

STATE OF NEBRASKA  
DEPARTMENT OF ROADS

**Guidelines for Transportation Program Funds for Eligible Local Projects**

“A Summary of State and Federal Requirements”

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10.10 PURPOSE

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10.50 MPO's

10.60 ACRONYM LIST

## 10.10 PURPOSE

This manual describes the process, documents, and approvals necessary for use of federal-aid funds, with NDOR functioning as the grantee. It is intended for use by Local Public Agencies (LPA's) utilizing federal funds provided through the Nebraska Department of Roads (NDOR). As coordinators of this funding, it is NDOR's role to assist the LPA's in the process required for developing projects. The NDOR can identify resources available to the LPA and monitor every project for compliance to assure that funding is not jeopardized. Keep in mind that if a LPA is to receive federal funding for **any portion** of work on a project, **all phases** of that project must comply with these requirements.

Please feel free to contact the individuals listed below with your questions and concerns. The NDOR will arrange visits to project sites as needed, and are prepared to offer assistance to the LPA's consultants as well. The LPA can contact the Urban Engineer or the NDOR Urban Off-System Coordinator.

### Nebraska Department of Roads

1500 Nebraska Highway 2  
PO Box 94759  
Nebraska Department of Roads  
Lincoln, NE 68509-4759  
Fax (402) 479-3841

### Urban Engineer, Roadway Design Division

Jim Miller  
Bus (402) 479-4442  
Fax (402) 479-3841  
e-mail: jamesmiller@dor.state.ne.us

<p><b>Urban Off-System Coordinator</b> Kendall Stege (402) 479-3843 email: kstege@dor.state.ne.us</p> <p><u>Cities assigned to Kendall Stege</u></p> <table> <tbody> <tr> <td>Alliance</td> <td>McCook</td> </tr> <tr> <td>Beatrice</td> <td>Nebraska City</td> </tr> <tr> <td>Chadron</td> <td>Norfolk</td> </tr> <tr> <td>Columbus</td> <td>Schuyler</td> </tr> <tr> <td>Crete</td> <td>Seward</td> </tr> <tr> <td>Gering</td> <td>Sidney</td> </tr> <tr> <td>Holdrege</td> <td>South Sioux City</td> </tr> <tr> <td>Lincoln</td> <td>Wayne</td> </tr> </tbody> </table>	Alliance	McCook	Beatrice	Nebraska City	Chadron	Norfolk	Columbus	Schuyler	Crete	Seward	Gering	Sidney	Holdrege	South Sioux City	Lincoln	Wayne	<p><b>Urban Off-System Coordinator</b> Patrick Schafer (402) 479-3845 email: pschafer@dor.state.ne.us</p> <p><u>Cities assigned to Patrick Schafer</u></p> <table> <tbody> <tr> <td>Blair</td> <td>Ralston</td> </tr> <tr> <td>Grand Island</td> <td>Hastings</td> </tr> <tr> <td>Fremont</td> <td>North Platte</td> </tr> <tr> <td>Bellevue</td> <td>Plattsmouth</td> </tr> <tr> <td>Elkhorn</td> <td>Kearney</td> </tr> <tr> <td>LaVista</td> <td>Ogallala</td> </tr> <tr> <td>Omaha</td> <td>York</td> </tr> <tr> <td>Papillion</td> <td>Lexington</td> </tr> </tbody> </table>	Blair	Ralston	Grand Island	Hastings	Fremont	North Platte	Bellevue	Plattsmouth	Elkhorn	Kearney	LaVista	Ogallala	Omaha	York	Papillion	Lexington
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## 10.20 HOW TO USE THIS MANUAL

This manual is organized according to the major phases of project development. Using the glossary and cross-references, users should be able to find answers to most questions regarding procedural requirements.

The manual is organized into twelve basic sections relative to the phases of project development. These are:

<b>Section 10.</b>	<b>Introduction</b>
<b>Section 20.</b>	<b>Getting Started</b>
<b>Section 30.</b>	<b>Requesting Project Funding</b>
<b>Section 40.</b>	<b>LPA/NDOR Agreement</b>
<b>Section 50.</b>	<b>Consultant Selection &amp; Agreements</b>
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<b>Section 120.</b>	<b>Project Close-Out</b>
	<b>Reference</b>

## 10.30 ABOUT NDOR – PEOPLE, LOCATIONS, ORGANIZATION

The NDOR employs approximately 2,200 people across the State of Nebraska. For the last 18 years, the construction program has increased from \$107 million in 1981 to \$355 million in 2005.

Throughout the state, NDOR occupies 610 buildings at 217 sites. Design work and administrative support are provided at the central headquarters in Lincoln. Construction and maintenance operations are managed and conducted in the eight district offices throughout the state (see appendix for map).



*Nebraska Department of Roads  
Central Complex, Lincoln, NE*

## 10.40 ROAD & HIGHWAY FACTS

The State of Nebraska encompasses over 77,000 square miles of land. To serve this vast area of land, an extensive network of public roads and highways has been constructed with assistance from the NDOR. To illustrate the extent of this network, the following road and highway facts.

- The State of Nebraska has approximately 95,882 miles of highways and public roads.
- The NDOR maintains about 9,944 miles on the state highway system.
- Interstate highways consist of 482 miles.
- Nebraska has 532 municipalities and 93 counties that are responsible for public roads which are not on the state highway system.



*Rural County Highway*

## 10.50 MPO'S

### ***What is a Metropolitan Planning Organization?***

A Metropolitan Planning Organization (MPO) is an agency created by federal law to provide local input for urban transportation planning and the allocation of federal transportation funds to urbanized areas with populations of greater than 50,000.

**The MPO's mission** is to provide comprehensive, coordinated and continuous ("3C") transportation planning for the safe and efficient movement of people and goods consistent with the region's overall economic, social, and environmental goals.

MPO's were first required by the Federal Highway Act of 1962 to provide a "3C" transportation planning process by local, state, and federal officials.

There are over 300 MPO's across the country. Most MPO's are part of a city, county, or area council of governments.

Special emphasis is placed on providing equal access to a variety of transportation choices and effective public involvement in the transportation planning process.



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## 10.60 ACRONYM LIST

Acronyms used in this guide include the following:

<b>AASHTO</b>	American Association of State Highway and Transportation Officials
<b>ADA</b>	Americans with Disabilities Act
<b>CAA</b>	Clean Air Act
<b>CE</b>	Construction Engineering
<b>CFR</b>	Code of Federal Regulations
<b>COE</b>	US Army Corps of Engineers
<b>CMAQ</b>	Congestion Mitigation and Air Quality
<b>DBE</b>	Disadvantaged Business Enterprise
<b>DE</b>	District Engineer
<b>DOT</b>	Department of Transportation
<b>EA</b>	Environmental Assessment
<b>EEO</b>	Equal Employment Opportunity
<b>EIS</b>	Environmental Impact Statement
<b>EPA</b>	Environmental Protection Agency
<b>FEMA</b>	Federal Emergency Management Agency
<b>FHWA</b>	Federal Highway Administration
<b>FONSI</b>	Finding of No Significant Impact
<b>FWS</b>	Fish and Wildlife Service
<b>ITS</b>	Intelligent Transportation Systems
<b>LPA</b>	Local Public Agency
<b>MPO's</b>	Metropolitan Planning Organizations

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<b>MUTCD</b>	Manual on Uniform Traffic Control Devices
<b>NDEQ</b>	Nebraska Department of Environmental Quality
<b>NDOR</b>	Nebraska Department of Roads
<b>NEPA</b>	National Environmental Policy Act
<b>NHS</b>	National Highway System
<b>NPDES</b>	National Pollutant Discharge Elimination System
<b>OSHA</b>	Occupational Safety and Health Administration
<b>PE</b>	Preliminary Engineering
<b>PR</b>	Plan Reviewer
<b>PS&amp;E</b>	Plans, Specifications, and Estimates
<b>QBS</b>	Qualification Based Selection
<b>RFP</b>	Request for Proposal
<b>ROW</b>	Right-of-Way
<b>SHPO</b>	State Historic Preservation Office
<b>SR</b>	State Representative
<b>STP</b>	Surface Transportation Program
<b>TEA-21</b>	Transportation Equity Act for the 21 <sup>st</sup> Century
<b>TAC</b>	Technical Advisory Committee
<b>UGB</b>	Urban Growth Boundary
<b>USEPA</b>	US Environmental Protection Agency

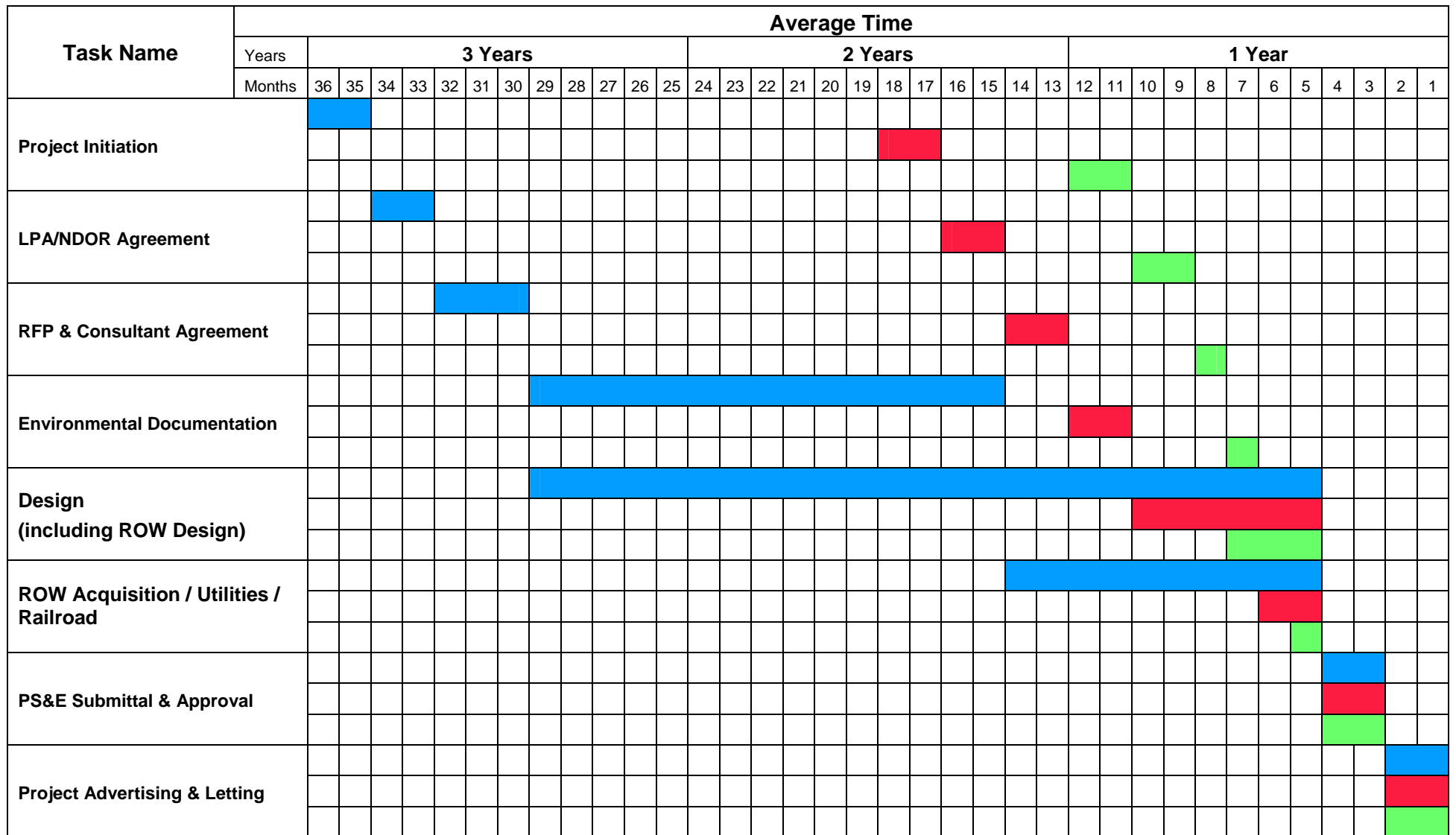
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- 20.20 HOW LONG DOES IT TAKE?
- 20.30 FINDING THE RIGHT FUNDS
- 20.40 FUNDING PROGRAMS
- 20.50 MANAGEMENT OF STP FUNDS
- 20.60 PROJECT FLOWCHART
- 20.70 PROJECT DEVELOPMENT CHECKLIST

## 20.10 WHO IS RESPONSIBLE

For projects administered by LPA's, the NDOR Urban Off-System Coordinator assigned to your city will furnish information concerning the necessary federal requirements and assist you through the process. This individual will maintain a project file, conduct site visits as necessary, review plans, and keep you informed of issues that must be addressed to meet the project's requirements. However, it is important for all LPA's to understand they share a responsibility with the NDOR to the FHWA for ensuring federal funds are spent appropriately. While information on federal requirements can be obtained from the NDOR Urban Off-System Coordinator assigned to your city, it is the LPA's responsibility for complying with those requirements.

## 20.20 HOW LONG DOES IT TAKE?

The timeline on the following page is intended to give you a general idea of the time it takes to complete a federal-aid LPA project. However, please keep in mind that time to complete projects will vary based on the circumstances involved. For example, projects involving major environmental evaluations, ROW acquisition, or use of railroad ROW will take longer because of the need for permits and approvals. Projects where no additional ROW is needed or are classified as categorical exclusions will generally take less time to complete, such as a mill and overlay project.



**LEGEND**

- = Complex Project: one that involves Federal funds to pay consultants, buy lands or buildings, or involves environmental documentation such as an Environmental Assessment (EA).
- = Intermediate Project: involves resurfacing an existing street, bridge replacement or similar activities.
- = Simple Project: Safety improvements, traffic signal installation, and occasional bridge rehabilitation.

Target Letting Date



20.30 FINDING THE RIGHT FUNDS

The table below shows the federal funding programs eligible for use on the most common types of projects. Please review this table before contacting NDOR when seeking funding for a local project.

**Note:**

**X – Typical funding source available for this type of project.**

**Additional funding options and project types may be available.**

		Funding Categories						
		STP - Urban	STP - Counties	Urban/County Bridge Replacement	STP - Enhancement	STP - Safety	Emergency Relief	TMT (Not a Federal Fund)
<b>Roadway:</b>	New Construction	X	X					
	Rehabilitation	X	X					
	Widening	X	X					
	Resurfacing	X	X					
	Intersection Improvement	X	X					
<b>Bridge:</b>	New Construction	X	X			L	L	
	Replacement	X	X	X		L	L	
	Rehabilitation	X	X	X		A	A	
<b>Signal</b>	X	X			C	C		
<b>Congestion</b>								
<b>Railroad</b>							X	
<b>Bicycle/Pedestrian Trail</b>				X				
<b>Curb, Gutter, Sidewalk</b>	X							
<b>Landscaping</b>				X				
<b>Public Transit</b>								
<b>Safety</b>								

**Project Type**

## 20.40 FUNDING PROGRAMS

Each federal fiscal year (October 1, to September 30), NDOR makes available funding for projects within the boundaries of LPA's. A reimbursement-type program, the Surface Transportation Program (STP), is available for financing eligible transportation projects. STP funds may be used on roads that are on the federal-functional classification plan, except for local and rural minor collectors. These roads are referred to as federal-aid routes. The current federal transportation bill requires that certain percentages of funding categories within the state's STP obligation must be allocated towards the programs listed below.

- STP-Urban
- STP-Counties
- STP-Transportation Enhancement
- STP-Safety (Hazard Elimination)
- Emergency Relief Program (ER)

Other funding programs outside of the STP are also available for use on projects within LPA boundaries. Unlike the STP funds, these may be used on any public road and are not restricted to federal-aid routes. These funding programs are:

- Urban/County Bridge Replacement (BR)
- Train Mile Tax (TMT)

Information on each of these funds is included in the summaries below.

<b>SURFACE TRANSPORTATION PROGRAM – URBAN (STP-URBAN)</b>
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### ***Eligibility***

This program is administered by NDOR for all urbanized areas in the state of Nebraska (population greater than 5,000). Three urbanized areas in the state are Metropolitan Planning Organizations (MPO's). The MPO's are: 1) Siouxland Interstate Metropolitan Planning Council (SIMPCO) encompassing the City of South Sioux City and Dakota County, 2) Metropolitan Area Planning Agency (MAPA) covering Cass, Douglas, Sarpy, and Washington Counties, including the Omaha metropolitan area, and 3) Lincoln/Lancaster MPO.

Legislation for these funds requires them to be used for preliminary engineering, environmental, ROW, construction and improvement of projects on the federal-aid system on roads not classified as local or rural minor collectors.

Funds are normally available after October 1 each year and remain available for 3 years after the close of the fiscal year in which they were authorized. Unused funds may be withdrawn by NDOR to make other arrangements for their expenditure. This is necessary to prevent loss of funds through federal program lapse.

**Application**

Funds for projects in metropolitan areas are allotted by NDOR directly to each respective MPO. The MPO then coordinates with each LPA to determine which projects will be funded. This is done through a planning process that lists priority projects in a Transportation Improvement Program (TIP).

A share of the STP Urban funds is allocated to cities with a population greater than 5,000 and less than 200,000. NDOR determines how much money is allocated to each urban area. The urban engineer keeps a funding spreadsheet for each individual city or MPO. City officials can contact the urban engineer for funding information.

**Match**

Federal funds are available to finance up to 80% of eligible project costs.

**Contact**

For information on eligibility, application and required match, please contact NDOR Roadway Design – Urban Engineer, **(402) 479-4442**.

**SURFACE TRANSPORTATION PROGRAM – (STP COUNTIES)**

For information on eligibility, application and required match, please contact: NDOR Government Affairs Division – **(402) 479-4607**.

**SURFACE TRANSPORTATION PROGRAM – TRANSPORTATION ENHANCEMENT****Eligibility**

The Transportation Enhancement Program provides funding to local, state, and regional governmental entities to construct and restore transportation infrastructure that are not eligible to be funded through other programs. Examples of transportation infrastructure projects that are eligible under this program include non-motorized facilities for



pedestrians and bicycles, development of scenic byways, restoration of historic transportation facilities, development of scenic byways, and other projects directly related to the historic, current, or future transportation infrastructure. Only state and local governmental agencies or political subdivisions within the State of Nebraska are eligible to receive this funding. This includes most local units of government such as villages, cities, and counties, Natural Resources Districts, Nebraska State Agencies, the University of Nebraska, and Tribal Governments. Certain other governmental entities may also be eligible to receive funding.



### ***Application***

Selection of projects is made by the Nebraska Transportation Enhancement Selection Committee, a statewide committee of volunteers with expertise in the various funding categories. This 12-member committee meets annually to rank applications using an established 100-point scoring system.

### ***Match***

Up to 80% federal funding with a minimum 20% cash match from the LPA.

### ***Contact***

For information on eligibility, application and required match, please contact: NDOR Enhancement Program Administrator, **(402) 479-4881** or Sinclair Hille Architects, **(402) 476-7331**.

**SURFACE TRANSPORTATION PROGRAM – SAFETY (STP – SAFETY)*****Eligibility***

The objective of safety funds is to improve locations that constitute a danger to vehicles or pedestrians as shown by frequency of accidents. Projects must be located on a public road system. These projects may include intersection improvements, alignment changes, and installation of railroad protective devices. Major reconstruction of appreciable lengths of roadway will not qualify for funding under this program.

***Application***

Applications for safety funds are considered by the NDOR Safety Committee. The Safety Committee decides whether the project is eligible for funding.

***Match***

Up to 80% federal funding with a minimum 20% cash match from the LPA.

***Contact***

For Roads: NDOR Traffic Engineering Division – **(402) 479-4594**.

For Railroads: NDOR Public Transportation Engineer – **(402) 479-4438**.

**URBAN/COUNTY BRIDGE REPLACEMENT AND REHABILITATION (BR)*****Eligibility***

The objective of BR funds is to replace or rehabilitate roadway bridges located on public roads when they have been determined to be deficient because of structural and physical deterioration, or are functionally obsolete. A specific portion of BR funds known as “Rehabilitation” funds can also be used to paint bridges.

However, long approach fills, connecting roadways, interchanges, ramps, and other extensive earth structures, when

constructed beyond a reasonable point (attainable touchdown) are, in general, ineligible for federal participation in the bridge program.



For a bridge to be eligible for BR funding, there could not have been any new construction or rehabilitation in the past 10 years, regardless of the funding source. This excludes routine maintenance work. For rehabilitation the sufficiency rating shall be less than or equal to 80. For replacement the sufficiency rating shall be less than or equal to 50. The structure must be classified as either structurally deficient or functionally obsolete.

**Match**

Federal funds are available to finance up to 80% of eligible project costs.

**Application**

These funds will be available to LPA's on a "first ready-first served" basis.

**Contact**

For counties and cities < 5,000 population: Secondary Roads Engineer – **(402) 479-4437**.

For cities > 5,000 population: NDOR Urban Engineer – **(402) 479-4442**.

**TRAIN MILE TAX (TMT)**

For information on eligibility, application and required match, please contact NDOR Public Transportation Engineer – **(402) 479-3797**.

**EMERGENCY RELIEF PROGRAM (ER)****Eligibility**

The objective of ER funds is to repair or reconstruct roadways and bridges on federal-aid routes that have suffered serious damage as a result of natural disasters or catastrophic failures. Eligible expenditures, as allowed under the federal rules for ER funds, are those tasks and items necessary for permanent and emergency construction to restore essential travel, protect remaining facilities, and restore facilities to pre-disaster conditions. To determine if your project qualifies for ER funds, please contact the Urban Engineer.

