Key Elements of Project Delivery

December 2019

WSDOT/Local Programs
Overview

• Project Development
  o Phases of Authorization
  o Documentation for each phase
  o Requirements for each phase
  o General Timelines

• Common Obstacles

• FHWA Focus Areas
Project Development

Phases of Authorization and Requirements (LAG 14.2)

Planning
• Non-construction projects – authorized as a separate project
  o Studies (ex. corridor, intersections, etc.)
  o Public education and outreach (ex. CTR campaign, SRTS training)
    ▪ Define a specific timeframe (ex. biennium, calendar or fiscal year)
  o Planning activities (ex. Unified Planning Work Program)
    ▪ Define a specific timeframe (ex. biennium, calendar or fiscal year)
Project Development (cont.)
Phases of Authorization and Requirements (LAG 14.2) – cont.

Planning (cont.)
• Documentation required for authorization:
  o Current STIP documentation (LAG 12.4)
  o Project Prospectus Planning Scope of Work (Chapter 21, DOT Form 272-090)
  o Local Agency Agreement (Chapter 22, DOT Form 140-039)
  o Documented cost estimate (LAG 22.4)
  o Completed Authorization Package Checklist (LAG Appendix 21.43)
Project Development (cont.)
Phases of Authorization and Requirements (LAG 14.2) – cont.

Planning (cont.)
• Documentation required for compliance:
  o Monthly progress reimbursement requests
  o Final reimbursement request
  o Final project summary
  o Final report (copy or link)
Preliminary Engineering (PE) / Design

• Documentation required for authorization:
  
  o Current STIP documentation (LAG 12.4)
  
  o Project Prospectus (Chapter 21, DOT Form 140-101)
  
  o Vicinity map(s) and roadway section(s)
  
  o Local Agency Agreement (Chapter 22, DOT Form 140-039)
  
  o Documented cost estimate (LAG 22.4)
  
  o Completed Authorization Package Checklist (LAG Appendix 21.43)
Project Development (cont.)
Phases of Authorization and Requirements (LAG 14.2) – cont.

Preliminary Engineering (PE) / Design (cont.)

• Documentation required for compliance:
  
  o Monthly progress reimbursement requests

  o Environmental documentation completed per the LAG
    ▪ National Environmental Policy Act (NEPA) approval prior to right of way and construction authorization
    ▪ Environmental commitments incorporated into subsequent phases
    ▪ Re-evaluated every three years

  o State funds only in PE – may be design only (Ped/Bike Safety program)
Project Development (cont.)

Environmental
• Endangered Species Act (ESA)

Q: What transportation projects may require consultation with National Marine Fisheries Service (NMFS) and US Fish and Wildlife Service (USFWS) prior to NEPA approval?

A: Any project touching surface water draining to the Puget Sound

  o Bridge maintenance/replacements
  o Culvert extensions/replacements
  o Stormwater outfalls
  o New pavement without stormwater treatment

If a culvert requires fish passage upgrades, it will likely require ESA consultation.
Project Development (cont.)

Environmental (cont.)

NMFS will not review local agency projects until summer 2020. Then it will take a year to complete their process.
Summer 2021 NEPA can be complete.

Workload Management
- Government shutdown
- Direction from D.C. offices
- Staffing challenges

Emerging Science
- Southern Resident Killer Whale
- Chinook
- Stormwater
Project Development (cont.)

What can local agencies do?

1. Budget time for ESA consultations/NEPA – 1.5 - 2 years.

2. Get WSDOT involved early in project development.

3. Use Regional Road Maintenance Program 4(d) to satisfy NMFS ESA compliance if possible.
Preliminary Engineering (PE) / Design (cont.)

