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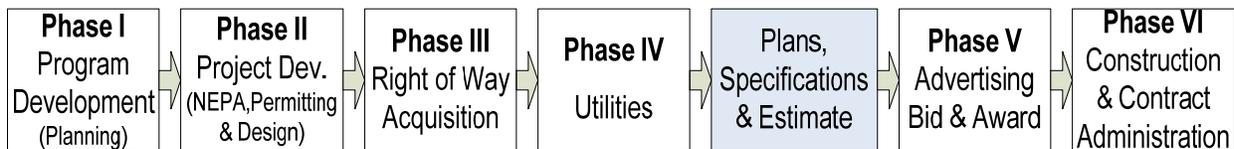
SECTION C

CERTIFIED AGENCY

Chapter 11

Plans, Specifications and Estimate (PS&E)

This chapter is used for all federal-aid projects on Non-NHS (National Highway System) routes by local agencies operating under agreement with ODOT as a certified local agency. In the sequence of project development, Plans, Specifications & Estimates (PS&E) occurs prior to bid and award.



A. OVERVIEW

After a project's NEPA clearance, right of way and preliminary design have been completed, work begins on the final version of the project's PS&E. The PS&E documents are used to award and administer a construction contract.

PS&E approval is the responsibility of the certified local agency as identified in the local agency's Master Certification Agreement signed by the local agency and ODOT. The "approving authority" identified on the Master Certification Agreement must approve the plans and specifications, and a professional of record licensed in the State of Oregon must seal and date the plans and specifications, as appropriate. In addition, employees of engineering organizations of a local agency must be in responsible charge of the project as per 23CFR1.111.

ODOT will provide program and project technical support, training, advice and guidance to the certified local agency. ODOT will also fulfill its audit and oversight role as documented in the local agency's Master Certification Agreement.

B. CERTIFICATION & THE PS&E PROCESS

ODOT will work with local agencies interested in becoming certified by engaging in a collaborative review process to ensure that the local agency's PS&E processes are compliant with federal and state requirements. In order to become certified for PS&E, the local agency's documented processes must be reviewed and approved by ODOT with FHWA's oversight and concurrence. Prior to becoming certified, the local agency must revise any processes that do not meet state and federal requirements. The documented processes detailing the local agency's working policies and procedures, must address the following PS&E areas:

- The local agency’s project management structure, certifications, authorities, quality control, legal aspects of the work.
- Contract plans development
- Specifications development
- Special provisions development
- Estimate development
- Construction schedule

Additional information about becoming certified is available in the [Certified Section of the LAG Manual, Chapter 2](#), “Becoming Certified”.

C. KEY PS&E PROCESS POINTS

A complete list of requirements is available within the current [PS&E checklist](#). Refer to the ODOT Office of [Project Delivery website](#) for additional files, guides, documents and manuals that are specific to local agency project delivery.

Note, Advance Plans is the stage of project development that occurs when PS&E is approximately 95 percent complete. At Advance Plans all project plans, specifications and estimates including permits, verifications of quantities and correlation between plans, specifications, and standard drawings are essentially complete. Advance Plans provides opportunity for project constructability review and a plans-in-hand meeting, if desired, with key stakeholders.

The certified local agency, or its consultant, is responsible to perform all activities for development, approval and stamping of PS&E. Unless otherwise agreed upon in the Master Certification Agreement between ODOT and a local agency, the following conditions apply.

1. Wage Rates

By Oregon state statute, both state and federal wage rates must be included in federal-aid projects as related to the functional classification of the roadway. The contractor is required to pay the higher of the two rates. For additional wage rate information, see the links below or contact ODOT’s [Regional Local Agency Liaison](#):

- [Oregon State Bureau of Labor and Industries \(BOLI\)](#) index of wage rates
- [US Department of Labor](#)
- [ODOT Specifications Wage Rate](#)

The certified local agency is responsible to monitor labor compliance and prevailing wage rate compliance. Wage rate requirements must either be referenced or attached to the Special Provisions for each project. [Davis-Bacon wage rates](#) must be attached to the construction contract.

2. Civil Rights Compliance

FHWA projects are subject to Civil Rights compliance reviews by ODOT. Additional Civil Rights information is available in the [Disadvantaged Business Enterprises \(DBE\) Equal Employment Opportunity \(EEO\)/On the Job Training \(OJT\)](#) and [Title VI chapters](#) in this *LAG Manual*. The [Regional Local Agency Liaison](#) can also provide assistance regarding current Civil Rights issues and related forms.

a. Local Agency Role and Responsibility

The certified local agency is responsible to comply with the DBE, EEO and On the Job Training (OJT) requirements established for each federal-aid project. The certified local agency maintains responsibility to uphold these programs with the contractor. In order to ensure effective implementation the Civil Rights program requirements, FHWA requires that all federal-aid highway construction contracts include specific requirements related to civil rights laws and regulations. To be eligible for federal-aid funds, the certified local agency must ensure that these specific requirements shall be a part of all solicitations for bids on all federal-aid construction contracts or subcontracts of \$10,000 or more. The Civil Rights programs include the following.

