



**LPA Annual Update
FFY 2011**

Topics

- Roles and Responsibilities
- 2010 Recap
- 2011 Changes
- Areas of Concern
 - MoDOT Project Bid Reviews
 - National Review Team
- LPA Manual Updates
- Consultant Prequalification, Certification (New)
- LPA Website (New)

Roles and Responsibilities

- Difference between MoDOT projects and LPA projects.
- Through a stewardship agreement, FHWA has transferred the authority to administer this program to MoDOT.

Missouri Department of
Transportation, November 2010

3

The main difference between MoDOT projects and LPA projects is **NOT** whether or not to comply with the program rules. The same rules (with few exceptions) apply to both. The main difference is which entity (FHWA or MoDOT) has the authority and responsibility to *enforce* the program rules.

2010 Recap

LPA Administrative Program Changes:

- Program moved to Design Division
- Andy Mueller, Program Administrator
- LPA Manual Updates
- MoDOT staff - increased expectations to deliver program

2010 Recap

- High-risk areas identified by FHWA nationally
- National Review Team Visit identified weaknesses
- New Surface Transportation Reauthorization proposals
 - Potential changes to federal aid projects similar to ARRA
 - Potential reporting requirements
- Maximize Federal Reimbursement

2010 Recap are issues that have come up in the last year that impact the local program and impact how this program is administered.

High-risk areas identified by FHWA. The LPA program is recognized *nationally* as an area of high risk.

National Review Team visit identified weaknesses. We will go over these in detail.

Potential changes to federal aid projects (strings attached similar to ARRA)

Potential reporting requirements (again, similar to ARRA)

**Maximize Federal Reimbursement: ensure all project costs remain eligible
This is why we must “Turn it up to 11” and ratchet up the oversight.**

As much as we do not enjoy telling project sponsors to reject bids and start over there are worse things:

We do not want to inform a project sponsor that portions of a project are non-reimbursable (this has already occurred)

We do not want to inform a project sponsor that they must repay some or all of the federal funds after the fact

(has not happened yet – although we’ve had some close calls)

2011 Changes...

- Greater focus on the LPA Program to deliver and achieve results
- LPA Projects will achieve similar results as MoDOT projects
- Increased partnership efforts with sponsors to deliver
- Expect day-to-day interaction between MoDOT and sponsors to deliver projects

These are changes that are occurring in the local program going forward:

Greater focus on the LPA Program to deliver and achieve results.

To deliver projects to our customers better, faster, and cheaper as they have demanded.

To get these projects out on the street and payments made to contractors quickly.

To take advantage of the still-incredible bidding environment we are currently in (to build more projects)

LPA Projects will achieve similar results as MoDOT projects

(However we do believe in flexibility to achieve results)

Project schedules developed based on time necessary to complete project and not on submittal deadlines.

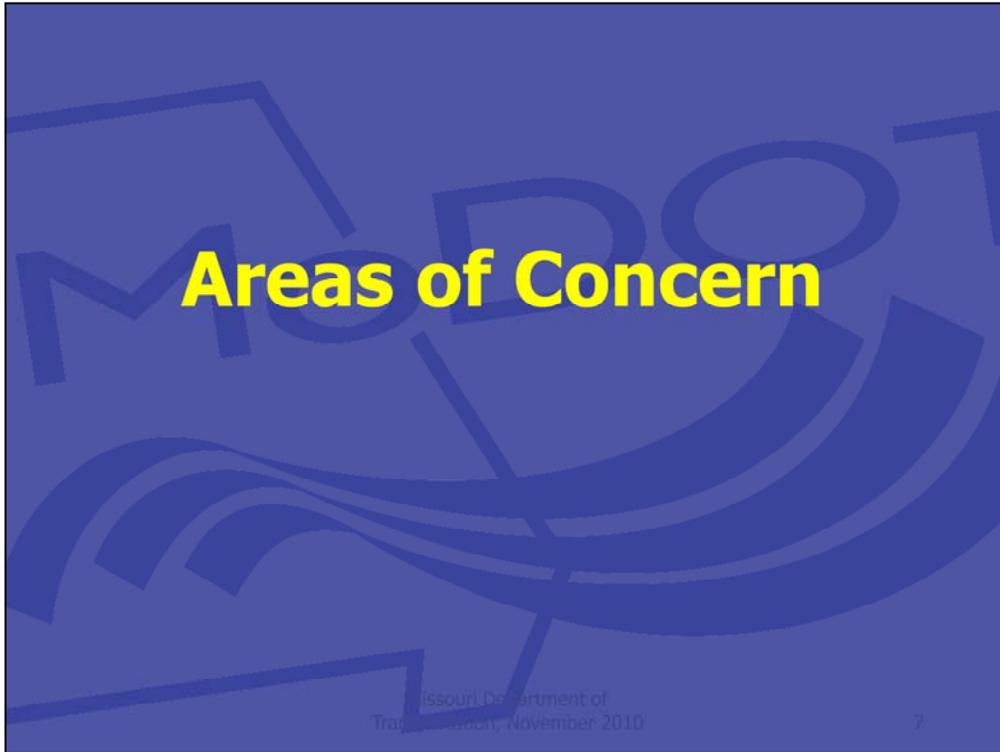
Project staffing and oversight must be adequate to comply with requirements.