- Federal requirements include:
  - Project must be constructed
    - If not constructed, ALL expended federal funds must be repaid
      - Repayment may not be required if, at the conclusion of the NEPA process, the “no-build” option is the selected and approved alternative
  - Advance to RW or CN within ten (10) years of PE authorization, showing continuous progress
  - Right of way acquired per WSDOT Right of Way Manual and the Uniform Relocation Act (including permits and easements)
  - Construction includes Buy America requirement
Project Development (cont.)
Phases of Authorization and Requirements (LAG 14.2) – cont.

Right of Way
Right of way (RW) acquisition (including permits and easements) per the WSDOT Right of Way Manual and Uniform Relocation Act

• Documentation required for authorization:
  - Current STIP documentation (LAG 12.4)
  - Project Prospectus (Chapter 21, DOT Form 140-101), if necessary (ex. new project, updated scope for existing project)
  - Local Agency Agreement (LAA) Supplement (Chapter 22, DOT Form 140-041) or LAA (DOT Form 140-039) if RW is first authorization
  - Approved right of way plans (LAG 25.47)
Project Development (cont.)
Phases of Authorization and Requirements (LAG 14.2) – cont.

Right of Way (cont.)

• Documentation required for authorization (cont.):
  o Approved Relocation plan, if relocation is required (LAG 25.12)
  o FHWA approved environmental documentation (Chapter 24)
  o Right of way estimate (LAG 25.46)
  o Completed Authorization Package Checklist (LAG Appendix 21.43)
Project Development (cont.)

• Right of Way Funding
  o EXISTING
    ▪ Project Funding Estimate/True Cost Estimate
      ✓ Required to estimate Right of Way Costs & Obligate Right of Way funds
      ✓ Currently two methods
        ➢ Tied to the Property Evaluation Method
  o NEW Process-Coming Soon
    ▪ Right of Way Funding Estimate
      ✓ Reasons for Process Improvement
        ➢ Simplify Process
        ➢ Uniformity
        ➢ Cost Effectiveness
        ➢ Agency or consultant, familiar with the project can complete
Project Development (cont.)

- Right of Way Funding Estimate (cont.)
  - Based on the True Cost Estimate spreadsheet
  - Embedded calculation
    - Confidence Level-Assessed Value
    - Condemnation Percentage
    - Market change

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https://www.wsdot.wa.gov/publications/fulltext/LocalPrograms/RealEstate/LPAForms/ROWEstimateDraft.xlsx
Temporary Easements

- Why is something that seems easy so difficult?
  - Human Factor
  - Floating Timeframe & Appraising
  - Expiring before construction is complete

- Solutions
  - Adequate acquisition time
  - Work closely with your appraiser
  - Consider pushing out expiration date
    ✓ Extension language in deed? Being considered…
Project Development (cont.)
Phases of Authorization and Requirements (LAG 14.2) – cont.

Right of Way (cont.)

• Documentation required for compliance:
  
  o Monthly progress reimbursement requests
  
  o Environmental commitments must be incorporated into the right of way and construction phases
    ▪ Re-evaluated every three years
  
  o WSDOT approved Right of Way Certification
Project Development (cont.)
Phases of Authorization and Requirements (LAG 14.2) – cont.

Right of Way (cont.)

- Federal requirements include:
  - Project must be constructed
    - If not constructed, ALL expended federal funds must be repaid
      ✓ Including those expended in the PE phase, if federal funds utilized
  - Advance to CN within ten (10) years of RW authorization, showing continuous progress
  - Construction includes Buy America requirement
Project Development (cont.)
Phases of Authorization and Requirements (LAG 14.2) – cont.

Construction
• Documentation required for authorization:
  o Current STIP documentation (LAG 12.4)
  o Project Prospectus (Chapter 21, DOT Form 140-101)
  o Local Agency Agreement (LAA) Supplement (Chapter 22, DOT Form 140-041) or LAA (DOT Form 140-039) if CN is first authorization
  o FHWA approved environmental documentation (Chapter 24), re-evaluation if necessary.
  o Right of way certification (LAG 25.13)
Project Development (cont.)
Phases of Authorization and Requirements (LAG 14.2) – cont.