**Application**

After the Governor has declared an emergency, an application for assistance must be made by the state to the FHWA. Notification of selected projects is made pending approval by the U.S. Secretary of Transportation.

**Contact**

NDOR Roadway Design – Urban Engineer, **(402) 479-4442**.

**20.50 MANAGEMENT OF STP FUNDS****STP Fund Allocation**

Cities with a population that exceeds 5,000 people receive an annual allocation of Federal STP funds. These funds are pass through funds with full oversight responsibilities of the Nebraska Department of Roads. The NDOR maintains a STP fund spreadsheet for each city to which funds are allocated. This spreadsheet is used to determine the STP fund balance for each city by tracking yearly allocations and project obligations. A copy of this spreadsheet is available to be sent to you in hardcopy or electronic format at any time. To request a copy of the STP fund spreadsheet for your city, please contact the Urban Engineer or Urban Off-System Coordinator.

**Federal Authorization Dates**

A Federal Authorization Date is the first date from which expenses incurred from any particular workphase can be eligible for reimbursement. Project obligation triggers the Federal Authorization Date for each workphase.

**Obligations**

It is important to understand the obligation process in order to maintain funding for each individual workphase. Obligations are the application of allocated STP funds to a particular workphase of a project. These fund obligations must be completed at appropriate times during the progression of a project.

If an adequate STP fund balance is not available to obligate during a particular workphase, the City may at its option, obligate the workphase as EAC (Early Advance Construction). This option allows the City to begin incurring expenses on a particular workphase of a project with the option to obligate STP funds when they become available for reimbursement of these expenses. It must be understood that if STP funds do not become available for any reason, any incurred expenses shall be paid exclusively out of City funds.

It is the responsibility of the City to ensure that funds are obligated to each workphase at appropriate times, however, the Urban Engineer and Urban Off-System Coordinator will

assist you in ensuring that obligations are made at the proper time and with an adequate amount.

The following is a brief description of when funds should be obligated to each individual workphase of a typical project:

***Preliminary Engineering (PE)***

Obligation of the PE phase should take place upon approval of the City/State program agreement. When submitting the agreement for NDOR signature, please also submit an obligation request for the Preliminary Engineering phase.

***Right-of-Way (ROW)***

Obligation of the ROW phase must take place only upon the approval of LPA environmental documentation and approval of the ROW plans. When submitting ROW plans for NDOR approval, please also submit an obligation request for the ROW phase.

***Construction***

Obligation of the Construction phase should take place upon approval of the PS&E package and prior to project advertisement. When submitting the PS&E package to NDOR for approval, please also submit an obligation request for the Construction phase.

***Obligation Requests***

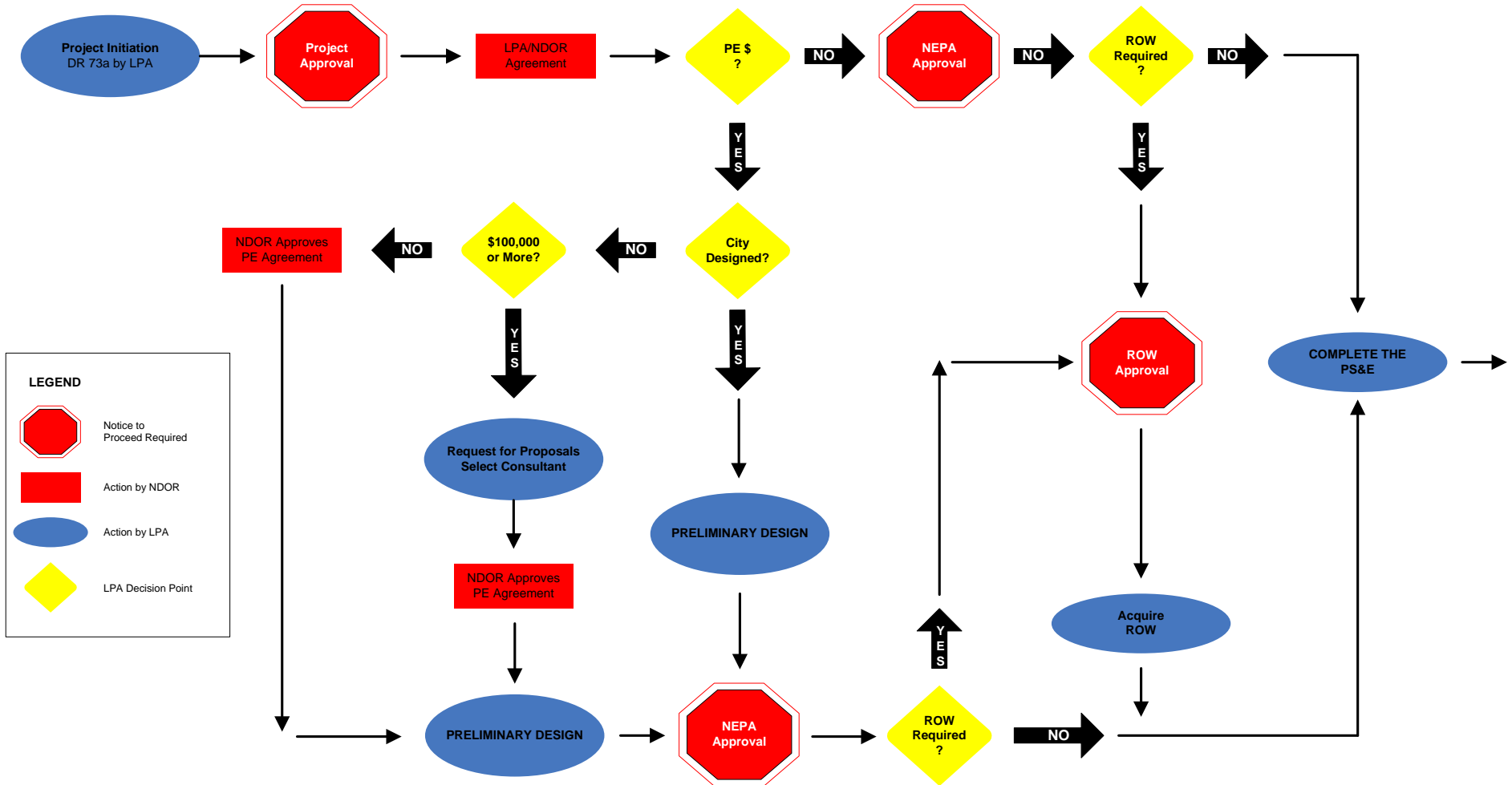
An obligation request is a letter sent to the Urban Engineer or Urban Off-System Coordinator indicating the amount of the LPA STP fund balance they would like applied to a project workphase. These requests should indicate the project description, project number, control number, the amount of the requested obligation, and the workphase for which the LPA would like the funds obligated.

It is also important to understand that obligation of a workphase and obtaining a federal authorization date does not automatically make expenses for those workphases eligible for federal participation. Obligating the funding at appropriate times is only the first step in ensuring that any particular workphase is eligible for federal funding. LPA's must also follow all federal and state regulations, and the requirements for individual workphases as indicated in each section of this book.

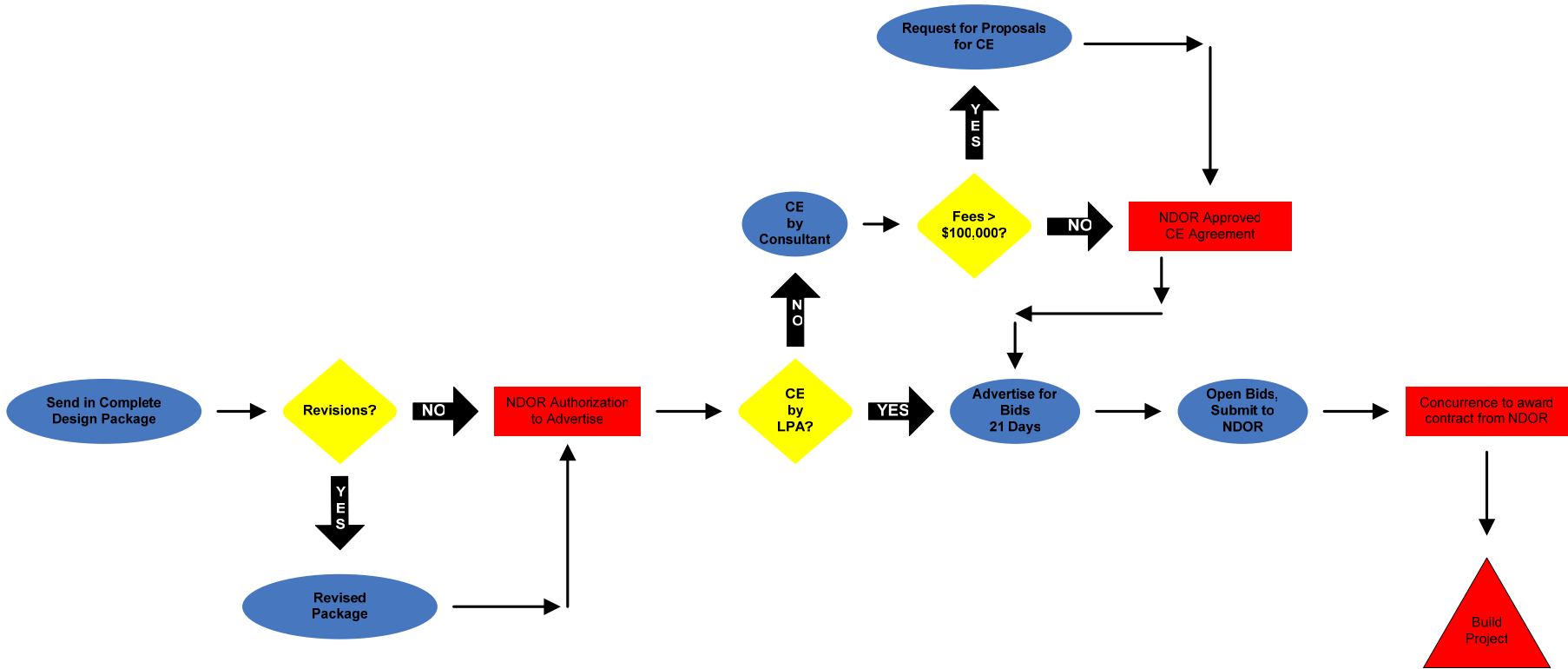
## 20.60 PROJECT FLOWCHART

The flowchart on the following pages will serve as a “map finder” during the important phases of a project.

Project Development  
Flow Chart



### Project Development Flow Chart



## 20.70 PROJECT DEVELOPMENT CHECKLIST

### INSTRUCTIONS

A Project Development Checklist on the following pages will be a tool used to track the development of your project. It is a requirement that this checklist be kept on all Federal-Aid projects by both NDOR and the LPA. NDOR will conduct regular comparisons with the checklists for completeness and accuracy. The project checklist will become a web-based program in the near future. NDOR will keep all LPA's notified and will conduct proper training when the program is initiated.

The "**Action by**" column explains who is responsible for completing that item.

The "**Date Started**" column is for the LPA to record the date that the item was started.

The "**Date Completed**" column is for the LPA to record the date the item was finished. If the item was not necessary, please mark it as "N/A".



**PROJECT DEVELOPMENT CHECKLIST (1 OF 7)**

Project _____
Project Location _____
NDOR Project Number _____
NDOR Control Number _____
NDOR Contact _____ Urban Off-System Coordinator
Phone No. _____ Patrick (402) 479-3845 or Kendall (402) 479-3843

**PROJECT INITIATION**

Action by	Date Started	Date Completed	
LPA			Submit DR73a, Highway Improvement Request to Urban Engineer
NDOR			Project Approval and Notification from NDOR
NDOR			Environmental Classification Determination Class _____

**LOCAL PUBLIC AGENCY / STATE AGREEMENT**

Action by	Date Started	Date Completed	
NDOR			Prepare LPA / NDOR Agreement
LPA			Sign Agreement / City Council Approval
NDOR			Sign Agreement
NDOR			Obligate Funds for Preliminary Engineering
NDOR			Give LPA a Notice to Proceed

**PROJECT DEVELOPMENT CHECKLIST (2 OF 7)**

**CONSULTANT PROCUREMENT/AGREEMENT  
(if applicable)**

Action by	Date Started	Date Completed	
NDOR			NDOR to Furnish Consultant Selection Procedures
LPA			Complete Draft of RFP
NDOR			Review and Approve RFP
LPA			Issue RFP and Conduct Interviews, if necessary
LPA			Review & Select Most Qualified Consultant
LPA			Negotiate Details/Costs w/ Selected Consultant
LPA			Prepare Consultant Preliminary Engineering Agreement – NDOR will Furnish Draft Agreement
NDOR			Review and Approve Agreement
LPA			Route Agreement for Signatures
NDOR			Preliminary Engineering Agreement Signed by the NDOR
NDOR			NDOR Notifies LPA of Approval
LPA			Notice to Proceed given to Consultant

**PROJECT DEVELOPMENT CHECKLIST (3 OF 7)**

**DESIGN**

**A. ENVIRONMENTAL CONCURRENCE**

Action by	Date Started	Date Completed	
LPA			Provide CE Justification (see Section 60 requirements)
NDOR/ FHWA			Categorical Exclusion Approved by FHWA
			<b>- OR -</b>
LPA			Environmental Assessment (EA) or Environmental Impact Statement (EIS) with document of decision For Further Information Contact NDOR Project Development (402) 479-4410
NDOR/ FHWA			Environmental approval

**B. PLAN-IN-HAND**

Action by	Date Started	Date Completed	
LPA			Submit Design Report
LPA			Conduct project walk-through and meeting
LPA			Meet Public Hearing Requirements
LPA			Meet Environmental Requirements
LPA			Obtain Location and Design Approval
LPA			Publish Design Approval

**PROJECT DEVELOPMENT CHECKLIST (4 OF 7)**

**C. RIGHT-OF-WAY FUNDING AND ACQUISITION**

Action by	Date Started	Date Completed	
LPA			Submit ROW Plans to NDOR Design
NDOR			Obligate ROW Funds
NDOR			Give LPA Notice to Proceed
LPA			Select Appraiser; internal or fee (not required in cases of Donation)
LPA			Select Review Appraiser; internal or fee
LPA			Select Negotiator; internal or fee
LPA			Give offer of Just Compensation to owners
LPA			Obtain title to acquired property, either by signature or by condemnation
LPA			Submit a ROW Certificate, when ROW acquisition is complete, along with the required documentation as indicated in Section 80
NDOR			LPA/ROW Coordinator reviews documentation and submits a ROW Certificate to NDOR Design
NDOR			Prepares distribution of appropriate funding

**D. PLANS, SPECIFICATIONS & ESTIMATES SUBMITTAL**

Action by	Date Started	Date Completed	
LPA			Prepare & Submit 100% PS&E Package to NDOR for Review, Comments, and DBE Assignment, if necessary
NDOR			Review PS&E Package
LPA			Revise 100% PS&E Package per NDOR requirements
NDOR			Obligate Construction Funds
NDOR			Give LPA approval to advertise

**PROJECT DEVELOPMENT CHECKLIST (5 OF 7)**

**PROJECT LETTING**

Action by	Date Started	Date Completed	
LPA			Publish Notice to Bidders Once Per Week for 3 Consecutive Weeks (min 21 days)
LPA			Send Notice to Bidders to Plan Bureaus & DBE List
LPA			Hold Pre-bid Conference (if needed)
LPA			Open Bids, at least 21 days after First Public Notice
LPA			Prepare Bid Tabulation Sheet
LPA			Determine Responsive Bid
LPA			Submit Recommendation of Award Letter & Bid Tab to NDOR for Concurrence
NDOR			NDOR Concurrence to Award Construction Contract
LPA			Award and Execute Construction Contract
LPA			Send Copy of Executed Construction Contract to NDOR

Note: All addendums must be approved by NDOR prior to their issue.

<b>PROJECT DEVELOPMENT CHECKLIST (6 OF 7)</b>			
<b>CONSTRUCTION &amp; CONSTRUCTION ENGINEERING</b>			
<b>Action by</b>	<b>Date Started</b>	<b>Date Completed</b>	
LPA			Prepare Consultant Construction Engineering Agreement (Generic Provided by State)
NDOR			Review and Approve Agreement
LPA			Construction Engineering Agreement Executed by LPA and Consultant
LPA			Construction Engineering Agreement signed by the NDOR.
NDOR			NDOR notifies LPA of Approval
LPA			Notice to Proceed given to consultant
LPA			Send Notice of Pre-Construction Conference to all Parties
LPA			Send Notice to Proceed to Contractor, Send Copy to NDOR
LPA			Contact State District Rep. for assignment
LPA			Pre-Construction Conference Held
LPA			Pre-Construction Conference Minutes Distributed
LPA			Construction Start Date
LPA			Submit Change Orders to NDOR for approval
NDOR			Approve Change Orders
LPA			Submit Monthly Pay Estimates to NDOR for reimbursement

**PROJECT DEVELOPMENT CHECKLIST (7 OF 7)**

**PROJECT CLOSE-OUT**

Action by	Date Started	Date Completed	
LPA	<input type="text"/>	<input type="text"/>	Conduct Pre-Final Inspection, Identify Remaining Work
LPA	<input type="text"/>	<input type="text"/>	Verify Remaining Work
LPA	<input type="text"/>	<input type="text"/>	Notice of Completion Sent to Contractor and NDOR
LPA	<input type="text"/>	<input type="text"/>	As-Built Plans Completed and Sent to NDOR
LPA	<input type="text"/>	<input type="text"/>	Notification of Project Completion and Material Certification Form Sent to NDOR (DR 299)
LPA	<input type="text"/>	<input type="text"/>	Complete Required DBE documentation
NDOR	<input type="text"/>	<input type="text"/>	Conduct Audit
NDOR	<input type="text"/>	<input type="text"/>	Reimburse LPA Retention withheld

30.10 HOW TO REQUEST FUNDS

30.20 FUNCTIONAL CLASSIFICATION

30.30 HOW TO KEEP YOUR FUNDING

30.40 WHO TO CONTACT

30.50 COMPLETING A HIGHWAY IMPROVEMENT PROGRAMMING REQUEST  
(DR FORM 73a)

30.60 ENVIRONMENTAL CLASSIFICATION



### 30.10 HOW TO REQUEST FUNDS

To request funding for a transportation improvement project, LPA's need to start with four basic steps:

1. Contact the NDOR office responsible for the appropriate funding source as indicated in Section 30.30.
2. Make sure that the proposed improvement is on the Highway Functional Classification list as explained in Section 30.20.
3. Ensure the project has been added to the State's, City's, or MPO's Transportation Improvement Program (TIP).
4. If you are seeking STP Urban Funds, submit a completed two-page Highway Improvement Programming Request (DR Form 73a).

### 30.20 FUNCTIONAL CLASSIFICATION

Functional classification is the process by which roadways are systematically classified according to their intended purpose. Most travel involves movement through a network of roadways. The roads that make up this system are designed for different purposes. Mobility, access, length of travel, and volume of traffic are some of the factors that help define the purpose of a roadway. Functional classification defines the role each road has in serving the flow of travel through a highway network.

Functional classification for Federal-Aid routes are determined by FHWA in cooperation with NDOR and the LPA. NDOR functional classifications are done independently from the Federal Highway Administration; therefore, state and federal definitions are different. This is important to note when requesting federal funding for STP projects. In order to receive federal funding for a STP project, *federal* definitions of functional classifications must be used. Although state definitions are not used for federally funded requests, state "minimum design standards" must be followed during project development.

#### **Categories**

The following definitions are abbreviated from their original form. For complete definitions and descriptions of functional classifications, review the "Highway Functional Classification: Concepts, Criteria and Procedures" manual.

There are three basic functional systems:

- 1.) **Small urban areas** are those urban places, as designated by the Bureau of Census, having a population of 5,000 to 49,999 and not within an urbanized area.
- 2.) **Urbanized areas** are those urban places, as designated by the Bureau of Census, having a population of 50,000 or more.
- 3.) **Rural areas** comprise the areas outside the boundaries of small urban and urbanized areas as defined above.

Within each of the three systems are subsystems as shown in the table below.

<b>RURAL AREAS</b>	<b>URBANIZED AREAS</b>	<b>SMALL URBAN AREAS</b>
Principal Arterials	Principal Arterials	Principal Arterials
Minor Arterial Roads	Minor Arterial Streets	Minor Arterial Streets
Major Collector Roads	Collector Streets	Collector Streets
Minor Collector Roads	Local Streets	Local Streets
Local Roads		

#### ***Functional Systems for Rural Areas***

Within the functional systems for rural areas, the classifications are: rural principal arterials, rural minor arterial roads, rural major collector roads, rural minor collector roads, and rural local roads. Examples of rural roads include interstates not in urban areas, state highways not in urban areas, county roads, and streets in towns with populations less than 5,000.

#### ***Functional Systems for Urbanized Areas***

Urbanized areas consist of four functionally classified systems; urban principal arterial streets, minor arterial streets, collector streets, and local streets. The differences in the nature and intensity of development between rural and urban areas cause these systems to have different characteristics from other functionally classified systems.

#### ***Functional Systems for Small Urban Areas***

The characteristics of urban systems are generally applicable to small urban areas. The basic difference is that many small urban areas will not generate internal travel warranting principal arterial service. Consequently, the principal arterials for small urban areas consist primarily of extensions of rural arterial streets into and through the areas.