Increased partnership efforts with sponsors to deliver (November 18th PIE meeting, future district PIE meetings, this training, etc.) PIE stands for Partnering for Innovative Efficiencies – stay tuned.

Expect day-to-day interaction between MoDOT and sponsors to deliver projects

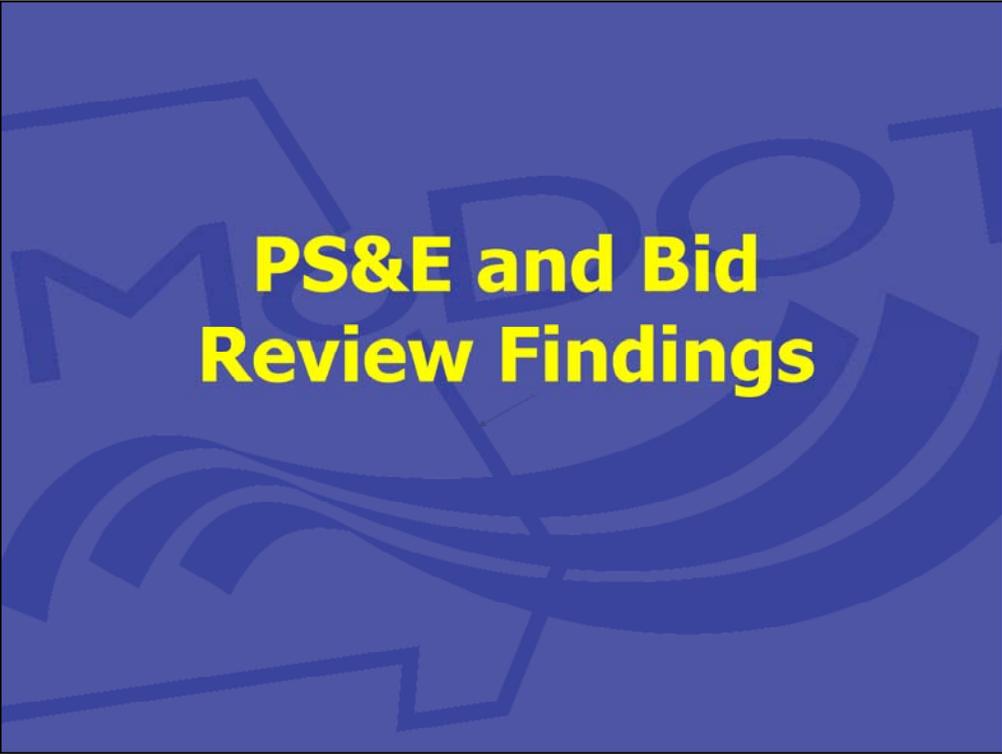
More status “checkups” as project is developed

More site visits when project is under construction



“Areas of Concern”

2 Categories : PS &E Bid Review Findings and NRT findings

The background of the slide is a solid blue color. In the center, the text "PS&E and Bid Review Findings" is written in a bold, yellow, sans-serif font. Behind the text, there is a large, faint, light blue watermark of the MoDOT logo, which consists of the letters "MoDOT" in a stylized font with a road-like graphic element below it.

PS&E and Bid Review Findings

These reflect actual findings from MoDOT Design Division's review of 108 local ARRA projects – both during the PS&E approval phase and the bid concurrence phase.

PS&E and Bid Review Findings Contractor to Perform 30%

- Prime contractor must perform 30% by own forces and this must be located in the bid documents.
- This could make the entire project ineligible for federal funding.

PS&E and Bid Review Findings Addendums

- Sponsor must verify that addendums were received and acknowledged by all bidders

PS&E and Bid Review Findings

Bid Opening Date

- Bid opening date must be on bid documents

PS&E and Bid Review Findings MO Standard Specs 2004

- All references to "Missouri Standard Specifications for Highway Construction" should also say " -2004 Edition including all revisions."

When using Missouri Standard Specifications for Highway Construction – 2004 Edition, use the current on-line version.

102.3.4 says “including all revisions of these documents.”

102.3.6 states that the effective date will be specified in the contract documents.

PS&E and Bid Review Findings Acceptance Testing

- Acceptance testing must be performed by the LPA or a third party hired by the LPA.
- LPA should be responsible for acceptance testing and all associated costs. Not the Contractor.
- This could make the project ineligible for federal funding.

