescribed. Do we have to work with the railroad?

Yes. The 200 foot limit is provided as a guideline. The basis of the decision is “will the project have an effect on the railroad.” If it is a grade crossing, 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 Local Government 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.

17. UTILITIES: All the utilities are owned by the Local Government. 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.

18. GEOTECHNICAL: How do I know if a geotechnical investigation by a consultant will be required?

Almost all projects will require some type of geotechnical consultant involvement including roadways, bridges, retaining walls, lighting, etc. Some projects that may not involve geotechnical work would be sidewalks, landscaping or other projects not requiring significant earthworks. The main design consultant would most likely know when geotechnical work is required.

19. GEOTECHNICAL: How is the Geotechnical work procured?

The geotechnical consultant will be procured by the design consultant utilizing normal procurement procedures the Design Consultant would utilize for other subconsultant work. The Design Consultant should utilize the TDOT Approved Consultant list for choosing qualified geotechnical engineering consultant firms.

20. GEOTECHNICAL: What guidelines are available for the Geotechnical Consultant to use to determine how to scope and price the work?

Utilize the links provided in the Local Government Guidelines. These links would include the TDOT Geotechnical Report Manual and references provided therein and the TDOT Earth Retaining Structures Manual.

21. TITLE VI: What is Title VI?

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.

22. TITLE VI: Who is a Recipient & Subrecipient?

Recipient- is an entity or person that directly receives federal financial assistance and / or manages a program or activity which would subject them to Title VI compliance responsibilities.

Subrecipient – is an entity or person that indirectly receives federal financial assistance in order to implement a program or activity which subjects them to Title VI compliance responsibilities. A subrecipient may include, but is not limited to, a city, county, metropolitan planning organization, college / university, contractor or sub-grantee.

23. TITLE VI: What discrimination is prohibited by a federally funded Title VI Program?

Recipient or Subrecipient cannot discriminate either directly or through contractual or other means by:

- Denying program services, financial aids, or benefits.
- Providing different program services, financial aids or other benefits, or providing them in a manner different from that provided by others.
- Segregating or separately treating individuals or groups in any matter related to the receipt of any program service, financial aid or benefit.
- Restricting in any way the enjoyment of any advantage or privilege enjoyed by others receiving any program service, financial aid or other benefits.
- Denying person(s) the opportunity to participate as a member of a planning, advisory or similar body.
- Denying person(s) the opportunity to participate in the program through the provision of services, or affording the opportunity to do so differently from those afforded others.

24. TITLE VI: Who is responsible for implementing a viable Title VI Program?

The Local Government (acting as a subrecipient) 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 the Tennessee Department of Transportation.

25. TITLE VI: What are the key responsibilities of the Title VI Coordinator?

The Title VI Coordinator shall:

- Have knowledge of Title VI and the complaint process.
- Attend training on Title VI.
- Disseminate Title VI information to the public and in languages other than English, when necessary.
- Coordinate and execute Title VI educational and outreach activities.

- Develop a process to collect race, gender and national origin of relocatees, impacted citizens and affected communities to ensure low income, minorities and other underserved groups are included and not disproportionately impacted.
- Implement procedures for the prompt processing of Title VI discrimination complaints.

26. TITLE VI: Where can we 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 <http://www.tdot.state.tn.us/civil-rights/titlevi/training.htm>. Also, specialized training is offered to subrecipients upon request.

27.EEO: Are contractors required to meet EEO requirements / obligations on Federal aid contracts?

All EEO requirements will be included in all non-exempt federal aid contracts of \$10,000 or more.

28.EEO: Are contractors required to have an OJT Program?

All contractors with a contract of \$10,000 or more must have an OJT Program.

29.EEO: What Laws, regulations, and policies do we have to follow?

The Local Government shall reference the Executive Order, laws regulations, policies and forms located in [Chapter 7](#) (Sections 7.3.1 to 7.3.9) 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.

30.EEO: Can I incorporate EEO provisions contained in Form FHWA-1273 into contracts and / or subcontracts by reference?

No. TDOT physically incorporates Form FHWA-1273 in all Prime federal aid contracts and except as otherwise provided for in each section, the contractor shall insert in each subcontract all of the stipulations contained in these Required Contract Provisions, and further require their inclusion in any lower tier subcontract or purchase order that may in turn be made. The Required Contract Provisions shall not be incorporated by reference in any case. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with these Required Contract Provisions.

31.EEO: Do small contractors with only a few employees have to meet all EEO requirements such as appointing an EEO Officer?

As long as the dollar amount of your contract or subcontract is \$10,000 or more, all EEO requirements have to be met regardless of the number of employees.

32.EEO: Are contractors required to have a separate written Affirmative Action Plan?

No. The physical incorporation of Form FHWA-1273 in each highway construction contract, subcontract and Purchase Order of \$10,000 or more, constitutes the contractor's EEO / AA standards for that contract.

33.EEO: What is a Contract Compliance Review?

A Contract Compliance Review is a systematic, comprehensive review by the cognizant administering authority of the employment practices of federal aid Highway Construction

Contractors (at any tier) in order to determine if they are complying with their EEO / AA contractual requirements.

34.EEO: Which contractors / contracts may be selected for a Contract Compliance Review?

Any / all contractors (at any tier) who have a federal aid Highway Construction contract valued at \$10,000 or more.

35.EEO: How are contractors identified / selected for a Contract Compliance Review?

Contractors that “best fit” a number of selection criteria to include but not limited to: Contractors working on a significant number of contracts in areas with high minority and female Civilian Labor Forces; large dollar value contracts; contracts which are the size, type and / or duration to provide the contractor with maximum recruitment, hiring, training and promotional opportunities; projects that are at or near peak employment during the review period being considered; projects or contractors that have a history of questionable contracting practices regarding minorities and females; and projects or contractors that have been the subject of a significant number of complaints.

36.DBE: What is a Disadvantaged Business Enterprise (DBE)?

A disadvantaged business enterprise or DBE is a for-profit small business concern 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; and whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

37.DBE: Does DBE certification have reciprocity with other agencies such as the Small Business Administration (SBA)?

Currently, the TNUCP does not have any reciprocity with the SBA. The SBA 8(a) Program and the DBE Program are separate Federal certifications. Currently, one must apply with both SBA and the TNUCP to attain both certifications.

38.DBE: Are my taxes and other personal information secured?

All information collected is subject to the Privacy Act of 1974 and the Federal Information Security Management Act of 2002.

39.CONSTRUCTION: How many additive alternates are allowed?

Additive alternates, or deductive alternates, are not permissible.

40.CONSTRUCTION: 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 Local Government may develop a project specific provision or address the requirements in the plans.

41.CONSTRUCTION: When does TDOT concur in a change order?

TDOT concurs when a change order is \$100,000 or greater or over 10% of the original contract amount.

42. CONSTRUCTION: What kind of information do I need to support the change order?

The change order document is according to the [TDOT Circular Letter 104.03-02](#).

43. MATERIALS & TESTS: Who is the Project Inspector?

The Project Inspector is the Local Government or CEI, except for Verification and Independent Assurance Testing; these tests must be done by TDOT Materials & Tests in accordance with Standard Operating Procedures.

REFERENCES

Resource	Website
Federal Aid Policy Guide	http://www.fhwa.dot.gov/legsregs/directives/fapgtoc.htm
Federal Regulation 23 CFR	http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?sid=2a91e17e66c7d32d1c392a3748d40bdc&c=ecfr&tpl=/ecfrbrowse/Title23/23tab_02.tpl
TDOT Standard Drawings	http://www.tdot.state.tn.us/Chief_Engineer/engr_library/stdrrlib.htm
TDOT Construction Home	http://www.tdot.state.tn.us/construction/
TDOT Standard and Supplemental Specifications	http://www.tdot.state.tn.us/construction/specs.htm
TDOT Special Provisions	http://www.tdot.state.tn.us/construction/special_provisions.htm
TDOT Construction Circular Letters	http://www.tdot.state.tn.us/construction/Circular_Letters/circltr.pdf
TDOT Roadway Item Lists	http://www.tdot.state.tn.us/RoadItemLists/roaditemslist.htm
TDOT Materials and Tests Home	http://www.tdot.state.tn.us/materials/
TDOT Materials and Tests SOP's	http://www.tdot.state.tn.us/materials/fieldops/sop/
TDOT Qualified Products List	http://www.tdot.state.tn.us/materials/reseval/qualprod.htm
TCA, Title 54	http://www.michie.com/tennessee/lpext.dll/tncode/1e9f0?fn=document-frame.htm&f=templates&2.0#
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/item_details.aspx?ID=1572
State Consultant Excluded / Debarment List	http://www.tdot.state.tn.us/construction/ (refer to "Contractor Information, Excluded Parties List") http://www.tdot.state.tn.us/construction/claim%20dates/excludedparties.pdf
Federal Consultant Excluded / Debarment List	http://www.epls.gov
Tennessee Environmental Procedures Manual	http://www.tdot.state.tn.us/environment/tepm.htm
Tennessee Environmental Streamlining Agreement	http://www.tdot.state.tn.us/tesa/default.htm

Table P-2 – References

TDOT CONTACTS

TDOT Organizational Structure

<http://www.tdot.state.tn.us/orgchart.htm>

TDOT Headquarters Railroad Coordinator - 615-253-1119

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
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 Program 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
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
PPRM	Program, Project & Resource Maintenance System
PR	Planning Report
PS&E	Plans, Specifications, and Estimates
QA	Quality Assurance
QC	Quality Control
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
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
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

* Underlying legislation for funding of transportation programs passed by Congress in August of 2005. This is a five-year Act which was extended by Congress and will now expire on September 30, 2011.

** Works with Local Governments to raise awareness and understanding of transportation methods, processes and procedures.

PURPOSE OF MANUAL

The Local Government Guidelines (LGG) manual is intended to help Tennessee's Local Governments 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. Note that flow chart text is hyperlinked to subsections within the manual and other online documents. Form references are linked to the website therefore, Local Governments 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 [LPDO website](#).

[Chapter 10](#) provides direction for Local Governments 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 projects and parking improvements.
- **Non-Construction** projects include but are not limited to diesel retrofits, van pool projects, studies, rideshare projects, software projects (GIS, ITS, rideshare, etc).

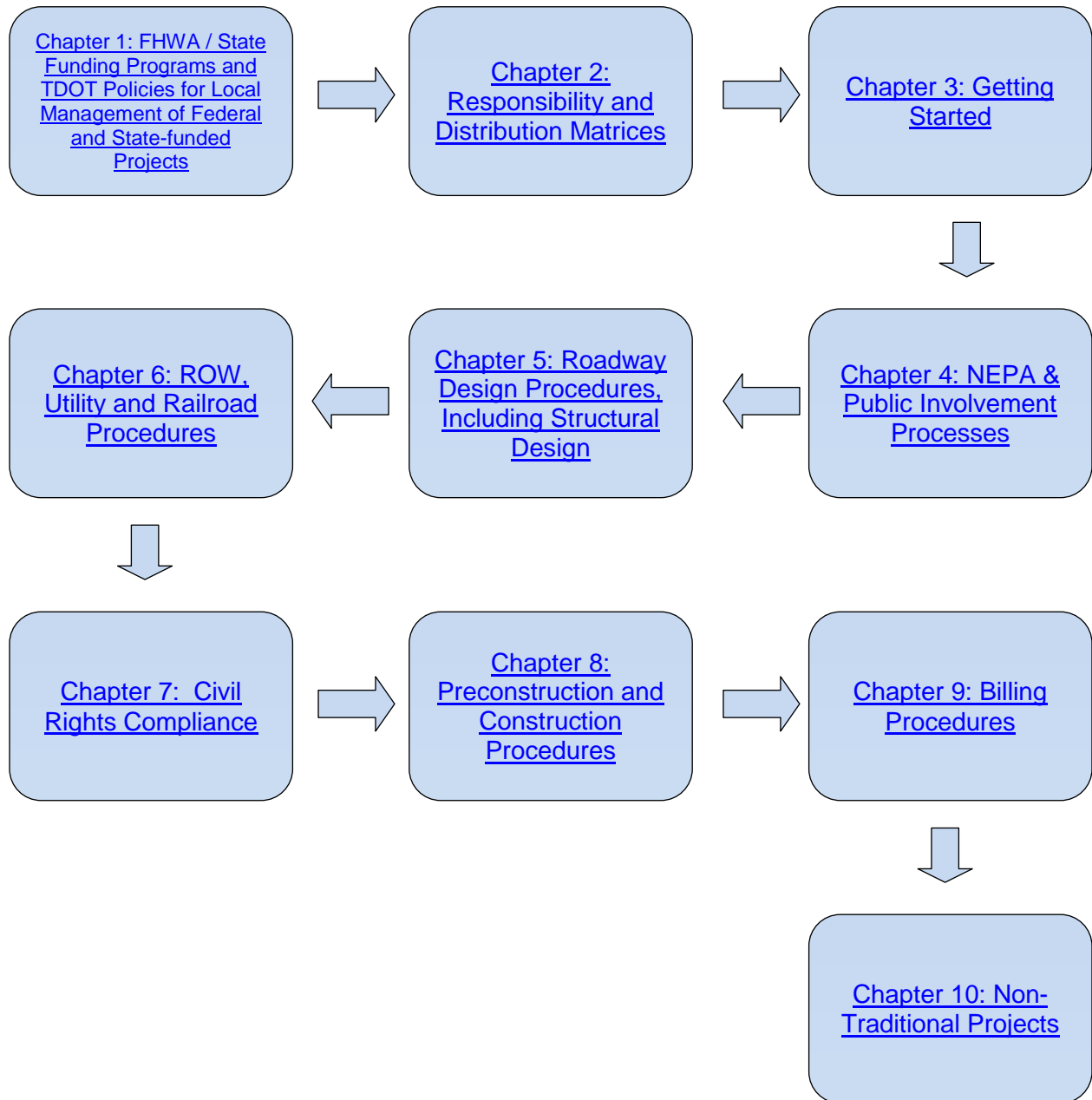


Figure P-1 – Main Flow Chart

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

1.1 FHWA / STATE FUNDING PROGRAMS

FHWA and State funds may be used to pay project costs for general transportation planning, preliminary engineering (i.e. NEPA / design), right-of-way acquisition, construction, and audit. Note that this manual does not address the planning issues that must precede the inclusion of a project in the State Transportation Improvement Program (*STIP / TIP*). These funds cannot be used for lobbying efforts.

1.2 FHWA FUNDING PROGRAMS

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

1.2.1 FEDERALLY FUNDED PROGRAMS AVAILABLE TO LOCAL GOVERNMENTS

Federally-funded Projects	Minimum Local Share ¹
Surface Transportation Program (STP)	20%
Congestion Mitigation and Air Quality Improvement (CMAQ)	20%
Bridge Replacement and Rehabilitation (BRR)	20%
Demonstration Projects	20%
Transportation Enhancement Grant (TE)	20%
Spot Safety	20%
Transportation, Community, and System Preservation (TCSP)	20%
High Priority Program Projects	20%
Congressional Earmarks	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
High Risk Rural Roads Program (HRRRP)	10% ³

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 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.

³ Depending on 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 [High Risk Rural Roads Program](#) for further information.

For a complete list of federally-funded programs available to Local Governments 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 Share ¹
Local Interstate Connector (LIC)	50% ¹
State Industrial Access Road (SIA)	0% ²

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 PE and 50% of right-of-way.

Details, including applicable project types and application instructions, for each funding program are provided at: <http://www.tdot.state.tn.us/local/prog.htm>.

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 or Rural Transportation Organization.
- 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. In general, they will not involve the national highway system or the interstate system. This criterion does not apply to Transportation Enhancement type projects.
- III. As part of the Department's Strategic Highway Safety Plan a need has been identified to reduce fatal and incapacitating injury crashes along non-state maintained roadways. These roads are considered High Risk Rural Roads and are defined as roadways functionally classified as a rural major or minor collectors with a fatal or incapacitating injury crash rate above the statewide average. The Department has developed initiatives to assist with these road safety improvements.
 - A. Local Road Safety Initiative (LRSI) - This initiative will target counties with the highest number of fatal and incapacitating injury crashes per mile of local roads from the available data provided by the Tennessee Department of Safety (TDOS) and TDOT. In an effort to target rural counties that have limited access to resources, only counties or sections of counties not represented by a MPO will be initially considered in this program. For more details on this program please contact the TDOT [Office of Incident Management](#) as they are the point of contact for this program.
 - B. High Risk Rural Road Program (HRRR) - Local governments may submit requests for safety improvements on rural major or minor collectors with high fatal or incapacitating injuries along with their crash records to the [Project Safety Office](#) in the TDOT Project Planning Division. This will assist the Project Safety Office identify potential safety locations and determine if it will qualify for safety funds.
- IV. TDOT's position is that Local Governments shall manage and construct projects on the local system of roads. Local Governments must, however, be staffed and equipped to manage and construct these projects. Local Governments 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 Program Development Office. Approvals are also based on TDOT's assessment of the Local Government's ability to perform the work.
- V. Local Governments may request technical assistance from TDOT at any time.

- VI. The [TDOT Local Program Development Office](#) is the primary TDOT point of contact for project correspondence throughout the life of a project. The TDOT Local Program Development Office 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 email Local.Programs@tn.gov or FTP to the Local Program Development Office. Because of the volume of projects managed by TDOT, **Local Governments 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 ([Form 1-1](#)) to withdraw federal funding and other penalties if the guidelines for all activities on federal projects are not met must be placed on all certifications, estimates, invoices, and requests for payment submitted by Local Governments.
- VIII. Local Governments shall use TDOT's standards, specifications and item numbers.