Functional classifications for small urban areas include minor arterial streets, collector streets, and local streets.

Connecting links means those urban routings that will provide rural-to-rural continuity for the rural arterials systems. A connecting link may traverse the urban area from one boundary to another, or may simply connect to another previously delineated connecting link.

Federal funds are available for use on all of the systems listed above. However, federal STP funds can only be used on collector road systems or above.

If it is necessary to either classify or reclassify a road or street, the NDOR Classification and Needs Engineer should be contacted at (402) 479-4783.

### 30.30 HOW TO KEEP YOUR FUNDING

It is important to understand that the funding LPA's receive from NDOR are **not** disbursed in the form of a grant. Instead, the LPA must pay the contractor directly and then submit documentation to NDOR for federal match reimbursement. Reimbursement will **only** be made for costs on items eligible under the funding program up to a maximum funding limit. The funding limit and percentage applied to each reimbursement is determined at the time the project is approved. For example, if a project with 80 percent federal funds and a 20 percent local match has a \$500,000 funding maximum, 80 percent of each pay request would be reimbursed until 95 percent of the \$500,000 maximum is reached. The remaining 5 percent is held until a final audit has been conducted by the NDOR.

Failure to meet federal requirements will result in the denial of reimbursement and the LPA must repay the NDOR for any funds reimbursed to date. Therefore to avoid putting your LPA in a position where reimbursements are denied, it is very important for you to have a complete understanding of the requirements associated with your funding. It is important that the LPA verify with the NDOR what amount of federal-aid is being requested and what the funds are to be used for. For example, LPA's should indicate if the funds are to be used for preliminary engineering (PE), or utility relocations. If the funds have not been obligated and no agreements signed, the LPA will be liable for all expenditures. Funds lost through non-compliance may not be credited back to the city's STP balance.

### 30.30 WHO TO CONTACT

LPA's requesting federal-aid on their transportation improvement projects need to contact the NDOR office responsible for administering the funding source. These sources are described in Section 20 and include the following contacts:

**STP Urban:**

NDOR Roadway Design Urban Engineer – (402) 479-4442

**STP Counties:**

NDOR Secondary Roads Engineer – (402) 479-4437

**STP-Transportation Enhancement:**

NDOR Enhancement Program Administrator – (402) 479-4881

**STP Safety (Hazard Elimination)**

For roads: NDOR Traffic Engineering Division – (402) 479-4594

For railroads: NDOR Public Transportation Engineer – (402) 479-4438

**Urban/County Bridge Replacement (BR):**

For counties: NDOR Secondary Roads Engineer – (402) 479-4437

For cities: NDOR Urban Engineer – (402) 479-4442

**Train Mile Tax (TMT):**

NDOR Public Transportation Engineer – (402) 479-4438

**Emergency Relief Program (ER):**

NDOR Roadway Design Urban Engineer – (402) 479-4442

For projects located within the boundaries of a Metropolitan Planning Organization (MPO) area, the LPA must submit their request through the area MPO by the due date specified by the MPO. If the project is approved for funding by the MPO and is not currently listed in the Transportation Improvement Program (TIP), it must be added to the TIP before moving forward. The MPO areas and contacts in Nebraska are:

**MAPA** (Sarpy, Douglas, and Washington Counties): (402) 444-6866

**Lincoln/Lancaster County:** (402) 441-7711

**SIMP**CO (Dakota County): (712) 279-6286

### 30.40 COMPLETING A HIGHWAY IMPROVEMENT PROGRAMMING REQUEST (DR FORM 73A)

If a proposed project meets basic eligibility criteria and you are seeking STP Urban funds, the LPA should complete a Highway Improvement Programming Request (DR Form 73a) and submit it to the NDOR Urban Engineer. If the request is approved, the project is assigned a project number, state control number, project title, and proposed letting date. The Urban Off-System Coordinator will then notify the LPA of the project's approval and relay all appropriate assigned information regarding the project.

The DR73a form provides general information about the project to NDOR. **The form can be downloaded from the NDOR website at**

[www.nebraskatransportation.org/projdev/guidelines.htm](http://www.nebraskatransportation.org/projdev/guidelines.htm) or can be photocopied from the blank form included at the end of this section. LPA's should complete the form referring to this manual for definitions of terms. An authorized representative of the LPA must sign the form and submit it to the NDOR Urban Engineer. A completed sample is included at the end of this section.

### 30.50 ENVIRONMENTAL CLASSIFICATION

All federal-aid projects must be in compliance with the National Environmental Policy Act (NEPA). Federal regulations divide all projects into three classifications. Each class requires a different level of documentation. The anticipated class of a project will be determined during project programming by NDOR and FHWA. If a proposed project has an anticipated Environmental Class of 1 or 3, contact the Urban Engineer for assistance in programming the project and getting started to meet the FHWA review requirements. Class 1 projects require preparation of an Environmental Impact Statement (EIS) because they significantly affect the environment. Environmental Class 3 projects are those where the significance of the effect must be determined. Class 3 projects require preparation of an Environmental Assessment (EA) and result in a "Finding of No Significant Impact" (FONSI) or the preparation of an EIS. For more information on environmental documentation, see Section 60.

A Class 2 project is a categorical exclusion and will require some additional documentation.

**New**       **Revised**

State of Nebraska Department of Roads

# Local Road & Street Improvement Programming Request

For \_\_\_\_\_ (City/County)

**TO BE COMPLETED BY PROJECT SCHEDULING AND PROGRAM MANAGEMENT SECTION**

CONTROL NO.:
PROJECT NUMBER:
PROJECT NAME:

**TO BE COMPLETED BY PROJECT REQUESTER**

STREET/ROAD NAME OR NUMBER	FROM	TO	LENGTH

DESCRIPTION OF LOCATION AND PROPOSED IMPROVEMENT: *(Specify in detail)*

LET BY:  Local     State

SUGGESTED SCHEDULE		TRAFFIC VOLUMES	
FISCAL YEAR:	BEGIN CONSTRUCTION:	Current ADT:	
LETTING DATE:	END CONSTRUCTION:	Construction Year +20-Year ADT:	
		% Trucks:	

FUNDING				
	OTHER	FEDERAL	STATE	TOTAL
P.E.				
R.O.W.				
Construction				
Project Total				

**TO BE COMPLETED BY RURAL/URBAN ENGINEER**

PROGRAMMED FOR FISCAL YEAR:	PROGRAMMED LETTING DATE:	PROPOSED ENVIRONMENTAL CLASS:
SAFETY FUNDS: <input type="checkbox"/> Yes <input type="checkbox"/> No	ENHANCEMENT FUNDS: <input type="checkbox"/> Yes <input type="checkbox"/> No	

REVIEWED BY DISTRICT ENGINEER		RECOMMENDED BY RURAL/URBAN ENGINEER	
SIGNATURE:	DATE:	SIGNATURE:	DATE:
APPROVED BY DEPUTY DIRECTOR-ENGINEERING		CITY/COUNTY OFFICIAL	
SIGNATURE:	DATE:	SIGNATURE:	DATE:

**ENTIRE PAGE TO BE COMPLETED BY PROJECT REQUESTER**

**DESIGN DETAILS**

	<b>EXISTING</b>	<b>PROPOSED*</b>	<b>REMARKS</b>
Surfacing Width			
Surface Type			
Shoulder Width			
Shoulder Type			
Right of Way Width			

*\* Must meet Board of Public Roads Classifications and Standards*

**EXISTING STRUCTURES**

<b>TYPE OF STRUCTURE</b>	<b>LENGTH</b>	<b>WIDTH</b>	<b>SUFFICIENCY RATING</b>	<b>PROPOSED TREATMENT</b>

**SUPPORTING DATA**

**REMARKS (If Yes, Identify)**

Additional Right of Way Needed (f Yes, indicate extent of)	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Survey Needed	<input type="checkbox"/> Yes <input type="checkbox"/> No	Type: <input type="checkbox"/> Ground <input type="checkbox"/> Photogrammetric
Relocation Anticipated	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Business <input type="checkbox"/> Residential
Culvert Extensions Anticipated	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Railroad on Project	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Crossing <input type="checkbox"/> Parallel
Wetlands Anticipated	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Detour Needed	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Relinquishments	<input type="checkbox"/> Yes <input type="checkbox"/> No	
4(f) Encroachment	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Realignment on Project	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Minor <input type="checkbox"/> Major
New Alignment on Project	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Airport within ½ Mile	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Public Interest	<input type="checkbox"/> Low <input type="checkbox"/> Moderate <input type="checkbox"/> High	
Significant Stream Crossings	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Channel Changes Required	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Section 404 Permit Required	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Possible	
Floodplain Permit Required	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Possible	
Utility Adjustments Needed	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Historic Involvement (106)	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Public Hearing Anticipated	<input type="checkbox"/> Yes <input type="checkbox"/> No	

Other Relevant Information:

Comments:

*Include a map or location sketch of proposed work.  
Include a typical cross-section of proposed roadway.*

**New**       **Revised**

State of Nebraska Department of Roads

# Local Road & Street Improvement Programming Request

For **first class city** (City/County)

**TO BE COMPLETED BY PROJECT SCHEDULING AND PROGRAM MANAGEMENT SECTION**

CONTROL NO.:

PROJECT NUMBER:

PROJECT NAME:

*Sample*

**TO BE COMPLETED BY PROJECT REQUESTER**

STREET/ROAD NAME OR NUMBER	FROM	TO	LENGTH
West St	South Street	North Street	1 mile

DESCRIPTION OF LOCATION AND PROPOSED IMPROVEMENT: *(Specify in detail)*

LET BY:

Local       State

West Street is classified as a collector and is completely located within the corporate limits. The city wants to pave the section between South Street and North Street (1 mile) with a 24 foot wide section. The proposed section will be 2 – 12 foot lanes with curb and gutter. The existing road is 20 foot wide gravel.

The existing ditches will be replaced with storm sewer.

4 foot wide sidewalk will be placed on both sides of the street with a 4 foot gap between back of curb and the sidewalk.

SUGGESTED SCHEDULE		TRAFFIC VOLUMES	
FISCAL YEAR: 2002	BEGIN CONSTRUCTION: June 2002	Current ADT:	1200
LETTING DATE: April 2002	END CONSTRUCTION: Nov 2002	Construction Year +20-Year ADT:	2000
		% Trucks:	5

**FUNDING**

	OTHER	FEDERAL	STATE	TOTAL
P.E.	10,000	40,000		50,000
R.O.W.	20,000	80,000		100,000
Construction	100,000	400,000		500,000
Project Total	130,000	520,000		650,000

**TO BE COMPLETED BY RURAL/URBAN ENGINEER**

PROGRAMMED FOR FISCAL YEAR:

PROGRAMMED LETTING DATE:

PROPOSED ENVIRONMENTAL CLASS:

SAFETY FUNDS:

Yes       No

ENHANCEMENT FUNDS:

Yes       No

**REVIEWED BY DISTRICT ENGINEER**

**RECOMMENDED BY RURAL/URBAN ENGINEER**

SIGNATURE:

DATE:

SIGNATURE:

DATE:

**APPROVED BY DEPUTY DIRECTOR-ENGINEERING**

**CITY/COUNTY OFFICIAL**

SIGNATURE:

DATE:

SIGNATURE:

DATE:



**ENTIRE PAGE TO BE COMPLETED BY PROJECT REQUESTER**

**DESIGN DETAILS**

	<b>EXISTING</b>	<b>PROPOSED*</b>	<b>REMARKS</b>
Surfacing Width	20'	24'	2 12' lanes
Surface Type	gravel	concrete	with 4" curb
Shoulder Width	2'	0'	4' sidewalk
Shoulder Type	dirt	dirt	
Right of Way Width	66'	66' average	some row will be needed

\* **Must meet Board of Public Roads Classifications and Standards**

**EXISTING STRUCTURES**

<b>TYPE OF STRUCTURE</b>	<b>LENGTH</b>	<b>WIDTH</b>	<b>SUFFICIENCY RATING</b>	<b>PROPOSED TREATMENT</b>
box	26'	3-10'x10'		extend boxes

**SUPPORTING DATA**

**REMARKS (If Yes, Identify)**

Additional Right of Way Needed (f Yes, indicate extent of)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<b>Approx 3 acres needed from 4 tracts</b>
Survey Needed	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Type: <input checked="" type="checkbox"/> Ground <input type="checkbox"/> Photogrammetric
Relocation Anticipated	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Business <input type="checkbox"/> Residential
Culvert Extensions Anticipated	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Railroad on Project	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Crossing <input type="checkbox"/> Parallel
Wetlands Anticipated	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Detour Needed	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<b>see attached sheet</b>
Relinquishments	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
4(f) Encroachment	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Realignment on Project	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Minor <input type="checkbox"/> Major
New Alignment on Project	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Airport within 1/2 Mile	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Public Interest	<input type="checkbox"/> Low <input checked="" type="checkbox"/> Moderate <input type="checkbox"/> High	
Significant Stream Crossings	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Channel Changes Required	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Section 404 Permit Required	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Possible	
Floodplain Permit Required	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Possible	
Utility Adjustments Needed	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Historic Involvement (106)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Public Hearing Anticipated	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

Other Relevant Information:

COMMENTS:

Wetlands are located at culvert crossings.

A project site map is included.

No parks are on the project site.

*Include a map or location sketch of proposed work.  
Include a typical cross-section of proposed roadway.*

40.10 PURPOSE OF LPA / NDOR AGREEMENT

40.20 WHO PREPARES THE AGREEMENT?

40.30 NOTICE TO PROCEED

40.40 CHANGES TO THE AGREEMENT

40.50 A-133 AUDIT

#### 40.10 PURPOSE OF LPA/NDOR AGREEMENT

Agreements are an essential part of a local roads program. They allow LPA's and NDOR to work together to improve the local road network. After a project has been programmed, as outlined in Section 30, it will be necessary for the LPA to enter into an agreement with NDOR for each project.

The LPA/NDOR Agreement is a legal instrument necessary for the reimbursement of federal funds. It outlines the responsibilities of both the LPA and NDOR including such items as a project description, total funding amount, eligible expenses, reimbursement process, design guidelines, project letting, ROW, utility non-betterment guidelines, and federal-aid provisions such as Disadvantaged Business Enterprise (DBE) and Nondiscrimination.

#### 40.20 WHO PREPARES THE AGREEMENT

NDOR will prepare the LPA/NDOR agreement after the project has been programmed. The NDOR District Office will deliver the agreement to the LPA. The LPA must sign the agreement and attach a resolution indicating their commitment to the project. Sample resolutions can be obtained from the Urban Engineer. The agreement should then be returned to the Urban Engineer to obtain NDOR signatures. The LPA will be sent an executed original of the agreement once it's signed by NDOR and should keep it in the project file for reference.

#### 40.30 NOTICE TO PROCEED

The LPA/NDOR agreement must be fully executed by **both** parties before any project expenses can be incurred that are to be reimbursed. **Do not begin the consultant selection process or begin design** until NDOR has issued a Notice to Proceed. The notice to proceed will be sent to you after the agreement is fully executed.

#### 40.40 CHANGES TO THE AGREEMENT

Occasionally, the conditions of a LPA/NDOR agreement may change. This may be due to revisions in the description of the project, or funding amounts and percentages. If this happens, a Supplemental Agreement will be necessary to amend existing conditions of

the agreement. Please let your Urban Engineer know if you need to supplement the executed LPA/NDOR agreement. Supplements require signatures of both the LPA and NDOR, so please notify the NDOR Urban Engineer at the earliest possible date if there are any changes with a project.

#### 40.50 A-133 AUDIT

If the LPA owning this project spends more than \$500,000 in federal funding per fiscal year, an A-133 audit will be required. An A-133 Audit Report must include a "Supplemental Schedule of Expenditures of Federal Awards". The LPA/NDOR agreements further discuss the A-133 audit in detail. Please contact the NDOR Highway Audits Manager at (402) 479-4558 for more information.

50.10 USING A CONSULTANT

50.20 CONSULTANT SELECTION PROCEDURES

50.30 CONSULTANT AGREEMENTS

50.40 PAYMENT METHODS

50.50 NOTICE TO PROCEED

50.60 CHANGES TO THE AGREEMENT

50.70 CONSULTANT EVALUATION

50.10 USING A CONSULTANT

If a LPA is not adequately staffed to provide the necessary engineering, they may hire a consulting engineer to provide professional services. Consultants must be on the NDOR certified consultant list. Certification forms (DR497) and a list of certified consultants are available on NDOR's website at [www.nebraskatransportation.org/rfp/](http://www.nebraskatransportation.org/rfp/). The costs for environmental, design, and construction engineering are eligible for federal participation provided that applicable requirements have been followed.



50.20 CONSULTANT SELECTION PROCEDURES

If estimated consultant fees are anticipated to exceed \$40,000, LPA's are required to follow the qualifications-based selection (QBS) process as outlined within this section. If the fee is estimated to be less than \$40,000, the LPA's are required to follow the small purchase procedures outlined within this section.

**Qualification Based Selection Procedures:** The QBS procedure must include a public announced solicitation process that requests proposals (RFP's) from at least three firms, all of which must be certified by NDOR. In case three firms don't respond, the LPA must show documented proof that at least three firms had been contacted and proper advertisement had taken place. The RFP must include a brief description of the scope of work, evaluation factors to be used in the selection and their relative importance, method of payment, submittal requirements, and deadline for submittal.

The following is a description of the QBS process:

**1. Solicitation**

The solicitation process must include public announcement or advertising. In addition to public announcement or advertising, direct mailings may occur. The process must assure qualified in-State and out-of-State consultants are given a fair opportunity to be considered for award of the contract. You may contact the NDOR Urban Off-System Coordinator for a list of state certified consultants. The RFP must include the following:

1. A description of the scope of work

2. The evaluation factors to be used in the selection, including their relative importance
3. The following is a list of acceptable payment methods.
  - a. Cost plus fixed fee
  - b. Lump sum
4. Request the submission of a letter of interest indicating the qualifications of the firm
5. Deadline date for submittal of letters of interest. The consultant’s letter of interest must include a completed DR Form 498 “Architect, Engineer & Related Service Detail Statement.” The DR Form 498 can be found at [www.nebraskatransportation.org/rfp/](http://www.nebraskatransportation.org/rfp/)

***Price cannot be a selection factor and must not be requested in the RFP or mentioned in interviews prior to selection.***

**2. Information to NDOR (for approval) prior to RFP being issued**

1. Draft of the RFP
2. Evaluation Forms
3. Advertising or distribution of the RFP cannot be performed prior to completing the LPA/NDOR agreement (see Section 40).

A sample RFP and scoring sheet can be found at the end of this section. These forms can also be obtained by contacting the NDOR Urban Off-System Coordinator assigned to your city or can be found at:

[www.nebraskatransportation.org/projdev/guidelines.htm](http://www.nebraskatransportation.org/projdev/guidelines.htm)

**3. Analysis and Selection**

1. The consultant’s submittal shall be evaluated and ranked in order of preference using an approved evaluation form. The contracting agency shall give consideration to Disadvantaged Business Enterprise (DBE) consultants in the selection process.
2. Personal interviews or telephone interviews with submitting firms are optional. If interviews are conducted, they must be conducted with all the firms under consideration.
3. The selection committee must consist of at least three individuals in which at least one person whose profession represents that particular field of endeavor being considered.
4. The selecting agency shall furnish NDOR a copy of the following:
  - a. Final Request for Proposal

- b. A list of those firms responding to the RFP or the three or more firms that a letter of interest was solicited from.
- c. Completed evaluation forms from all committee members.
- d. Copy of the letter to all submitting firms indicating selection.

**4. Negotiation**

Upon completion of the selection process and when proper documentation has been submitted to NDOR, NDOR will provide a standard agreement and conflict of interest form to the LPA that must be completed between the LPA and the consultant. The LPA and the consultant can begin negotiating fees for engineering services until an agreement is reached or until negotiations are officially terminated.

In the event negotiations are terminated with the first-rated consultant, the selection committee shall begin negotiations with the second-rated consultant. This process will continue until an agreement is reached. In the case where all negotiations are terminated, the reasons and facts surrounding those negotiation terminations shall be documented and submitted to the NDOR.

The process will continue until an agreement is reached with a qualified firm. If no agreement is reached, the terms of the contract under negotiation will be reviewed by the selection committee to determine the cause(s) for failure to achieve an agreement.

**5. Develop contract between LPA and consultant.**

Upon completion of negotiations, the LPA must use NDOR’s standard agreement to state the terms and conditions of the contract. A standard agreement may be obtained from the NDOR Urban Off-System Coordinator assigned to your City or can be found at [www.nebraskatransportation.org/projdev/guidelines.htm](http://www.nebraskatransportation.org/projdev/guidelines.htm).

A copy of the “NDOR Conflict of Interest and Disclosure Form” shall be submitted to NDOR with the negotiated contract. This form can be found at the end of this section. If a potential conflict occurs, please contact the NDOR Urban Engineer at the soonest possible time, to determine if the consultant can be considered for the work advertised.

**Small Purchase Procedures:** Consultant agreements with an estimated fee not to exceed \$40,000 are considered “Small Purchase” contracts by the State. The procedures for consultant procurement for “Small Purchases” are listed in the following paragraphs. This process is an abbreviated version of the contract procurement used for contracts exceeding \$40,000.



### 1. Solicitation

The local public agency wishing to use a consultant for engineering services obtains a list of certified consultants from the NDOR Urban Off-System Coordinator assigned to your city. This list identifies the consultants that have a DR Form 497 on file at NDOR.

