

# **Key Elements of Project Delivery**

December 2019

WSDOT/Local Programs

# Overview

- Project Development
  - Phases of Authorization
  - Documentation for each phase
  - Requirements for each phase
  - 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
  - Studies (ex. corridor, intersections, etc.)
  - Public education and outreach (ex. CTR campaign, SRTS training)
    - Define a specific timeframe (ex. biennium, calendar or fiscal year)
  - 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:
  - Current STIP documentation (LAG 12.4)
  - Project Prospectus Planning Scope of Work (Chapter 21, DOT Form 272-090)
  - Local Agency Agreement (Chapter 22, DOT Form 140-039)
  - Documented cost estimate (LAG 22.4)
  - 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:
  - Monthly progress reimbursement requests
  - Final reimbursement request
  - Final project summary
  - Final report (copy or link)

# Project Development (cont.)

Phases of Authorization and Requirements (LAG 14.2) – cont.

## Preliminary Engineering (PE) / Design

- Documentation required for authorization:
  - Current STIP documentation (LAG 12.4)
  - Project Prospectus (Chapter 21, DOT Form 140-101)
  - Vicinity map(s) and roadway section(s)
  - Local Agency Agreement (Chapter 22, DOT Form 140-039)
  - Documented cost estimate (LAG 22.4)
  - 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:
  - Monthly progress reimbursement requests
  - 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
  - State funds only in PE – may be design only (Ped/Bike Safety program)

# Project Development (cont.)

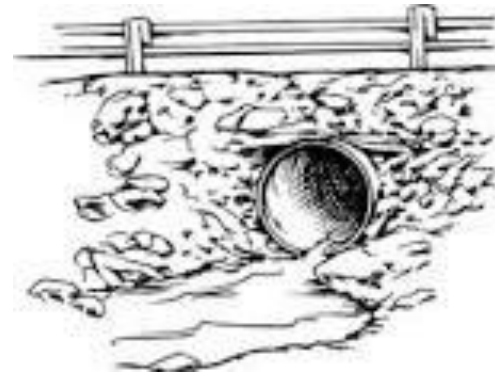
## Environmental

- 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

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



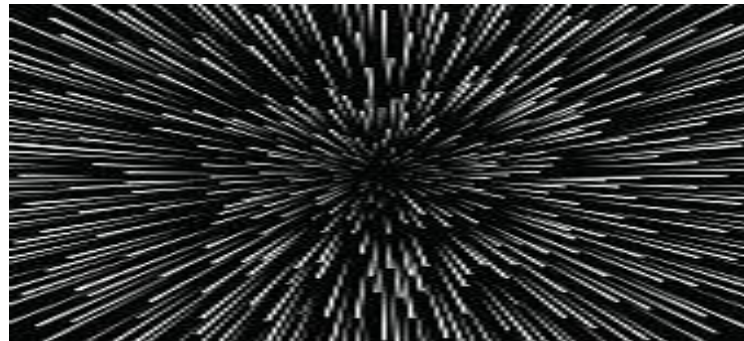
If a culvert requires fish passage upgrades, it will likely require ESA consultation.



# 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.

# Project Development (cont.)

Phases of Authorization and Requirements (LAG 14.2) – cont.

## 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.):
  - Approved Relocation plan, if relocation is required (LAG 25.12)
  - FHWA approved environmental documentation (Chapter 24)
  - Right of way estimate (LAG 25.46)
  - Completed Authorization Package Checklist (LAG Appendix 21.43)

# Project Development (cont.)

- Right of Way Funding
  - 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
  - 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