1.5 FUNDING ELIGIBILITY

State governments, local governments, Indian tribes, metropolitan planning organizations and rural planning organizations 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. Local Governments 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 \$100,000. Contact the LPDO for approval to proceed with this process. The TDOT approved list of consultants can be viewed at: <http://www.tdot.state.tn.us/ConsultantInfo/FirmDisciplines.pdf>.
- II. Local Governments shall formally adopt through board or council TDOT's approved Local Version of TDOT Consultant Selection Policy ([Form 1-2](#)). Local Governments shall provide proof of adoption to the Local Program Development Office.
- III. Local Government should select consultants who are TDOT pre-qualified in the required area of expertise.
- IV. The initial consultant selections for the project may occur before the Notice to Proceed with the Preliminary Engineering Phase for Environmental Only is received, but the Local Government 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.
- V. Local Government may select a consultant for the PE / Design / ROW phase of the project, but must provide separate work orders for each of these phases.

- VI. The Local Government 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 CEI firm shall be a pre-qualified consulting firm on the TDOT approved list.** All CEI staff shall be qualified in accordance with TDOT requirements.

The Local Government shall send a copy of the advertisement or requests for proposals/qualifications that were sent to each consultant as well as a letter indicating the selection process used and the name of the consultant selected to the LPDO.

Depending on the type, amount, and difficulty of work, the Local Government 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 Program Development Office (LPDO) acts as guardian to all phases in locally managed projects in order to establish accountability and to insure that all activities meet applicable standards. The office provides “Notice to Proceed” documents for NEPA, Design, Right-of-Way, and Construction phases of project development. Overall, the Local Program Development Office 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 Local Government will be required to provide information directly to TDOT personnel and / or other entities. A copy of all transmittal letters shall be sent to the Local Program Development Office listing the information provided.

Document Type	Primary Distribution (Including Transmittal)	# Copies / Format	Transmittal Letter Only Distribution
Final Environmental Document	TDOT Environmental Division Suite 900, JKP Building Nashville, TN 37243	One Electronic Copy	Local Program Development Office Via email: Local.programs@tn.gov
Preliminary, Final ROW, and Construction Plans	Local Program Development Office Local.programs@tn.gov	Plans: One Electronic Copy and / or CD containing .PDF file	
Preliminary Plans for Projects that include Railroad Impacts or within 200’ (measured from the project limits to the nearest rail)	Local Program Development Office Local.programs@tn.gov	Plans: One Electronic Copy and / or CD containing .PDF file	
Projects with Design Exception, “Design Exception Request and Justification Form” & Preliminary Plans	Local Program Development Office Via email: Local.programs@tn.gov	Plans: One Electronic Copy and “Design Exception Request and Justification Form”	
Preliminary Bridge Layout	Local Program Development Office Via email: Local.programs@tn.gov	Plans: One Electronic Copy and Cross-Sections One Electronic Copy	

Table 2-1 – Distribution Matrix

Document Type	Primary Distribution (Including Transmittal)	# Copies / Format	Transmittal Letter Only Distribution
Hydraulic Design File & Hydraulic Layout Sheet	Local Program Development Office Via email: Local.programs@tn.gov	Plans: One Electronic Copy	
Final Right-of-Way Plans & "Design Certification Letter"	Local Program Development Office Via email: Local.programs@tn.gov	Plans: One Electronic Copy and "Design Certification Letter"	
Final Right-of-Way Plans	TDOT ROW Division Director Suite 600, James K. Polk Bldg Nashville, TN 37243-0341	Plans: One Electronic Copy and Cross-Sections One Electronic Copy	Local Program Development Office Via email: Local.programs@tn.gov
	ROW Manager 1, TDOT Regional ROW Office (Region I, II, III, or IV)	Plans: One Electronic Copy and Cross-sections – One Electronic Copy	
	Any and all utilities within the project area for the utilities' use in relocation efforts	Plans: One (1) Copy and One (1) Copy 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 Local Government. (Use certified mail, return receipt requested.)	
Project Estimate (at ROW stage)	Local Program Development Office Via email: Local.programs@tn.gov	One Electronic Copy	

Table 2-1 – Distribution Matrix (Continued)

Document Type	Primary Distribution (Including Transmittal)	# Copies / Format	Transmittal Letter Only Distribution
Final Construction Plans (for Projects Not on the National Highway System or State Routes)	Local Program Development Office Via email: Local.programs@tn.gov	Plans: One Electronic Copy Cross-Sections: One Electronic Copy	
Final Construction Plans (for Projects On the National Highway System or State Routes)	TDOT Design Division Local Program Coordinator, Suite 1300, JKP Building Nashville, TN 37243	Plans: One Copy (Full Size)(Mylar) Cross-Sections: One Copy (Full Size)(Mylar) and CD containing .PDF file	Local Program Development Office Via email: Local.programs@tn.gov
Final Bridge Plans	Local Program Development Office Via email: Local.programs@tn.gov	One Electronic Copy	
Project Estimate (at Construction stage)	Local Program Development Office Local.programs@tn.gov	One Electronic Copy	

Table 2-1 – Distribution Matrix (Continued)

CHAPTER 3 - GETTING STARTED

3.1 PROJECT INITIATION AND REQUIRED INFORMATION

When a Local Government desires to manage and let a federally or state-funded project, it must first submit to TDOT (Local Program Development Office Local.Programs@tn.gov) a Project Initiation Form and Checklist ([Form 3-1](#)) or appropriate enhancement documentation, which requests the following information:

- 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, and route numbers.
- II. A list of the Local Government'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 Local Government and cannot be hired just for the management of this project. This differs from the requirement for force account 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 Local Government must designate a qualified Local Government Project Supervisor and a Local Government 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](#)).

CRITERIA FOR ALLOWING LOCAL GOVERNMENTS TO MANAGE PROJECTS

- A. **Small projects** (transportation enhancements, intersection improvements without significant ROW; resurfacing, striping, signing, guardrail installation, signalization and some bridge replacement projects)

Requirements:

- 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 approved list if the Local Government 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** (widening, realignment of existing roadway, signalization projects with the addition of turn lanes, bridge replacement projects requiring significant land acquisition or projects with environmental requirements greater than a categorical exclusion but lesser than an EIS)

Requirements:

- Must have qualified full-time professional engineer on staff.
- Must hire consultants, for all phases of the project from TDOT's approved 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 and environmental clearances that require an EIS)

Requirements:

- Must have qualified full-time professional engineer on staff with extensive experience working with federally-funded transportation projects.
- Must hire consultants from TDOT's approved list for all phases of the project. The consultants must be qualified in the required area of expertise.

Method:

- Written statement of qualifications.

- III. List of consultants involved with the project at this point if they have already been selected. These would not be eligible for reimbursement.
- IV. Local Government 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 local government and have easy access to the head of the local government.
- V. A statement of the Local Government's experience in managing projects similar to the one being contemplated.
- VI. Information about any proprietary items the Local Government 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 the LPDO.)
- VII. The Local Government shall provide the Local Program Development Office with the signatures of persons authorized to sign as "Local Government Project Supervisor" and "Local Government Official". The Local Program Development Office will verify the original signatures on each invoice submitted for payment. Invoices received that do not contain the original signature of an authorized person will be returned.
- VIII. **LOCAL FORCE ACCOUNT:** Force Account is defined as the use of current full-time local employees rather than contract labor. If a Local Government wishes to perform the work with forces employed by it, it shall prove that it is both in the public interest and cost effective to use this method of construction. The LPDO must approve the use of force account work.

- A. The Local Government shall submit evidence that the use of local forces is cost effective. Cost effectiveness shall be determined only after the Local Government has either a) bid the project and been unsuccessful in receiving a reasonable bid as compared to a detailed engineers' estimate of the probable cost; b) bid the project at least twice and received no bids; c) an emergency situation that will not allow time for the advertisement and bid process; d) a project underway that will connect to the project in question that is being managed by local forces and for which the inclusion of a contractor would present difficulties and complications.
 - B. The Local Government shall demonstrate that the use of local forces is in the public interest. In accordance with [23 CFR 635.205](#), it is in the public interest for a Local Government to develop and construct a federally-funded project when a situation exists in which the rights or responsibilities of the community at large are so affected as to require some special course of action, including situations where there is a lack of bids or the bids received are determined by the Local Government with TDOT Construction Division concurrence to be unreasonable.
 - C. The Local Government shall provide information sufficient to allow a determination of its ability to handle such work. This information shall include the names and qualifications of those who will perform the work and the experience the Local Government has had in doing work of this type. This differs from that required for consultant / contractor work in that those employees involved in the force account method must be qualified and experienced in performing the work as opposed to overseeing or supervising.
 - D. The Local Government shall provide a list of equipment that will be used for the project, including the manufacturer, model year and specifications.
 - E. The Local Government shall submit proof of acceptance of its indirect cost rate by the Local Government's federal cognizant agency to the Local Program Development Office. The indirect cost rate must be updated yearly. The Local Program Development Office will verify the rate charged on the invoices submitted for payment does not exceed this rate.
- IX. 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 \(Section 134\)](http://www.fhwa.dot.gov/HEP/legreg.htm) planning process
(<http://www.fhwa.dot.gov/HEP/legreg.htm>).

- 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>

- X. A copy of any agreements, contracts, and memorandums of understanding or other legal instruments the Local Government 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 Local Government shall sign a certification of compliance to that effect (Certification of Compliance Regarding Third Party Contracts) ([Form 3-2](#)).
- XI. A statement about the method of bidding the Local Government 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.
- XII. Information regarding donated services or land.
- XIII. Right-of-Way Training Certification ([TTAP Training & Workshops](#))
- XIV. Local Programs Training Certification ([TTAP Training & Workshops](#))
- XV. At the time of application to the TDOT Local Program Development Office, the Local Government shall submit the most current A-133 Audit Documentation. This document must state the Local Government has sufficient accounting controls to properly manage federal funds. Local Governments receiving funds under this program are subject to compliance audits by the TDOT Finance Office.
- XVI. Copy of the TIP project page.

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 - PUBLIC INVOLVEMENT & NEPA PROCEDURES

The Local Government is required to perform all work in accordance with the National Environmental Policy Act (NEPA). The Public Involvement Process is required on all types of projects covered in this manual. The Local Government can find information concerning the type of public involvement required at: [TDOT Public Involvement Plan \(PIP\)](#).

The Local Government shall contact the TDOT Environmental Division Environmental Documentation Office – Local Programs at (615) 741-3655. The Environmental Division will provide the Local Government with information and the appropriate forms for completion. All environmental documentation must be prepared in accordance with the [TDOT Tennessee Environmental Procedures Manual](#) and FHWA guidance.

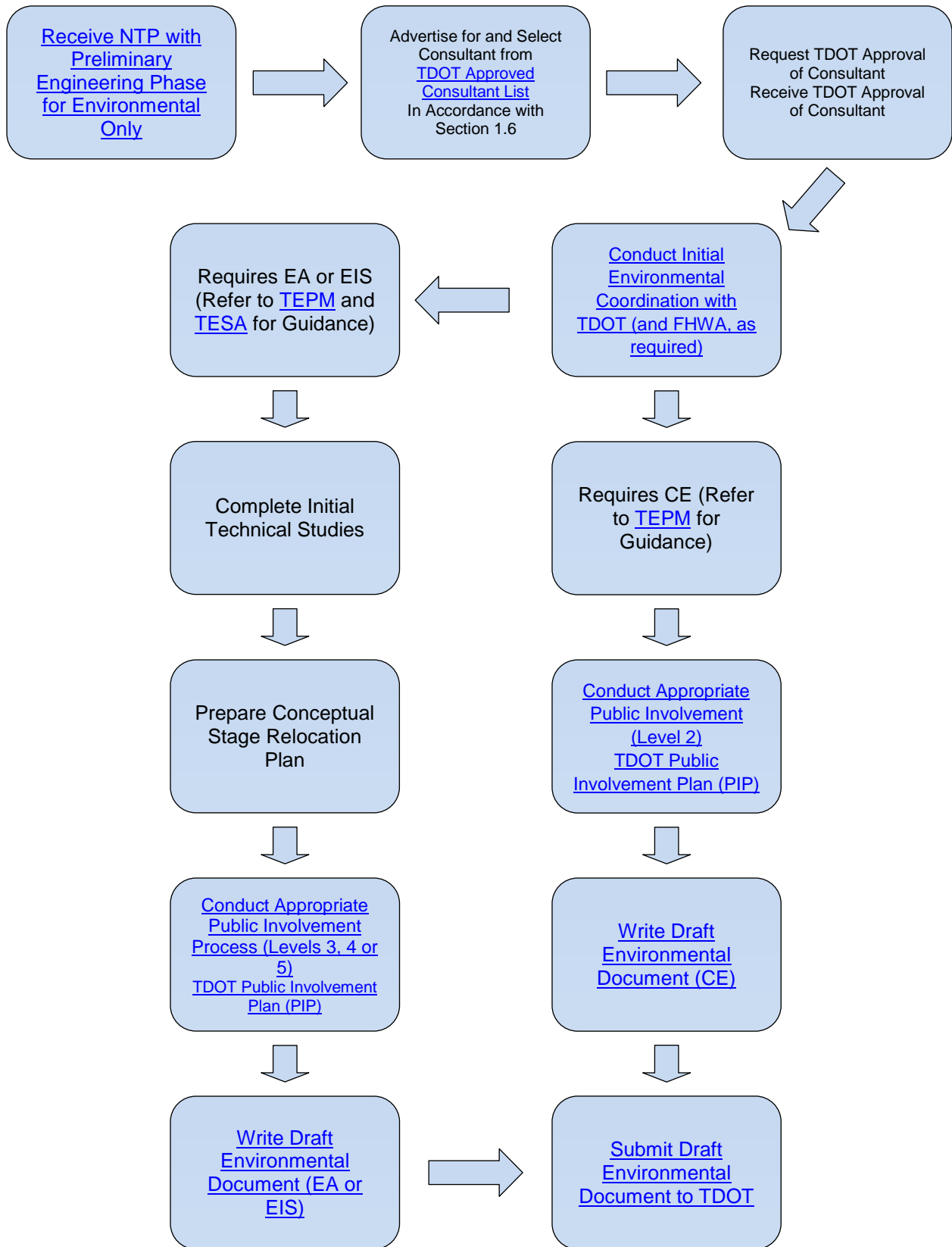


Figure 4-1 – Public Involvement / NEPA Flow Chart

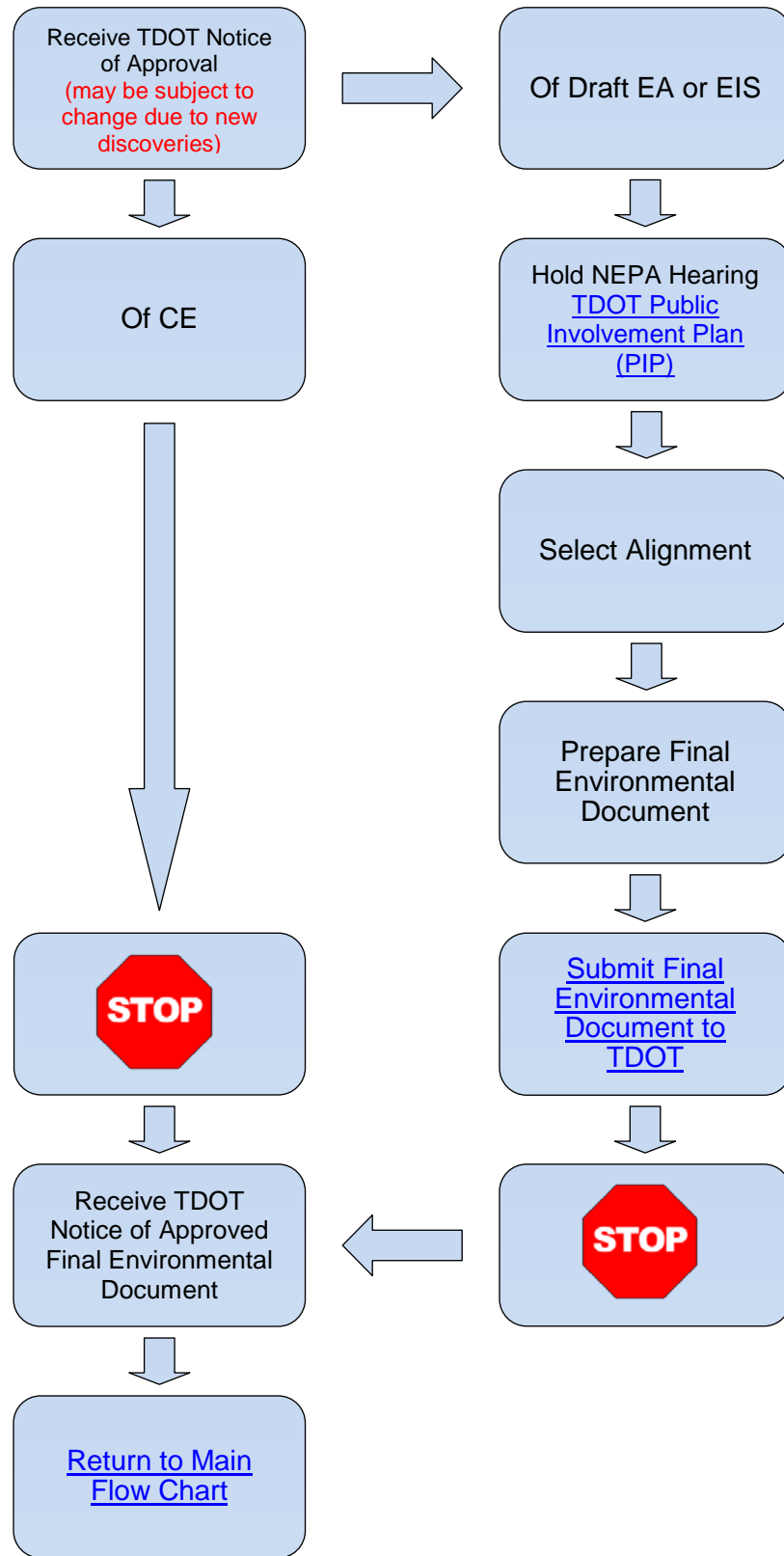


Figure 4-1 – Public Involvement / NEPA Flow Chart (continued)

**NOTICE TO PROCEED WITH THE
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: 02/01/2011

Date of Transmittal: 02/11/2011

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.tdot.state.tn.us/local/>. 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.