- **DBE**

The certified local agency shall send electronic copies of all completed forms as described in the OCR Forms Matrix in this LAG Manual to ODOT's Small Business/DBE Program Manager as appropriate, with a copy to ODOT's [Regional Local Agency Liaison](#), for review and processing. No contract(s) shall be awarded prior to receiving approval of the DBE program from ODOT's Small Business/DBE Program Manager. See [Section B in the LAG Manual, Chapter 7, Civil Rights - DBE](#), for additional information, procedures and related forms regarding DBE Civil Rights requirements.

For more information of the DBE Commitment Requirements and DBE Contract provisions, review the [United States Department of Transportation \(USDOT\) Approved Disadvantaged Business Enterprise \(DBE\) Commitment Requirements](#) and the [USDOT Approved Disadvantaged Business Enterprise \(DBE\) Supplemental Required Contract Provisions](#) (DBE Provisions) under "Publications" on the ODOT Specifications website.

- **EEO and OJT**

The certified local agency, its contractors and subcontractors shall also comply with the EEO and the OJT requirements. Form [FHWA - 1273](#) conveniently collects contract provisions and proposal notices as required by FHWA and other federal agencies. Form [FHWA - 1273](#) must be made a part of, and physically incorporated into all contracts as well as appropriate subcontracts and purchase orders.

The [On the Job Training \(OJT\)/Apprenticeship Special Provisions](#) shall also be part of all solicitations for bids on all federal-aid construction contracts or subcontracts when OJT is assigned and in implementation of [Title 23 USC 140\(a\) Equal Employment Opportunity](#). See ODOT's [Office of Civil Rights - OJT website](#) for additional OJT information.

Federal regulations [Title 23 CFR Part 230](#), as approved by USDOT, are also incorporated hereto by reference and shall be made a part of any contract specifications. See Section B in the *LAG Manual*, [Chapter 8, Civil Rights - EEO and OJT](#), for additional information, procedures, and related forms regarding EEO and OJT requirements.

- **Title VI**

The certified agency shall develop a Title VI plan or Non-discrimination Agreement as necessary which includes required language to be included in all contracts. The certified local agency is responsible for ensuring that any contracted sub-recipients are not discriminating against protected classes. Refer to [Title VI chapter](#) in this *LAG Manual* for more information.

b. ODOT Role and Responsibility

ODOT shall review and determine the DBE goal/aspirational target, EEO goals, OJT and any other civil rights related requirements for each project. To initiate this review, reference the procedures available in [Chapter 7 in the Non-Certified Section](#) of this *LAG Manual*. ODOT's Office of Civil Rights Title VI Program is responsible for performing local agency Title VI reviews, answer questions and investigate complaints.

If the certified local agency disagrees with ODOT's assigned DBE goal, EEO goals, or OJT requirements, the certified local agency and ODOT shall discuss the issue, however, ODOT will have final determination.

ODOT's DBE program shall provide support for a local agency project with DBE goals or for contracts with DBE firms. ODOT EEO and OJT programs shall also provide support for the local agency projects. ODOT shall act as an agent on behalf of the certified local agency regarding all Civil Rights contract administration requirements and shall communicate directly to the certified local agency not the Contractor.

3. PS&E Quality Control

a. Local Agency Role and Responsibility

The certified local agency is responsible to ensure the quality control of the PS&E. The PS&E shall at a minimum be in conformance with the applicable, current, ODOT approved edition of the following, unless otherwise requested by local agency and approved by ODOT:

- [AASHTO](#) (American Association of State Highway and Transportation Officials) "A Policy on Geometric Design of Highways and Streets;" for local facilities.
- [Oregon Standard Specifications for Construction](#) or the certified local agency's Standard Provisions.
- [Manual on Uniform Traffic Control Devices](#) and [Oregon Supplements](#).
- Transportation Research Board's [Highway Capacity Manual](#).
- Local Agency Certification Procedures found in this *LAG Manual* on ODOT's [Local Government Section Publications](#) web page.
- [Title 23](#) and [Title 49](#), USC, Highways and Regulations.

- [Contract Administration Core Curriculum Participants Manual & Reference Guide](#).
- ODOT's [Right of Way Manual](#).
- ODOT's [Bridge Manuals](#).
- ODOT's [Highway Design Manual](#) for ODOT facilities*.
- Other ODOT's [Technical Services Manuals](#).

*Design standards for all projects on the Oregon State Highway System shall be in compliance with standards specified in the current edition of ODOT's [Highway Design Manual](#) and related references. Construction plans shall be in conformance with ODOT standard practices.

Installation of traffic control devices will meet the warrants prescribed in the [Manual on Uniform Traffic Control Devices](#) and [Oregon Supplements](#). Any installation of traffic control devices on or adjacent to ODOT facilities requires the approval of the State Traffic Engineer or State's Region Traffic Engineer as described in the ODOT Traffic Signal Policy and Guidelines and the ODOT Traffic Manual. These references can be found at the ODOT's [Traffic Engineering Operations Section](#) web page.