The LPA must solicit bids in a competitive manner. The LPA can either submit a public notice or send a Request for Proposal (RFP) to a selected number of qualified firms (minimum 3). The public notice should include a general description of the project and should indicate how interested firms can apply for consideration for the project. LPA's can obtain a standard Request for Proposal (RFP) form from the NDOR Urban Off-System Coordinator assigned to your city.

### 2. Information to NDOR prior to RFP being issued

1. Proposed consultant procurement method.
2. Advertising or distribution of the RFP cannot be performed prior to completing the LPA/NDOR agreement (see Section 40).

A sample RFP and scoring sheet can be found at the end of this section. These forms can also be obtained by contacting the NDOR Urban Off-System Coordinator assigned to your city or can be found at:  
[www.nebraskatransportation.org/projdev/guidelines.htm](http://www.nebraskatransportation.org/projdev/guidelines.htm)

### 3. Analysis and Selection

The LPA can use a selection process of their choice. Two of the most popular methods used include a qualifications-based system and a low bid system.

- Qualifications-Based System

The LPA may form a selection committee that will review and evaluate the consultants responding to the RFP. Following receipt of the letters of interest for a project, the review committee will rank the consultants in order of preference. The qualification-based evaluation can use the consideration factors found in the standardized NDOR evaluation form found in Section 50.80.

- Low-Bid System

The LPA may select a consultant based solely on the lowest submitted bid if desired. The LPA may also use the QBS method where price can be used as a selection factor.

**4. Negotiate fees with selected consultant.**

The LPA should negotiate the fees submitted by the selected consultant. If a fair and reasonable price cannot be negotiated with the chosen firm, the LPA can move to the next ranked firm. This process can continue until an agreement can be reached.

**5. Develop contract between LPA and consultant.**

Upon completion of negotiations, the LPA must use NDOR's standard agreement to state the terms and conditions on the contract. A standard agreement can be obtained from the NDOR Urban Off-System Coordinator assigned to your City or can be found on the NDOR web page at [www.nebraskatransportation.org/projdev/](http://www.nebraskatransportation.org/projdev/)

A copy of the "NDOR Conflict of Interest and Disclosure Form" shall be submitted to NDOR with the negotiated contract. This form can be found at the end of this section. If a potential conflict occurs, please contact the NDOR Urban Engineer at the soonest possible time, to determine if the consultant can be considered for the work advertised.

## 50.30 CONSULTANT AGREEMENTS

To assure compliance with federal requirements, the NDOR Urban Engineer must review all consultant agreements prior to execution. In addition, the consultant and LPA must complete a Conflict of Interest (COI) form. This must be submitted to NDOR with the contract. NDOR will review the agreement and the COI form. All engineering agreements will be between the LPA and the consultant selected by the LPA. The LPA will be required to use standard agreements previously set up by NDOR. These agreements are in a fill-in-the-blank format and are meant to have a consultant scope of services and fee schedule attached as exhibits. Agreements for both preliminary engineering and construction engineering can be obtained from the NDOR Urban Off-System Coordinator assigned to your city or can be found at: [www.nebraskatransportation.org/projdev/guidelines.htm](http://www.nebraskatransportation.org/projdev/guidelines.htm)

The consultant fee proposal must be reviewed by NDOR before the agreement is executed to ensure that the consultant fees are within state and federal guidelines for overhead and profit. The LPA is responsible to ensure that all blanks on the agreement

are filled in correctly and that a complete scope of work is attached as an exhibit (NDOR will conduct a cursory review of these items when the agreement is submitted for preliminary review). All consultant agreements must be approved and signed by NDOR after they are signed by the LPA and consultant.

## 50.40 PAYMENT METHODS

There are two approved categories of payment for consultant services: “**Cost Plus Fixed Fee**” and “**Lump Sum**”. Lump sum contracts are most appropriate when the scope of services is well defined.

### ***Cost Plus Fixed Fee***

Cost plus fixed fee is a Cost Reimbursement payment method. The actual cost may be adjusted, through negotiation, as a result of substantive changes in the work or services to be performed. This type of payment method is suitable for the performance of research, or preliminary exploration or study, where the required level of effort may not be well defined. It is the most commonly used payment method for preliminary engineering and design. However, if preliminary studies and other information are sufficient to allow development of a well-defined and specific scope of services, the lump sum method might be more appropriate.

The ***fixed fee*** is based on the scope, complexity, degree of risk, and specialized expertise associated with the project. For preliminary engineering (PE), firms with an overhead less than 150 percent are allowed a fixed fee for profit of 13 percent. Firms with an overhead of 150 percent or higher, are allowed a fixed fee for profit of 12 percent.

For construction engineering (CE), firms with an overhead less than 150 percent are allowed a fixed fee for profit of 11 percent. Firms with an overhead of 150 percent or higher, are allowed a fixed fee for profit of 10 percent.

### ***Lump Sum***

Lump sum is a Fixed Price payment method. It provides for a price, which is not subject to any adjustment because of cost changes the consultant might encounter in the performance of the work. Because the consultant assumes full responsibility in the form of profit or losses for all costs under or over the firm fixed price, it has a maximum profit incentive for effective cost control in contract performance. This type of payment method imposes a minimum administrative burden on the contracting parties. Lump sum contracts shall not be used for construction engineering services or preliminary engineering in excess of \$150,000. Lump sum contracts may be supplemented when the scope of work has changed.

**Maximum Amount Payable**

The contract will specify a maximum dollar amount within which the consultant will complete all tasks in the scope of services. Should the consultant's costs exceed the maximum amount payable, the consultant must complete the work without compensation above that amount, unless the extra work is approved by the contracting agency.

**50.50 NOTICE TO PROCEED**

LPA's whom desire to be reimbursed with federal-aid must receive approval for this type of services prior to RFP. After the NDOR/LPA Agreement is in place, the LPA may advertise the RFP. If the RFP occurs prior to requesting establishment of the NDOR/LPA agreement, then no costs associated with the LPA/Consultant agreement will be reimbursed.

Consultants who are to be paid with federal-aid dollars cannot begin work until NDOR issues a Notice to Proceed letter (or email). The notice to proceed will be issued after the LPA/Consultant agreement has been reviewed and approved by NDOR. Any work performed prior to the Notice to Proceed, provided by NDOR, will not be eligible for reimbursement.

After the LPA has received a Notice to Proceed from NDOR, they in turn may offer the consultant a Notice to Proceed to begin work. The LPA shall send a copy of the Notice to Proceed to the Urban Engineer.

**50.60 CHANGES TO THE AGREEMENT**

Occasionally, the conditions of a consultant agreement may change. This may be due to revisions in the scope of services, fees, or beginning and completion dates. If this happens, a Supplemental Agreement will be necessary to amend existing conditions of the agreement. Contact the NDOR Urban Off-System Coordinator assigned to your city know if you need to supplement the executed consultant agreement. The LPA will be required to use NDOR standard Supplemental Agreements. These agreements can be obtained from the NDOR Urban Off-System Coordinator assigned to your city or can be found at [www.nebraskatransportation.org/projdev/guidelines.htm](http://www.nebraskatransportation.org/projdev/guidelines.htm)

Supplements require signatures of both the LPA and Consultant so please notify NDOR at the earliest possible date if you anticipate any changes. The supplements require the same approval by the NDOR as the original agreement.

**50.70 CONSULTANT EVALUATION**

The LPA shall monitor the quality of consultant's work and perform periodic performance evaluations. This information will be supplied to NDOR at the time of project completion. NDOR will retain this information in a consultant performance database. LPA's can evaluate consultants using the standard Consultant Evaluation Form found at the end of this section.

**EXAMPLE**  
**REQUEST FOR PROPOSALS**  
**STATE PROJECT NO. ####**  
**DESIGN SERVICES, PROJECT NAME – Project Type**

**1. PURPOSE AND INTENT**

- 1.1 The City intends to retain a professional engineering firm or firm(s) to provide normal and customary preliminary and final engineering design services to produce a set of construction documents for **PROJECT NAME** - Safety Improvement Project.
- 1.2 It is the intent to select a firm based on qualifications, recommended project approach, and practical applications which best accomplishes the objectives of the project while incorporating innovative and cost effective methods.
- 1.3 The City will rely on the firm to remain on schedule for all services rendered so as to meet the construction bid and start as specified for this project.
- 1.4 The City reserves the right to contract for additional services on this project with another firm or utilize its own forces.

**2. PROJECT DESCRIPTION**

- 2.1 The firm selected will develop this project from its current intersection configuration to include realigned dual left-turn lanes to replace the existing single left-turn lane at \_\_\_\_\_ Street. The existing traffic signals will be renovated to meet the new intersection configuration. This project will improve vehicular safety and operation by decreasing accidents and will improve delay, air quality, and overall operations. See attached conceptual sketch of intersection improvements.
- 2.2 The limits of the project are identified as the intersection of \_\_\_\_\_ Streets.
- 2.3 This project includes construction of dual left-lanes for northbound to westbound vehicles, sidewalk improvements along \_\_\_\_\_, traffic signal modifications, pavement markings and signing. Appropriate ITS applications such as dynamic message signs, traffic monitoring cameras, road and weather information systems, etc. will also be included in this project.
- 2.4 This project will require coordination with the \_\_\_\_\_ Parks and Recreation Department.

**3. AVAILABLE INFORMATION**

- 3.1 Any currently available landbase, public utility, contours and aerial photographic information in Microstation format.
- 3.2 Information is available for review at the offices of the City of \_\_\_\_\_ Engineers office located at \_\_\_\_\_, \_\_\_\_\_, Nebraska.

**4. REQUIRED SERVICES**

- 4.1 The consultant selected shall provide normal and customary professional services for this project may include but not limited to:

4.1.1 Survey - Preliminary and ROW	4.1.10 Still Photo / Video Log
4.1.2 Geometry	4.1.11 Traffic Signal Plans
4.1.3 Utility plans	4.1.12 ROW/easements
4.1.4 Environmental/historical review	4.1.13 Text legal descriptions
4.1.5 Pedestrian/bicycle uses	4.1.14 Marking /signing plans
4.1.6 Aesthetics	4.1.15 Traffic control plans
4.1.7 Construction Phasing	4.1.16 Public Involvement
4.1.8 Construction Estimates	4.1.17 Roadway Design
4.1.9 Emergency Services	4.1.18 StarTran Coordination

In addition, appropriate landscaping in collaboration with the \_\_\_\_\_ Parks and Recreation Department will be included in this project.

- 4.2 All the above shall be in conformance to/with City, State and Federal requirements.
- 4.3 Meetings will be held with representatives from the City of \_\_\_\_\_, NDOR central office and District \_\_\_\_\_ office at appropriate times to discuss progress and issues. The project will be funded 80% from Federal funds and 20% from the City of \_\_\_\_\_.
- 4.4 Prepare a preliminary design memorandum which defines in detail the Consultant's and City's mutually agreed understanding of project scope, objectives, and schedule, including budgetary information.
  - 4.4.1 Meet with City and State staff to review the memorandum for the project.

- 4.5 Submit plan and estimate review sets at preliminary plans (30%); Functional plans (60%); and PS & E (90%).
- 4.6 Complete final design drawings, technical specifications, special provisions, estimates and contract documents for bidding and construction of the project in accordance with design memorandums and using the City of \_\_\_\_\_ Standard Plans and Standard Specifications of Municipal construction.
  - 4.6.1 Elements shown on the plans will include: sections where necessary, plan and profiles, removals (including trees), storm water system details, water system elements, wastewater system elements, quantities, and construction phasing.
  - 4.6.2 All elements should be clearly readable with no lines intermingled with text.
  - 4.6.3 Utilities and utility conflicts will be shown on the plan and profile sheets.
  - 4.6.4 Show on the plans all easements and ROW acquisitions.
- 4.7 Prepare all applications for required Federal, State, or local permits for construction including flood plain permits, 404 permits, storm water permits, NDEQ construction permits, etc., as necessary and insure all data is sufficient for receiving such permits. The Consultant will be required to address 4F issues in collaboration with the \_\_\_\_\_ Parks and Recreation Department.
- 4.8 Submit completed design documents to local regulatory agencies as required and assist City in obtaining approval for improvements from such agencies.
- 4.9 Assist City in obtaining bids for construction, including: coordinating and attending pre-bid meetings, when required; answering all technical questions from prospective bidders; preparing bid addenda as required.
- 4.10 Submit printed copies and computerized file copy of final design and construction contract documents and meet with City project team to present and review final design documents.

**5. DELIVERABLES**

- 5.1 Any and all final design plans, technical specifications, special provisions, estimates and contract documents necessary for the bidding and construction of the above mentioned project.
- 5.2 The final submitted plans will be signed drawings on Mylar, sized as directed by the City Engineer. CD\_ROM CAD files of the final design plans will be submitted which are compatible and suitable for transfer to the City's Comprehensive Engineering Information System (CEIS) currently using Microstation, Geopak, and GIS mapping system.
- 5.3 Any technical specifications, special provisions, estimates and contract documents shall be submitted in WordPerfect V9 or more recent format, both hard copy and electronically.
- 5.4 The final estimates will be delivered in APPIA with bid items and their corresponding costs.

**6. TENTATIVE PROJECT SCHEDULE**

- 6.1 Review & Open RFP's \_\_\_\_\_
- 6.2 Review of RFP (Short List): \_\_\_\_\_
- 6.3 Notification for Interviews: \_\_\_\_\_
- 6.4 Interviews : \_\_\_\_\_
- 6.5 Negotiate Scope of Work : \_\_\_\_\_
- 6.6 Final Meeting: \_\_\_\_\_
- 6.7 Contract Signed by Firm: \_\_\_\_\_
- 6.8 Notice to Proceed : \_\_\_\_\_
- 6.9 Right of Way Documentation: \_\_\_\_\_
- 6.10 Final Design Completion: \_\_\_\_\_
- 6.11 Consultant shall propose intermediate milestone dates to meet Right of Way and Final Design Deadlines.

**7. ADDITIONAL CONSTRUCTION PHASE AND OTHER SERVICES**

- 7.1 Based on the firm's performance and at the sole option of the City, additional services during the construction phase, such as construction inspection/resident engineering services, shall be reviewed and negotiated at a later time, as necessary.
- 7.2 Other services as requested by the City shall also be reviewed and negotiated at a later time, as necessary.
- 7.3 The City reserves the right to contract for additional construction phase services on this project with another firm or utilize its own forces.

**8. CITY'S RESPONSIBILITIES**

- 8.1 Designate project representative and City project team to coordinate work activities of City project team, Consultant, and other affected parties.
- 8.2 Make all policy and budgetary decisions so as to allow timely completion of the work.
- 8.3 Supply pertinent existing drawings, records, and available information.

- 8.4 Assist in coordinating, arranging, and conducting meetings with representatives of affected agencies as required for completing the work.
- 8.5 Conduct related advertising, bidding process, and award of Contract(s) for construction.

**9. SPECIFIC PROJECT INTENTS AND SERVICES REQUIREMENTS**

- 9.1 The resultant design for the project shall be in conformance with design standards and regulations imposed by federal, state and local agencies such as the Nebraska Department of Environmental Quality (NDEQ), Nebraska Department of Roads (NDOR) and the City of \_\_\_\_\_.
- 9.2 Phasing of construction will be needed to provide continuous movement of traffic as well as meet budgetary considerations.
- 9.3 Phasing plans and resultant implementation schedules for completing the work by the required dates and in a timely manner to allow for proper reviews by various agencies and developing of final funding adjustments and requirements for this projects.

**10. PROPOSAL CONTENTS**

- 10.1 Describe and outline the **Firm's Approach** to performing the work required by this project.
  - 10.1.1 Include implementation plan describing project phases, key work elements to meet critical project dates, and a recommended schedule of meetings to provide for timely input by City project team.
- 10.2 Outline of the **Proposed Project Schedule** to meet the project schedule listed in this RFP shall be included.
  - 10.2.1 Provisions for meaningful input from City project team during the initial project review are essential and shall be addressed.
- 10.3 Delineate the **Project Team and Organization**.
  - 10.3.1 Include names of key individuals to be assigned to, and work directly on, the project.
  - 10.3.2 Describe specific areas and limits of responsibilities for each of the team members and proposed sub-consultants to be utilized.
  - 10.3.3 Include a project team organizational chart showing lines of responsibility and extent of involvement for sub-consultants.
  - 10.3.4 Include resumes for project team members, key individuals, and sub-consultants.
- 10.4 Describe the **Ability of the Firm to Meet the Intent of Required Services** outlined in this RFP, including:
  - 10.4.1 Time availability of team members to meet the tentative project schedule.
  - 10.4.2 Quality Assurance and Quality Control (QA/QC) review procedures to be utilized on this project.
  - 10.4.3 Cost estimating and cost control procedures used by firm on similar projects.
  - 10.4.4 A statement of general qualifications and background experience of the firm and project team members, including sub-consultants in this type of project and work.
  - 10.4.5 Listing of types of anticipated assistance that may be required from the City project team or other City agencies.
  - 10.4.6 List four contacts of former clients (to include contact person, title, and telephone number) for which your firm was engaged within the past five (5) years to perform projects of similar size, capacity and dollar amount.
- 10.5 Provide a description of your Public involvement process.
- 10.6 Nebraska Department of Roads DR498 forms shall be submitted in the proposal.

**11. PROPOSAL FORMAT**

- 11.1 Proposals shall be plain white paper, black ink, 6 single sided pages, stapled in the upper left corner. This does not include cover letter and resumes.
- 11.2 The following is a list of attachments which are not part of the six (6) page limit.
  - 11.2.1 A summary description of the firm's history, structure, size and philosophy.
  - 11.2.2 A summary resume/dossier of the key staff to be assigned to the project.
  - 11.2.3 A list of similar projects the firm has completed and the names, telephone numbers of the contract administrator/s.
  - 11.2.4 NDOR DR498 forms

**12. PROPOSAL EVALUATION CRITERIA**

Each proposal submitted will be evaluated by the following items, listed in the order of importance:

- 12.1 Understanding of the requirements of this project.
- 12.2 Relevance and suitability of the project approach and schedule to meet the needs of the City.
- 12.3 Qualifications and expertise of the key personnel to be assigned to this project.
- 12.4 Background experience of the firm and the project team as it directly relates to this project.
- 12.5 Record of past performance on similar projects.

- 12.6 Comments and opinions provided by references.
- 12.7 Quality and cost control procedures to be used on this project.
  - 12.7.1 Identify personnel responsible for these controls.
- 12.8 Resources of the firm to conduct and complete this project in a satisfactory manner.
  - 12.8.1 Factors to be considered include: current work load (including current work with the City), proposed schedule for completion, and ability and willingness to commit the key personnel.
- 12.9 Clarity, conciseness, and organization of proposal.
- 12.10 Firm must be certified by the Nebraska Department of Roads
- 12.11 NOTE: Proposals will be reviewed, evaluated and ranked (e.g.: 1, 2, 3) in accordance with the City's selection process and procedure.

**13. SUBMITTAL PROCEDURES**

- 13.1 Submit seven (7) copies of your proposal to the office of the Purchasing Agent, located at \_\_\_\_\_, \_\_\_\_\_, Nebraska, \_\_\_\_\_ **no later than** \_\_\_\_\_ at \_\_\_\_\_.

**14. CONTACTS**

- 14.1 Contact regarding the development of a proposal shall be made in writing only, with the Project Selection Committee Chair, \_\_\_\_\_, \_\_\_\_\_, City of \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, Nebraska \_\_\_\_\_, cc: \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, NE \_\_\_\_\_.
- 14.2 Any follow-up conversations with City staff will be directed by the Selection Committee Chair.
- 14.3 Any addenda answering questions or providing clarifications will be sent out by the Purchasing Department and be available on the City of \_\_\_\_\_ website at [http://www.\\_\\_\\_\\_\\_.htm](http://www._____.htm)
- 14.4 Verbal responses and/or representations shall not be binding to the City.

**15. ESTIMATED FEES**

- 15.1 If the city is unable to arrive at a mutual agreement with the top ranked firm, the city retains the sole right to move on to negotiations with the second (then, third, etc.) ranked firm.
- 15.2 The method of payment for this project will be cost plus fixed fee plus reimbursement of actual expenses with an agreed maximum amount.
- 15.3 The Nebraska Department of Roads standard City/Consultant agreement will be used for this project.



# EXAMPLE

## NDOR Selection Criteria

NEBRASKA DEPARTMENT OF ROADS CONSULTANT SELECTION COMMITTEE EVALUATION FACTORS											
Project No.: .....	Point Range Poor-Excellent	Short List	Final	Short List	Final	Short List	Final	Short List	Final	Short List	Final
Location: .....											
Rater's Name: .....											
Standard Work Category No.(s): .....											
(1) ABILITY AND EXPERIENCE of professional personnel and staff	0-20										
(2) PAST PERFORMANCE	0-20										
(3) ADEQUATE STAFF to perform the work and WILLINGNESS to meet time requirements	0-20										
(4) LOCATION OF PROJECT in regard to the location of the consultant's personnel and the consultant's familiarity with the area.	0-10										
(5) INFORMATION PROVIDED as required by R.F.P.	0-20										
TOTAL POINTS TO DETERMINE SHORT LIST											
(6) EQUITY in distribution of work and WILLINGNESS to meet time requirements.	0-10										
TOTAL POINTS FOR FINAL SELECTION											
		NOTES: _____ _____ _____									

# NDOR Conflict of Interest and Disclosure Form

## **Purpose**

This checklist provides assistance to consultants in screening for potential organizational conflicts of interest. The checklist must be completed and signed by the consultant and LPA and submitted to the Nebraska Department of Roads (NDOR) prior to or with the signed consultant LPA agreement.