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

Figure 4-2 – NTP with Preliminary Engineering NEPA Phase

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

4.1 PUBLIC INVOLVEMENT PROCEDURES

All projects must have some level of public involvement. The Local Government will be responsible for holding all public meetings required by NEPA. In addition, the Local Government will assemble a multidisciplinary team to assess the impact of the proposed project on the public. Using [TDOT's Public Involvement Plan \(PIP\)](#) as a guide, and adhering to [Title VI requirements](#), the Local Government will determine the proper level of public involvement. At the time a request is made for authorization of funds for any phase other than preliminary engineering, the Local Government shall attest to the Local Program Development Office the level of public involvement, including the dates and times of meetings that were held. The Local Government shall maintain a record of all public meetings and the comments received and the disposition of those comments shall be collected and made a part of both the NEPA document and the project record. This record shall be provided to the Local Program Development Office.

4.2 NEPA PROCEDURES

Upon receiving Notice to Proceed with Preliminary Engineering for the Environmental Phase Only, the LG shall contact the TDOT Environmental Division Environmental Documentation Office – Local Programs at (615) 741-3655. The Environmental Division will provide the Local Government with the appropriate forms for completion.

Preliminary engineering as defined in this phase is any engineering work required to define the footprint of the potential environmental impacts of the project. If a consultant has not been selected, refer to Section 1.6 for guidance.

All documentation submissions shall be electronic copies only. Local Governments may email a PDF. Should there be a requirement for a paper copy, TDOT Environmental Division Environmental Documentation Office will discuss this requirement with Local Governments before asking them to print out their work. Local Government's first requirement will be for a copy of the grant application (for enhancement type projects only) and the Notice to Proceed (refer to [Figure 4-2](#)).

All environmental documentation must be prepared in accordance with FHWA guidance and the [TDOT Tennessee Environmental Procedures Manual](#).

If the project requires an Environmental Assessment or an Environmental Impact Statement, the project shall be developed in accordance with the TDOT Tennessee Environmental Procedures Manual and the [Tennessee Environmental Streamlining Agreement](#).

For a review of FHWA Guidance, refer to the FHWA NEPA implementing regulations outlined in [23 CFR 771.115-135](#) and explained in [FHWA's Technical Advisory T6640.8A](#), (select FHWA technical advisories) Guidance for Preparing and Processing Environmental and Section 4(f) Documents.

The Local Government shall submit the final environmental document to TDOT's Environmental Division for review (copy of the transmittal letter to be sent by email to Local.Programs@tn.gov). TDOT will submit the Final Environmental Document to the FHWA for review.

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



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

CHAPTER 5 - ROADWAY DESIGN PROCEDURES, INCLUDING STRUCTURAL DESIGN

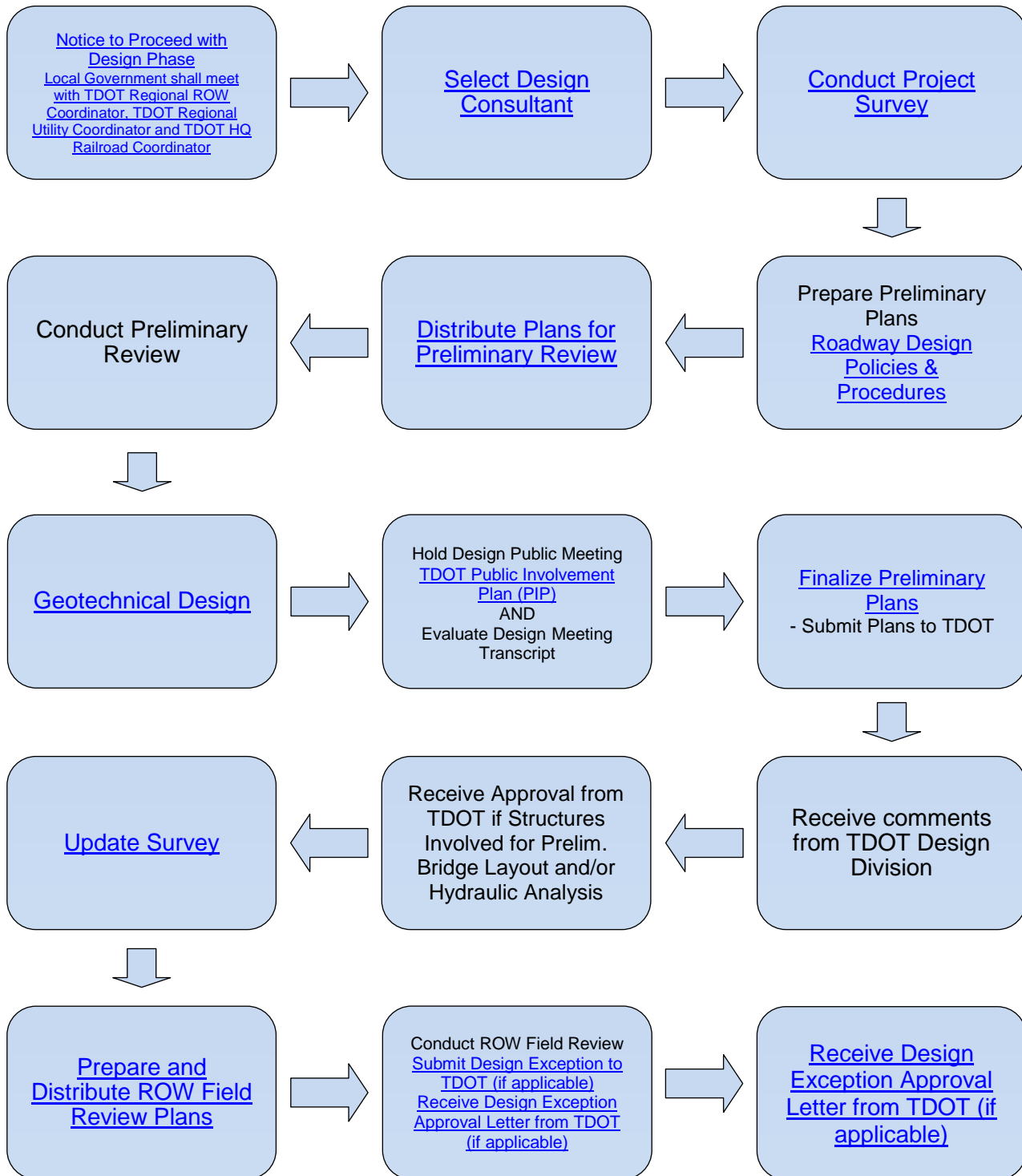


Figure 5-1 – Design Phase Flow Chart

**NOTICE TO PROCEED WITH THE
DESIGN PHASE
OF PROJECT DEVELOPMENT**

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

Effective Date: 2/1/2011

Date of Transmittal: 2/4/2011

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.tdot.state.tn.us/local/>. 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.

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

Figure 5-2 – NTP with Design Phase

PLEASE NOTE: Local Governments 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 shall meet with the TDOT Regional Right-of-Way 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 may begin at the preliminary plans stage in order to incorporate railroad requirements into the final Right-of-Way plans. Crossing upgrade design may not begin until after receiving the Notice to Proceed with the Right-of-Way Phase.

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 following documents:

<http://www.tdot.state.tn.us/materials/geotech/docs/GeotechnicalReportManual.pdf>

<http://www.tdot.state.tn.us/materials/geotech/consultantinfo.htm>

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 the state or national highway systems will require detailed oversight from TDOT. Local Governments shall not manage projects on the interstate system, except for transportation enhancement projects. In addition, 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 System Engineering Analysis document may also be required based on the classification of the project (High Risk, Low Risk, or Exempt). This document must be approved by TDOT / FHWA. Additional guidance is available in Chapter 8 of the [Traffic Design Manual](#).

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

Non-Construction projects such as diesel retrofit (aftertreatment devices, engine repowers, vehicle replacements, idle reduction technologies, etc), car pool and van pool projects, rideshare projects, software projects (GIS, ITS, rideshare, etc), alternative fuel infrastructure projects, truck stop electrification, archeological planning and research projects,

pedestrian and bicycle safety and education activities, and acquisition of scenic viewsheds and historic battlefields are covered in [Chapter 10: Non-Traditional Projects](#).

5.4.1 ROADWAY DESIGN POLICIES AND PROCEDURES

For roadway projects, Local Governments 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. [Roadway Design Guidelines, TDOT Design Division, current edition](#)
4. [Survey Manual, TDOT Design Division, current edition](#)
5. [Design Division Drainage Manual, TDOT Design Division, current edition](#)
6. [Earth Retaining Structures Manual, TDOT Materials and Tests Division, current edition](#)
7. [Geotechnical Report Manual, TDOT Materials and Tests Division, current edition](#)
8. [Standards for Accessible Design, 28 CFR Part 36, Appendix A](#)
9. [Manual on Uniform Traffic Control Devices \(MUTCD\), FHWA, current edition](#)
10. [Traffic Design Manual, TDOT Design Division, current edition](#)

Local Governments 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. [Standard Specifications for Highway Bridges, AASHTO, current edition with addenda](#)
7. [LRFD Bridge Design Specifications, AASHTO, current edition with addenda \(after October 2007\)](#)
8. [Highway Safety Manual, AASHTO, current edition](#)
9. [Guide for the Planning, Design, and Operation of Pedestrian Facilities, AASHTO, current edition](#)
10. [TDOT Work Zone Safety & Mobility Manual](#)

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.

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. Local Governments 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

All projects involving roadway geometric elements shall be designed using MicroStation / GEOPAK software. Non-roadway projects may be designed by using other engineering / architecture design software.

5.4.3 DESIGN EXCEPTIONS FOR ROADWAY PROJECTS

For roadway projects that do not meet the criteria for the thirteen (13) controlling elements of design listed in Section 3-110.02 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 thirteen (13) 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 Local Government and / or their consultants to identify the need for a design exception based on the criteria for the thirteen (13) 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 Right-of-Way plans.

When a design exception is required, the “Design Exception Request and Justification Form” ([Form 5-1](#)) should be completed as described in Section 3-110.02 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 Local Program Development Office. When the design exception has been approved, one copy of the “Design Exception Request and Justification Form” will be returned to the Local Government through the TDOT Local Program Development Office. The original copy of the “Design Exception Request and Justification Form” and supporting documents will 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 Local Government shall not proceed with the design until the design exception approval letter is received from TDOT.

5.4.4 ALTERNATIVE TRANSPORTATION FACILITY DESIGN

An alternative 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). Refer to ATFD Checklist ([Form 5-2](#)).

Alternative 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 each type of alternative transportation facility:

A. Pedestrian Facilities

- [Guide for the Planning, Design, and Operation of Pedestrian Facilities, AASHTO, July 2004](#)
- [Regulatory Negotiation Committee on Accessibility Guidelines for Outdoor Developed Areas, Access Board, September 30, 1999](#)
- [ADAAG 2010](#)
- [Roadway Standard Drawings](#)

B. Bicycle Facilities

- [Guide for the Development of Bicycle Facilities, AASHTO, 1999](#)
- [Regulatory Negotiation Committee on Accessibility Guidelines for Outdoor Developed Areas, Access Board, September 30, 1999](#)
- [Roadway Standard Drawings](#)

C. Shared Use Paths

- [Guide for the Development of Bicycle Facilities, AASHTO, 1999](#)
- [Regulatory Negotiation Committee on Accessibility Guidelines for Outdoor Developed Areas, Access Board, September 30, 1999](#)
- [Roadway Standard Drawings](#)

All of the facilities listed above should be designed to provide ADA access. The proposed facility function should be evaluated and designed per the referenced guidelines, if the facility cannot be designed in accordance with the above guidance, the Alternative Transportation Facility Design Check List ([Form 5-2](#)), must be completed in order to document and verify the design exception. The checklist must also be submitted to the LPDO and maintained in the Local Government project file.

5.4.5 DESIGN CERTIFICATION

It is the sole responsibility of the Local Government 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. Local Governments shall submit a Design Certification Letter for each project via email to Local.Programs@tn.gov.

For projects, except non-roadway 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 thirteen (13) controlling elements of design have been met or formal approval of a Design Exception has been received. Refer to example Design Certification Letter ([Form 5-3](#)).

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

A Design Certification Letter and plan sets shall be distributed in electronic format by either email or FTP to the Local Program Development Office. After the Design Certification Letter has been received by TDOT and applicable waiting periods for public hearings / meetings have expired, the right-of-way plans will be authorized for distribution.

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 Right-of-Way 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, Right-of-Way, and Construction Plans Checklist in Section 1-105.00 of the [TDOT Roadway Design Guidelines](#). Project plan sheets shall be scanned in black and white at a minimum of 300 dpi in (PDF format) for email distribution. Existing and proposed right-of-way 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 Local Government. The final plans should be stamped and signed by a licensed TN Professional Engineer.

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 Local Government, 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 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 DISTRIBUTIONS

The Local Government shall send Preliminary, Final Right-of-Way, and Construction plans to the Local Program Development Office 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) along with a CD containing .PDF file. Refer to [Chapter 2: Distribution Matrix](#) for additional details.

For roadway projects that are located on the National Highway System or State Routes, the Local Government shall send Final Construction Plans (1 copy, full size with cross-sections, on Mylar and a CD containing .PDF file) with transmittal letter to the TDOT Design Division Local Programs Coordinator. Also, provide a copy of the transmittal letter to Local.Programs@tn.gov.

The Design Procedures Checklist ([Form 5-4](#)) should be submitted with all plan submittals.

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

5.6 STRUCTURES DESIGN

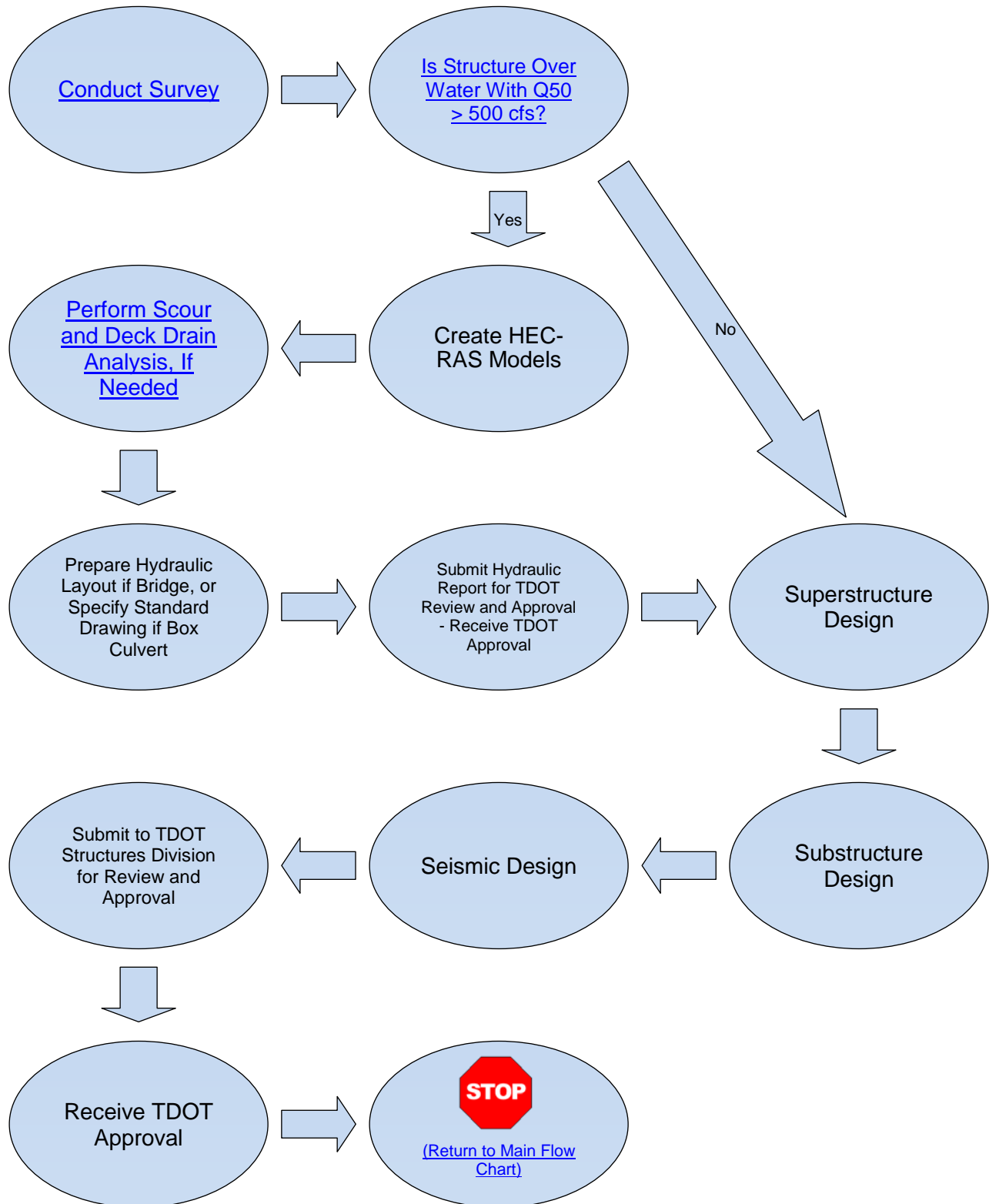


Figure 5-3 – Structural Design Steps Flow Chart

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 Local Government 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 TDOT Geotechnical Manual and AASHTO Bridge Design specifications, current edition after October 2007.

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 to the Local Program Development Office who shall then forward preliminary bridge layout to TDOT Structures Division for review and approval prior to purchase of any right-of-way. 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 5-5](#)) shall be submitted with all structural plans.

Final bridge plans stamped by a licensed engineer in the State of Tennessee shall be submitted to the Local Program Development Office 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 5-5](#)) 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 TDOT Structures Division standard drawings or designed to AASHTO guidelines.

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 Local Program Development Office for approval by TDOT Structures Division.

Structural design shall be by Load Resistance Factor Design (LRFD) per AASHTO Bridge Design Specifications, current edition.

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 outside 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. For bridges over railroads, the minimum vertical clearance shall be 23'-0" 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 \(THM\)](#).