PS&E and Bid Review Findings Advertisement

- Project must be advertised for 3 weeks prior to bid opening.
- This could make the project ineligible for federal funding.

Project Advertisement

3-weeks required by law

Advertising required on both MoDOT's website and regional news publication

PS&E and Bid Review Findings Anti-Collusion

- Compliance with CFR 635.112
- Anti-Collusion Statement and Form must be included in the bid documents.
- This could make the project ineligible for federal funding.

PS&E and Bid Review Findings

Bid Bond

- Bid Bond for Low and 2nd low must be submitted with bid concurrence request.
- Must be able to verify 5% bid bond requirement was met.
- This could make the project ineligible for federal funding.

PS&E and Bid Review Findings Bidder Qualifications

- Bidders cannot be disqualified after bids are received.
- Contractors are pre-qualified in accordance with MoDOT spec. 102.2.
- LPA has the option of using
 - 1) MoDOT spec. 102.2, or
 - 2) their own pre-qualifying process that has been approved by MoDOT.

Contractor Qualifications

Use MoDOT pre-qualification or sponsor pre-qualification process approved by MoDOT for road/bridge projects

Pre-qualification optional for non-roadway/bridge projects – if used must still be approved

No language can give the sponsor the sole discretion to determine who is qualified with no basis for the determination

Cannot use “lowest *and best* bid” language. Must use “lowest *responsive* bid” instead

When using MoDOT spec 102.2, contractor questionnaire must be on file 7 days prior to bid opening

PS&E and Bid Review Findings Instructions to Bidders

- If sponsors give instructions, they must be adhered to by all bidders.
 - Example: late bids not accepted, by anyone.
 - Example: "Mandatory" pre-bid meetings must be attended in order for bid to be responsive.
 - Do not open bids that are known to be unresponsive.

Instructions to Bidders

An extremely important component to the bidding process

MoDOT can help you with appropriate instructions to bidders

You must follow through and require that the instructions be adhered to – otherwise, bid is non-responsive

PS&E and Bid Review Findings

Buy America

- Buy America (MoDOT Spec 106.9) must be included with bid documents
- Or if statement not in bidding document it must be covered by MoDOT specifications.
- This could make the project ineligible for federal funding.

Buy America

Steel and Iron products (and their coatings) must be domestically produced

This requirement must be referenced in bid documents (either in standard spec's or called out separately)

PS&E and Bid Review Findings Civil Rights

- Civil Rights Assurances statement must be included with bidding documents.

PS&E and Bid Review Findings Ineligible Proprietary Items

- Proprietary items are not eligible for federal reimbursement. Examples include:
 - Name brand manufacturer
 - Specified supplier or 'sole source'
- Options for documents:
 - Must list at least three product names and "or equal"
 - Public interest finding
- This could make portions of the project ineligible for federal funding.

Proprietary Items and Sole-sourcing of Suppliers

Can minimize competition/unfair bidding

Four options:

- 1) Don't do it (spec the item's performance – not its name) **MOST PREFERRED OPTION**
- 2) Get an approved PIF
- 3) List at least 3 brand names AND the phrase, "or approved equal"
- 4) Pay for proprietary items with local funds – **LEAST PREFERRED OPTION** (limits competition)

PS&E and Bid Review Findings

DBE

- Bidding documents must contain the correct DBE Goal Percent
- DBE goal must be included in the bidder's submittal form
- The proposal must contain the most current DBE contract provisions and submittal forms.

PS&E and Bid Review Findings Unclear Order of Bid Alternatives

- Bid Alternates must be listed in fixed numerical order.
- It must be clear to all bidders how the low bid will be determined.
- Award must go to lowest responsive bidder.

Bid Alternates

Great way to maximize your allocated money

Bid alternates must be listed in fixed numerical order

It must be clear to all bidders how the low bid will be determined

Award must go to lowest responsive *total* of base bid *plus* all awarded alternates

PS&E and Bid Review Findings Environmental Clearance

- Environmental clearance must be included with the PS&E submittal.

This could make a project ineligible for federal funding.

PS&E and Bid Review Findings E-Verify

- Affidavit of Compliance and the E-Verify MOU must be included with the letter of interest.
- Sponsors must verify this information

<http://ago.mo.gov/faqs/unauthorized-alien-workers.htm>

Attorney General's Office website (this is also a link in the LPA portion of the EPG)

PS&E and Bid Review Findings Excessive Unemployment

- No references can be made to Missouri's "Excessive Unemployment Law".
- This could make the entire project ineligible for federal funding.