The standard unit of measurement in all project documents and products of certified local agency projects shall be English Units. This includes, but is not limited to, right of way, environmental documents, plans, specifications, estimates and utilities.

b. ODOT Role and Responsibility

ODOT staff will reference the [ODOT PS&E Submittal Checklist](#) for quality control and oversight of certified local agency projects.

4. Professional, Technical and Expert Service Contracts

The certified local agency may perform its own preliminary and construction engineering or solicit for consultants to perform services needed to develop a federal-aid project. Local agencies requesting federal funds to reimburse architectural and engineering consultants must follow the selection and contracting procedures detailed in [Section C, Chapter 12, Consultant Selection](#).

5. Project Completeness Checklist

A complete list of requirements is available within the current Final [PS&E Submittal checklist](#) and the [Bid and Award checklist](#) in this LAG Manual for construction contract procurement for certified local agency projects. Refer to the [ODOT Office of Project Delivery](#) website for

NOTE: All items of the PS&E Checklist must be completed and maintained in the project file as appropriate.

additional files, guides, documents and manuals that are specific to local agency project delivery.

6. Other Requirements

a. [FHWA Form 1273](#)

Each set of contract documents shall include Form FHWA-1273, "Required Contract Provisions, FHWA Construction Contracts," and such amendments that modify the FHWA-1273. Copies of the FHWA- 1273 Form and amendments are available from the [Regional Local Agency Liaison](#). This document is inserted by ODOT after the PS&E documents are approved for advertising.

b. "Buy-America" Requirements

Steel and/or iron materials that are permanently incorporated into the project shall consist of American-made materials, as outlined in the [Oregon Standard Specifications for Construction](#), subsection 00160.20. The certified local agency must use the "Buy-America" requirements in each contract now used by ODOT. These special provisions may be obtained at [Oregon Special Provisions - Section 160](#). FHWA must approve all waivers to the "Buy America" requirements.

c. Traffic Control Plans

Traffic Control Plans shall be included in the contract documents and shall be consistent with Part VI of the [Manual on Uniform Traffic Control Devices](#) and [Oregon Supplements](#). Construction projects that impact bicycle and/or pedestrian traffic must include accommodation for all impacted modes of travel in the contract Traffic Control Plans.

d. Sole Source Justification

Justification for the use of local agency supplied materials must be documented by the local agency. The materials must have been produced by local agency forces or acquired through competitive bidding. Material purchased from a sole source may be used only after ODOT approval. More information is available within the [Construction Program Management and Inspection Guide](#) on FHWA's [Construction and Maintenance](#) website.

e. Patented and Proprietary Items

The use of trade names in specifications and on plans shall be avoided. Instead, specifications shall be formulated to ensure full opportunity for competition among equivalent materials, equipment, and methods. Specifying patented or proprietary material, products or processes is allowed for federal-aid projects only under one of the following conditions:

- The products, materials are listed on the ODOT's Qualified Products List (QPL) and the reference in the specifications is "use (product, material) from the QPL."
- At least three names of acceptable materials or products, if available, are listed together with "or approved equal."
- **The certified local agency is requiring a specific material or product and a written Public Interest Finding document has been prepared and approved by ODOT.**
- The material or product has been approved through FHWA as an experimental feature.

See FHWA's *Construction Program Management and Inspection Guide* for additional information.

f. Local Agency Supplied Materials

Justification for the use of local agency supplied materials or services (e.g. striping a project) must be documented by the local agency. Local agency supplied materials must be justified through the local agency's [Public Interest Finding](#) to the [Regional Local Agency Liaison](#) for ODOT's approval. The local agency must have produced or acquired the materials through competitive bidding. See FHWA's [Construction Program Management and Inspection Guide](#) for additional information.

g. Salvaging Materials

FHWA regulations do not allow materials being salvaged as part of a proposed construction contract to be given to anyone other than the construction contractor without having a Letter of Public Interest Finding (LPIF). For more detailed information regarding salvaging items in a construction contract, see the Technical Bulletin RD07-05(B) "Salvaging Features and Excess Materials Associated with Transportation Projects by Contract Specification." This bulletin applies for when the Agency wants to salvage an item, requiring the contractor to give salvaged materials to a third party is not allowed. Approval for Salvaging materials LPIF is done by the Region Roadway Engineering Manager when salvaged material is less than \$25,000. When the salvaged material totals more than \$25,000, the Office of Project Letting Manager must approve the LPIF. For any amount, if the project is Full Federal Oversight (FFO), then FHWA must also approve the LPIF.

h. Warranty/Guarantee

Local agencies should take advantage of any existing, standard manufactured product warranties or guarantees. [Warranties](#) on projects require ODOT's approval. All requests for warranty requirements and subsequent revisions shall be submitted to the ODOT [Regional Local Agency Liaison](#) for approval. See FHWA's [Contract Administration Guide](#) and [23 CFR 635.413](#) for additional guidance.

D. ADDITIONAL RESOURCES

- ODOT's [Office of Pre-letting Manuals/Forms](#)
- ODOT's [Roadway Engineering Section Forms](#)
- ODOT's [Technical Support Sections](#)
- ODOT's [Local Government Section](#)
- ODOT's [Office of Civil Rights](#)
- ODOT's [Regional websites](#)