A hydraulic design file stamped by an Engineer licensed in the State of Tennessee shall be submitted to the Local Program Development Office who shall then forward design file 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 right-of-way.

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 stamped by an Engineer licensed in the State of Tennessee shall be submitted along with the hydraulic design file to the Local Program Development Office 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 11-1 \(Open\) 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.

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 and Federal HBRRP funds cannot be used on that bridge again for 10 years.

5.6.5 RETAINING WALLS

Retaining walls for bridge or roadway projects shall conform to the [TDOT Earth Retaining Structures Manual and Policy](#) found at the [Materials and Tests 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 Local Program Development Office.

Final retaining wall plans stamped by a licensed engineer in the State of Tennessee shall be submitted to the Local Program Development Office 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 [AASHTO Standard Specifications for Structural Supports for Highway Signs, Luminaries and Traffic Signals, current edition](#).

5.6.7 CONSTRUCTION INSPECTION OF STRUCTURES

For details regarding the inspection of structures, refer to [Section 8.2.17](#).

CHAPTER 6 - RIGHT-OF-WAY, UTILITY AND RAILROAD PROCEDURES

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

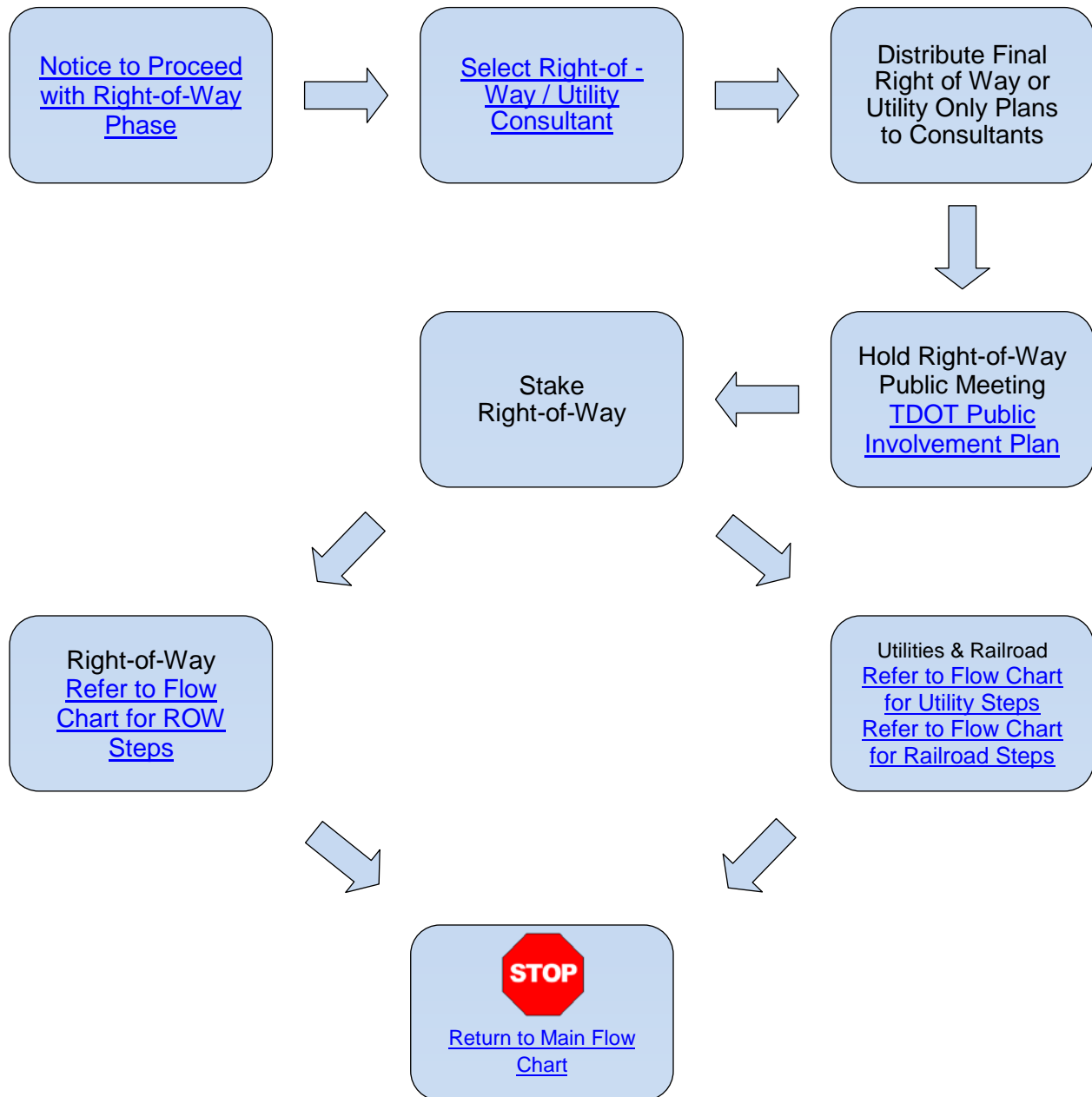


Figure 6-1 – ROW Phase Flow Chart

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

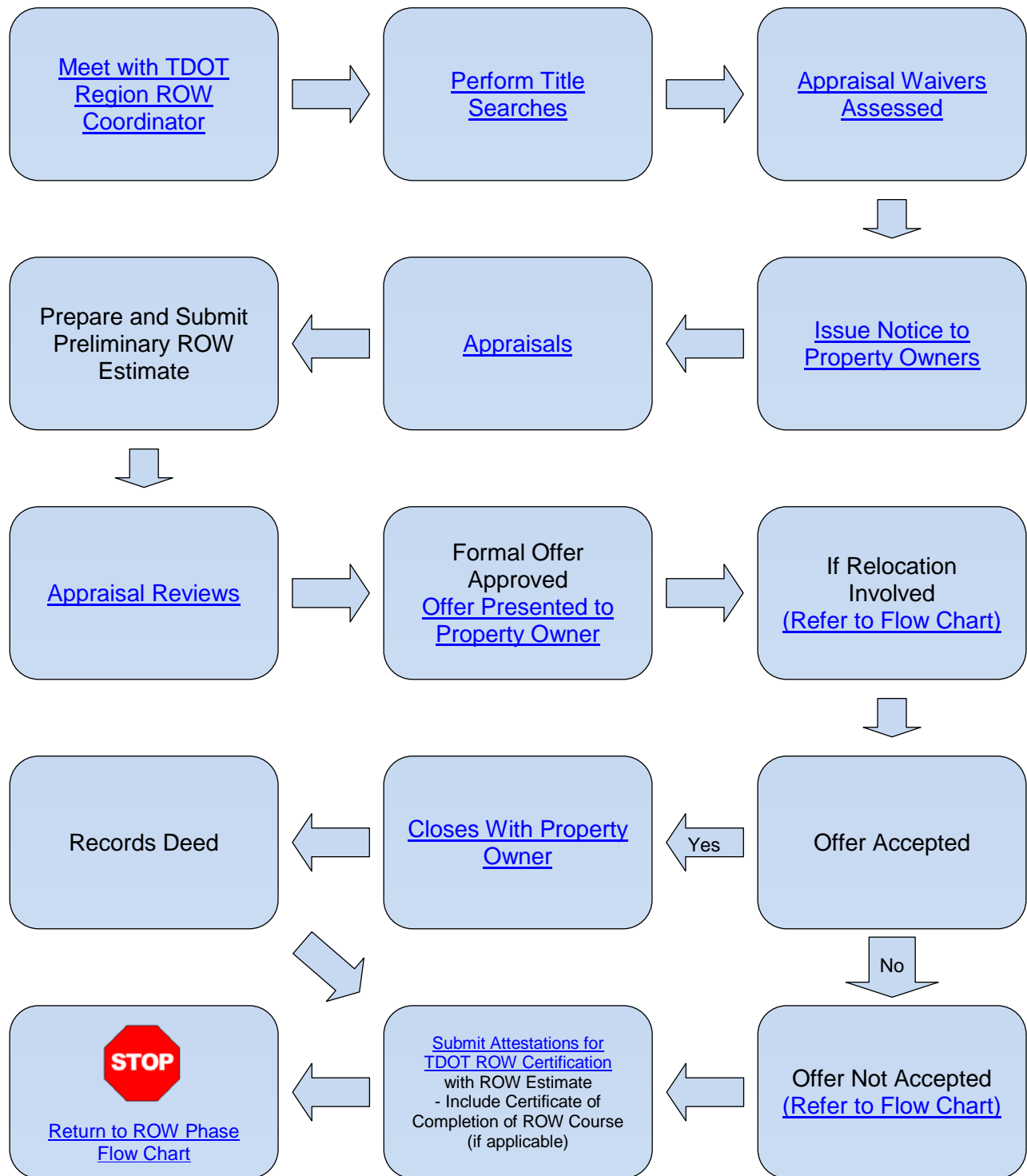


Figure 6-2 – ROW Steps Flow Chart

(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.)

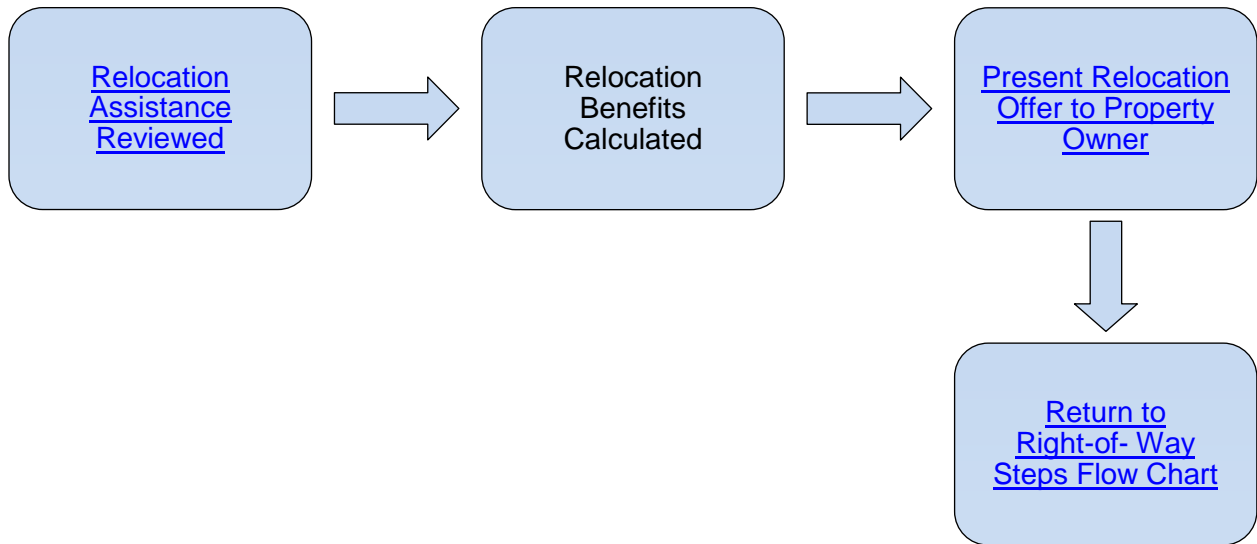


Figure 6-3 – Relocation Involved Steps Flow Chart

(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.)

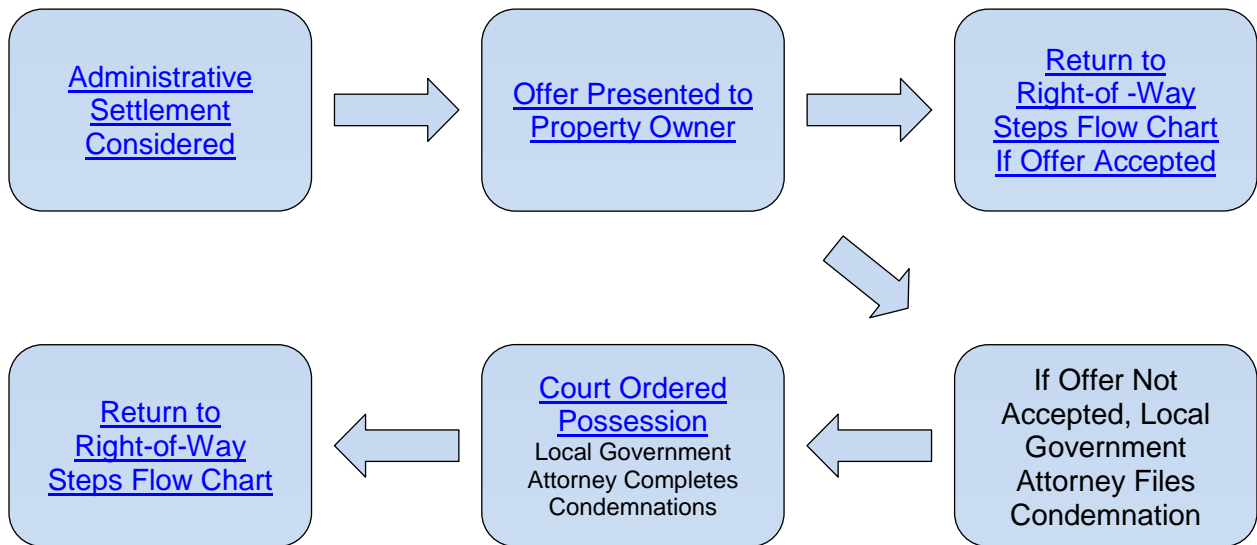


Figure 6-4 – If Offer Not Accepted Steps Flow Chart

(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.)

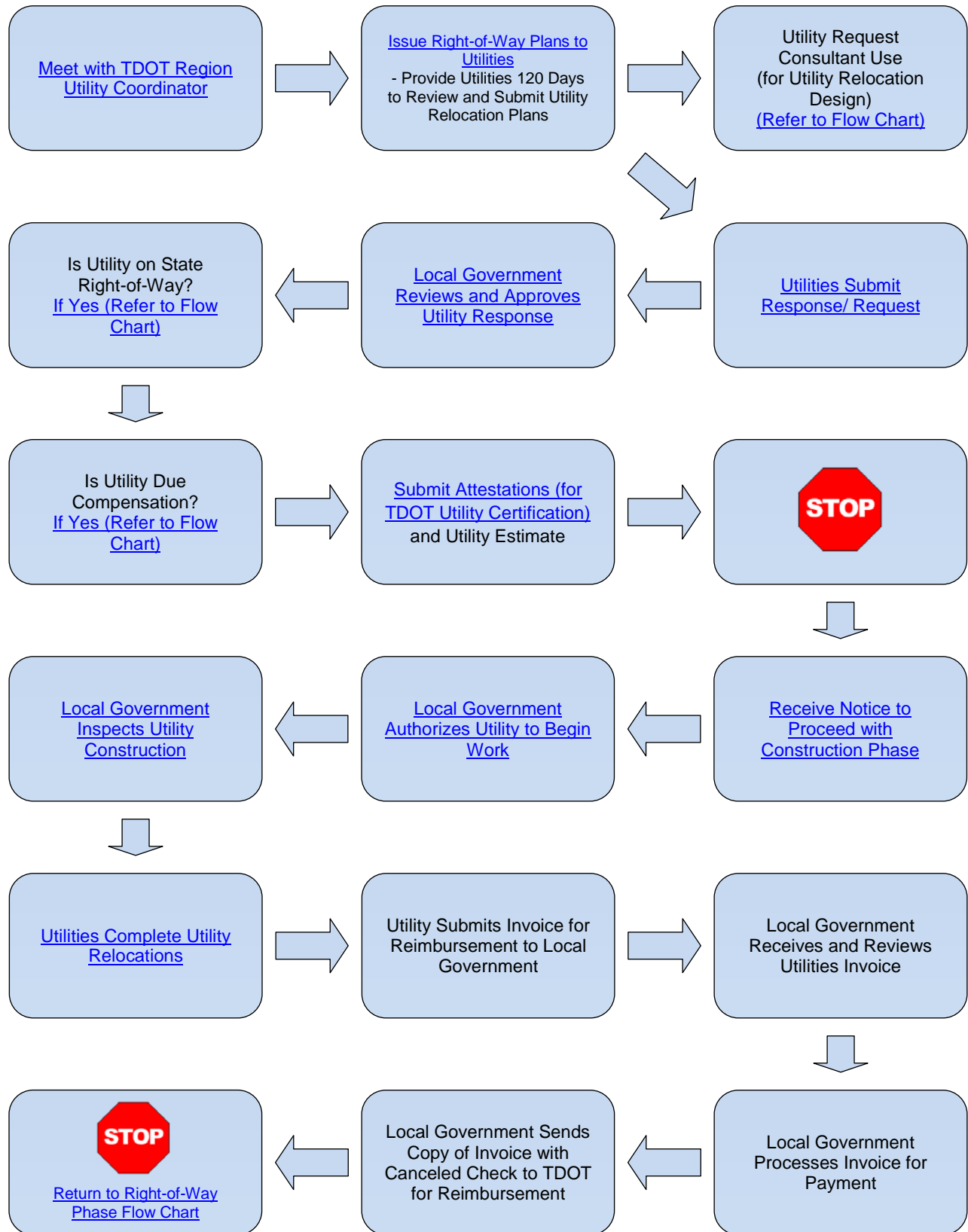


Figure 6-5 – Utility Steps Flow Chart

(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.)