PS&E and Bid Review Findings Form 1273

- The FHWA 1273 contract provisions must be kept in the two column format with the revised date as provided on the web.
- <http://www.fhwa.dot.gov/programadmin/contracts/1273.pdf>

**REQUIRED CONTRACT PROVISIONS
FEDERAL-AID CONSTRUCTION CONTRACTS**

	Page
I. General	1
II. Nondiscrimination	1
III. Nonsegregated Facilities	3
IV. Payment of Predetermined Minimum Wage	3
V. Statements and Payrolls	3
VI. Record of Materials, Supplies, and Labor	5
VII. Subletting or Assigning the Contract	5
VIII. Safety, Accident Prevention	6
IX. False Statements Concerning Highway Projects	6
X. Implementation of Clean Air Act and Federal Water Pollution Control Act	6
XI. Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion	6
XII. Certification Regarding Use of Contract Funds for Lobbying	8

ATTACHMENTS

- A. Employment Preference for Appalachian Contracts (included in Appalachian contracts only)

I. GENERAL

1. These contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract.

2. Except as otherwise provided for in each section, the contractor shall insert in each subcontract all of the stipulations contained in these Required Contract Provisions, and further require their inclusion in any lower tier subcontract or purchase order that may in turn be made. The Required Contract Provisions shall not be incorporated by reference in any case. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with these Required Contract Provisions.

3. A breach of any of the stipulations contained in these Required Contract Provisions shall be sufficient grounds for termination of the contract.

4. A breach of the following clauses of the Required Contract Provisions may also be grounds for debarment as provided in 29 CFR 5.12:

- Section I, paragraph 2;
- Section IV, paragraphs 1, 2, 3, 4, and 7;
- Section V, paragraphs 1 and 2a through 2g.

5. Disputes arising out of the labor standards provisions of Section IV (except paragraph 5) and Section V of these Required Contract Provisions shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the

related subcontracts of \$10,000 or more.)

1. **Equal Employment Opportunity:** Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630 and 41 CFR 101) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the contractor's project activities under this contract. The Equal Opportunity Construction Contract Specifications set forth under 41 CFR 60-4.3 and the provisions of the American Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

a. The contractor will work with the State highway agency (SHA) and the Federal Government in carrying out EEO obligations and in their review of his/her activities under the contract.

b. The contractor will accept as his operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation, and selection for training, including apprenticeship, preapprenticeship, and/or on-the-job training."

2. **EEO Officer:** The contractor will designate and make known to the SHA contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active contractor program of EEO and who must be assigned adequate authority and responsibility to do so.

3. **Dissemination of Policy:** All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer.

b. All new supervisory or personnel office employees will be

PS&E and Bid Review Findings Liquidated Damages

- Minimum liquidated damages specified must meet the LPA manual table.

PS&E and Bid Review Findings Missouri Products

- The section entitled "MATERIALS FROM MISSOURI" is not allowed.
- Preference cannot be given to Missouri products.

PS&E and Bid Review Findings

OSHA

- The OSHA Training requirements “- RSMo 292.675 must be included.

PS&E and Bid Review Findings Retainage

- Flat percent retainage is not allowed. New guidance has been provided.

32

Retainage

No up-front % retainage, which penalizes contractors for good work and only allows partial payment for accepted work

Does not comply with Code of Federal Regulations – intent to provide prompt payment to subcontractors and DBE's

If item of work meets all contract requirements (including materials testing/certification, Buy America, etc.) pay for it!

Otherwise, do not pay for it or do not pay for entire item

LPA Manual revision (discussed later) provides options for initiating retainage when needed/justified

PS&E and Bid Review Findings Signature and Seals

- PE seal and signature
- Corporate seal
- All other required signatures, seals and dates.

PS&E and Bid Review Findings Wage Rates

- Federal Wage Rates
- State Wage Rate
- MoDOT Contact: Kenny Voss
573-526-2923
- See MoDOT LPA website

34

Wage Rates

Use higher of state/federal on federal-aid routes (Davis-Bacon)

Federal wage rates not required for off-system routes/projects

To determine which state wage rate is applicable, contact the Industrial Commission, Missouri Department of Labor and Industrial Relations (573) 751-3403.

PS&E and Bid Review Findings Warranties

- Only manufacturers' warranties allowed
- Typical 6-month maximum warranty period
- No contractor warranties

Warranties

Manufacturer's warranty allowed for signals, lighting, etc.

Typical 6-month maximum (standard industry practice)

Contractor warranties result in unnecessary cost added to bid

National Review Team Findings

National Review Team Finding Proprietary Items

- The Missouri Division should work with MoDOT to establish and communicate to the city the requirement that a minimum of 3 manufacturers are identified along with “or approved equal” and when a Public Interest Finding is required.

National Review Team Finding CE Funds

- When Local Agencies are requesting federal funds for Construction Engineering (CE) the authorization should indicate how the work will be carried out.

By contract or by local forces?