Please note that this checklist serves as a guide only, and that there may be additional potential conflict situations not covered by this checklist. If a consultant determines a potential conflict of interest exists that is not covered by this checklist, that potential conflict must still be disclosed.

## **Conflict of Interest**

No official or employee of a State or any other governmental instrumentality who is authorized in his official capacity to negotiate, make, accept or approve, or to take part in negotiating, making, accepting or approving any contract or subcontract in connection with a project shall have, directly or indirectly, any financial or other personal interest in any such contract or subcontract. No engineer, attorney, appraiser, inspector or other person performing services for a State or a governmental instrumentality in connection with a project shall have, directly or indirectly, a financial or other personal interest, other than his employment or retention by a State or other governmental instrumentality, in any contract or subcontract in connection with such project. No officer or employee of such person retained by a State or other governmental instrumentality shall have, directly or indirectly, any financial or other personal interest in any real property acquired for a project unless such interest is openly disclosed upon the public records of the State highway department and of such other governmental instrumentality, and such officer, employee or person has not participated in such acquisition for an in behalf of the State.

## **Use of the Disclosure Form**

The consultant and LPA must complete the attached disclosure form and submit it to NDOR/LPA with their proposal. If potential conflict of interest exists, they must be disclosed on the form. A disclosure will not necessarily disqualify a consultant from being awarded a contract. The disclosure form must be provided separate from the bound proposal, and it will not be provided to selection committee members. NDOR/LPA representatives will review the disclosure and the appropriateness of the proposed mitigation measures to determine if the consultant may be awarded the contract despite the potential conflict.

## **Material Representation**

The consultant is required to submit the attached disclosure form either declaring to the best of its knowledge and belief, either that no potential conflict exists, or identifying potential conflicts and proposing remedial measures to ameliorate such conflicts. The consultant must also update conflict information if such information changes after the submission of the proposal. Information provided on the form will constitute a material representation as to the award of this contract. NDOR/LPA reserves the right to cancel or amend the resulting contract if the selected consultant failed to disclose a potential conflict, which it knew or should have known about, or if the consultant provided information on the disclosure form that is materially false or misleading.

## **Reviewing Potential Conflicts**

NDOR/LPA recognizes that consultants must maintain business relations with other public and private sector entities in order to continue as viable businesses. This fact will be taken into account as the appropriateness of proposed measures to mitigate potential conflicts is evaluated. It is not the intent of NDOR/LPA to disqualify consultants based merely on the existence of a business relationship with another entity, but rather only when such relationships causes a conflict that potentially impairs the consultant's ability to provide objective advice to NDOR/LPA. Consultants would be disqualified only in those cases where a potential conflict cannot be adequately mitigated.

### **An organizational conflict of interest may exist in any of the following cases:**

- The consultant, or its principals, own real property in a location where there may be a positive or adverse impact on the value of such property based on the recommendations, designs, appraisals, or other deliverables required by this contract.
- The consultant is providing other services to a governmental or private entity and the consultant knows or has reason to believe, that entity's interests are, or may be, adverse to the client's interests with respect to the specific project covered by this contract. Comment: The existence of a business relationship with another entity would not ordinarily need to be disclosed. Rather, this focuses on the nature of services commissioned by the other entity. For example, it would not be appropriate to submit a proposal for a NDOR project if a local government has also retained the consultant for the purpose of persuading NDOR to stop or alter the project plans.
- The contract is for right-of-way acquisition services or related services (e.g. geotechnical exploration) and the consultant has an existing business relationship with a governmental or private entity that owns property to be acquired pursuant to the contract.
- The consultant is providing real estate or design services to a private entity, including but not limited to, developers, whom the consultant knows or has good reason to believe, own or are planning to purchase property affected by the project covered by this contract, when the value or potential uses of such property may be affected by the consultant's performance of work pursuant to this contract. "Property affected by the project" includes property that is in, adjacent to, or in reasonable proximity to current or potential right-of-way for the project. The value or potential uses of the private entity's property may be affected by the consultant's work pursuant to the contract when such work involves providing recommendations for right-of-way acquisition, access control, and the design or location of frontage roads and interchanges.
- The consultant has a business arrangement with a current NDOR/LPA employee or immediate family member of such an employee, including promised future employment of such a person, or a subcontracting arrangement with such a person, when such arrangements are contingent on the consultant being awarded this contract. This item does not apply to pre-existing employment of current or former NDOR/LPA employees, or their immediate family members. Comment: This provision is not intended to supersede any NDOR/LPA policies applicable to its own employees accepting outside employment. This provision is intended to focus on identifying situations where promises of employment have been made contingent on the outcome of this particular procurement. It is intended to avoid a situation where a consultant may have unfair access to "inside" information.

- The consultant has, in previous work for the state/LPA, been given access to information relevant to this procurement or this project that is classified as “private” or “nonpublic” and such data potentially provides the consultant with an unfair advantage in preparing a proposal for this project. Comment: This provision will not, for example, necessarily disqualify a consultant who performed some preliminary work from obtaining a final design contract, especially when the results of such previous work are public data available to all other consultants. Rather, it attempts to avoid an “unfair advantage” when such information cannot be provided to other potential consultants.
- The consultant has, in previous work for the state/LPA, helped create the solicitation by performing work such as: writing this solicitation, or preparing evaluation criteria or evaluation guides for this solicitation.
- The consultant, or any of its principals, because of any current or planned business arrangement, investment interest, or ownership interest in any other business, may be unable to provide objective advice to the state/LPA.

## DISCLOSURE OF POTENTIAL CONFLICT OF INTEREST

Having had the opportunity to review the Organizational Conflict of Interest Checklist, the consultant hereby indicates that it has, to the best of its knowledge and belief:

\_\_\_\_\_ Determined that no potential organizational conflict of interest exists.

\_\_\_\_\_ Determined a potential organizational conflict of interest as follows:

Describe nature of potential conflict:

Describe measures proposed to mitigate the potential conflict:

.....  
Consultant Signature

.....  
Date

.....  
LPA Signature

.....  
Date

If a potential conflict has been identified, please provide name and phone number for a contact person authorized to discuss this disclosure form with NDOR personnel.

.....  
Consultant Name

.....  
Phone

.....  
LPA Name

.....  
Phone

# NDOR Consultant Evaluation Form

**Project Information**

Project Number .....

Project Location (*city/county*).....

Prime Consultant .....

Prime Consultant Address .....

.....

Prime Consultant Point of Contact.....

Subconsultants .....

.....

.....

Contract Duration: Start..... Finish .....

Contract Fee .....

Evaluator..... Title.....

Date .....

**Evaluation**

(5 = Exceptional, 4 = Exceeds Standards, 3 = Satisfactory, 2 = Marginal, 1 = Unsatisfactory)  
Provide comments on next page if rating is exceptional or unsatisfactory.

Schedule	5	4	3	2	1
Budget	5	4	3	2	1
Responsiveness	5	4	3	2	1
Content/Deliverables	5	4	3	2	1
Other.....	5	4	3	2	1

Comments

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Evaluator Signature

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Date



60.10 ENVIRONMENTAL AND CULTURAL CLEARANCE

60.20 ENVIRONMENTAL CLASSIFICATION

60.30 NEPA PROCESS OUTLINE

60.40 WATERWAYS

60.50 LANDS

60.60 ADDITIONAL IMPACTS

## 60.10 ENVIRONMENTAL AND CULTURAL CLEARANCE

All projects receiving federal-aid funding must undergo reviews for environmental and cultural impacts. Assistance in determining these impacts and requirements for mitigation are outlined in this section. Items that may need to be addressed include historic and archeological resources, wetlands, public parkland, wildlife refuges, conversion of farmland, air and noise impacts, and crossing of Corps of Engineers controlled waterways, etc.

**Note:** *Environmental and cultural issues must be resolved to the satisfaction of the state and the FHWA before Right-of-Way appraisals can be started.*

## 60.20 ENVIRONMENTAL CLASSIFICATION

Proposals developed as federal-aid projects must be in compliance with the National Environmental Policy Act (NEPA). Road and street projects are developed through the FHWA with coordination occurring through the NDOR. Federal regulations divide all projects into three classes of actions. Each class requires a different level of documentation. All environmental issues/documentation must be coordinated with NDOR's Environmental Unit. Please contact Leonard Sand at (402) 479-4411 to coordinate the NEPA process.

The anticipated class of your project will be determined during project programming by the NDOR and the FHWA. The three classes are:

1. **Class 1 – Environmental Impact Statement (EIS)**. Class 1 projects require preparation of an EIS because they significantly affect the environment. The statement shall provide full and fair discussion of significant environmental impacts and shall inform decision makers and the public of the reasonable alternatives which would avoid or minimize adverse impacts. An EIS will be required for projects such as a new controlled access freeway or a highway project of four or more lanes in a new location.
2. **Class 2 – Categorical Exclusions (CE)**. A Class 2 project is an action that, based on past experience with similar actions, does not involve significant environmental impacts. These projects do not require extensive documentation. However, a CE does not constitute clearance of all environmental matters such as those associated with the Clean Water Act, the Historic Preservation Act, the Endangered Species Act, or Section 4(f). An example would be most mill and

overlay projects. The LPA shall submit to NDOR a justification letter to document this classification.

3. **Class 3 – Environmental Assessment (EA)**. Class 3 projects are those where the significance of the effect must be determined. An EA will be required for Class 3 projects and must result in a Finding of No Significant Impact (FONSI). Projects such as a 2-lane relocation or adding of additional lanes to an existing highway corridor will require an EA. FHWA will review the EA and any public hearing comments or other comments received regarding the EA. If FHWA agrees with the LPA's recommendations, it will make a separate written FONSI incorporating by reference the EA.

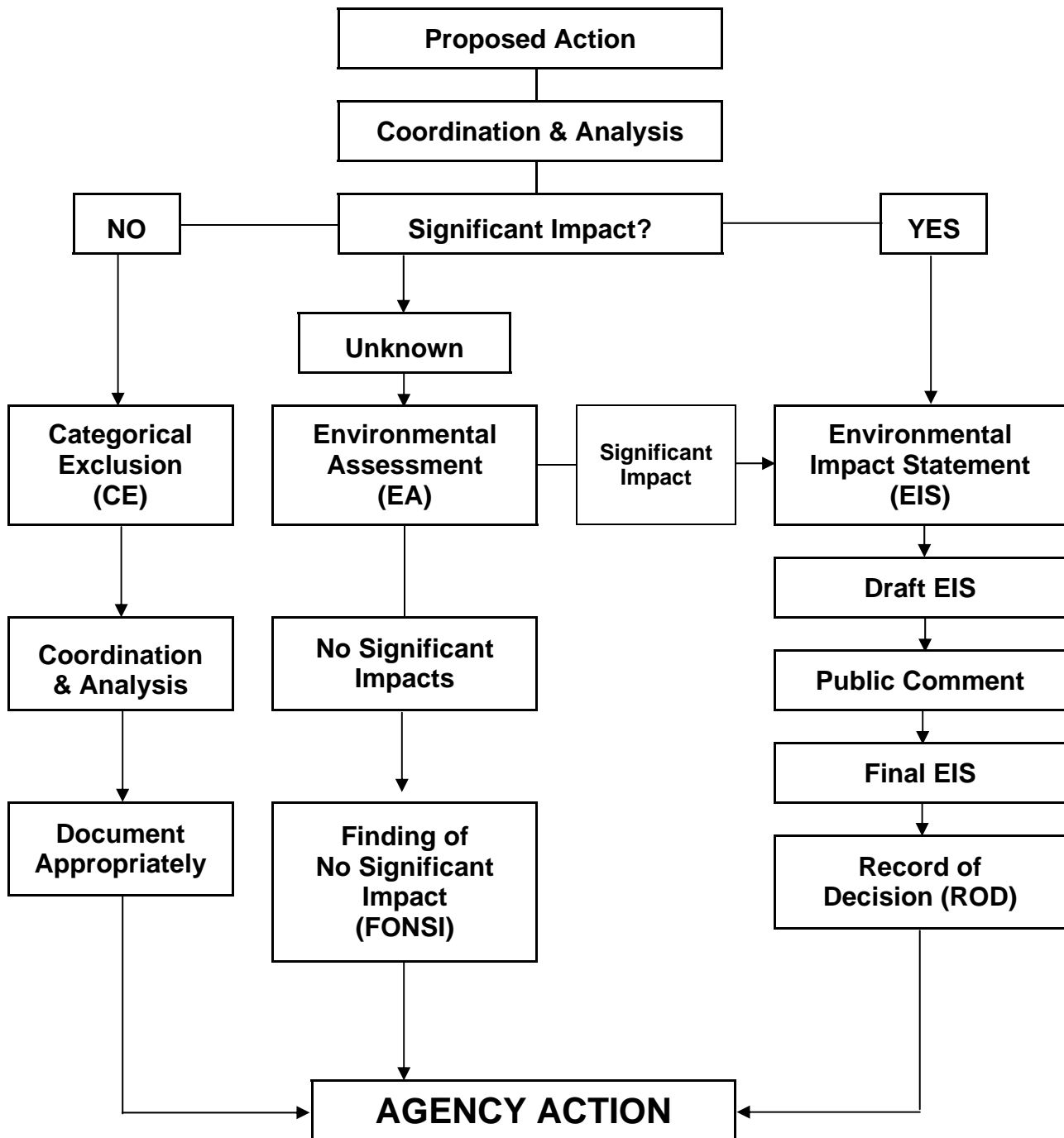
If an EA or EIS is required, these documents will be developed in accordance with 23 CFR 771 and 772, and when appropriate, will follow the procedures detailed in the "Nebraska Local Operating Procedures for Integrating NEPA/404". (For additional assistance, reference T 6640.8A). If a consultant is used to complete the required documents, the consultant should be selected from the qualified list available at NDOR.

All projects must have an environmental determination prior to final design, property acquisition, purchase of construction materials, or project construction.



60.30 NEPA PROCESS OPTIONS

(Classes of Action)



## 60.40 WATERWAYS

All projects must be reviewed to determine if the project has an impact (temporary or permanent) on wetlands, stream or river channels, storm water runoff, or is located in a floodplain. This includes not only the project site but also construction staging areas and access drives.

### ***401 and 404 Permits***

A wetlands delineator must conduct a wetlands determination for all federal-aid projects. Wetlands delineators are biologists trained to recognize wetlands. Wetlands are determined by the presence of specific plant, water, and soil conditions and often are not identifiable to the untrained eye. Federal regulations allow for fines up to \$50,000 and jail sentences for failure to secure proper wetlands permits.

The LPA may request a free wetlands delineation by contacting the Army Corps of Engineers at 1430 Central Avenue, Kearney, NE 68847 or (308) 234-1403. A review letter indicating the results of the wetland evaluation must be submitted before ROW can be acquired or the project can be let to contract.

If a wetlands permit or channel permit is required, the Nebraska Department of Environmental Quality (NDEQ) must first issue a 401 Permit to the LPA. Contact NDEQ at (402) 471-2186 for more information. After the 401 Permit has been issued, contact the Army Corps of Engineers for the 404 Permit. 404 Permits are required anytime wetlands will be affected by a project, any waterway of the United States is affected, or if any material is placed in wetlands outside the limits of the stream ordinary high water lines.

Wetland impacts or channelization often require a longer review process and more strict permit conditions. They may also result in denial of a permit. Therefore, review of the presence of wetlands and required mitigation should be discussed with the Army Corps of Engineers before final design.

### ***Storm Water Runoff***

If the project involves grading an area greater than one acre, a storm water runoff permit is required. The LPA should direct questions about storm water runoff permits to the Permits and Compliance Section at the Department of Environmental Quality, 1200 N Street, Suite 400, Lincoln, NE 68509-8922 or (402) 471-2186.

***Floodplain Permit***

If a floodplain permit is required, the LPA should contact the appropriate local agency handling floodplain management. If technical assistance is needed, the LPA should contact the Floodplain Management Section at the Nebraska Department of Natural Resources at 301 Centennial Mall South, P.O. Box 94676, Lincoln, NE 68509 or (402) 471-0589.

**60.50 LANDS*****Public Land***

Section 4(f) lands are lands that are publicly owned, such as public parks, recreation area, wildlife and waterfowl refuges, or any significant public or private historical site. Projects must be evaluated to see if they require the use of these lands. A Section 4(f) Statement must be prepared to document the efforts to avoid this usage and result in a finding that there is no feasible or prudent alternative to the encroachment on the 4(f) resource. If the impact is minor, a programmatic 4(f) statement may be used. This evaluation is separate from the NEPA classes. However, if Section 4(f) lands are to be significantly impacted by a project, the Section 4(f) evaluation must be included in the EA or EIS.

***Section 106 Review – Archeological Sites & Historic Structures***

To be in compliance with the Historic Preservation Act, the LPA must coordinate with the Nebraska State Historic Preservation Office (SHPO) to determine the presence or absence of historic or archeological resources. A letter from the SHPO must document this determination. If the project has an affect on a resource **on** or **eligible** for the National Register of Historic Places, a Memorandum of Agreement (MOA) may need to be developed between FHWA, SHPO, and the LPA. The MOA will identify required mitigation for impacting the historic resource. If land is taken from a historic resource, a Section 4(f) Statement is required.



LPA's must conduct a cursory review and survey of the entire project area to determine if historical property, structures or archeological sites will be impacted along with the potential affects. The LPA must submit this document to SHPO for approval. SHPO will then respond with a letter stating whether or not they concur with the LPA's findings and if a further action is needed. For more information, contact SHPO at (402) 471-4787.

## 60.60 ADDITIONAL IMPACTS

### ***Noise Impacts***

Detailed noise studies will need to be conducted as part of the environmental analyses when a project has a significant existing change to the vertical or horizontal alignment, when a project is in a new location, or when lanes are being added. If a noise study is requested by NDOR or FHWA, this study will be completed consistent with NDOR's "Noise Analysis and Abatement Policy". For a copy of this policy, contact the NDOR Environmental Section at (402) 479-4410.

### ***Air Quality Requirements***

If an air study is requested by NDOR or FHWA, this study will be completed consistent with the Air Quality Analysis Agreement signed by NDOR, DEQ, and FHWA.

### ***Threatened and Endangered Species***

To be in compliance with the Endangered Species Act, the LPA must coordinate with the Fish and Wildlife Service (FWS) and Nebraska Game and Parks Commission (NGPC) to determine the presence or absence of listed species. If there are no species or critical habitat in the proposed project area, this should be documented. If species or critical habitat are present in the project area, further consultation with FWS and NGPC will occur to establish if there will be an impact and if mitigation will be required. Results of this consultation should be documented. For more information, contact the NDOR Environmental Section at (402) 479-4410.

### ***Hazardous Waste Sites***

The Resource Conservation and Recovery Act (RCRA) and the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) regulate hazardous waste sites. During early planning, the location of permitted and non-regulated hazardous waste sites should be identified.

***Environmental Justice***

Any LPA cannot exclude from participation or deny the benefits of a federal-aid project to populations based on the grounds of race, color, national origin or low income.

Environmental Justice requires identification and addressing of disproportionately high and adverse human health or environmental effects of programs, policies, and activities on minority populations and low income populations.



- 70.10 WHO IS RESPONSIBLE?
- 70.20 DESIGN STANDARDS
- 70.30 PLAN-IN-HAND
- 70.40 DESIGN EXCEPTIONS
- 70.50 STANDARD PLANS
- 70.60 PLANS, SPECIFICATIONS, & ESTIMATES (PS&E)
- 70.70 DESIGN SUBMITTALS TO NDOR
- 70.80 PERMITS
- 70.90 SPECIFICATIONS AND REQUIRED FEDERAL-AID CONTRACT PROVISIONS
- 70.100 ESTIMATES
- 70.110 DESIGN CONSIDERATIONS
- 70.120 DESIGN PROCESS OUTLINE

## 70.10 WHO IS RESPONSIBLE?

The LPA and/or their consultant must complete all necessary steps to meet federal requirements for design of the project. This includes determining design speed, levels of service, typical sections, pavement types and depths, alignment, drainage, ROW needs, environmental impacts, etc. Traffic signals must be warranted by MUTCD. Geotechnical testing may be needed to design items such as retaining walls or bridges.

The State of Nebraska Roadway Design Manual can be used as a guideline in the design process. This manual can be found online at [www.nebraskatransportation.org/roadway-design/](http://www.nebraskatransportation.org/roadway-design/)

## 70.20 DESIGN STANDARDS

Construction plans must be developed which provide construction details necessary to bid and construct the project. In general, the plans must meet the requirements of the NDOR and the FHWA. All construction should conform to the current edition of the State of Nebraska Department of Standard Specifications for Highway Construction. LPA's may use their own standard construction specifications **providing those** specifications have been approved by the Board of Public Roads Classifications and Standards.

Documents that must be complied with during design include the following current:

- Minimum Design Standards of the Board of Public Roads Classifications and Standards
- ADA – Americans with Disabilities Act
- AASHTO Policy on Geometric Design of Highways and Streets
- Manual on Uniform Traffic Control Devices (MUTCD)
- Policy for Accommodating Utilities on State Highway Right-of-Way
- NDOR Instructions for Acquiring ROW on Federal Aid Projects

Design guidelines available from NDOR that may be of assistance to project designers include:

- The current State of Nebraska Standard Specifications for Highway Construction
- The State of Nebraska Standard Plans
- The State of Nebraska Road Design Manual
- The Nebraska Department of Roads Material and Test Guide

The NDOR Urban Off-System Coordinator can assist the LPA in obtaining copies of applicable guidelines and standards upon request. In general, projects must be designed according to the guidelines listed above. Any variances to these guidelines must be approved by the NDOR prior to preparation of final plans. If you will be requesting a variance, please contact our Urban Engineer or NDOR Urban Off-System Coordinator.