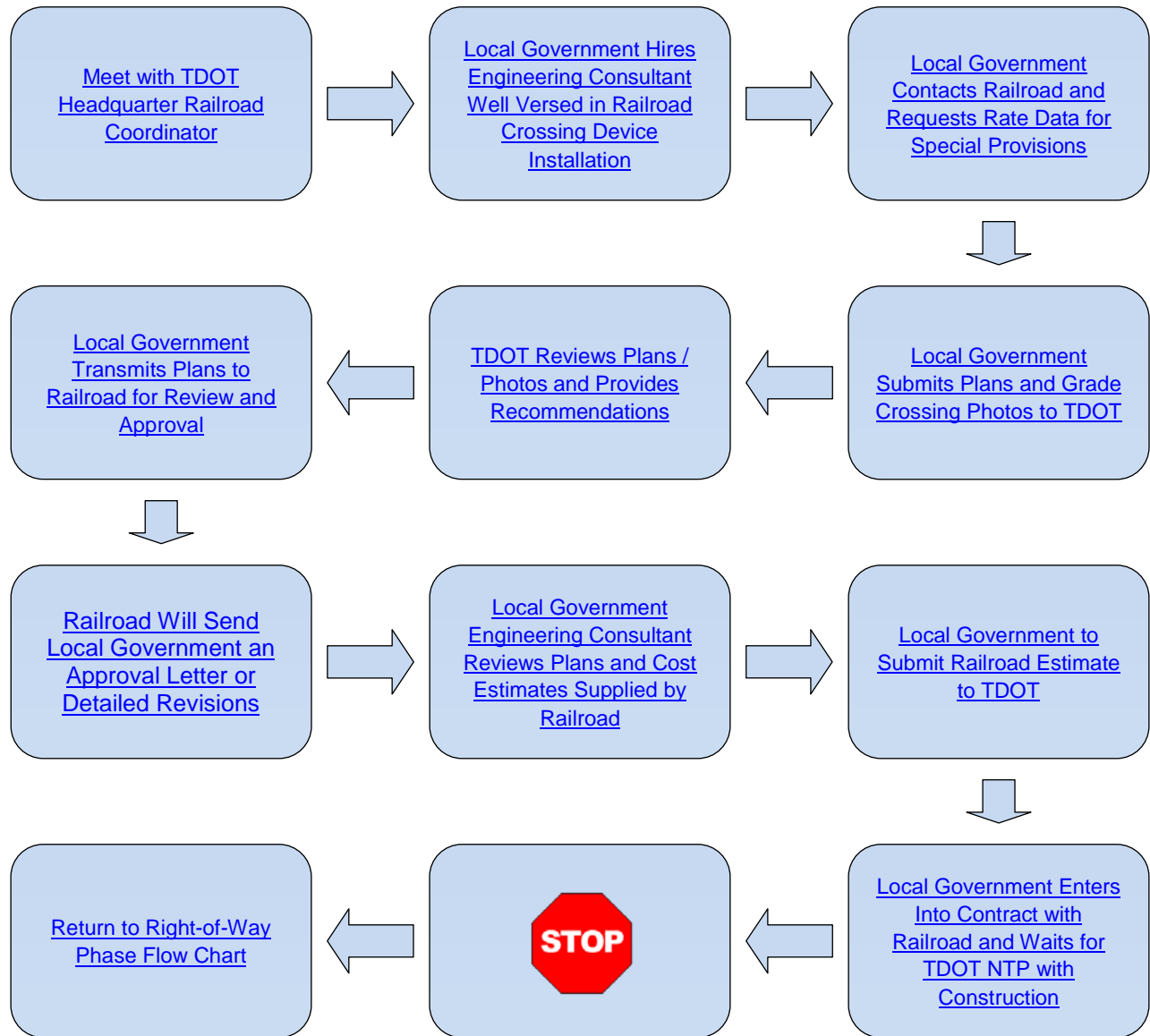


Figure 6-6 – Railroad Steps Flow Chart

(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.)

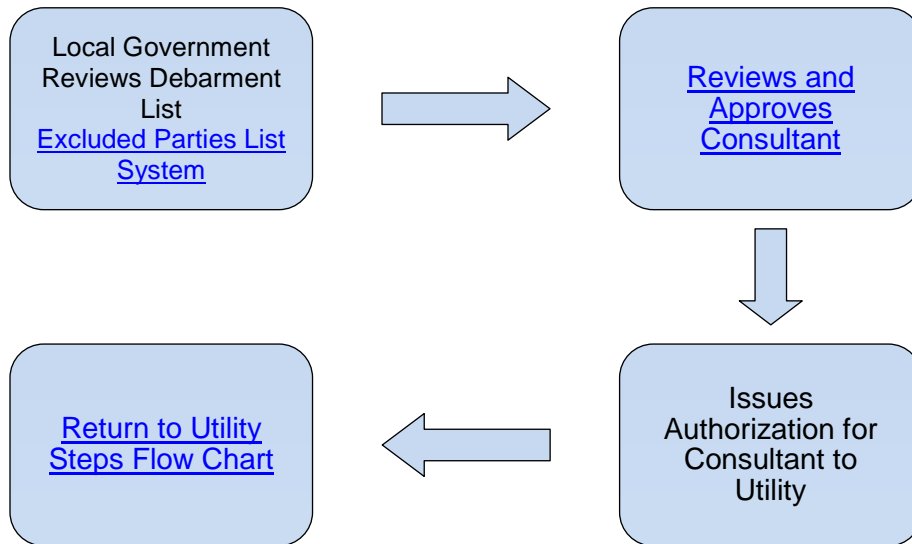


Figure 6-7 – If Utility Requests Consultant Steps Flow Chart

(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.)

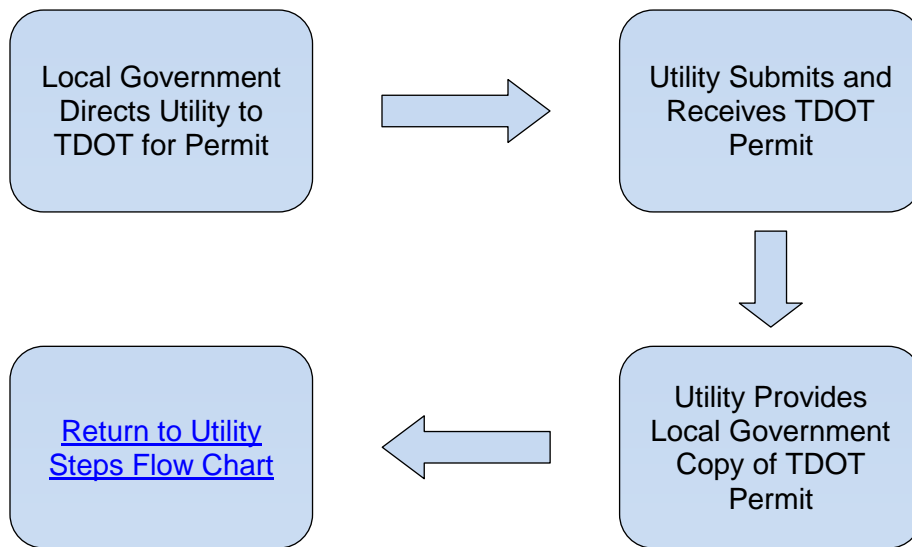


Figure 6-8 – If Utility Is On State ROW Steps Flow Chart

(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.)

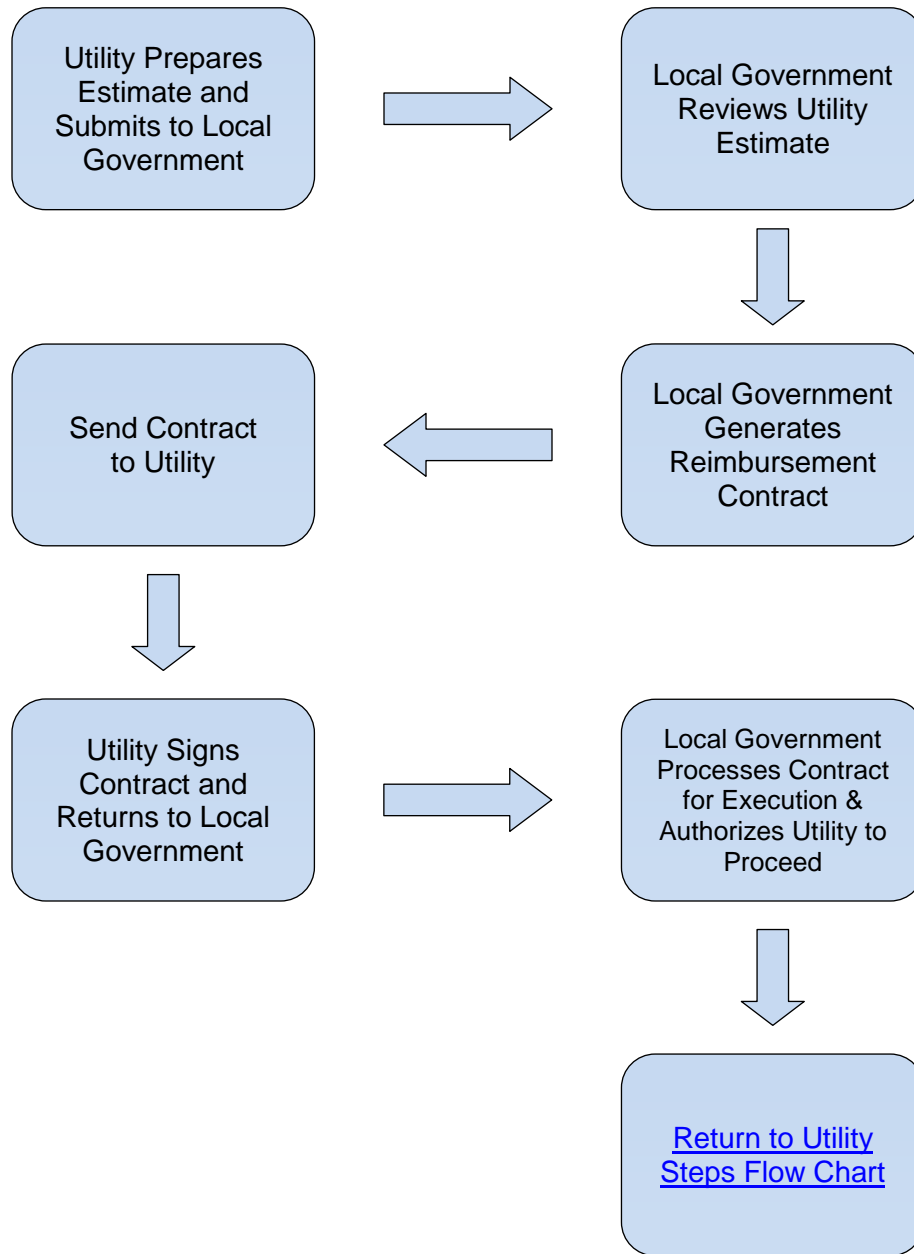


Figure 6-9 – If Utility is Due Compensation Steps Flow Chart

(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
RIGHT-OF-WAY PHASE
OF PROJECT DEVELOPMENT**

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

Effective Date: 1/19/2011

Date of Transmittal: 2/2/2011

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.tdot.state.tn.us/local/>. 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 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.

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

Figure 6-11 – NTP with ROW Phase

PLEASE NOTE: Local Governments 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 Right-of-Way Coordinator. (Local Governments shall not contact property owners, appraise property or proceed in any manner until the above form is received.)

6.1 RIGHT-OF-WAY PROCEDURES

The following is an outline guide of the basic necessities and procedures for acquiring right-of-way by a Local Government in compliance with 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 Right-of-Way Procedures Manual Chapters 7, 8, 9, and 10 (available from the TDOT Regional Right-of-Way Coordinator). Adherence to the above referenced regulations and procedures are mandatory.

These guidelines are presented in an effort to assist any Local Government 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 Local Government needs clarification of a point, has any questions or a specific problem, it is urged to contact the TDOT Right-of-Way Division at 615-741-3196. The Local Government may contact the TDOT Regional Right-of-Way Coordinator for the region in which it is located. Refer to information on TDOT regions at [TDOT Contacts](#).

6.1.1 LOCAL GOVERNMENT STAFF

- I. Administration
 - A. To authorize offer of approved compensation
 - B. To authorize administrative settlements in excess of the approved amount of just compensation
 - C. To authorize condemnation
 - D. To authorize legal settlements
- II. 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).
 1. May be from the Local Government staff
 2. May be a fee (contract) appraiser – shall be from TDOT's approved list of appraisers
 - B. Shall not have interest, direct or indirect, in the lands being appraised.
- III. Review Appraiser
 - A. Shall be licensed and / or certified to conduct real estate appraisals In Tennessee
 1. May be from Local Government staff
 2. May be a fee (contract) appraiser – shall be from TDOT's approved list of appraisers

3. Cannot be the same person who performed the Original Appraisal, or part of the same consultant agency
 - B. May not have any interest, direct or indirect, in the lands being appraised
 - C. May not act as a negotiator or buyer or closing agent
 - D. Establishes just compensation by approval of appraisal or by use of revised or additional data along with justification for its use
- IV. Negotiator (Buyer)
- A. Makes written offer to purchase
 - B. Carries on negotiations
 - C. Shall not approve administrative or legal settlements
 - D. Shall not close transaction
- V. Closing Agent
- A. Shall not be the negotiator, appraiser or review appraiser
 - 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
- VI. Relocation Agent
- A. Provides relocation advisory services
 - B. Computation of relocation benefits
 - C. Provides Property Management

6.1.2 NOTICE

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 Local Government, 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 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 remainders

6.1.4 TITLE EVIDENCE

A title report and / or abstract and search of county records are required for each parcel. The Local Government Official shall obtain TDOT Regional Right-of-Way 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. Local Government shall obtain TDOT Regional Right-of-Way 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. Local Government shall obtain TDOT Regional Right-of-Way Coordinator review, before proceeding to the next phase
- III. 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 and value

6.1.7 NEGOTIATION – ACQUISITION

- I. The negotiator or buyer;
 - A. May be from the Local Government staff or
 - B. May be a contracted party – shall be from TDOT’s approved list of acquisition / relocation consultants.
- II. Negotiations shall be made by **personal contact**.
- III. Negotiations may be carried out by correspondence if the property owner is a non-resident of the area.
- IV. 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 value.

- 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.
- V. 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.
- VI. The property owner shall be given a reasonable length of time to consider the offer made.
- VII. Counter offers by property owner shall be considered.
- VIII. No coercion or threat shall be used to influence a property owner to accept the offer made.
- IX. The property owner shall be given the opportunity to retain at a salvage value and move any improvements located within the right-of-way 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.
- X. Negotiations shall include an offer to acquire any uneconomic remnants of land. The property owner may decline this offer.
- XI. 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.
- XII. Donations of right-of-way may be accepted, provided the property owner has been apprised 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 right-of-way. If Local Government wishes to use donated right-of-way as part or all of in-kind match (for enhancement projects only) it must meet all requirements as stated in Chapter 1.
- XIII. Local Government shall obtain TDOT Regional Right-of-Way Coordinator review, before proceeding to the next phase.

6.1.8 ADMINISTRATIVE AND COURT SETTLEMENTS

- I. A settlement for an amount greater than the approved appraised value may be accepted.
 - A. It shall be administratively approved by the persons having the authority to do so.
 - 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 appropriate persons.
- III. A legal settlement may also be stipulated and ordered by the court.
- IV. Local Government to obtain TDOT Regional Right-of-Way 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. Local Government shall obtain TDOT Regional Right-of-Way 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. Local Government shall obtain TDOT Regional Right-of-Way Coordinator review, before proceeding to the next phase.
- IV. For additional information concerning property management policies, contact the TDOT Regional Right-of-Way Coordinator for the Region in which you are located.

6.1.11 RELOCATION

- I. The Relocation Agent
 - A. May be from the Local Government staff or
 - B. May be a contracted party - shall be from TDOT's approved list of acquisition / relocation consultants.
 - C. Shall also 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. 180 Day Owner
 - 1. RHP of up to \$22,500 based on price differential **and**;
 - 2. Incidental expenses relating to the purchase of replacement housing **and**;
 - 3. Mortgage interest differential **or**;
 - 4. Rental assistance payment not to exceed the amount that the displacee is eligible for under item a above (\$22,500)
- E. 180 Day Owner Tenant (90 Day Occupant) or less than 180 Day Owner
 - 1. Down payment assistance up to \$5,250
 - 2. Rental assistance payment up to \$5,250
- 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 \$10,000 in reestablishment expense **or**;
 - C. A fixed payment in lieu of moving cost and reestablishment expense not to exceed \$20,000
- IV. The owner of personal property displaced by a project who does not qualify as a residential displacee, a displaced business, farm, or non-profit organization may be entitled to:
 - A. Relocation Advisory Services
 - B. Moving cost for personal property

NOTE: For detailed instructions concerning eligibility, calculation of these benefits and explanation of the exceptions to these monetary limits, please refer to the TDOT Right-of-Way Procedures Manual, Chapter 6 (available from the TDOT Regional Right-of-Way Coordinator).

The entitlements listed are general in nature. For more information concerning relocation benefits, qualification and exclusions, **PLEASE CONTACT TDOT REGIONAL RIGHT-OF-WAY COORDINATOR FOR THE REGION IN WHICH YOU ARE LOCATED.** Local Government shall obtain TDOT Regional Right-of-Way Coordinator review, before proceeding to the next phase.

6.1.12 CERTIFICATION

- I. At the completion of the Right-of-Way Phase of the project, the Local Government shall attest to TDOT that all right-of-way 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 Right-of-Way Procedures Manual Chapters 7, 8, 9, and 10 (available from the TDOT Regional Right-of-Way 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 Notice to Quit – if applicable

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 Right-of-Way Phase and there is not a separate Notice to Proceed. The Notice to Proceed issued by the TDOT Local Program Development Office will also include Utility and Railroad Coordination. If the Local Government 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 assure 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 Local Government to fulfill guidelines requirements may be done by electronic email at the direction of the TDOT Regional Utility Coordinator. The Local Government 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 within the project limits, or within 200 feet (measured from the project limits to the nearest rail), 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 ([TDOT Contacts](#)) 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 Local Government 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 Local Government shall provide one (1) copy of the right-of-way 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 Local Government. TDOT highly recommends the Local Government obtain proof of plans delivery by use of Certified Mail, Return Receipt Requested.

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

The Local Government shall notify the utilities involved that if the relocation of existing facilities conflict with construction, resulting in utility facilities being constructed within State

right-of-way on a State System Route, the utility will be responsible for acquiring a permit from TDOT prior to construction.