National Review Team Finding Commercially Useful Function

- DBE contract compliance requirement is a risk area.
- Use a clear and concise process for when documenting a Disadvantaged Business Enterprise (DBE) firm is performing a Commercially Useful Function.

DBE Form: Location

- 1) From the main MoDOT website, click on red link <http://www.modot.mo.gov/business/manuals/localpublicagency.htm>
- 2) Click on Commonly Used Forms

HOME >> BUSINESS >> MANUALS >> LOCAL PUBLIC AGENCY, LPA.

Local Public Agency, LPA:

MoDOT and Local Programs Annual Financial Pre-Qualification Process:

- Annual Financial Pre-Qualification Cover Letter (pdf, 60 kB, 2 pages)
- Annual Financial Pre-Qualification Process (pdf, 70 kB, 1 sheet)

Technician Certification:

- LPA Policy Manual section 136.11.9 Materials Testing.
- Contact Information:
Jeff Huffman
Senior Materials Specialist
Technician Certification Program
Construction & Materials
Phone: 573-522-2742
Fax: 573-526-0857
Jeffrey.Huffman@modot.mo.gov
- Program Information Handout (pdf, 33 kB, 1 page)

Forms:

- Form 1590, Executive Compensation, DUNS Number and CCR Registration (xls, 41 KB, 1 sheet)
- Commonly Used Forms.

Local Programs provide federal funding to cities and counties for their transportation improvements. Please refer to Local Public Agency in MoDOT's policy guide, for more information on utilizing federal funding through several programs.

Transportation Enhancements (TE)
This program provides funding through a competitive selection process for transportation related activities other than routine highway and bridge construction. For program details and project examples, click on your area below to access the TE Guide.



<http://epg.modot.org/index.php?title=136.14> Helpful Information and Links#136.14.3.1 Commonly Used Forms

136.14.3 Other Helpful Information

- [Safe Routes To School \(SRTS\)](#)
- [Scenic Byways](#)
- [Local Public Agency Land Acquisition](#)
- [Frequently Asked Questions](#)
- [AADT on MoDOT Routes](#)
- [DBE Directory](#)

136.14.3.1 Commonly Used Forms

- Bridge Inventory Survey Form
- DBE Submittal Forms
- Disadvantaged Business Enterprise Program Requirements for Local Programs
- On the Job Training Manual and Submittal Forms
- FHWA Form 1273 Required Contract Provisions
- Utility Agreement - Actual Cost
- Utility Agreement - Lump Sum
- Notice to Proceed
- Daily Force Account Record-Equipment Rental Account/Materials Account
- Daily Force Account Record-Labor Account
- Force Account Record - Cost Summary
- Sample Timesheet
- Construction Contract Calls for Bid
- Awarded Construction Contracts
- Local Project Checklist

Studying this document is required homework! This provides all the information a sponsor needs to successfully document DBE performance.

National Review Team Finding Verify the DBE Commitment

- The Disadvantaged Business Enterprise (DBE) commitment must be verified with the DBE subcontractor prior to the award of the contract.

National Review Team Findings Project Documentation

- Project inspectors must properly document quantities to support payment to contractors.
- Project Documentation also includes:
 - Project diaries must be kept and available
 - Materials testing reports must be available
 - Project must be adequately staffed

The following is in section 136 of the EPG and has been in the LPA Manual for some time:

“All costs incurred by the local agency for both contract work and work performed by local agency personnel for whom reimbursement is sought must be supported by original source documents or documentation which provides adequate assurance that the quantities of completed work were determined accurately and on a uniform basis.”

Project Documentation:

- Project diaries by inspection staff (including measurements and pay quantities for each day)
- Materials testing reports
- Change orders, extensions of time
- We expect MoDOT staff assigned to Q/A to use diaries also

If pay items are not measured and documented daily in pay quantity diaries, what method is the sponsor using to comply with this requirement?

Adequate Project Staffing:

- LPA shall be adequately staffed and suitably equipped to undertake and satisfactorily complete the work
- LPA shall provide a full-time employee of agency to be in “responsible charge” of each federal-aid project including those with consultant services

This does not relieve MoDOT of overall responsibility for the project.

National Review Team Finding Retainage

- Federal requirements regarding retainage must be adhered to on LPA federal aid projects.

Retainage

No up-front % retainage, which penalizes contractors for good work and only allows partial payment for accepted work

Does not comply with Code of Federal Regulations – intent to provide prompt payment to subcontractors and DBE's

If item of work meets all contract requirements (including materials testing/certification, Buy America, etc.) pay for it!

Otherwise, do not pay for it or do not pay for entire item

LPA Manual revision (discussed later) provides options for initiating retainage when needed/justified

National Review Team Finding Payment of Subcontractors

- Subcontractors are to be paid promptly pursuant to 49 CFR 26.29(b) and Missouri Statute.