### 70.30 PLAN-IN-HAND

A plan-in-hand is a field inspection and/or meeting that must be conducted on every project that receives federal aid. This inspection typically takes place when the project plans are approximately 30 percent complete. Since NDOR has full oversight on all Federal-Aid projects, the NDOR Urban Engineer, the NDOR Urban Off-System Coordinator assigned to your City and the NDOR District representative must be notified and invited.

This inspection should identify substantive issues of concern and serve as a check of the progression of a project. The issues that should be discussed and examined are additional survey needs, roadway alignment, environmental, ROW, utility issues, phasing, constructability issues, surfacing types and specific design questions.

Following the plan-in-hand inspection, a report must be completed and submitted to the NDOR Urban Engineer. Below is an outline of items that need a brief but descriptive statement.

- Cover page with NDOR project and control numbers and a location map
- Scope of Work
- Traffic Count
- Accommodation of Traffic
- Design Standard to be used
- Design Exceptions
- Accident History
- Funding
- Bridges
- Right-of-Way
- Utilities
- Railroad
- Balance Factor
- Material Needed
- Safety Enhancements
- Miscellaneous Items

## 70.40 DESIGN EXCEPTION

Design policies and standards generally represent minimum values. Higher standards should be used within reasonable economic limits. If minimum design standards and the Americans with Disabilities Act (ADA) standards are not met, a design relaxation must be requested unless the project is classified as a minimum maintenance project. The request for design relaxation approval must be documented and must include accident rate analysis, collision diagrams, accident spot location maps, plans showing the area of the relaxation and cost comparisons. NDOR has approval authority for the departure from standards for Federal-aid projects.

Requests for design relaxation of the Nebraska Minimum Design Standards shall go through the NDOR Urban Engineer which requires approval of the Deputy Director-Engineering. After this is obtained, a letter shall be sent to the Secretary of the Board of Public Roads Classifications and Standards at least ten working days prior to the board meeting where it shall be presented to the Board of Public Roads Classifications and Standards for their approval.

A design relaxation request letter should contain the following items:

- Project design: basic design parameters for the project (current and design traffic volumes, design speed, posted speed, percent trucks, etc.)
- Degree of reduction in the standard
- Design exception anticipated effect on the safety and operation of the facility
- Accident history analysis
- Cost of attaining full standards
- Mitigation features
- Future improvements
- Resultant environmental impacts
- Other factors that could affect the decision
- The following attachments: existing typical section, proposed typical section and the typical section required by the Nebraska Minimum Design Standards

An example of a design relaxation letter can be obtained through the NDOR Urban Off-System Coordinator assigned to your City.

## 70.50 STANDARD PLANS

Standard Plans are engineering drawings showing standard details of various construction items, representing the current policies of the NDOR, and approved for repetitive use where appropriate. The drawings are produced for statewide use by

the Department, counties, and cities are used in conjunction with the Standard Specifications for Construction and other applicable specifications, policies, and manuals. These plans are prepared by the NDOR Standard Plans Committee which are approved by FHWA, and signed by the Roadway Design Engineer. These Standard Plans are available to the City upon request or can be downloaded from the State of Nebraska website at [www.nebraskatransportation.org/roadway-design/](http://www.nebraskatransportation.org/roadway-design/)

## 70.60 PLANS, SPECIFICATIONS & ESTIMATES (PS&E)

“Plans, specifications and estimates” are documents used to award and administer a construction contract. These documents must be approved by NDOR before the project can be advertised for construction. According to Nebraska State Statutes (Architects and Engineers Regulation Act), all contract documents must be signed and sealed by a Professional Engineer registered in the State of Nebraska. Each sheet of the construction drawings must be signed and sealed with the exception of cross-sections. Plans and specifications must be prepared in such a manner that payment in the contract will be made on the basis of units of work and materials.



## 70.70 DESIGN SUBMITTALS TO NDOR

If projects undertaken by an LPA impact (cross or intersect) the state highway system, the LPA must submit preliminary or functional design plans (50% to 60% complete) to the Urban Engineer for review. The submittal should consist of plan/profile sheets with existing conditions, proposed horizontal alignment stationing and geometrics, proposed vertical alignment and geometrics, limits of construction, preliminary proposed drainage and cross-sections. If the project does not impact the state highway system, submit only the final PS&E documents. The content of each submittal is discussed in the chart on the following page.

	<b>Use this Column for Projects involving State Highways Only 1<sup>st</sup> Submittal Preliminary/Functional Design</b>	<b>Final PS&amp;E Submittal</b>
<b>% Complete</b>	Plans must be 50% to 60% complete.	Plans must be 100% complete.
<b>Project</b>	Project design must conform to the most recent NDOR, ADA, and AASHTO requirements.	Project design must conform to the most recent NDOR, ADA, and AASHTO requirements.
<b>Plan Submittal Requirements</b>	Three sets of plans and attachments. A "plan-in-hand" field check of the project site may be required as part of the functional design review.	One set of plans and attachments. Plans and calculations must be sealed and signed by professional engineer registered in Nebraska.
<b>Plans Detail Required</b>	Plans generally must include Plan/Profile sheets with: existing conditions (topographic features, drainage way, utilities, profiles, ROW, property lines), proposed horizontal alignment stationing and geometrics, proposed vertical alignment, limits of construction, preliminary proposed roadway and drainage	Plans must include the same items required for Preliminary/Functional Design submittal, plus: all constructions and removal notes, all details and special designs revisions as per preliminary design review.
<b>Quantities &amp; Cost Estimates</b>	Preliminary quantity tabulation and construction cost estimate (separate from plans).	Revised and updated tabulation of quantities and estimated costs.
<b>Standard Plans</b>	List of Standard Plans that are applicable.	Updated list of Standard Plans.
<b>Utilities Report</b>	Preliminary Status of Utilities Report.	Final Status of Utilities Report.
<b>Environmental &amp; Property Issues</b>	Letter on status of environmental, ROW/easements and railroad agreements, if any.	Copies of ROW Certificate, and all required agreements and permits.
<b>Special Provisions</b>	List of special design/details to be added during final design.	Any special provision that may be required.

**70.80 PERMITS**

Copies of all approved permits must be included with the PS&E submittal. If permits are not included, you must submit an explanation of the circumstances and describe when permits will be issued. The NDOR will not issue approval to advertise for construction bids if all necessary permits, agreements, easements, etc. are not complete. This includes a ROW Certificate from the LPA certifying that all ROW has been acquired in accordance with federal and state laws.

**70.90 SPECIFICATIONS AND REQUIRED FEDERAL-AID CONTRACT PROVISIONS*****Construction Specifications***

All construction should conform to the current edition of the “Nebraska Department of Roads Standard Specifications for Highway Construction”. LPA’s may use their own standard specifications for construction **providing those specifications have been approved by the Board of Public Roads Classifications and Standards.**

***Form 1273***

Each set of contract documents must include Form FHWA-1273, “Required Contract Provisions, FHWA Construction Contracts”. Copies of the FHWA-1273 Form are available from the NDOR Urban Off-System Coordinator.

***Wage Rates***

Federal wage rates must be included in contracts for all FHWA projects advertised by an LPA. The Federal Davis-Bacon Act predetermined minimum wage must be paid to all covered workers on federal aid projects exceeding \$2,000 **that are located on a federal-aid highway**. If a project is not located on a federal-aid highway, the contract is **not** subject to the federal wage rate requirement. In addition, Davis-Bacon requirements do not apply to “force account” work performed by LPA forces. Federal-aid highway is defined as all roads other than those functionally classified as local roads or rural minor collectors.

***Affirmative Action EEO***

To effectively assure Equal Employment Opportunity (EEO), it is the policy of FHWA to require that all federal-aid highway construction contracts include specific requirements to implement civil rights laws and regulations. These requirements apply to contractors and all their subcontractors holding subcontracts (not including material suppliers) of \$10,000 or more. To be eligible for federal-aid funds, the LPA must comply with the civil rights requirements.

***Disadvantaged Business Enterprise (DBE)***

As part of FHWA efforts to increase DBE participation in federal projects, the NDOR manages a goal-setting process for DBE participation. If NDOR deems necessary, a “DBE goal” will be assigned to your project and NDOR will provide information on requirements to meet the goal.

***Buy America***

LPA’s must include a provision containing the “Buy America” requirement in each construction contract. The Buy America rule requires that steel products brought to the construction site and permanently incorporated into the completed project must be produced domestically. A “domestic product” is a manufactured steel construction material that was produced in one of the 50 states, the District of Columbia, Puerto Rico, or in the territories and possessions of the United States.

***Noncollusion Declaration***

The LPA must include a Noncollusion Declaration in each construction contract. The Noncollusion Declaration provides for the bidder, under penalty of perjury to certify that they or any person in their company did not knowingly participate in collusion to cause the bidding on a project to be fraudulent and illegal under law.

**70.100 ESTIMATES**

The engineer’s estimate of a project’s proposed cost must include the estimated quantity and estimated unit price for each biddable plan item. The estimate must be organized according to the groups of work involved in the project. For example, bridge items must be separated from roadway items. If more than one bridge is involved, the estimate must tabulate the items for each bridge separately. The estimate must also break out the costs of nonparticipating items and local agency force work.

**70.110 DESIGN CONSIDERATIONS*****Utility Relocation***

The LPA should identify existing utility locations and determine if any adjustments will be required. No utility agreements can be executed until approval and environmental clearance has been granted from the FHWA if reimbursement is desired. Any utility rehabilitations or installations made within the project ROW must be in accordance with the provisions of the following policy guides:

- FHWA Policy Guide, 23 CFR 645A, “Utility Relocations, Adjustments and Reimbursement”
- FHWA Policy Guide, 23 CFR 645B, “Accommodation of Utilities”



- NDOR “Policy for Accommodating Utilities on State Highway Right-of-Way”

### ***ROW Plans***

Prior to starting any ROW appraisal or acquisition activities, the environmental documents associated with the proposed project must first be approved. After this is done, the LPA must submit one set of completed ROW plans to NDOR for review. This will enable NDOR to issue the necessary acquisition authority. This is required even if federal funding is not involved with right of way costs. For more information on ROW requirements, see Section 80.

### ***Traffic Control***

#### **1. Traffic Control Devices**

Any permanent or temporary traffic control device installed with the project, must meet the applicable standards of the current “Manual on Uniform Traffic Control Devices” (MUTCD).



#### **2. Work Zone Traffic Control**

If the project will affect vehicle, bicycle, or pedestrian traffic, a work zone traffic control plan must be provided. The work zone traffic control plan (TCP) must comply with the requirements of the current MUTCD. TCP's must be completed, signed, and sealed by a professional engineer and submitted as a part of the package.

### ***Railroad Contract Provisions***

LPA's should be aware of the need to include “Railroad Contract Provisions” in the construction documents if a railroad exists within the project limits (either parallel to or crossing the roadway). Examples of these provisions include: required “Rail Safety Training” class; flagging protection (including costs and conditions); protection of rail utilities; protection of railroad property; temporary crossings; required contractor insurance; and final clean-up procedures.

For projects impacting railroad ROW or operations, railroad companies will require LPA's to obtain easements and enter into a construction agreement for the work. The LPA must notify the railroad company involved in the event that an easement or construction agreement will be necessary. These negotiations require an extensive amount of time and early contact with the railroad company will minimize delays to the project.

## 70.120 DESIGN PROCESS OUTLINE

*The following outline is provided for your use in developing construction plans, specifications, estimates and contract documents. It assumes that preliminary ground, utility & ROW surveys are done.*

1. Review any As-Built plans and surveys.
2. Look for safety hazards, utility discrepancies, posted speeds, school and pedestrian crossings, environmental issues, etc. that could affect the project design.
3. Review the scope of the proposed project and environmental document.
4. Determine preliminary design standard and typical sections. Refer to the Board of Public Roads Classifications and Standards, Nebraska Minimum Design Standards. If an exception is needed for some reason, then you must apply to the Board for that exception.
5. Begin design of the project's vertical and horizontal alignment and geometry for intersecting and frontage roads.
6. Begin bridge design, if bridge is required. Produce bridge data sheet with "H" and "HS" rating for bridges to remaining in place and prepare a structural analysis of box culverts.
7. Prepare design year traffic data forecast (year of initial construction plus 20 years).
8. Plan-in-Hand and prepare Plan-in-Hand Report.
9. Prepare pavement determination.
10. Drainage
  - Determine if drainage crosses Federal Emergency Management Administration (FEMA) floodplain.
  - Prepare drainage map.
  - Determine Q values and size drainage structures.
  - Prepare preliminary erosion plan.

11. Initiate Special Investigations as needed. Suggested topics:
  - Permits (waterway, utilities, etc.)
  - Traffic signals
  - Lighting
  - Signing
  - Construction and Traffic
  - Phasing (traffic/construction)
  - Erosion control
  - Drainage structures
  - Railroad agreements and information
  - Soils
  - Retaining walls, etc.
  - Detours/Shoo-flies
  
12. Begin to design and prepare special plans and special provisions
  
13. Begin to put together standard plans and specifications, bidding contract documents. NOTE: LPA standards have to be approved with the Board of Public Roads Classifications and Standards.
  
14. Prepare ROW plans
  
15. Prepare cost estimate update as needed
  
16. Upon completion of 90% plans, advertise and conduct public meeting or hearing (if required)
  
17. Prepare agreements, such as:
  - Railroad (should be started ASAP)
  - NRD
  - City/City
  - City/County
  - Utility
  - Misc.
  
18. Final plans should include the following:
  - Earthwork quantities
  - ROW plan sheets \*
  - Design details \*\*
  - Standard and special design sheets
  - Cross-section sheets
  - Bridge Plans
  - Quantity sheets

- Typical Section Plan sheet
- Detailed Plan Sheet Notes
- Soils Information sheet
- Title plan sheet
- Quantity plan sheet

\* Must include property lines, ownerships, takings, etc.

\*\* Alignment and stationing, existing and new grade elevations, culverts, storm sewers, utilities, removals, new construction, pavement design, driveways, sidewalks, geometry, street lights, traffic signals, traffic control signs, traffic striping, etc.

Plans should be signed as per Engineer and Architect Registration Act, State Statute 81-3401 to 81-3455

19. Prepare final plans package, which should include.

- Plan sheets
- Specifications
- Engineers estimate
- ROW Certificate
- Copies of signed agreements
- Special provisions
- Quantity sheets
- Contract bidding documents
- ROW plan sheets
- Permits

20. Submit all applicable items to NDOR for review and comments prior to letting the project.

80.10 RIGHT-OF-WAY REQUIREMENTS

80.20 RIGHT-OF-WAY TERMS

80.30 INSTRUCTIONS FOR ISSUING RIGHT-OF-WAY CERTIFICATES

80.40 RAILROAD AGREEMENTS

80.50 OCCUPYING STATE RIGHT-OF-WAY

80.60 UTILITY REQUIREMENTS

80.70 LPA UTILITY RESPONSIBILITIES

80.80 REIMBURSEMENT OF UTILITY COSTS

## 80.10 RIGHT-OF-WAY REQUIREMENTS

Right-of-Way (ROW) is a general term denoting land or property acquired for or devoted to a public use. If ROW is not already owned, it must be acquired by purchase, donation or eminent domain, in order to build or maintain a public project. Fee simple, permanent easements and temporary easements are all means of conveying ROW.

If acquisition is necessary, all ROW will be acquired by the rules under Title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (Uniform Act). *NDOR has overall responsibility to the FHWA for the acquisition of ROW on all FHWA funded transportation projects in the state.*

Before beginning any ROW acquisition activities (including appraisal), the LPA must submit a set of ROW plans to NDOR for review and approval. Upon NDOR approval, the Urban Off-System Coordinator will offer the City a written Notice to Proceed to begin these activities. ***Property cannot be appraised until NDOR issues an authorization to proceed with ROW Acquisition.***



You must understand that if ROW is not acquired according to the Uniform Act, you will jeopardize **all** federal funding in your project; even if there may be no federal funding in the ROW acquisition itself.

LPA's must review property issues to determine whether any property owned by a railroad, private or public property owner is impacted. This includes both permanent impacts (e.g. purchase, easements, drainage ways) and temporary impacts (e.g. easements for staging areas, site access).

General procedures for securing necessary easements and agreements are outlined in this section. Detailed procedures are contained in the "Real Estate Acquisition Guide for Local Public Agencies" published separately from this manual. Copies are available by contacting the NDOR LPA ROW Coordinator at (402) 479-4490.



## 80.20 RIGHT-OF-WAY TERMS

### ***Fee Simple***

An absolute estate or ownership in property including unlimited power of alienation. Fee Simple interests involve the conveyance by deed of the real estate required for the project.

### ***Permanent Easement***

A permanent right acquired by public authority to use or control property for a designated purpose. Permanent easements convey only the interest in the real estate as specified in the permanent easement document without conveying ownership. The owner retains the use of the real estate for any purpose that is not contrary to the uses granted. The permanent easement document is recorded in the Register of Deeds' Office and "runs with the land".

### ***Temporary Easement***

A temporary right acquired by public authority to use or control property for a designated time and purpose. The term of the temporary easement is until the work on that section is complete.

## 80.30 INSTRUCTIONS FOR ISSUING RIGHT-OF-WAY CERTIFICATES

Following are the instructions for issuing ROW Certificates. For assistance, please contact the NDOR LPA ROW Coordinator at (402) 479-4490.

A ROW Certificate must be filed with the Department and ***approved before a project can be let***. This certificate is issued by the LPA to NDOR, and certifies that all ROW has been acquired and paid for in accordance with the appropriate federal and state laws and regulations and that the project is clear and ready for construction.

When a Local Public Agency (LPA) determines the Right-of-Way (ROW) for their federal-aid project cannot be acquired in a timely manner, the LPA may submit a Public Interest Letter (PIL) in lieu of a ROW Certificate to the NDOR for approval. The LPA must justify in the letter why it is in the public's interest to proceed with advertising the project for bids before the necessary ROW is acquired.

**The LPA in their PIL must address the following five points to the satisfaction of the State and the Federal Highway Administration (FHWA).**

1. **The proposed starting date of the contract.**
2. **The feasibility of moving the project to another letting.**
3. **The number and significance of the remaining non-acquired tracts.**

4. **The exact status in the acquisition process of the non-acquired tracts.**
5. **The overall justification of exactly why it is in the public interest to have the project in a particular letting.**

The PIL Procedure is described in the following A. through G. as follows:

- A. The mayor or designated city official must sign the PIL and send it to the Urban Engineer or the Urban Off-System Coordinator.
- B. The Urban Engineer/Urban Off-System Coordinator will review it for acceptability according to the five items listed in this outline and if acceptable will forward it to the NDOR LPA ROW Coordinator for review.
- C. If the ROW Coordinator believes the PIL ROW descriptions to be correct and acceptable, the ROW Coordinator will complete a Department ROW Certificate, noting the PIL is attached to the ROW Certificate and forward it to the ROW Manager to be approved.
- D. The ROW Coordinator will return the PIL to the Urban Engineer or Urban Off-Systems Coordinator for further approval by the Deputy Director or the FHWA.
- E. *If there are not any residential or business properties still in occupancy being displaced, the Urban Engineer or the Urban Off-System Coordinator will prepare a memo to the Deputy Director asking for approval of the PIL. A copy of the approved PIL must be sent to the FHWA.*
- F. *If there is a residential or business property being displaced, the PIL must go to the FHWA for approval. The Urban Engineer or the Urban Off-System Coordinator will prepare a letter (Design Office Supervisor to type actual letter) for the Roadway Design Engineer's signature and submit the letter and the attached PIL to the FHWA for approval.*
- G. Upon approval of the PIL, the Urban Engineer or Urban Off-System Coordinator will send a letter to the LPA notifying them that their PIL has been approved. The letter will include any stipulations or conditions that the LPA will be required to adhere to in the ongoing project contract award and construction process.

As soon as the ROW in contention has been acquired and/or settled, the LPA shall submit a clear ROW Certificate to the Urban Engineer or the Urban Off-System Coordinator. The ROW Certificate will be forwarded to the NDOR LPA ROW Coordinator for review and he will take it to the ROW Manager for approval. The Urban Off-System Coordinator will send a copy of the approved ROW Certificate to the FHWA. This will be the final step in the ROW process involved with the PIL.