1. Projects on State System Routes will be required to meet TDOT Rules and Regulations for accommodating utilities within highway right-of-way ([1680-6-1](#)).
2. Projects on Local Government System will be subject to any rules and regulations the Local Government maintains. The Local Government shall document to TDOT that a variance from State rules was allowed, and cite any Local Government rules that apply.
3. Projects on State System Routes shall be required to notify utilities and railroads during project development to solicit comments on potential conflicts. ([TCA 54-5-853](#))
4. Projects on State System Routes shall be required to provide right-of-way plans to utilities and railroads, requesting that relocation plans, estimates, and work schedules be submitted within 120 days after receipt. ([TCA 54-5-854](#))
5. Projects on State System Routes shall be required to provide revisions to the right-of-way to utilities and railroads, requesting that revised relocation plans, estimates, and work schedules be submitted within 45 days after receipt. ([TCA 54-5-854](#))

6.2.3 AFTER RIGHT-OF-WAY PLANS ISSUANCE

Upon receipt of the 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 Local Government 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 Local Government 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 Local Government 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 Local Government by the date specified by the Local Government. 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 highway contract and what the utility's cost will be in the contract).

The Local Government 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 Local Government 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 Local Government 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 Local Government shall attest to TDOT that contract(s) have been executed with the utility(s).

The Local Government 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 Local Government shall request certification from the TDOT Regional Utility Coordinator that all conflicting utilities have been contacted and provided relocation plans. 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:

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

- Utilities contacted that have No Conflict on the project
- Utilities contacted that will relocate at No Cost to project
- 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 Local Government can expect that TDOT will audit the project for compliance.

6.2.6 UTILITY CONSTRUCTION

The Local Government shall be responsible to issue written authorization for the utility to begin its relocation work.



The Local Government shall not authorize utilities to begin work until it receives a Notice to Proceed with the Construction Phase of project development. Any construction costs accrued prior to TDOT's obtaining construction funding may not be eligible for reimbursement.

The Local Government 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 Local Government shall be responsible for making payments as they are submitted by the utilities for work completed.

The Local Government shall attest to TDOT that utility relocation work has been authorized. The Local Government shall be required to attest that the utility relocations have been completed as per the approved plans and that all invoices have been paid.

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

[Return to
Right-of-Way
Phase Flow Chart](#)

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

1. FHWA and TDOT, in compliance with the Supreme Court Shanklin judgment require that any rail-highway crossing within a certain distance (In Tennessee, this distance is 200' measured from the project limits to the nearest rail) of a federally-funded highway project (including enhancement projects such as pedestrian and bicycle paths) be studied 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 rail-highway crossing locations is the responsibility of the Local Government. The TDOT Project Safety Office, Safety Project Section, Highway-Rail Grade Crossing Program will make a recommendation for adequate protection. This office can be contacted through the TDOT Headquarters Railroad Coordinator at (615) 741-2208. The Local Government 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 Local Government 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. **Local Governments shall hire an engineering consultant well versed in railroad crossing device installation and safety to review any grade crossings within 200-ft (measured from the project limits to the nearest rail), as well as review the estimated cost and engineered plans prepared by the railroad.**

2. Once the rail-highway crossing has been identified, the Local Government shall contact the TDOT Railroad Coordinator.
3. The Local Government shall contact the railroad and begin dialogue about the proper protection devices for the 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. If the Local Government contracts the project construction, the contract shall include the Railroad Special Provisions. **Note: If the project involves fiber-optic or electric wire-line crossings over railroad Right-of-Way, the Local Government 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.**
4. When the plans and grade crossing photos have been prepared, the Local Government shall submit them to the Local Program Development Office 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 Local Government or the State, depending on who has the responsibility by project agreement. The TDOT Project Safety Office, Safety Project Section, Highway-Rail Grade Crossing Program will provide the recommendation for adequate protection on any rail-highway grade crossings affected by the project. This office can be contacted through the TDOT Headquarters Railroad Coordinator at (615) 253-1149.
5. When the changes requested by TDOT have been made, the Local Government shall transmit the plans to the railroad for review and approval. Local Government 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.
6. The railroad shall send a letter either approving the plans as they are designed or detailing the revisions needed to protect railroad interests.
 7. The Local Government shall send the revised plans to the railroad for approval and request the railroad to provide a detailed cost estimate.
 8. The Local Government's audit department or the Local Government's engineering consultant should review and approve the estimate.
 9. The Local Government shall send a copy of the estimate to the Local Program Development Office at Local.Programs@tn.gov
 10. Once the estimate has been approved, the Local Government shall enter into contract agreement with railroad. When the contract is fully executed, the Local Government, after obtaining the Notice to Proceed with the Construction Phase, shall officially authorize the railroad to begin work. The Local Government shall send a copy of the letter authorizing such work to the Local Program Development Office at Local.Programs@tn.gov .

CHAPTER 7 - CIVIL RIGHTS COMPLIANCE

The Local Government 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 Local Government is responsible for the administration of both an Affirmative Action Program and the Disadvantaged Business Enterprise Program as set forth by the United States Department of Transportation (USDOT). The Local Government shall designate an appropriate staff person(s) responsible for ensuring compliance with Title VI, External Equal Employment Opportunity 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 Local Government 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, as well as technical assistance is to be provided by the Local Government to ensure that their contractors, consultants, and any subrecipients are also ensuring nondiscrimination in federal aid programs and activities.

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

The Local Government will be responsible for implementing the federal Disadvantaged Business Enterprise (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 power point overview of Civil Rights Compliance may be accessed at [Local Government Training Presentation](#) in addition to the specific programmatic guidance that follows. The Civil Rights Office will upon request provide training for Local Governments on Civil Rights Compliance.

7.1 TITLE VI COMPLIANCE

Nondiscrimination provisions apply to all federally assisted programs and activities of federal aid recipients, subrecipients, 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 and contractors.

7.1.1 RESPONSIBILITIES OF LOCAL GOVERNMENTS

The Local Government as a recipient of federal financial assistance shall have a comprehensive and proactive Title VI enforcement program to eliminate and prevent discrimination. The Local Government 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 (DOJ) coordination regulations and guidelines ([28 C.F.R. 42, Subpart F \(1994\)](#); and [§ 50.3](#)). 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 Local Governments to assist them in implementing the nondiscrimination provisions of the Title VI statutes.

The Local Government is responsible for implementing, developing, and establishing adequate procedures for identifying and addressing Title VI issues as prescribed by the Federal Highway Administration.

7.1.2 TITLE VI / NONDISCRIMINATION MINIMUM REQUIREMENTS AND OBLIGATIONS

The Local Government, acting as a subrecipient, shall:

Develop a Title VI Program

The Local Government 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 the local program's subrecipients, vendors, and contractors.

Designate a Civil Rights Coordinator

Local Government must have a Civil Rights Coordinator on staff (must have completed [Title VI training](#)). 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 local government and have easy access to the head of the local government.

Endorse Nondiscrimination Assurances

Ensure that there is "Nondiscriminatory Language" in All Contracts

Develop a Limited English Proficiency Plan (LEP)

<http://www.tdot.state.tn.us/civil-rights/titlevi/english.htm>

Ensure that a plan has been developed to communicate in oral and written form to LEP persons. Additionally, ensure that local government staff is trained on the LEP procedures.

Develop a Public Participation Plan

<http://www.tdot.state.tn.us/documents/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 public project, persons in the affected communities must be included in the decision-making process.

Develop Procedures for Prompt Processing and Disposition of Title VI Complaints

<http://www.tdot.state.tn.us/civil-rights/titlevi/documents/NondiscriminationComplaintProcedures.pdf>

Local Government 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. Local Government must advertise that all programs and activities operate without regard to race, color, or national origin.
3. Local Government 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.

Develop Procedures for The Collection of Statistical Data (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

Provide a method to solicit certified Disadvantaged Business Enterprises and other small minority and women owned businesses

Ensure that all local program recipients / subrecipients have an approved assurance / action plan that is being implemented in accordance with regulations (including complaint procedures)

Ensure that Recipient's 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 those traditionally underserved)

Use a Multidisciplinary Approach, Monitor and Evaluate Recipients' / Subrecipients' Efforts to prevent, resolve or mitigate issues / situations that could lead to Title VI violations

Develop a Program to Conduct Title VI reviews of program areas and subrecipients to determine the effectiveness of Title VI Programs

Develop Title VI Information for Dissemination to the general public and, where appropriate, in languages other than English

Ensure that Title VI Training is Conducted with staff, recipients / subrecipients annually

7.1.3 REPORTING

The Local Government shall submit an Annual Title VI Program Update to include all statistical and documentary materials needed to make a determination of compliance or noncompliance to TDOT Civil Rights Office with a copy provided to the Local Program Development Office by August 1st. Additionally, TDOT's Title VI Staff will notify Local Governments to make arrangements to conduct periodic compliance reviews of the Title VI Programs. The compliance reviews will focus on how effectively the local government has implemented its Title VI Program.

7.1.4 SELECTED AUTHORITIES

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: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations	The Executive Order requires that each 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.
US DOT Order 5610.2 to Address Environmental Justice in Minority Populations and Low-Income Populations	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>FHWA Order 6640.23</p>	<p>FHWA Actions to Address Environmental Justice in Minority Populations and Low-Income Populations - establishes policies and procedures for the Federal Highway Administration (FHWA) to use in complying with Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (EO 12898), 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>

Table 7-1 – Selected Authorities

7.2 DBE PROGRAM GUIDELINES

7.2.1 BACKGROUND

The Disadvantaged Business Enterprise (DBE) Program was created to ensure nondiscrimination in the award and administration of USDOT assisted contracts. 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 USDOT 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 an acronym for Disadvantaged Business Enterprise. 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
- WMBE – White Male Business Enterprise

The Local Government 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 Program Development Office. The Local Government 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 locally let 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.tdot.state.tn.us/civil-rights/smallbusiness/>. Check the online [TNUCP DBE Directory](#) regularly for updates.

7.2.3 DETERMINING WHEN A DBE PROJECT GOAL SHOULD BE SET

The intent is to provide contract opportunities to minorities and females on all types of federal aid contracts. Therefore, DBE goals on locally let contracts and consultant contracts are to be assessed. The goal attainment at the end of the FFY should be based on all dollars available for award to DBEs which includes all work let and assigned to consultants.

Federal regulations require each project to be analyzed to determine the potential for DBE utilization. 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 in order to bid a contract or subcontract.
- Contracts greater than \$500,000 (comprised of any combination of funding sources) shall have a DBE goal.

7.2.4 ADVERTISING OPPORTUNITIES FOR WORK ON FEDERAL AID CONTRACTS

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.

It is required that the following phrase be included in the Bid Announcements 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 with their bid / proposal sufficient documentation for reporting requirements to achieve the goal. This information should include 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 (or proposal) should be sufficient for the Local Government 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 Local Government 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 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 Local Government. Adequate effort should be made to replace the dollar amount of the lost DBE commitment. Please refer to [TDOT Special Provision \(SP\) 1247](#) for further guidance. Achieving the DBE goal is a contractual obligation. Refer to www.tdot.state.tn.us/civil-rights/smallbusiness/.

7.2.8 WHAT TO REPORT AND WHEN TO SUBMIT THE INFORMATION

Two basic types of information are to be reported to the TDOT Civil Rights Office with a copy provided to the Local Program Development Office no later than 3 days after the project is awarded:

- Contract Awards / Commitments ([Form 7-1](#))
- Ethnicity and Gender breakdown of DBE ([Form 7-1](#)) used on the projects

Actual payment data on completed contracts is reported once project is completed on the CC-3 Form ([Form 8-33](#)).

7.2.9 COMMERCIALLY USEFUL FUNCTION (CUF)

CUF needs to be assessed by the Local Government DBE Liaison for all DBEs ON ALL PROJECTS and submitted as outlined in [Section 8.2.8 – DBE Subcontracts and Civil Rights Contract Compliance](#). Refer to [C.L. 1247-01](#) for more details. 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 for each DBE ([Form 8-7](#)).

The CUF Checklist ([Form 8-8](#)) should be completed whenever a DBE performs work (even if there is no goal assigned to the project). Work performed by DBEs on non-goal projects will be counted as race-neutral.

7.3 EXTERNAL EQUAL EMPLOYMENT OPPORTUNITY

The External Equal Employment Opportunity is designed to ensure that federal aid highway 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 Program, the Local Government 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 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 Local Governments 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 DBE requirements, on-the-job training (OJT) and training special provisions (TSP) contained in Form [FHWA-1273](#);
- 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 (OJT)

The contractors OJT Programs shall be approved by the Local Government Civil Rights Office, prior to the pre-construction conference. Construction cannot begin until the Local Government Project Supervisor receives this approval.

7.3.1.1 GUIDELINES AND PROCEDURES USED TO SELECT PROJECTS FOR TSP

1. Availability of minorities, women and disadvantaged for training.
 - Review of US Census EEO Residence Data and Department of Labor Data.
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 TDOT Special Provision 1232 for minority and female employment goals.
 - 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 TDOT Special Provision 1232 for minority and female employment goals.
 - Review of US Census EEO Residence Data and Department of Labor Data.
9. Recognition of the suggested minimum goal for the State.
 - Review of TDOT Special Provision 1232 for minority and female employment goals.
 - 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 Local Government 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

[E.O. 11246](#), as amended. Although 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 and its implementing regulations ([41 CFR 60](#)). The Local Government'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, Titles VI & VII](#)
2. [The Civil Rights Restoration Act of 1987](#)
3. [The Age Discrimination Act of 1975](#)

4. [The Rehabilitation Act of 1973](#)
5. Federal-Aid Highway Act of 1968, [23 U.S.C. 140](#), [324](#)

7.3.5 REGULATIONS

1. [23 CFR 200](#), Title VI
2. [23 CFR 230](#), Subpart A, Appendix A (EEO Special Provisions)
3. [23 CFR 230](#), Subpart A, Appendix B (OJT and Training Special Provisions)
4. [23 CFR 230](#), Subpart B, (Supportive Services for DBE's)
5. [23 CFR 230](#), Subpart C, Appendix A (EEO Program Format)
6. [23 CFR 230](#), Subpart D, (FHWA Contract Compliance Procedures)
7. [23 CFR 230](#), [633](#), Required Contract Provisions
8. [23 CFR 635.117\(d\)](#) and (e), Construction and Maintenance-Indian Preference
9. [41 CFR 60-1](#), Obligations of Contractors and Subcontractors
10. [41 CFR 60-4](#), Affirmative Action in Construction Goals and Timetables and "Standard Federal Equal Employment Opportunity Construction Contract Specifications".
11. [49 CFR 21](#), Title VI
12. [49 CFR 26](#), Subpart B, (DBE Program Requirements)

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. [OJT Desk Reference](#)

4. TDOT Contract Compliance Review Handbook
5. [Local Programs Civil Rights Compliance Presentation](#)

7.3.9 IMPLEMENTATION

The Local Government 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 Local Government 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. Local Government'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: Local Government'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 Local Government 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 Local Program Development Office 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 be filed in the 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 [Appendix B of 23 CFR, 230A](#), 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. Local Governments should make the determination whether to include a training SP in their contracts.
- [SP 1246](#) & [1247](#) – Disadvantaged Business Enterprises (DBE): DBE, as defined in [49 CFR Part 23/26](#), shall have the maximum opportunity to participate in the performance of contracts let by Local Governments. 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 Local Government.