Construction (cont.)
• Documentation required for authorization:
  o Engineer’s estimate (LAG 66.4)
  o Evidence of assignment of DBE/training goals (Chapter 26)
  o Approved Public Interest Finding (PIF), if required (LAG Appendices 44.76 – 44.83). Examples when PIF required:
    ▪ Tied contract bids
    ▪ Construction by local forces
    ▪ Proprietary items – next LAG update will include new process where agency certifies items meet Buy America, without PIF approval
  o Completed Authorization Package Checklist (LAG Appendix 21.43)
Project Development (cont.)
Phases of Authorization and Requirements (LAG 14.2) – cont.

Construction (cont.)

• Documentation required for compliance:
  
  o Monthly progress reimbursement requests

  o Environmental commitments must be incorporated into the construction phase
    ▪ Re-evaluated every three years

  o Buy America inclusion (LAG 44.22)

  o Davis-Bacon wage rates (LAG 44.21)
    ▪ Obtain wage rates within ten (10) days of advertisement
Project Development (cont.)

General Timelines

• Preliminary Engineering
  o Approximately one (1) year to complete, assuming in-house design and Programmatic CE
  o Increase schedule for:
    ▪ Hiring consultant
    ▪ NEPA elements (ex. ESA consultation, permits)
    ▪ Coordination with others (ex. RR, state agencies)

• Right of Way
  o Approximately one (1) year to complete
  o Increase schedule for:
    ▪ Hiring consultant
    ▪ Types of properties
    ▪ Potential litigation
Project Development (cont.)

General Timelines (Cont.)

- Construction
  - 1-3 years depending on working days
  - Increase schedule for:
    - Fish window
    - Plant Establishment
    - Winter shut-down

- Project Agreement End Dates on Local Agency Agreement
  - Required for each federally authorized project phase
  - Estimate completion date for each phase and add three (3) years
Common Obstacles

• Project Progress
  o Inactivity – not advancing a project/submitting progress bills
  o Setting unrealistic milestone dates
  o Not allowing sufficient time for reviews, approvals, and deadlines
  o Scheduling ads in summer

• Incomplete Fund Authorization Package
  o Estimates – missing or without sufficient detail
  o Unapproved scope changes
  o Project, project phase, or funding not in STIP

• Inconsistent Data
  o Scope/termini differences between documents (ex. LAA, STIP, NEPA)
  o Estimates that are different than amounts shown on agreement
Common Obstacles (cont.)

- Local Agency Agreement (LAA) Items
  - Math errors
  - Individual lines (ex. “Agency”) with incorrect federal participation ratios
  - On supplement, incorrect original LAA execution date
  - Incorrect date formats – must include month, day, and year
  - Reducing individual line amounts below existing expenditures
  - Amounts NOT rounded to the nearest whole dollar
  - Proposed ad dates that have already passed or are beyond six (6) weeks of CN authorization
  - End dates that don’t follow guidance (LAG 22.1)
  - Failing to update PE and RW costs once CN has been authorized
  - Failing to update project costs when the total estimated federal funds decreases by $250,000 or more
FHWA Focus Areas

• Indirect Cost Rate
  o Agency’s current approved/self-certified rate. 2 CFR 200 Appendix

• Consultant Oversight
  o Agencies must ensure the consultant is using its currently approved ICR, (updated annually)
  o Agencies must ensure they are staffed to review consultant charges and confirm all payments are supported by the contract

• Inactive projects
  o Plant establishment – need to request reimbursement every six months
  o Litigation
  o Actively monitor funding on prior phases
FHWA Focus Areas (cont.)

• 10 Year PE to CN
  o If a project doesn’t proceed to construction within 10 Years, federal funds spent on PE must be paid back

• Closure of projects
  o FHWA request closure of projects

• Project End-Date
  o Auditors are following the project end-dates very closely
  o Any costs/charges incurred after the project end-date are ineligible for federal participation
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<td>Eastern Region</td>
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Questions?