RIGHT OF WAY FUNDING ESTIMATE		Agency: Project Title: State of Estimate		Elect Valuation Process															
Assessor's Tax Parcel Number	Owner Name	Area (Sq Ft)	Assessed Value (Sq Ft)	Improvement Value	Damages	Relocation	Acquisition Subtotal	Confidence Level (1 - 10)	Confidence Factor (Calculated)	Factor Subtotal	Title & Escrow Costs	Appraisal/ Appraisal Review	AOS (under \$25,000)	Labor	Misc. Fees (including PM)	Statutory Evaluation Allowance	Subtotal All	Condemnation Enter Percentage	Total
<i>Sample Line</i> 201126-31400	McDuck, Scrooge	250	\$2	\$1,000	\$0	\$500	\$2,000	5	1.88	\$3,756	\$250	\$0	\$1,000	\$4,500	\$0	\$0	\$9,506	25%	\$11,881.94
							\$0		Error	\$0							\$0		\$0.00
							\$0		Error	\$0							\$0		\$0.00
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<b>Estimate Completed By:</b>																	<b>Estimated Total:</b>	\$11,882	
Name:																	<b>Year Estimate Completed:</b>		2019
Title:																	<b>Year Acquisition to be Completed:</b>		2025
<b>LAC Concurrence:</b>																	<b>Inflation Factor (Calculated):</b>		1.12
Name:																	<b>Total Right of Way Costs:</b>		\$13,308
Date:																			

<https://www.wsdot.wa.gov/publications/fulltext/LocalPrograms/RealEstate/LPAForms/ROWEstimateDraft.xlsx>

# Project Development (cont.)

- 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:
  - Monthly progress reimbursement requests
  - Environmental commitments must be incorporated into the right of way and construction phases
    - Re-evaluated every three years
  - 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:
  - Current STIP documentation (LAG 12.4)
  - Project Prospectus (Chapter 21, DOT Form 140-101)
  - Local Agency Agreement (LAA) Supplement (Chapter 22, DOT Form 140-041) or LAA (DOT Form 140-039) if CN is first authorization
  - FHWA approved environmental documentation (Chapter 24), re-evaluation if necessary.
  - 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:
  - Engineer's estimate (LAG 66.4)
  - Evidence of assignment of DBE/training goals (Chapter 26)
  - 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
  - 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:
  - Monthly progress reimbursement requests
  - Environmental commitments must be incorporated into the construction phase
    - Re-evaluated every three years
  - Buy America inclusion (LAG 44.22)
  - Davis-Bacon wage rates (LAG 44.21)
    - Obtain wage rates within ten (10) days of advertisement

# Project Development (cont.)

## General Timelines

- Preliminary Engineering
  - Approximately one (1) year to complete, assuming in-house design and Programmatic CE
  - Increase schedule for:
    - Hiring consultant
    - NEPA elements (ex. ESA consultation, permits)
    - Coordination with others (ex. RR, state agencies)
- Right of Way
  - Approximately one (1) year to complete
  - 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
  - Inactivity – not advancing a project/submitting progress bills
  - Setting unrealistic milestone dates
  - Not allowing sufficient time for reviews, approvals, and deadlines
  - Scheduling ads in summer
- Incomplete Fund Authorization Package
  - Estimates – missing or without sufficient detail
  - Unapproved scope changes
  - Project, project phase, or funding not in STIP
- Inconsistent Data
  - Scope/termini differences between documents (ex. LAA, STIP, NEPA)
  - 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
  - Agency's current approved/self-certified rate. 2 CFR 200 Appendix
- Consultant Oversight
  - Agencies must ensure the consultant is using its currently approved ICR, (updated annually)
  - Agencies must ensure they are staffed to review consultant charges and confirm all payments are supported by the contract
- Inactive projects
  - Plant establishment – need to request reimbursement every six months
  - Litigation
  - Actively monitor funding on prior phases

# FHWA Focus Areas (cont.)

- 10 Year PE to CN
  - If a project doesn't proceed to construction within 10 Years, federal funds spent on PE must be paid back
- Closure of projects
  - FHWA request closure of projects
- Project End-Date
  - Auditors are following the project end-dates very closely
  - Any costs/charges incurred after the project end-date are ineligible for federal participation

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# Questions?