National Review Team Finding Form 1273

- FHWA 1273 forms were not included or added into the Contract until after the original execution of the Contract.

National Review Team Finding Project Documentation

- The contract files and change order documentation should clearly indicate the contractor's estimate, the project engineer's estimate and any subsequent negotiations that take place to arrive at contract costs for change orders.

Change Order Documentation

Must include in project files independent engineer's estimate, contractor's proposal, and any subsequent negotiations for change order items that do not use the competitive bid price

National Review Team Finding Certifications

- Proper certifications need to be in place for the sign posts.

This was a project-specific finding. Proper certifications need to be in place for all applicable materials.

National Review Team Finding Materials Testing

- Proper material testing frequency must occur on federal-aid projects in accordance with the LPA manual.

If material testing frequency is not spelled out in the contract documents (either by the standard specifications, job special provision, or otherwise), then use the defaults in the LPA portion of the EPG.

Materials Testing

Files must document consequence/follow-up of failed tests

Testing intervals specified in contract documents or EPG must be adhered to

National Review Team Finding DBE Utilization Form

- The utilization form for Disadvantaged Business Enterprises (DBEs) should have sufficient information to identify exactly what work the DBE is performing and whether they are a supplier.

DBE suppliers (for example, a DBE firm hauling liquid asphalt to the bituminous plant) only credit the DBE goal for the project at 60% of the value of the material supplied.

National Review Team Finding Buy America

- Buy America
 - All iron and steel must be produced domestically
 - Manufacturers' certifications must be available
 - Non-compliance makes entire project ineligible

Buy America

Must have manufacturer's certification (mill certs) in project files – preferably on jobsite

Distribute handouts (Buy America tri-fold inspector's guide – also on MoDOT LPA website)

Buy America

◆ Applies to all Federal-aid projects

- Not to be confused with Buy American
- 23C.F.R. 635.410
- Applies to Iron and Steel (Including Stainless Steel)
- Applies to All Coatings (Epoxy, Galvanize or Paint)
Does not apply to Aluminum, Bronze or Brass

Very High Risk Area

100% Loss of Funds or Removal of Products

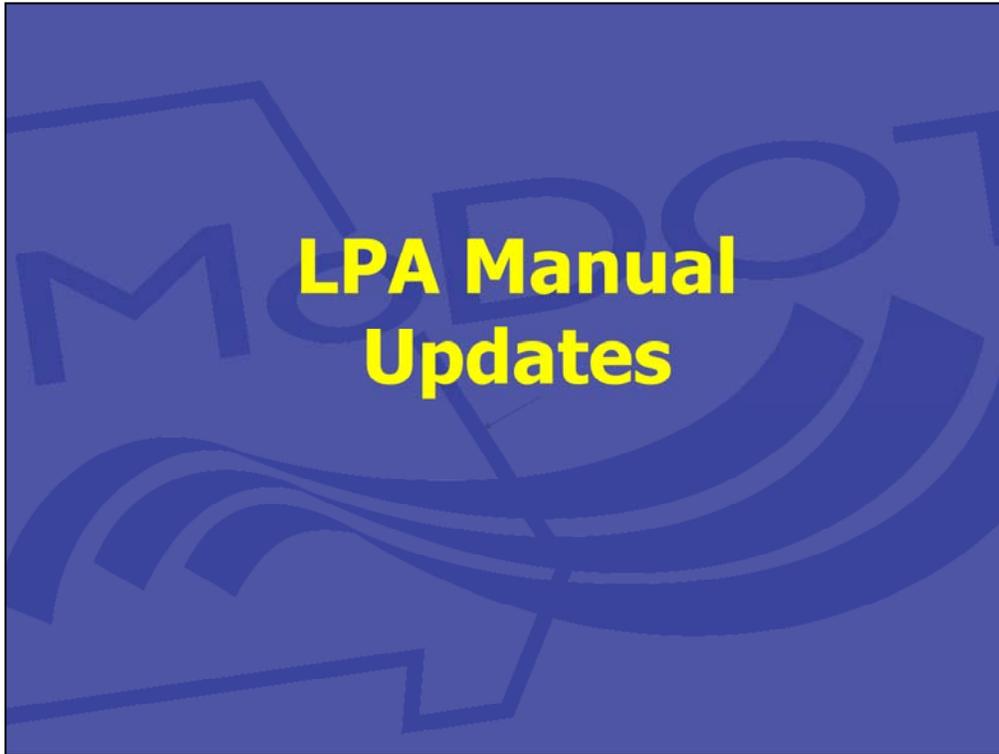
Missouri Department of
Transportation, November 2010

52

Buy America

Must have manufacturer's certification (mill certs) in project files – preferably on jobsite

Distribute handouts (Buy America tri-fold inspector's guide – also on MoDOT LPA website)



The LPA Manual is now housed in section 136 of MoDOT's Engineering Policy Guide (EPG)

LPA Manual Updates

Reasonable Progress Policy

Section amended: 136.1.2.1

Change: The maximum time allowed to bring an LPA project from funds allocation to construction contract award was reduced from 42 to 23 months. The rest of the section remains unchanged, including the following:

- The time frames shown represent maximum expected times for implementation approvals and concurrences.
- Schedules will vary depending on project type.
- Actual progress toward implementation will be measured against the schedule submitted by the entity.