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

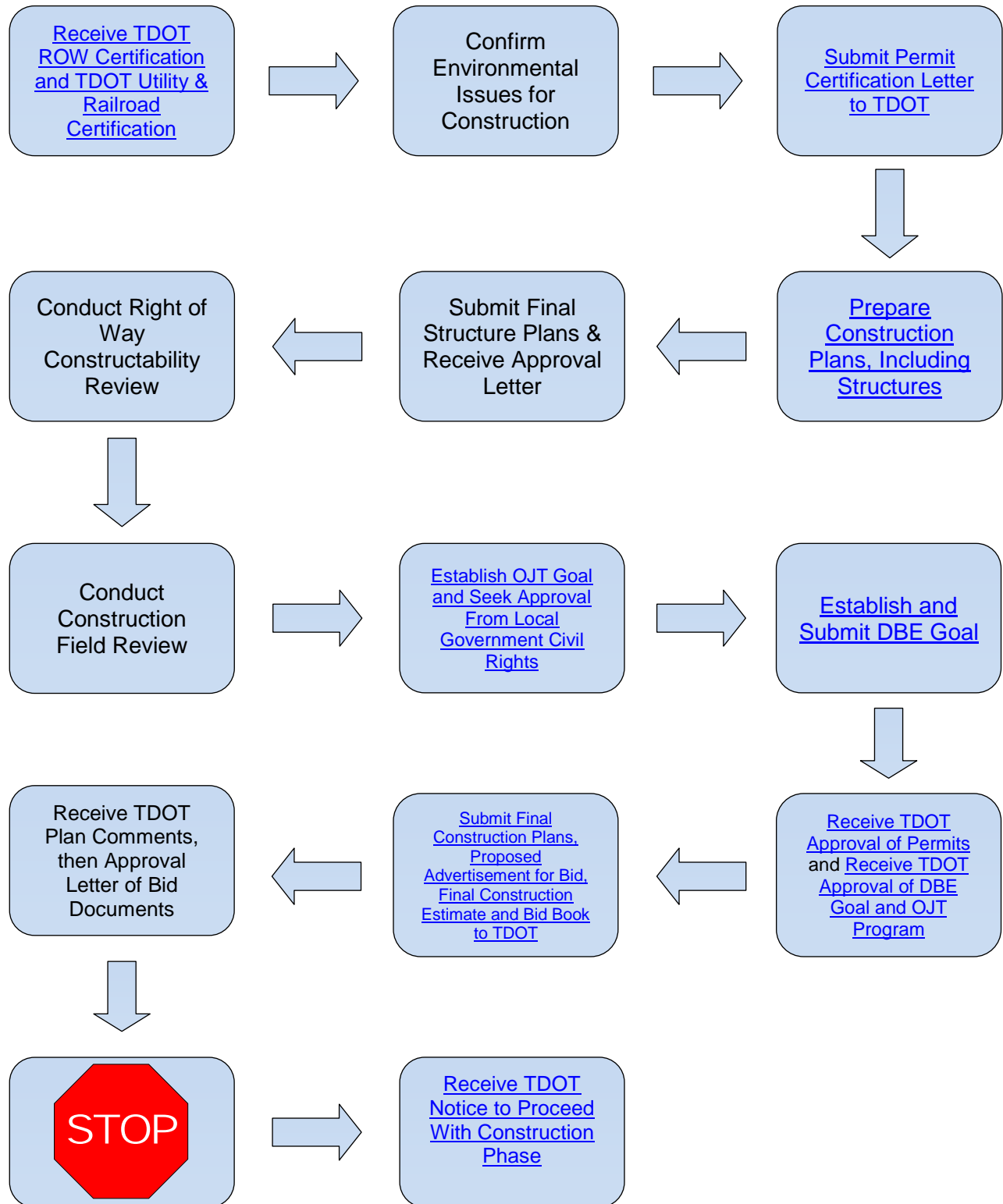


Figure 8-1 – Pre-Construction & Construction Flow Chart

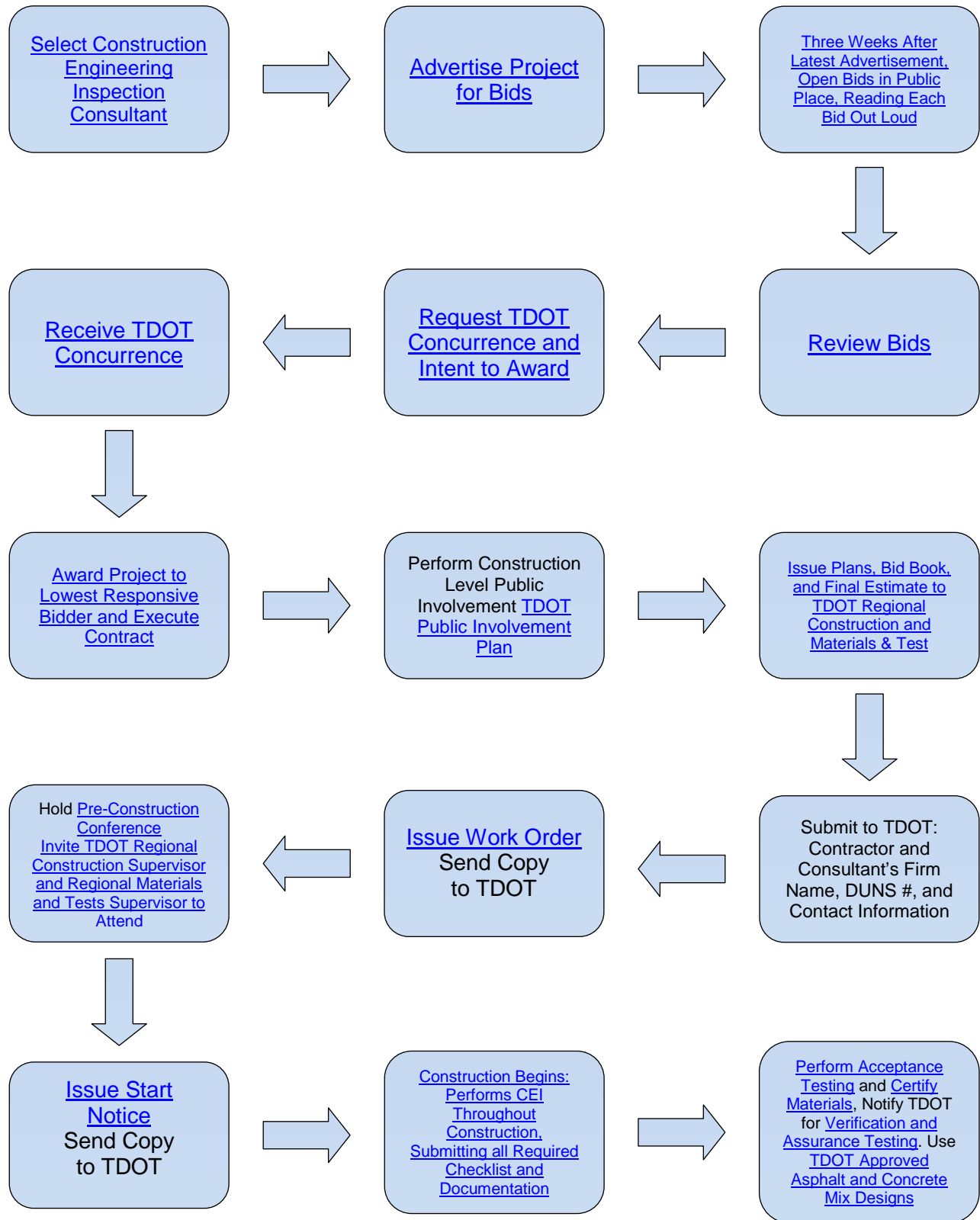


Figure 8-1 – Pre-Construction & Construction Flow Chart (continued)

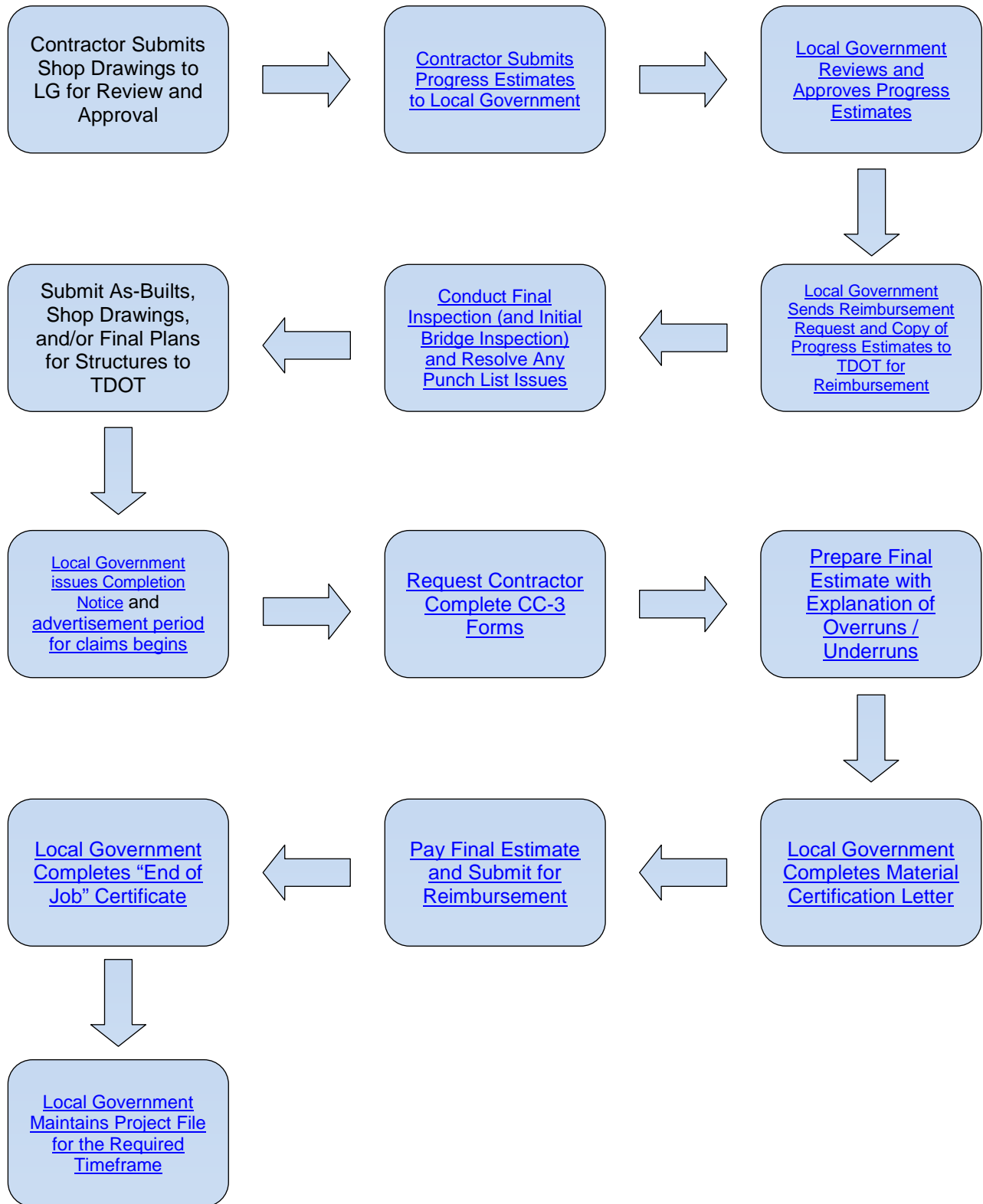


Figure 8-1 – Pre-Construction & Construction Flow Chart (continued)

8.1 PRE-CONSTRUCTION

8.1.1 LOCAL GOVERNMENT REPRESENTATIVE

The Local Government 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 Local Government will act on the behalf of 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 are set on federally funded projects using 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 Local Government and submitted to the TDOT Civil Rights Office with a copy provided to the TDOT Local Program Development Office.
- Projects less than \$500,000 (comprised of any combination of funding sources) – These projects would generally **not** provide subcontract opportunities that exceed \$10,000. Therefore, DBE goals would not normally be set on projects of this level. 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.
- TDOT (Local.Programs@tn.gov) must be advised of all goals set by the Local Government. 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 Local Government with documentation of good faith efforts.
- The [TDOT Directory of Certified Disadvantaged Business Enterprises](#) is the official register of eligible DBE firms. Amendments to this directory are updated weekly and are available from the [SBDP office](#).
- Advertising opportunities for work on federally funded projects.

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 NPDES, ARAP, USCOE, Coast Guard, TVA, and / or any locally-required environmental permits, Design Exceptions, and the PS&E package.

It is understood and agreed that the Local Government 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 U.S. Army Corps of Engineers governing permits for discharges of dredged or fill material into waters of the United States in [33 CFR Part 323](#); and,
2. [The Tennessee Water Quality Control Act \(T.C.A. §69-3-101, et seq.\)](#) and all implementing regulations, including without limitation the [Rules of the Tennessee Department of Environment and Conservation governing NPDES permits in Chapter 1200-4-10, and Aquatic Resource Alteration permits in Chapter 1200-4-7](#); and <http://www.state.tn.us/environment/>,
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 Tennessee Valley Authority governing construction in the Tennessee River System in [18 C.F.R., Part 1304](#).
4. [The Tennessee Wildlife Resources Agency](#) Reelfoot Lake Watershed Management permit program ([T.C.A. section 70-5-1,](#)), 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.
5. 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 Local Government shall obtain any additional permits required by the method of construction, including without limitation haul roads, temporary channels or temporary ditches, or off-site waste and / or borrow areas.

The Local Government shall be responsible for implementing the provisions of the Water Quality (including, but not limited to, TDEC ARAP, TDEC 401 Water Quality Certification, COE 404, TVA Section 26a, TWRA) and Storm Water (including, but not limited to, National Pollution Discharge Elimination System (NPDES)) Permits.

Additionally, for construction activities on locally-managed projects within state owned right-of-way (i.e., state routes, etc.), the Local Government shall be responsible for implementing the requirements of any future provisions of the [Statewide Storm Water Management Plan](#) (SSWMP).

TDOT will notify the Local Government via email when all applicable permitting is complete.

8.1.4 BID DOCUMENTS

The bid book shall include all applicable state and federal contract provisions ([23 CFR 633](#)). To meet the requirements, the TDOT provided template ([Form 8-1](#)) shall be used. The bid book shall include a hard copy of all [TDOT Supplemental Specifications](#).

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 Local Government shall send a certification letter to the Local Program Development Office by electronic means (email) at Local.Programs@tn.gov. This letter shall attest that ALL necessary requirements have been met. In addition, right-of-way certification, railroad agreements, and utility agreements requirements must be met. The process for fulfilling these requirements is addressed in [Chapter 6: Right of Way, 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 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/index.cfm>)
- 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
- 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

8.1.4.3 OTHER SPECIAL PROVISIONS

Other TDOT Special Provisions that may be considered are: 107ARRA, 108B, 109A, 109B, and 407G. 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 include:

- The use of publicly owned equipment ([§635.106](#))
- Standardized changed condition clauses ([§635.109](#))
- False statements (this requirement shall be posted on all federally funded projects) ([§635.119](#))
- Termination of contract ([§635.125](#))
- Liquidated damages ([§635.127](#))
- Use of materials made available by a public agency ([§635.407](#))
- Buy America requirements ([§635.410](#)).

The contract or plans shall not contain any proprietary items, unless specified in accordance with [23 CFR 635.411](#).

The contract proposal must also identify the project completion date.

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

The proposal shall provide the basis for contract award (i.e. lowest responsible bidder). There shall be no additive options or deductive options allowed. Alternates will be allowed, however, they shall be such that the bidders are allowed to only bid one alternate and the total cost will include the alternate bid. An example of an alternate would be pavement type; whereas a Portland cement concrete pavement (PCCP) and an asphalt pavement are acceptable to the owner, but the bidder would only bid one alternate. Local Government cannot add additional items to the project scope that were not included in the original design.

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
Item 105-01	Construction Stakes, Lines and Grades
Items 602-03	Steel Structures
Items 602-04	Steel Structures
Item 602-10.13 & .14	Navigational Lighting
Items 603-02	Repainting Steel Structures
Items 603-05	Containment and Disposal of Waste
Items 617	Bridge Deck Sealant
Items 705	Guardrail, Anchors, etc.
Items 706	Guardrail Items
Items 707	Fencing Items
Items 712	Traffic Control Items
Items 713	Signing Items
Items 714	Lighting Items
Items 716	Pavement Marking Items
Items 730	Traffic Control Items
Items 7**	Utility Items
Items 801	Seeding
Items 802	Landscaping Items
Items 803-01	Sodding
Items 805	Erosion Control
Item 806	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 Local Program Development Office along with the bid book and shall be forwarded 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 Local Government shall not proceed with construction phase activities until the Notice to Proceed is received.

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

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

Effective Date: 2/1/2011

Date of Transmittal: 2/2/2011

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.tdot.state.tn.us/local/>. ***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.

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

Figure 8-2 – NTP with Construction Phase

PLEASE NOTE: Local Governments 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 above document from TDOT.

8.2.1 CONSTRUCTION ENGINEERING INSPECTION CONSULTANT

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. 54-5-114](#)). 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.

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 Local Government 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.”

For non-Enhancement projects, only prime contractors that have been pre-qualified by TDOT can submit a bid ([23 CFR 635.110](#)). Subcontractors must also be pre-qualified or pending pre-qualification by TDOT (TDOT Standard Specifications [§102.01](#)). TDOT pre-qualified contractors are listed on the TDOT website at: <http://www.tdot.state.tn.us/construction/prequal/prequal.pdf>.

Although TCA 62-6-199 and 62-6-120(a)(1) require licensing for contractors and subcontractors for the submission of a responsive bid, for Federally Funded projects (23 CFR 635.110), **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. The Local Government shall not require bidders to put their contractor's license number on the bid envelope.** This, however, is not intended to preclude requirements for licensing of a contractor upon or subsequent to the award of the contract.

If a Local Government chooses to sell a bid book to a Contractor who is not pre-qualified with TDOT, the Local Government should mark the bid book void for bidding.

Contractors who are not prequalified with TDOT should not be allowed to bid. A contractor that has purchased a bid book that was marked void can buy another bid book once they are fully prequalified before the bid date.

8.2.3 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 Local Government 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](#)).

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, 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 bid bond, 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.

8.2.4 BID REVIEW AND ANALYSIS

The Local Government shall review the apparent lowest responsive bidder’s proposal to assure the bid is responsive and all applicable signatures and bonds are included. A bid may only be awarded to the lowest responsive bidder ([23 CFR 635.114](#)). A responsive bidder is defined above. The “Construction Advertising and Award Checklist” ([Form 8-3](#)) shall be completed, signed, and submitted with the Local Government’s letter indicating its intent to award to the low bidder.

The Local Government shall provide the checklist, 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.

Bids shall be reviewed in accordance with the TDOT Policy No. 355-02 Awards of Construction Contracts ([Form 8-4](#)). Additional FHWA guidance for reviewing bids can be found at:

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

Once the Local Government has reviewed the bids, the Local Government Official shall submit the following information to TDOT:

- An electronic copy of the bid tabulations (spreadsheet comparing bids received)
- Documentation certifying that the bids have been reviewed and found acceptable
- A completed “Construction Advertising and Award Checklist”
- 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

Other 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

TDOT **will not** review the bid tabulations without the required checklist.

This information shall be submitted to the Manager of the Local Program Development Office 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 Local Government to award the contract to the lowest responsive bidder. If all bids have been reviewed and analyzed, and the Local Government 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 Local Government 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 Local Government 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 contract proposal 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, addresses, and phone numbers of the TNUCP certified DBEs that will be used on the project, and the type of work and dollar amount of subcontracts to be completed by the DBE, or provide the necessary requirements for good faith efforts as specified in [SP1247](#).

8.2.5 AWARD OF THE CONTRACT

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



The Local Government shall request TDOT concurrence in its intent to award the contract to the lowest responsive bidder. This request shall be sent to the Manager of the Local Program Development Office by electronic means (email at Local.Programs@tn.gov) who will forward it to the TDOT Construction. Until this concurrence is received, the Local Government 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 concur in the intent to award, the Local Government can proceed with the execution of the contract with the responsive low bidder. The Local Government will issue the contractor four (4) copies of the Proposal Contract for signature. The contractor shall return the four (4) signed copies to the Local Government with a fully executed Payment and Performance Bond equal to one hundred (100) percent of the contract amount. The signed proposal and bond shall be returned within ten (10) days or the contract may be canceled and the proposal / bid bond 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 TDOT Local Program Development Office, the Contractor, the Surety, and the Local Government all receive signed copies.**

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

At least seven days prior to the pre-construction conference, the Local Government shall send, by electronic means, a set of plans, a copy of the bid book and final cost estimate to the [TDOT Regional Construction Supervisor](#) 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 Local Government 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 Local Government shall also provide a copy of the work order via email to the TDOT Regional Construction Manager and the Local Program Development Office.**

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 8-5](#). Additional project files may be added as deemed necessary.