LPA's are required to submit full documentation with ROW Certificates. To do this, please keep the original documents and submit copies to NDOR (originals should be kept on file for a period of three years after project completion). Documentation to be submitted to the NDOR Urban Off-System Coordinator assigned to your city prior to project advertisement is outlined below relative to four basic acquisition conditions:

#### **WHEN NO ADDITIONAL ROW IS REQUIRED FOR THE PROJECT**

(i.e., overlay, signing, traffic signals, or any project that can and will be built on existing ROW)

##### **Submittal Requirements:**

- ROW Certificate
- A short letter explaining the project

#### **WHEN NEW ROW IS ACQUIRED BY DONATION**

##### **Submittal Requirements:**

- Donation form
- Contract(s) – ROW, Temporary Easement, Permanent Easement (signed by both the owner and county or LPA official)
- Call Reports, including the fact that the informational booklet was delivered and that the owner was shown the plans and informed of his/her right to have the property appraised and an offer to purchase in writing.
- Negotiator Certificate (each tract)
- Warranty or Quitclaim Deed, Permanent Easement Document – recorded
- Mortgage Release (if appropriate)
- Leasehold Contract (if appropriate)
- ROW Certificate (One per project)

#### **WHEN IT IS NECESSARY TO ACQUIRE ROW BY PURCHASE**

##### **Submittal Requirements:**

- Appraisal
- Appraisal Review
- Information Letter (copy)
- Contract(s) – ROW, Temporary Easement; Permanent Easement (signed by both the owner and county or LPA official)
- Call Reports, including the fact that the informational booklet was delivered and that the owner was shown the plans and informed of his/her right to have the property appraised and an offer to purchase in writing
- Negotiator Certificate (each tract)

- Proof of Payment (Voucher)
- Warranty of Quitclaim Deed, Permanent Easement Document – recorded
- Mortgage Release (if appropriate)
- Leasehold Contract (if appropriate)
- Administrative Settlement Report (if appropriate)
- ROW Certificate (One per project)

### **WHEN IT IS NECESSARY TO ACQUIRE THROUGH EMINENT DOMAIN (CONDEMNATION)**

#### **Submittal Requirements:**

- A copy of the petition filed by your County or LPA Attorney
- A copy of the findings of the Board of Appraisers
- A condemnation report from your attorney
- Proof of payment into the court

All forms referred to above can be found in the “Instructions for Acquiring Right-of-Way on Federal-Aid Projects” and are available on request from the NDOR LPA ROW Coordinator at (402) 479-4490. The ROW Certificates are included at the end of this section.

In order to assure compliance with federal regulations, a written authorization to proceed with ROW acquisition from the NDOR Urban Off-System Coordinator must be received before the LPA can take formal action to acquire property.

## **80.40 RAILROAD AGREEMENTS**

If a railroad exists within the project limits (either parallel to or crossing the roadway), and the project identifies the need for use of railroad ROW, railroad companies will require LPA's to obtain easements and enter into a construction agreement for the work. The LPA must notify the railroad company involved in the event that an easement and/or construction agreement will be necessary. In either case, early coordination with the respective railroad company is a must. These negotiations require an extensive amount of time and early contact with the railroad company will minimize delays to the project.



Agreements or easements are required if a project is within railroad property (either temporarily or permanently) or if a railroad property is impacted by the project (e.g. drainage impact). Railroad insurance is required if the project construction area is within 50 feet of active railroad ROW.

LPA's should not presume that all requests for railroad agreements would be granted by the railroads. For a railroad easement to be granted, the railroad company must deem that the project and the rail line are compatible.

If construction agreements are required, they must be completed by the LPA before the project can be let to contract. Easements must be on file before the LPA is allowed on the property by the railroad. Charges, if any, from construction agreements with a railroad company must be included with the project construction estimate to be considered for reimbursement. Quantities of construction pay items within 50 feet (15.24 m) of an active line must be identified separately for railroad insurance. Contact the NDOR Urban Off-System Coordinator for assistance.

## 80.50 OCCUPYING STATE RIGHT-OF-WAY

If the project will be built on state-owned ROW, the LPA must secure the necessary permits from the appropriate state authorities. For assistance in applying for a Permit to Occupy State ROW, the LPA should contact their NDOR District Engineer.

## 80.60 UTILITY REQUIREMENTS

A review of utilities must also be conducted to determine if the project appears to impact any existing public utilities. Agreements may be required if your project impacts a utility. It is the LPA's responsibility to initiate and coordinate meetings to resolve any conflicts and arrive at a mutual satisfactory agreement.

Detailed information on accommodation of utilities can be found in the NDOR "Policy for Accommodating Utilities on State Highway Right-of-Way" published separately from this manual. Copies are available by contacting the NDOR Urban Off-System Coordinator assigned to your city.



## 80.70 LPA UTILITY RESPONSIBILITIES

The following is a list of responsibilities that LPA's must perform with regard to utilities. Throughout design development, the LPA must coordinate all utility relocations.

- The LPA must notify the NDOR in writing if federal funds are to be used for utility costs as part of the project cost. An estimate must be supplied so funds can be obligated for the project.
- The LPA must review preliminary plans for existing utilities, do a field utility inspection, and note any utilities not shown on the plans.
- The LPA must send design plans and ROW plans to all utilities and request from the utility a detailed cost estimate and rehabilitation plan.
- The LPA must review and approve estimate and rehabilitation plans from affected utilities including LPA-owned utilities.
- The LPA must send a detailed cost estimate to the NDOR if the utility cost is to be a participating project cost.
- The LPA will give each utility written authorization to proceed in relocating or beginning any utility work.

The LPA must prepare a Status of Utility Report and submit it with final plans and specifications (see the sample at the end of Section 90). The Status of Utility Report will become part of the project bid proposal.

## 80.80 REIMBURSEMENT OF UTILITY COSTS

### **ONLY NON-BETTERMENT COSTS ARE ELIGIBLE FOR REIMBURSEMENT**

#### **Reimbursable Utilities**

- Private utilities on private utility easement
- Public-owned utilities on/off ROW inside corporate limits
- Public utilities on private utility easement, outside corporate limits

#### **Non-Reimbursable Utilities**

- Public-owned utilities on public ROW outside corporate limits
- Private utilities on existing public ROW

The LPA must make all payments and reimbursements to utilities and then, if federal-aid has been authorized, bill the state for the federal share, usually 80 percent, of the billing as follows:

- The LPA must send a letter verifying work is complete and include a copy of the paid invoice identified by state project and control numbers.
- When utility rehabilitation cost estimate is less than \$100,000, a lump sum payment can be made to the LPA without conducting an audit. The LPA will be reimbursed the full 80 percent, not to exceed the approved estimate.
- When utility reimbursable rehabilitation cost is greater than \$100,000, the NDOR will pay 95 percent of the 80 percent of the estimated cost.
- Upon receipt of final billing from a utility, the LPA will submit a final invoice detailing progress payments, final payment request and total rehabilitation cost.
- Upon receipt of final cost, a cost audit may be conducted by the NDOR. If the audit contains citations, a copy will be sent to the LPA for additional information to justify the citation costs.
- After resolving citations, the NDOR will pay final retention of eligible federal share to the LPA.

Some utility rehabilitation is best handled separately by the utility owner that then bills the LPA. Reimbursement for these expenses is the same; the LPA pays the cost, and then bills NDOR for reimbursement of the federal share.

# Right of Way Certificate for County or City Federal-Aid Highway Project

*(This certificate must be furnished to the Department of Roads  
before a project can be advertised for letting.)*

To: The Nebraska Department of Roads

Federal-Aid Project No.:

Name of Project:

Description of Project:

This is to certify that the necessary right of way for said project has all been acquired in compliance with the provisions of Title III of the **Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970**.

All encroachments, including improvements and signs, \_\_\_\_\_  
*(No Encroachments / have / have not)*  
been removed from the right of way or provisions \_\_\_\_\_ been made for  
*(have / have not)*  
their removal by \_\_\_\_\_  
*(Date)*

All necessary moving, lowering, or rearranging of pipelines, pole lines, and other utility lines have been completed or provisions made for such work to be completed by \_\_\_\_\_  
*(Date)*

Relocation assistance \_\_\_\_\_ required for this project.  
*(was / was not)*

If relocation assistance was required, the necessary action to comply with Title II of the **Uniform Relocation Assistance and Real Property Acquisition Policies Act** of 1970 has been performed by the State of Nebraska, Department of Roads, Relocation Assistance personnel and certified accordingly.

The right of way is now available for immediate construction, and it is recommended that said project be advanced to letting stage.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20 .

CITY OF \_\_\_\_\_

ATTEST:

CERTIFIED BY:

\_\_\_\_\_  
*(City Clerk)*

\_\_\_\_\_  
*(Title)*

**If there are any exceptions, list and explain fully on the reverse side.**

**If there are encroachments, list on the reverse side, also.**

# Right of Way Certificate For County or City Federal Aid Highway Project

*(This certificate must be furnished to the Department of Roads  
before a project can be advertised for letting.)*

TO: THE NEBRASKA DEPARTMENT OF ROADS

FEDERAL AID PROJECT NO.: .....

NAME OF PROJECT: .....

DESCRIPTION OF PROJECT: .....

.....

.....

This is to certify that **NO new right-of-way** was required on the above captioned project.

All encroachments, including improvements and signs, .....  
*(No Encroachments/have/have not)*

been removed from the right-of-way or provisions .....  
*(have/have not)*

been made for their removal by.....  
*(date)*

CITY OF COUNTY OF.....

CERTIFIED BY:

.....

Title.....

ATTEST:

.....  
*(City or County Clerk)*

**If there are encroachments, list on additional page.**

**THIS CERTIFICATE TO BE USED ONLY WHEN NO ADDITIONAL RIGHT OF WAY  
IS NEEDED TO COMPLETE THE PROJECT.**

- 90.10 SCHEDULE FOR LETTING AND AWARD
- 90.20 PLANS, SPECIFICATIONS, AND ESTIMATES (PS&E) APPROVAL
- 90.30 SOLE SOURCE PROCUREMENT
- 90.40 COMPETITIVE BIDDING
- 90.50 INNOVATIVE CONTRACTING TECHNIQUES
- 90.60 ADVERTISING FOR BIDS
- 90.70 ADDENDUMS TO BID DOCUMENTS
- 90.80 PREQUALIFICATION OF BIDDERS
- 90.90 BID OPENING
- 90.100 BID TABULATIONS
- 90.110 LPA EVALUATION OF BIDS
- 90.120 LPA SELECTS LOW BID
- 90.130 NDOR CONCURS IN AWARD OF LOW BID
- 90.140 LPA AWARDS CONTRACT
- 90.150 LPA EXECUTES CONTRACT
- 90.160 LETTING PROCESS OUTLINE



**90.10 SCHEDULE FOR LETTING AND AWARD**

Before a project can be let for bids, the LPA must submit final plans, specifications and estimates (PS&E) to NDOR for approval. The process for PS&E approval is outlined in Section 90.20 below, but please keep in mind that a minimum of 10 weeks is typically required between the PS&E submittal and the award of a construction contract. This consists of:

**PS&E Review and Approval – 3 weeks**

**Advertising for Bids – minimum of 3 weeks**

**Open, Evaluate and Tabulate Bids – 1 week**

**NDOR Concurrence – 1 week**

**Executed Contract and Notice to Proceed – 2 weeks**

**90.20 PLANS, SPECIFICATIONS, AND ESTIMATES (PS&E) APPROVAL**

To obtain PS&E approval, LPA's must submit all items on the checklist found below. If the PS&E submittal is complete and found to be satisfactory, NDOR will send to the LPA, a formal written notification to proceed with advertising for bids. This notice will also include final instructions.

**PS&E Submittal Checklist**

- Two sets of ½-size final plans signed and sealed by a Professional Engineer registered in Nebraska.
- Two sets of specifications including the bid proposal, bidding instructions and bid form. These must also be signed and sealed by a Professional Engineer registered in Nebraska.
- Required Federal Contract Provisions (Ask your coordinator for a copy).
- Two sets of any required special provisions.
- Final Engineer's Estimate.
- Final Status of Utilities report. (Found at the end of this section)
- Completed ROW Certificate.
- Completed Environmental Documentation.

- Completed archeological and historic review (Section 106).
- Copies of all applicable local, state, and federal permits (404, floodplain, etc.).
- Copy of the fully executed Railroad Agreement (if required).
- Sole source justification (if required).

The bid proposal must physically contain all the appropriate requirements of a federally funded contract. These include the FHWA Form 1273, Noncollusion Affidavit, Drug Free Work Place Policy Certification, Buy America Provision, Davis-Bacon wage rates, and any additional special provisions and forms.

Most of these forms can be obtained by calling the NDOR Urban Off-System Coordinator prior to your submittal. The Davis-Bacon Wage Rates, because they can change rapidly, will be added by the NDOR at the time of submittal of the final PS&E documents.

### 90.30 SOLE SOURCE PROCUREMENT

The general intent of competitive bidding is to allow the contractor to choose between multiple items that meet the LPA's criteria so that the lowest price is obtained. The best procedure is to write generic specifications or to list at least three specific items. If the LPA decides that only one item will work for this project, a sole source justification must be written by the LPA and approved by NDOR.

Examples of sole source letters may be to define lighting poles, etc., for a city that owns the electrical company or for products specific for truncated domes installation so that the city has uniformity. The following items must be addressed:

1. What is the situation being covered?
2. What operating characteristics (criteria) are you looking for in the device?
3. How is this item unique from all others?
4. How many devices are currently available that will satisfy the criteria?
5. Which is the best device from an operations standpoint?
6. Which device offers the best cost?
7. Does operating characteristics override cost?
8. Commit to a review on the industry in case new technology is developed that would also satisfy the criteria or need.

## 90.40 COMPETITIVE BIDDING

The Code of Federal Regulations (23 CFR 635) requires that a contract method based on **competitive bidding must be used** for performing work financed with the aid of federal funds. The only exceptions to the competitive bid process are work done by utility or railroad companies; work performed under emergency conditions; or when the LPA can show that some other contract method is more cost effective. Proof of emergency and/or cost-effectiveness is required for use of public forces or a negotiated contract method. To do this, the LPA must submit documentation to NDOR stating what the emergency is or why methods other than competitive bidding are cost effective. NDOR will review the request and seek FHWA approval. No work can begin until FHWA issues approval in writing. LPA's are prohibited from establishing any procedures or requirements for qualifications or licensing that would prevent competition.

## 90.50 INNOVATIVE CONTRACTING TECHNIQUES

Within the low bid system, federal law allows for some innovative contracting methods. These techniques should be used sparingly

- Price adjustment clause (for fuel, steel, cement, etc.)
- A + B bidding
- Lane rental
- Warranties (Procedures must be approved by NDOR Contracts Manager)
- Alternate bids such as steel or concrete bridge alternates
- Incentive/Disincentive Provisions

If the LPA wishes to use any of these techniques, they should contact the Urban Engineer early in their design process.

## 90.60 ADVERTISING FOR BIDS

Projects approved for bidding by NDOR must be advertised for a minimum of 21 calendar days prior to the opening of bids. The 21-day period begins when the first advertisement is published. Advertisements must be placed in newspapers three consecutive weeks and the use of plan/builders bureaus is strongly recommended. LPA's may want to consider advertising longer than the 21-day minimum for projects that are more complex in nature.

**90.70 ADDENDUMS TO BID DOCUMENTS**

Situations may arise where it becomes necessary to issue an addendum to the advertised bid documents. All addendums must be concurred with by NDOR prior to release. LPA's must ensure that all people holding biddable documents are aware of the addendum and can review their bids prior to the deadline for submission. NDOR recommends faxing addendums to all plan holders and requesting a return fax from them acknowledging receipt of the addendum.

**90.80 PREQUALIFICATION OF BIDDERS**

Prequalification of a contractor is not a federal requirement. However, the LPA has the option of using the NDOR prequalified bidders list located on the website [www.dor.state.ne.us/letting/lettings.htm](http://www.dor.state.ne.us/letting/lettings.htm).

**90.90 BID OPENING**

All bids received in accordance with the terms of the advertisement must be publicly opened and announced, either item by item, or by total amount. If any bid is not read, the name of the bidder and the reason for not reading the bid must be publicly announced at the bid opening.

**90.100 BID TABULATIONS**

The LPA shall prepare an itemized tabulation of all bids received. The tabulation must list each bid item, the bid quantity for that item, and the unit price for each item bid by all bidders.

**90.110 LPA EVALUATION OF BIDS**

Bidders must meet all requirements as outlined in the proposal form including any state and federal regulations. It is the responsibility of the LPA to ensure that bids considered for award have met these provisions.

The LPA must also verify that all required bid documents are accurate and have been properly executed by all bidders. This includes a review for accuracy in prices and unbalancing of bid items.

The prime contractor on a project must perform, with their own organization, contract work amounting to not less than 30 percent of the total original contract amount. The aggregate total of all work to be subcontracted cannot exceed 70 percent of the contract amount.

#### **90.120 LPA SELECTS LOW BID**

After bids have been tabulated and evaluated as described above, the LPA must select the lowest responsive bidder. If the LPA determines that the lowest bidder is not qualified, it shall document those findings prior to awarding the bid to the next lowest responsive bidder. Adequate justification for rejecting any bids must be documented by the LPA. The LPA shall document the reason(s) for rejecting the low bid and may reject all bids for any reasons. If any of these cases happen, the NDOR Contracts Manager must be notified.

#### **90.130 NDOR CONCURS IN AWARD OF LOW BID**

NDOR concurrence must be obtained prior to awarding a contract. The LPA must submit a request for concurrence with the itemized bid tabulation of all bids received on the project. All applicable DBE forms must also be attached. The written request must include a statement from the LPA indicating their selection or rejection of the low bidder and their desire to proceed or not to proceed with the award of the contract. NDOR will review the selection and issue a written concurrence to the LPA if acceptable.

#### **90.140 LPA AWARDS CONTRACT**

The award and execution of a construction contract are two separate items. The award indicates acceptance of the contractor's proposal and indicates the intention of entering into an acceptable contract.

#### **90.150 LPA EXECUTES CONTRACT**

The contract is considered executed only after both the LPA and contractor have signed the contract documents. The LPA must send a copy of the executed contract to the Urban Engineer and the District Engineer.

## 90.160 LETTING PROCESS SUMMARY REVIEW

The following outline provides a summary review of the letting process outlined in this section.

1. NDOR reviews the PS&E submittal.
2. LPA makes corrections/revisions, etc. If federal and state funds are in the project and NDOR lets it, it will be a “minimum” of six weeks before the project can be awarded.
  - 1 week to prepare ad
  - 1 week for printing plans
  - 3 weeks advertising (21 days)
  - 1 week to review bids
3. NDOR authorizes LPA to advertise

Open bids a minimum 21 calendar days from first ad day
4. LPA requests NDOR State Representative assignment from the appropriate NDOR District Engineer
5. NDOR concurs with bid
6. NDOR gives approval to award
7. LPA awards
8. LPA provides the NDOR copies of executed contract documents

# STATUS OF UTILITIES REPORT

PROJECT NO.: ..... C.N.: .....  
 LOCATION: ..... DATE: .....

UTILITY COMPANY	DATE AUTHORIZED/ NOTIFIED TO MOVE	ANTICIPATED STARTING DATE	EST. # OF WORKING DAYS	ANTICIPATED COMPLETION DATE

THE FOLLOWING UTILITY INFORMATION IS CURRENT AS OF \_\_\_\_\_.  
 THE CONTRACTOR SHOULD REQUEST A UTILITY STATUS UPDATE AT THE  
 PROJECT PRECONSTRUCTION CONFERENCE, OR PRIOR TO STARTING WORK.

FOR LOCATING AND MARKING UNDERGROUND FACILITIES, CONTACT THE  
 DIGGERS HOTLINE OF NEBRASKA AT 1-800-331-5666.

COMMENTS:

100.10 CONSTRUCTION

100.20 CONSTRUCTION ENGINEERING

100.30 PRE-CONSTRUCTION CONFERENCE

100.40 NOTICE TO PROCEED

100.50 CONSTRUCTION SCHEDULE

100.60 LPA CONSTRUCTION ENGINEERING RESPONSIBILITIES

100.70 CHANGE ORDERS

100.80 CONTRACTOR'S SCOPE AND CONTROL OF WORK

100.90 SUBCONTRACT WORK

100.100 NDOR RESPONSIBILITIES



This section on construction and construction engineering guidelines will be limited to activity occurring between the execution of the contract and completion of construction by the contractor. LPA's may use their own approved policies and procedures for contract administration and inspection of construction projects. The NDOR also has a Construction Manual that is available for reference through their website at [www.dor.state.ne.us/ref-man/cman-toc.htm](http://www.dor.state.ne.us/ref-man/cman-toc.htm). This manual is intended for projects let through the state system and is provided only for reference.

## **100.10 CONSTRUCTION**

FHWA defines construction as “the supervising, inspecting, actual building, and all expenses incidental to the construction or reconstruction of a federal-aid route”. The NDOR is responsible for the proper expenditure of FHWA funds on LPA projects. NDOR will work with LPA's during construction to ensure that proper procedures are followed.

## **100.20 CONSTRUCTION ENGINEERING**

Construction supervision, inspection, staking and materials testing are collectively referred to as “construction engineering”. Construction engineering is the responsibility of the LPA who must ensure that the work is completed in accordance with the approved plans and specifications.

The costs for construction engineering are eligible for federal reimbursement providing federal requirements have been followed. A construction engineering consultant may be selected if the LPA staff lacks appropriate expertise or is too busy with other duties (this decision should be made two months before letting). However, the LPA should still assign a Project Manager to coordinate with the engineering consultant during construction. How the consultant is selected depends upon the size (cost) of the project. The consultant agreement must be approved prior to the start of construction. Ask the NDOR Urban Off-System Coordinator for assistance on consultant selection and refer to Section 50 for more information.

## **100.30 PRE-CONSTRUCTION CONFERENCE**

As soon as practical after a contract is awarded, the LPA or their engineering consultant should arrange a “pre-construction conference” with the contractor. The number of people attending the conference will depend upon the complexity of the job. At a minimum, the conference should be attended by the LPA Project Manager,

LPA Construction Engineer, LPA Design Engineer, NDOR State Representative, prime contractor, subcontractors, and utility and railroad (if involved) companies. The NDOR Urban Engineer and Urban Off-System Coordinator must also be invited to the pre-construction conference.