LPA Manual Updates

Reasonable Progress Policy

Project Development/Implementation Schedule				
	Phase	Original Time Frame (Before Update)	Maximum Cumulative Time Frame (Current Standards)	Funds Obligated?
1	Allocation of Funds	0 months	0 months	No
2	Project Programming ¹	12 months	3 months	No
3	Engineering Services Contract Approval	15 months	6 months	Yes
4	Preliminary and Right of Way Plans Submittal (if applicable)	24 months	12 months	Yes
5	Plans, Specifications & Estimate (PS & E) Submittal	34 months	18 months	No
6	Plans, Specifications & Estimate (PS & E) Approval	36 months	20 months	Yes
7	Construction Contract Award	42 months	23 months	Modified
8	Final Certification/Project Closeout ²	60-72 months	Variable	Modified (as needed)
¹ The completion of the Project Programming phase is defined by submitting the approved project's programming data form to MoDOT and the project receiving a federal project number from MoDOT.				
² The time lapse between construction contract award and project closeout will depend on project type. Final certifications as discussed in EPG 136.9 Final Design must be submitted				

LPA Manual Updates:

Bridge Soft Match Credit Program – Request for Credit Submittal

Section amended: 136.2.6

Change: Final inspection must be performed by a team leader certified inspector.

LPA Manual Updates: Bridge Soft Match Credit Program – Request for Credit Submittal

Now it says:

#8. After the construction of the bridge has been completed, a final "walk-through" inspection of the bridge has to be completed by MoDOT. This final inspection has to be completed by someone in the district that has been Team Leader certified for non-state bridge inspections.

**LPA Manual Updates:
Bridge Soft Match Credit Program – Request for
Credit Submittal**

Section amended: 136.2.6

Change: The term "noncontroversial" was clarified.

LPA Manual Updates:

Bridge Soft Match Credit Program – Request for Credit Submittal

Section amended: 136.2.6

Change: Now it says,

#4. A certification by the local agency stating that the project is non-controversial. For the purposes of the bridge credit program, "non-controversial" will be defined as meaning that the project does not have a history of litigation, disputes, negative media reports or any other controversy.

LPA Manual Updates: Consultant Solicitation and Selection

Section amended: 136.6.2

Change: Manual was revised to ensure compliance with the Brooks Act. The selection criteria listed in Figure 136.6.2 must be included in the consultant selection rating process.

**LPA Manual Updates:
EPG 136.6 - Consultant Selection Criteria**

Section amended: 136.6.2

Change: Updated Fig 136.6.2 consultant Selection Criteria
(see update)

LPA Manual Updates: E-Verify

Section amended: 136.6.2

Change: The LPA must verify that firms submitting letters of interest to the solicitation participate in the Federal Work Authorization Program, E-Verify. The state statute requires firms to include an Affidavit of Compliance and a copy of the E-Verify MOU with their letter of interest.

<http://ago.mo.gov/faqs/unauthorized-alien-workers.htm>

MoDOT Contact: Sandy Riley
573- 522-2002

LPA Manual Updates

Retainage in Engineering Services Contracts

Section: 136.6.6

Change: Checklist item #18 (that allowed retainage) was removed to bring the LPA manual into compliance with existing MoDOT policy. #19 was renumbered as #18.

LPA Manual Updates: Engineer's Estimate

It USED TO SAY this: Subtotals shall be shown for roadway items, signals, lighting, signing, and bridges.

But NOW IT SAYS this: Subtotals shall be shown for roadway items, bridge, signing/striping/signals, landscaping/streetscaping, utilities (reimbursable with federal participation) and bicycle/pedestrian facilities.

LPA Manual Updates: Retainage

Section amended: 136.9.9.5

Change: Retainage guidance added. Contract Retainage
Guidance Gives LPA's options that comply with regulations
Does away with "up-front" percent retainage

LPA Manual Updates: Retainage

Retainage of contractor payment is not to be automatically applied to projects as a matter of course. However, the PS&E should clearly state that in accordance with the Missouri Prompt Pay Act (34.057 RSMo), the owner may withhold payment for any of the following reasons, or as determined by the engineer.