8.2.6 PUBLIC RELATIONS AND PUBLIC INFORMATION

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

8.2.7 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](#) (CL 108.01-01, CL 108.01-02). 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 Local Government 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 Local Government completed sub-contract forms after they have been collected from the subcontractors. [Form 8-6a](#) is provided for 1st Tier sub-contractors and [Form 8-6b](#) is provided for 2nd 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:

- The general special provision (GSP) entitled “Required Federal Aid Provisions,
- 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 [Title 29](#) of the Code of Federal Regulations (CFR).

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

8.2.8 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 Local Government 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 Local Government with documentation of good faith efforts.

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 Local Government. 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](#).

The DBE Company Profile ([Form 8-7](#)) shall be completed 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 Commercially Useful Function (CUF) Checklist ([Form 8-8](#)) shall be completed for each DBE on the project.

The date on the CUF Checklist (Date of Review) should be the date the actual observation was made.

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

The Commercially Useful Function (CUF) Checklist ([Form 8-8](#)) shall be completed for every DBE on all projects. 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 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 TDOT Local Program Development Office.

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.

8.2.9 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 [C.L. 105.11-01](#)), attend progress meetings, and participate in the final inspection. For Enhancement projects, the TDOT Local Program Development Office may elect to utilize a consultant firm to conduct oversight reviews. The TDOT Region office will need to verify with the TDOT Local Program Development office if an oversight consultant firm will be used.

The TDOT Construction Division's Circular Letter File contains general guidance and requirements for the proper administration of projects. The Circular Letters can be found at: http://www.tdot.state.tn.us/construction/Circular_Letters/circltr.pdf.

8.2.10 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](#).

8.2.11 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) ([CL 105.06-04](#)) ([Form 8-9a](#)) 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 Regional Construction Supervisor](#), [TDOT Regional Materials and Tests Supervisor](#) and other affected Local Governments.

TDOT Materials & Tests Office and TDOT Construction 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 8-9a](#))

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

In the case that Erosion Control and / or Utility Conferences are necessary, refer to [Section 8.2.12](#) and / or [Section 8.2.13](#).

8.2.12 ENVIRONMENTAL (EROSION 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 Local Government shall be responsible for compliance with all applicable environmental regulations, including reporting and records keeping ([CL 209.01-02](#), [CL 209.01-03](#), [CL 209.01-04](#)).

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 8-9b](#))
- Erosion Control Conference Meeting Minutes ([Form 8-10b](#))
- Erosion Control Conference Sign-in Sheet ([Form 8-11](#))

8.2.13 UTILITIES AND RAILROADS

For utility steps, flow charts, and details, refer to [Chapter 6: Right-of-Way, 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 8-9c](#))
- Utility Conference Minutes ([Form 8-10c](#))
- Utility Conference Sign-in Sheet ([Form 8-11](#))

8.2.13.1 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 Local Government 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 began date is determined. The Local Government shall provide authorization for the utility to go to work. The Utility shall then submit billings to the Local Government. Local Government inspects and certifies that relocation work bill is done in accordance with the approved plans and estimates. Local Government makes payment of invoices for contracted utility relocation.

The Project Utility Diary (DT-0667) ([CL 105.07-04](#)) ([Form 8-12](#)) 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.

8.2.13.2 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 8-12](#))
- Utility Item Certification / Final Acceptance (DT-1716)([Form 8-13](#))
- Summary of Installed Utility Items

8.2.13.3 RAILROADS

For projects with railroad involvement, once construction is complete, the Local Government shall submit a Railroad Completion Notice ([Form 8-14](#)).

8.2.14 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.

8.2.15 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 8-15](#) 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 8-5](#). Additional project files may be added as deemed necessary.

Contract Proposal Book - The executed Contract Proposal 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 by email ([Form 8-16](#)) that work has started to the TDOT Local Program Development Office (Local.Programs@tn.gov) and the assigned TDOT Regional Construction Representative.

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 (CL 102.01.02) ([Form 8-17](#)) The Prime Contractor shall certify they are not knowingly utilizing the services of illegal immigrants in the performance of each contract.

8.2.16 PROJECT INSPECTION AND DOCUMENTATION

The Local Government / 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 [C.L. 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 Local Government / 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.

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
 - Field book documentation
 - Item quantity tickets
 - Work item quantities
 - 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 8-18](#))
 2. Hot Mix Asphalt Roadway Inspector Checklist (Circular Letter 407-14.01) ([Form 8-19](#))

- Bridge Deck
 1. Pre-Pour Checklist
 2. During Checklist
 3. Post Pour Checklist
- Safety
 1. Work Zone Traffic Control Inspection Form (Circular Letter 712.07-01)([Form 8-20](#))
- 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

The Guardrail Decal and Guardrail Inspection Form for Deficient or Deviated Terminal Units are available from the Regional Materials and Tests office.

8.2.17 CONSTRUCTION INSPECTION OF STRUCTURES

The requirements in [Section 8.2.16](#) shall apply to construction inspection of structures in addition to the following requirements.

The Bridge Construction Inspector's Checklist ([Form 8-21](#)) **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.

The Structures (Construction) Checklist ([Form 8-22](#)) shall also be submitted with the as-built plans.

- Bridge (A Pre-Pour Meeting shall be scheduled and conducted prior to any bridge deck pours.) (CL 604.17-01)
 1. Bridge Deck Pre-Pour Checklist ([Form 8-23](#))
 2. Bridge Deck During Pour Checklist ([Form 8-24](#))
 3. Bridge Deck Post-Pour Checklist ([Form 8-25](#))
- Bridge Foundation Information

The following information must be documented. This information shall include the following 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.

After the bridge is completed to the satisfaction of the Local Government's inspector, the Local Government 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 Local Government 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 Local Government. A copy of the letter transmitting this CD shall be sent to the Local Program Development Office at Local.Programs@tn.gov.

8.2.18 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. A letter transmitting these submissions should be sent to the Manager of the Local Program Development Office.

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 Local Government 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.

8.2.19 EROSION PREVENTION / SEDIMENT CONTROL (EPSC) INSPECTION

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

The Local Government 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 assure that the EPSC devices are installed and maintained as required, assure 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 and Sediment Control Construction Inspection Report - 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 [Circular Letter 209.01-02](#).

Construction Storm Water Inspection Certification (TDEC CN-1173) - The purpose of this form ([Form 8-26](#)) is to certify that inspections of storm water discharge points and erosion prevention and sediment controls at the construction site have been performed. Certification Report instructions are noted on the 2nd page included with the report form.

Notice of Termination (NOT) (TDEC CN-1175) – Storm Water Discharges Construction Activity (CL 107.08-01) (Form 8-27) - 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 TDEC.

8.2.20 CERTIFIED PAYROLL AND LABOR COMPLIANCE INTERVIEWS

As required in 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 Local Government 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.

8.2.21 PROGRESS PAYMENTS

The Local Government 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.

8.2.22 PROMPT PAYMENT AND RETAINAGE

The prime contractor shall pay each subcontractor no later than thirty (30) days after payment is received from the Local Government. ([T.C.A. 12-4-707](#)) The Prompt Payment to

Sub-Contractors Form ([Form 8-28](#)) must be completed by the Prime Contractor to certify each month that payment has been made to the appropriate subcontractors. The prompt payment form will run two months in arrears (example: to pay the progress payment for March 2011 the prompt payment form for January 2011 must be on file).

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

8.2.23 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 Local Government 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 contract proposal or plans must be documented by a Change Order ([Form 8-29](#)) according to [TDOT Circular Letter 104.03-02](#) and approved by the contractor, his surety, the CEI, and Local Government Project Supervisor.

Change Orders shall be submitted to the TDOT Local Program Development Office for concurrence prior to execution if the changes result in an increase of original contract proposal or plans by \$100,000 or greater or over 10% of the original contract amount. An executed copy shall also be submitted to the TDOT Local Program Development Office. 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. Per [TDOT Circular Letter 104.02-01](#), 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.

8.3 BRIEF DESCRIPTION – A BRIEF DESCRIPTION AS TO THE BASIS OF THE REVISION.MATERIALS AND TESTS

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 Local Government 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 8.2.5](#).

Asphalt and concrete mix designs shall meet TDOT specifications. Asphalt and concrete mix designs shall be approved by Headquarters Materials and Tests as outlined in the TDOT Standard Specifications [501 Portland Cement Concrete Pavement](#) 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 Supply List](#).

8.3.1 ACCEPTANCE TESTS

Local Governments shall conduct Acceptance Sampling and Testing in accordance with [TDOT SOP 1-1](#).

Acceptance samples and tests are the samples and tests 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 Local Government to determine conformance to contract documents.

The Local Government / CEI shall conduct all acceptance testing. A representative from 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. The T-2 (DT-0044) form ([Form 8-30](#)) 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.tdot.state.tn.us/materials/fieldops/forms/default.htm>. Each form has attached an example completed form.

All Material Certifications / Test Reports shall be recorded on the Test Report Totals form. There shall be a Test Report Totals form per 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 when TDOT specifications are utilized. Products accepted by certification shall have a materials certification attached to a completed TDOT Form DT-0044 ([Form 8-30](#)), 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

TDOT shall conduct Verification Sampling and Testing in accordance with [TDOT SOP 1-1](#). Verification samples and tests are those used for validating the quality of a product which is being incorporated into the project.

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

8.3.4 INDEPENDENT ASSURANCE TESTS

TDOT shall conduct Independent Assurance Sampling and Testing in accordance with [TDOT SOP 1-2](#).

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

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 assure that the proper techniques and procedures are followed.

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

A materials certification shall be issued by the Local Government to the Local Program Development Office at the completion of the project in accordance with [23 CFR 637.207](#).

The intent of the material certification is to assure that the quality of all materials incorporated into the project is in conformance with the plans and specifications.

The certification from the Local Government must be based on an audit of the project records according to a certification check list stating that:

“The results of the test on acceptance samples indicate that the materials incorporated in the construction work, and the construction operations controlled by sampling and testing, were in conformity with the plans and specifications; and such results compare favorably with the results of the independent assurance sampling and testing. Exceptions to the plans and specifications are explained in the attachment.”

At the completion of the project, all failing material test and the corrective action taken shall be documented on the [Material and Tests Certification \(DT-1696\)](#) with supplement form. The Local Government shall complete and submit this form to the Local Program Development Office. This document shall be placed in the End of Job file.

8.4 FINAL INSPECTION / ACCEPTANCE

When all work is complete, the Local Government’s Project Supervisor and the Official responsible for the administration of the project shall conduct a final inspection of the project along with the Local Government CEI and with TDOT’s participation, to determine the quality, completeness, and acceptability of the work and to assure that the authorized project was constructed in reasonable conformance with the contract requirements. Refer to Circular Letter [C.L. 105.11-01](#) for additional information on resolving issues found during the inspection (Punch List items). [Form 8-31](#) 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 8.2.17](#).

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 Local Program Development Office, TDOT Construction Representative, and the TDOT Regional Materials and Tests Supervisor a Completion Notice ([Form 8-32](#)) 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. 54-5-122](#). The Local Government shall be required to provide the necessary notice in a newspaper of general circulation as stated in T.C.A. 54-5-122. The contractor shall also provide an affidavit as evidence that materials, labor, and payment comply with this statute.

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

When the Completion Notice is issued by the Local Government, the process begins to advertise the contract for claims. The advertisement period, normally two (2) weeks is to receive any claims for damage. The Local Government shall have a request for the filing of claims published in an area press service. The Local Government will mail copies of the request to the Prime Contractor, Surety Agent, and the Local Program Development Office.

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 Local Program Development Office 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 108.06.02](#) 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 Local Government, 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 8-33](#)) for each DBE on the project to the Local Government. 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 with a copy provided to the TDOT Local Program Development Office.

8.4.4 END OF JOB CERTIFICATE

The End of Job Certificate ([Form 8-34](#)) 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 Local Program Development Office. 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 Local Government 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 related to awarded contracts shall be kept for a minimum of five (5) years after the final payment and audit. 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.

All documents related to Bid Letting Contract Proposal Bid Book shall be kept for a minimum of ten (10) years after the award. These documents include, but are not limited to notice to contractors, estimates, correspondence for advertising and receiving bids, letting advertisements, bid tabulations, bid books (contract proposals) completed by the contractor, project specifications and provisions, job estimate, contract and bond certificates.

8.4.6 MAINTENANCE OF FACILITY

The Local Government 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 TDOT Local Program Development Office, the Local Government must submit documentation from an appropriate fiscal officer. This documentation must state the Local Government has sufficient accounting system and internal controls to properly manage federal funds as verified by the A-133 audit ([Form 9-1](#)), a copy of which shall be provided to the Local Program Development Office. Local Governments receiving funds under this program are subject to compliance audits by the TDOT Finance Office. The Checklist for A-133 Audit Documentation and Acceptance of Indirect Cost Rate ([Form 9-2](#)) is provided to assist in determining compliance.

If the Local Government intends to use its own forces for preliminary engineering, right-of-way, or construction purposes, the Local Government must submit proof of acceptance of its indirect cost rate by the Local Government's federal cognizant agency to the Local Program Development Office. The indirect cost rate must be updated yearly. The Local Program Development Office will verify that the rate charged on the invoices submitted for payment does not exceed this rate.

The Local Government must provide the Local Program Development Office with the name(s) of persons authorized to sign as "Local Government Project Supervisor" and "Local Government Official". The Local Program Development Office will verify the original signatures on each invoice submitted for payment. Invoices received that do not contain the original signature of an authorized person will not be submitted to the TDOT Finance Office for payment.

Invoices shall be submitted a minimum of once every thirty (30) days. Invoices should be sent to LPD.Invoices@tn.gov as a single PDF file, if possible. The Local Program Development Office will send acceptable invoices to the Finance Office for processing. NOTE: The Local Government 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.

The Local Government must keep all documentation supporting amounts billed to the State of Tennessee for three years from the date the project is closed with the Federal Highway Administration. This is NOT the same date as the last reimbursement from the State of Tennessee. TDOT will notify the Local Government when the project has been closed with the Federal Highway Administration.

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 9-3](#)) or the "Local Government Invoice for Design" ([Form 9-4](#)) must be submitted to the Local Program Development Office for all preliminary engineering and design costs. Invoices shall be submitted a minimum of once every thirty (30) days. The invoice requires supporting documentation (including proof of

payment to consultants) 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 Local Government 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 Local Government performs the preliminary engineering or design with its own forces, submit the Local Forces form located within appropriate phase [Form 9-3](#) or [Form 9-4](#).

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

The Preliminary Engineering and Design Payment Checklist ([Form 9-5](#)) is provided for the Local Government's use.

9.2 RIGHT-OF-WAY

A "Local Government Invoice for Right-of-Way" must be submitted to the Local Program Development Office for all right-of-way costs. Invoices shall be submitted a minimum of once every thirty (30) days. The Local Government Right-of-Way Costs Invoice ([Form 9-6](#)), must be submitted with each ROW form whether the work is performed by Local Forces or by a consultant. This invoice requires supporting documentation (including proof of payment to consultants and landowners by either canceled check or electronic bank payment) 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 Local Government hires a consultant to perform right-of-way activities. If the Local Government hires a consultant to perform right-of-way activities, the ROW Consultant sheet located within [Form 9-6](#) must be submitted. The consultant must sign the invoice prior to submittal for payment.

If a Local Government performs the right-of-way activities itself, the following documentation must be submitted, ROW Local Forces located within [Form 9-6](#). Regardless of who performs the right-of-way activities, the Local Government must also submit the ROW Purchased sheet located within [Form 9-6](#). This sheet details direct Right-of-Way costs.

The Right-of-Way Payment Checklist ([Form 9-7](#)) is provided for the Local Government's use.

9.3 CONSTRUCTION

A "Local Government Construction Invoice" ([Form 9-8](#)) must be submitted to the Local Program Development Office for all construction costs. Invoices shall be submitted a minimum of once every thirty (30) days. This invoice requires supporting documentation (including proof of payment to consultants and contractors by either canceled check or electronic bank payment) 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 Local Government 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 Local Government 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.

The Construction Payment Checklist ([Form 9-9](#)) is provided for the Local Government's use.

9.4 CONSTRUCTION ENGINEERING INSPECTION

A consultant engineer must be hired to perform the construction engineering inspection, regardless if the Local Government chooses to perform the other construction work itself, unless otherwise authorized by the Local Program Development Office. 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 9-8](#)) form 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 that are available for Non-Traditional Projects. Transportation Enhancement Grants, Safe Routes to Schools, Congestion Mitigation and Air Quality Improvement, and Roadscape are funding programs that can involve projects that may or may not be associated with a federal aid eligible roadway. **All procedures as outlined in this manual are to be adhered to by the agency proposing to pursue the activity.**

Projects that do not fall into the categories mentioned in this chapter shall follow the requirements as stated elsewhere in this guidance. Greenways and sidewalks follow procedures for Traditional Projects.

Non-Traditional projects are divided into two categories as outlined below:

Non-Roadway Construction projects include but are not limited to:

- Building Projects and Parking Improvements
- Transportation Museums
- Visitors Centers
- Public Art Installation
- Landscaping
- Historic Preservation
- Rehabilitation and Operation of Historic Transportation Buildings / Structures / Facilities

Non-Construction projects include but are not limited to:

- Diesel retrofits (aftertreatment devices, engine repowers, vehicle replacements, idle reduction technologies, etc.)
- Car pool and van pool projects
- Studies
- Rideshare projects
- Software projects (GIS, ITS, rideshare, etc)
- Alternative fuel infrastructure projects
- Truck stop electrification
- Archeological Planning and Research Projects
- Pedestrian and Bicycle Safety & Education Activities
- Acquisition of Scenic Viewsheds and Historic Battlefields

For assistance with these types of projects, please contact the Local Program Development Office at 615-741-5314 or email at Local.Programs@tn.gov.