The purpose of the conference is to address the following project issues:

- Safety of employees and public
- Plans and specifications of the project
- Unusual conditions and constructability
- Utility requirements
- Erosion control plans
- Methods and schedule of operation
- Mobilization of equipment
- Labor requirements
- Traffic control
- Federal requirements
- Material sampling and testing requirements

On large complex projects, it may be necessary to hold additional conferences for specialized construction items such as paving, roadside landscaping or electrical work. A sample agenda is available from the NDOR Construction Manual at [www.dor.state.ne.us/ref-man/cman-toc.htm](http://www.dor.state.ne.us/ref-man/cman-toc.htm).

#### **100.40 NOTICE TO PROCEED**

The LPA must issue the contractor a Notice to Proceed before any work can begin. Normally, the Notice to Proceed date will coincide with the tentative beginning date shown in the Bid Proposal. The notice can be issued to the contractor at the pre-construction conference. Do not issue the notice unless the state has concurred in the contract award.

#### **100.50 CONSTRUCTION SCHEDULE**

The contractor is responsible for preparing a schedule that details their proposed work sequence to complete all contract work items within the allotted time. The contract time can be established using either number of working days, calendar days or a specified completion date. This schedule should be submitted to the LPA and/or their construction engineering consultant no later than the pre-construction conference.

## 100.60 LPA CONSTRUCTION ENGINEERING RESPONSIBILITIES

Construction engineering duties (project management, construction staking, inspection and field testing) are the responsibility of the LPA. The quality of materials and workmanship on the project must conform to the contract specifications so that the public funds expended will have purchased a safe, economical, and fully functional transportation facility. Construction engineering tasks include, but are not limited to, the following items:



- All survey and staking related to the project, etc.
- Inspection of construction workmanship
- Preparing progress reports and maintaining all project records, log books, etc.
- Materials testing and certification in accordance with the NDOR Materials Sampling Guide, and Quality Assurance Program for Construction
- Certifying contractor progress payments
- Compliance with required federal-aid contract provisions (FHWA Form 1273). The LPA must ensure the contractor is complying with required contract provisions covering Equal Employment Opportunity (EEO), Disadvantaged Business Enterprise (DBE), Occupational Health and Safety Act (OSHA), and minimum wage rates. The LPA or their consulting engineers are responsible for obtaining payrolls and forms related to EEO and for ensuring that informational posters are displayed at the project site for the duration of the contract.
- Meeting the current Manual on Uniform Traffic Control Devices (MUTCD) standards for traffic control during construction and at project completion.
- Preparing a set of as-built plans to be submitted to the NDOR Urban Design Section

The Construction Engineering Agreement between the LPA and consultant must include a description of the scope of services. The LPA's Engineer should refer to this agreement during construction and at project closeout.

LPA projects using federal-aid are subject to independent assurance reviews. Anytime during construction, NDOR's quality assurance personnel may arrive to do random sampling and testing of materials or to do random checks of the test method procedures being performed by the LPA's inspectors.

**100.70 CHANGE ORDERS**

Changes to the contracted work are different than normal overruns and underruns. Whenever a change in the contract work is required, the LPA and contractor must execute a change order. Prior to beginning work, the LPA should have a policy for the approval of change orders to ensure that approval for changes are given and documented. To be eligible for FHWA cost participation, all change orders must be approved by the NDOR State representative. Change orders for work to be done twice will not be eligible for reimbursement.

Change orders must include an explanation of the work so that everyone involved will understand the need for the change. The LPA and contractor shall agree on the price or prices to be paid for the work or the method used to determine them before any changes or extra work begins. All change orders must be numbered in sequence. The LPA's Project Manager shall provide proper documentation to the NDOR's State Representative for review if the LPA approves of the Change Order.

**100.80 CONTRACTOR'S SCOPE AND CONTROL OF WORK**

The contractor shall perform all work and furnish all required materials, equipment, tools, labor and incidentals to complete the project in compliance with the contract. The contractor shall give the project constant attention to facilitate progress to completion of the contract. A superintendent shall be on the project at all times to direct the work. Prior to delivery, the contractor shall notify the LPA's engineer of their proposed sources of materials to allow inspection, testing and approval prior to incorporation into the work. If products or materials from any source prove unacceptable, the contractor shall furnish acceptable materials from other sources.

**100.90 SUBCONTRACT WORK**

FHWA requires that all subcontracts at any tier be in writing. This includes contracts between the prime contractor and their subcontractors, and contracts between subcontractors and their agents. The prime contractor is responsible for EEO and minimum wage compliance by all subcontractors.

**100.100 NDOR RESPONSIBILITIES**

With the award of a construction contract, the LPA's contact at NDOR shifts from the NDOR Urban Off-System Coordinator to the NDOR State Representative assigned

by the District Office. The NDOR Project Representative has oversight on the project; however, their duties are minimal.

Primarily, the NDOR State Representative will attend the pre-construction conference, advise NDOR quality assurance personnel of the project, approve all reimbursement requests seeking federal funds, review and approve all change orders requested and approved by the LPA's Construction Engineer, and conduct the final inspection of the project. The NDOR State Representative may also assist the LPA with regulations interpretations, etc., but it is the LPA's responsibility to handle all construction engineering.

At project close-out, any discrepancy in accounts due to cost over or underruns will be reconciled between NDOR and the LPA and a final check issued. The LPA is liable for all costs that exceed the maximum amount approved, or for any costs deemed ineligible for federal participation. The LPA must pay all payments to utilities for relocation cost which will be a reimbursable project cost. The LPA will then bill NDOR for the federal share of the utilities cost.

110.10 REIMBURSEMENT PROGRAM

110.20 REIMBURSEMENT OF CONSULTANT ENGINEERING EXPENSES

110.30 REIMBURSEMENT OF RIGHT-OF-WAY EXPENSES

110.40 REIMBURSEMENT OF CONSTRUCTION EXPENSES

110.50 REIMBURSEMENT OF LPA INCURRED EXPENSES

110.60 ELIGIBLE AND NON-ELIGIBLE ITEMS

110.70 PROJECT RETENTION AMOUNT

## 110.10 REIMBURSEMENT PROGRAM

It is important that federal funding for LPA projects is not disbursed as a grant. Instead, all project expenses are paid directly by the LPA. The LPA then submits a request for reimbursement of eligible expenses to the NDOR Urban Engineer.

Reimbursements of federal funding are made per the financial stipulations outlined in the LPA/NDOR agreement. Payment will be made to the LPA upon satisfactory submittal of all documentation supporting the reimbursement requests.

The LPA is responsible for ensuring that all expenses submitted for reimbursement are eligible for federal participation. All requests for reimbursement for preliminary engineering and right-of-way expenses should be submitted to the NDOR Urban Engineer for review, approval, and processing. All reimbursement requests for construction and/or construction engineering should be sent to the NDOR State Representative assigned to your project for review. Upon State Representative approval, the reimbursement request will be forwarded to the NDOR Urban Engineer for review and processing.

All reimbursement requests must contain proper documentation supporting the payment of eligible expenses. The required documentation for each project phase is generally described in this section below. Please understand that additional supporting documentation may be needed under special circumstances.

## 110.20 REIMBURSEMENT OF CONSULTANT ENGINEERING EXPENSES

If a consultant is hired to perform engineering services on a project, the LPA will make payment for work done via invoices submitted by the consultant at monthly intervals. These invoices vary in format dependent on the method of payment used, as listed in the LPA/Consultant agreement.

### ***Cost Plus Fixed Fee***

The invoices must present actual direct labor, actual overhead, and actual direct non-labor costs, as well as a prorated amount of the fixed fee. The prorated fixed fee amount shall be based upon the actual direct labor and overhead costs billed for that period relative to the consultant's estimated total direct labor and indirect non-labor costs. The invoice must indicate the hours worked and each individual's actual labor cost. Direct non-labor expenses must be clearly indicated on the invoice, as well as the project name, project number, and indication of pertinent work phase.

Monthly invoices must be substantiated by progress reports which indicate the percent of work completed. If the consultant does not submit a monthly invoice, it shall submit its progress report by the fifth day of each month.

**Lump Sum**

The periodic invoices submitted by the consultant must be based upon actual completion of the work as indicated in the consultant scope of services and must be substantiated by progress reports indicating the percent of work completed. The invoices must present the dates of service, project name, project number, and indication of pertinent work phase. If the Consultant does not submit a monthly invoice, the Consultant shall submit the progress report by the fifth day of each month.

**Submittal Requirements**

The LPA must submit the following documentation when requesting reimbursement for consultant engineering expenses:

- Letter from LPA requesting reimbursement for expenses
- Copy of engineering invoice with detailed breakdown of expenses and percentage of project complete (progress report)
- Proof of payment

**110.30 REIMBURSEMENT OF RIGHT-OF-WAY EXPENSES**

Right-of-Way expenses will not be reimbursed for any tract until all required documentation as outlined in Section 80 is submitted to, and approved by, the NDOR Urban Engineer and NDOR Right-of-Way Division. All miscellaneous expenses incurred by the LPA while acquiring ROW, which are submitted to NDOR for reimbursement, must be accompanied by pertinent documentation to substantiate reimbursement. If the LPA hires a consultant to perform ROW acquisition activities, the invoice and submittal requirements would be as listed in Section 110.20 of this book.

**Submittal Requirements**

The LPA must submit the following documentation when requesting reimbursement for right-of-way expenses:

- Letter from LPA requesting reimbursement for expenses
- Copy of all documentation as required in section 80 of this book, along with any additional supporting documentation to substantiate the request
- Proof of payment



**110.40 REIMBURSEMENT OF CONSTRUCTION EXPENSES**

The contractor is paid by the LPA through monthly “progress estimates” and the LPA then submits documentation to NDOR for reimbursement. Progress estimates must be based on measurements of work performed so that the contractor can be fairly compensated and public funds will not be expended on work that has not been done.

Progress payments should be prepared on a pre-selected day each month. The LPA or their engineering consultant must document the quantities paid on a “progress estimate”. The LPA’s Engineer prepares the contractor’s progress estimate stating the estimated quantities for items of completed work to date and presents it to the LPA governing authority (e.g. city council, county board) for payment. The LPA pays the estimate and submits the estimate to NDOR (through the State Representative) for reimbursement no more often than monthly. The NDOR State Representative reviews the estimate and sends a billing to the Urban Engineer for processing. The billing should include a copy of the progress estimate and other pertinent documents, such as an invoice for materials payments if materials are stockpiled on the project. The progress estimate must contain the dates of service, the project name and project number. Any non-eligible items must be broken out in a clear and concise manner as to avoid confusion on these items.

Non-betterment utility rehabilitation is an eligible expense providing that the costs are in accordance with Section 80 of this book. All utility invoices must clearly state the work completed with a comprehensive itemized breakdown of expenses.

***Submittal Requirements***

The LPA must submit the following documentation when requesting reimbursement for construction expenses:

- Letter from LPA requesting reimbursement for expenses
- Copy of progress estimate and any other pertinent supporting documents
- Proof of payment

**110.50 REIMBURSEMENT OF LPA INCURRED EXPENSES**

Expenses incurred by the LPA in regards to the project shall be considered a part of the project costs and are eligible for reimbursement, contingent upon NDOR approval of expenses. The LPA must submit documentation supporting the expenses and must be able to provide adequate proof that the costs were incurred on the project in question.

All City employee wage reimbursement requests must include the project description, project number, pertinent work phase, dates of service and the individual's name, position, and exact actual wage rate. Any multiplier used must be listed and an explanation given as to the nature of the multiplier. Proof of payment will be required for all general expenses.

### ***Submittal Requirements***

The LPA must submit the following documentation when requesting reimbursement for incurred expenses:

- Letter from LPA requesting reimbursement for expenses
- Copy of supporting documentation including payroll records, invoices, expenditure vouchers, etc.
- Proof of payment

## **110.60 ELIGIBLE AND NON-ELIGIBLE ITEMS**

In order for any particular work phase to be eligible for federal participation, the LPA must request funding for that work phase when programming the project. All eligible work phases are as specified in the City/State agreement. In order for an expense to be eligible for reimbursement on any particular work phase, all requirements as indicated in this book must be met and all federal and state regulations must have been followed.

Included in this section are examples of eligible and non-eligible items on federally funded projects. This list is not a comprehensive list, but is intended to assist the LPA in determining whether items are eligible for federal participation.

### ***Example Eligible Items***

- Office supplies purchased for use on a specific project
- Vehicle mileage while performing work for a specific project (at per diem rate)
- Court fees incurred to obtain ROW via condemnation for a specific project
- Telephone charges while performing work for a specific project
- Photocopy charges when performing work for a specific project
- Consultant services and charges in accordance with the city/consultant agreement (approved by NDOR)
- Construction change orders approved by the NDOR District Office

### ***Example Non-Eligible Items***

- Telephone usage when discussing non-project specific matters
- Expenses incurred prior to notice to proceed for any work phase
- Employee wages when working on a non-eligible work phase
- Right-of-way takings that are not absolutely necessary for project construction

- Consultant work that is outside of the scope of services in the city/consultant agreement
- Consultant fees that differ from the fee schedule in the city/consultant agreement
- Construction change orders not approved by NDOR

## 110.70 PROJECT RETENTION AMOUNT

Project retention is a pre-specified percentage of project costs that is withheld by NDOR from reimbursement to the LPA. The amount and manner in which retention is withheld is stated in the city/state agreement. Project retention is held on almost every federally funded project.

The standard amount of retention withheld is 5 percent of the federal share of project costs. In this case, the State will pay 95 percent of the Federal share (typically 80 percent) until 95 percent of the contractor's costs, or 95 percent of the maximum Federal share has been reimbursed.

The final settlement between the State and the LPA will be made after final review and approval by the State. At that time, the project retention withheld to date will be paid to the LPA less any State incurred expenses.

120.10 NOTIFICATION OF PROJECT COMPLETION

120.20 LPA FINAL INSPECTION

120.30 SUBMITTING FINAL DOCUMENTS

120.40 FINAL COST SETTLEMENT

120.50 AUDITS

## 120.10 NOTIFICATION OF PROJECT COMPLETION

After physical completion of the work by the contractor, the LPA shall notify the contractor by letter that the construction is physically complete and that the project is now subject to inspection, audit and final acceptance.

## 120.20 LPA FINAL INSPECTION

The LPA is responsible for arranging a final inspection of the project to determine if it has been completed according to approved plans and specifications including approved changes. The LPA Construction Engineer, LPA Project Manager, and prime contractor should attend the LPA final inspection. If remaining work is identified, the contractor is responsible for completing the work in a timely manner. If the project is complete, the LPA must certify they accept the project to the NDOR State Representative who will, in turn, conduct a final review and file the proper paperwork as required by the FHWA. Any questions or correspondence after that time may be addressed to the NDOR Urban Engineer or NDOR Urban Off-System Coordinator.

## 120.30 SUBMITTING FINAL DOCUMENTS

After final inspection and acceptance of the project completion by the LPA, the LPA shall complete the **Notification of Project Completion and Materials Certification (DR 299)** form to certify the project has been completed and that all of the materials used on the project meet sampling and testing requirements and comply with contract specifications. The form, when completed and signed by the proper LPA authority, must be submitted to the District Engineer for concurrence. If final progress estimates remain, the LPA should submit those to the District at this time. The completed form will be used by NDOR to close out the project and make any final settlements between the LPA and NDOR. The **Notification of Project Completion and Materials Certification** can be found at the end of this section.

The NDOR assures that its contractors and subcontractors, that are recipients of Federal-Aid funds, comply with the provisions of 49 CFR 26, and the Disadvantaged Business Enterprise (DBE) program. The NDOR will advise every contractor, through contract specifications, that discrimination on the basis of race, color, national origin, or sex, in the award and performance of Federal-Aid contracts, is prohibited. Failure by a contractor to carry out these nondiscrimination requirements shall constitute a breach of contract and may result in termination of the contract or such remedy, as the NDOR deems appropriate. In order to verify achievement of the

DBE commitments on each project, two DBE achievement forms (DR 441 and DR 442) must be completed and submitted to the NDOR DBE office. DR Form 441, DBE I shall be filled out and submitted by the prime contractor, indicating the DBE firms used, actual work performed, the total amount of money paid to the DBE firms, and the date on which it was paid. DR Form 442, DBE II shall be filled out and submitted by the DBE subcontractor, indicating the name of the DBE firm, actual work performed, the total amount of money received from the prime contractor, and the date on which it was received. Both of these forms can be found at the end of this section.

The following is a list of records and documents the LPA must retain for their project file. These records and documents must be kept for a period of three years after the final payment is issued to the LPA or as required in the LPA/NDOR agreement, except for the construction contract which must be retained for ten years.

- All contractor progress estimates
- All change orders
- All ROW documents and related correspondence
- Copy of Notification of Completion and Materials Certification form
- Affidavit of wages paid
- As-Built drawings (send copy to NDOR)
- Payroll records
- Copies of consultant engineering agreements
- Copies of the LPA/NDOR Agreement
- Construction contract (10 yrs.)

#### 120.40 FINAL COST SETTLEMENT

The final settlement between the NDOR and LPA will be made after final inspection and acceptance, an audit, if deemed necessary, and after final costs have been determined by the NDOR.

#### 120.50 AUDITS

The LPA must maintain complete records throughout project development, letting and construction. All federal-aid projects are subject to review and audit by federal and NDOR Auditors or their authorized representatives. A complete set of project records must be kept for a minimum of three years after the project final payment. LPA's are encouraged to keep records longer and to check with the NDOR Urban Engineer prior to disposal. Projects will be considered final when accepted by the NDOR and final payment are made.

# Notification of Project Completion and Materials Certification

*This certificate must be furnished to the Department of Roads before the project can be closed out.*

To: Nebraska Department of Roads  
Urban Engineer, Roadway Design Division

City of \_\_\_\_\_, Nebraska

Project Description: \_\_\_\_\_

Project No.: \_\_\_\_\_ Control No. \_\_\_\_\_

Prime Contractor Name: \_\_\_\_\_ Final Contract Amount:  
\$ \_\_\_\_\_

Subcontractor Name(s): \_\_\_\_\_ Final Subcontract Amount  
\$ \_\_\_\_\_  
\$ \_\_\_\_\_  
\$ \_\_\_\_\_  
\$ \_\_\_\_\_  
\$ \_\_\_\_\_

The **City certifies** that all the work on this project is complete and accepted by the City as of \_\_\_\_\_  
20 \_\_\_\_\_, and the project was constructed according to the plans and specifications approved by the Nebraska  
Department of Roads (NDOR). Materials testing requirements of the contract were met and test reports are on  
file with the City. All required manufacturer's certificates of compliance and the manufacturer's certified test  
reports met contract requirements and also are on file with the City.

**Exception(s) to the plans and specifications:**  Yes  No

If Yes, attach additional sheet(s) to this form explaining the exception(s).

By signing this Notification of Project Completion and Materials Certification form, I, \_\_\_\_\_  
representing the City of \_\_\_\_\_, Nebraska, hereby acknowledge this certification is to be  
furnished to the Federal Highway Administration in connection with this project being funded with federal-aid  
highway funds and is subject to applicable state and federal laws, both criminal and civil.

City of \_\_\_\_\_

\_\_\_\_\_  
*City Project Manager*

\_\_\_\_\_  
*City Official*

\_\_\_\_\_/\_\_\_\_\_/20\_\_\_\_

**Comment(s) by the State Representative/District Engineer:**  Yes  No

If Yes, attach additional sheet(s) to this form with comments.

This completes all work on this project.

I recommend closeout:

with audit  without audit.

I Concur:

\_\_\_\_\_  
*State Representative*

\_\_\_\_\_  
*District Engineer*

\_\_\_\_\_/\_\_\_\_\_/20\_\_\_\_

\_\_\_\_\_/\_\_\_\_\_/20\_\_\_\_

\_\_\_\_\_  
*Urban Engineer*

\_\_\_\_\_/\_\_\_\_\_/20\_\_\_\_

Return To:  
Nebraska Department of Roads  
Construction Division - Minority Business Office  
P.O. Box 94759  
Lincoln, NE 68509-4759

Date: .....

Nebraska Department of Roads

# Identification of DBE Goal Achievement

DBE I

Project No.: ..... Control No.: .....

Location: \$ .....

Total dollar goal commitment at time of contract award: .....

Contractor: .....

**Note:** *This form is to be completed as accurately as possible with the understanding that final quantities may not be available at the time of completion.*

	Name of Certified DBE	Description of Work Subcontracted or Services Provided	\$ Amount of Subcontract	\$ Amount of Payment Issued	\$ Amount of Retainage
1.	.....	.....	.....	.....	.....
2.	.....	.....	.....	.....	.....
3.	.....	.....	.....	.....	.....
4.	.....	.....	.....	.....	.....
5.	.....	.....	.....	.....	.....
6.	.....	.....	.....	.....	.....
7.	.....	.....	.....	.....	.....
8.	.....	.....	.....	.....	.....
9.	.....	.....	.....	.....	.....

By ..... (Signature) Total Actual DBE \$ .....



Nebraska Department of Roads  
**Identification of Work Performed**  
DBE II

Project No.: ..... Control No.: .....

Location: .....

DBE Subcontractor: .....

Prime Contractor: .....

**Note:** *This form is to be completed as accurately as possible with the understanding that final quantities may not be available at the time of completion.*

Description of Work Subcontracted or Services Provided	\$ Amount of Subcontract	\$ Amount of Payment Issued	\$ Amount of Retainage
1. ....	.....	.....	.....
2. ....	.....	.....	.....
3. ....	.....	.....	.....
4. ....	.....	.....	.....
5. ....	.....	.....	.....
6. ....	.....	.....	.....
7. ....	.....	.....	.....
8. ....	.....	.....	.....
9. ....	.....	.....	.....

By ..... Total Actual Payment Received \$ .....

(Signature)