- Liquidated damages
- Unsatisfactory job
- Defective construction work or material not remedied
- Disputed work
- Failure to comply with any material provision of the contract

LPA Manual Updates: Retainage

Reasons for retainage continued:

- Third party claims filed or reasonable evidence that a claim will be filed
- Failure to make timely payments for labor, equipment or materials
- Damage to a contractor, subcontractor or material supplier
- Reasonable evidence that a subcontractor or material supplier cannot be fully compensated under its contract with the contractor for the unpaid balance or the contract sum
- Citation by the enforcing authority for acts of the contractor or subcontractor which do not comply with any material provision of the contract and which result in a violation of any federal, state or local law regulation or ordinance applicable to that project causing additional costs or damages to the owner.

LPA Manual Updates: Construction Project Advertising

Section Amended: 136.10.11

Language Added:

Projects must be advertised once at least 21 days before the bid opening. This advertisement must be placed in a newspaper having a general circulation in the area of the project and must be advertised on MoDOT's "Projects to be Let by Others" website.

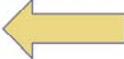
LPA Manual Updates Form 1273

- The FHWA 1273 contract provision link has been updated.
- <http://www.fhwa.dot.gov/programadmin/contracts/1273.pdf>

Form 1273

<http://epg.modot.mo.gov/index.php?title=136.14> Helpful Information and Links#136.14.3.1 Commonly Used Forms

136.14.3.1 Commonly Used Forms

- Bridge Inventory Survey Form
- DBE Submittal Forms
- Disadvantaged Business Enterprise Program Requirements for Local Programs
- On the Job Training Manual and Submittal Forms <#>
- [FHWA Form 1273 Required Contract Provisions <#>](#) 
- Utility Agreement - Actual Cost
- Utility Agreement - Lump Sum
- Notice to Proceed
- Daily Force Account Record-Equipment Rental Account/Materials Account
- Daily Force Account Record-Labor Account
- Force Account Record - Cost Summary
- Sample Timesheet
- Construction Contract Calls for Bid
- Awarded Construction Contracts
- Local Project Checklist

136.14.3.2 Examples of Completed Forms

- Form CE-2 Example
- Utility Lump Sum Estimate Example
- Utility Actual Cost Estimate Example
- Sample Utilities Status Letter
- Sample Job Special Provisions for Utilities
- Sample Utility Agreement - Lump Sum
- Sample Utility Agreement - Actual Cost
- Bridge Slab Pour Checklist & Pre-Pour Meeting Topics

**REQUIRED CONTRACT PROVISIONS
FEDERAL-AID CONSTRUCTION CONTRACTS**

	Page
I. General	1
II. Nondiscrimination	1
III. Nonsegregated Facilities	3
IV. Payment of Predetermined Minimum Wage	3
V. Statements and Payrolls	5
VI. Record of Materials, Supplies, and Labor	5
VII. Subletting or Assigning the Contract	5
VIII. Safety, Accident Prevention	6
IX. False Statements Concerning Highway Projects	6
X. Implementation of Clean Air Act and Federal Water Pollution Control Act	6
XI. Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion	6
XII. Certification Regarding Use of Contract Funds for Lobbying	8

related subcontracts of \$10,000 or more.)

1. Equal Employment Opportunity: Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630 and 41 CFR 60) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the contractor's project activities under this contract. The Equal Opportunity Construction Contract Specifications set forth under 41 CFR 60-4.3 and the provisions of the American Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 29 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

a. The contractor will work with the State highway agency (SHA) and the Federal Government in carrying out EEO obligations and in their review of his/her activities under the contract.

b. The contractor will accept as his operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, preapprenticeship, and/or on-the-job training."

2. EEO Officer: The contractor will designate and make known to the SHA contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active contractor program of EEO and who must be assigned adequate authority and responsibility to do so.

3. Dissemination of Policy: All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer.

b. All new supervisory or personnel office employees will be

ATTACHMENTS

A. Employment Preference for Appalachian Contracts (included in Appalachian contracts only)

I. GENERAL

1. These contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract.

2. Except as otherwise provided for in each section, the contractor shall insert in each subcontract all of the stipulations contained in these Required Contract Provisions, and further require their inclusion in any lower tier subcontract or purchase order that may in turn be made. The Required Contract Provisions shall not be incorporated by reference in any case. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with these Required Contract Provisions.

3. A breach of any of the stipulations contained in these Required Contract Provisions shall be sufficient grounds for termination of the contract.

4. A breach of the following clauses of the Required Contract Provisions may also be grounds for debarment as provided in 29 CFR 5.12:

- Section I, paragraph 2;
- Section IV, paragraphs 1, 2, 3, 4, and 7;
- Section V, paragraphs 1 and 2a through 2g.

5. Disputes arising out of the labor standards provisions of Section IV (except paragraph 5) and Section V of these Required Contract Provisions shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the

LPA Manual Updates: Change Order Documentation

Section amended 136.11.4

Change: Now it says,

The contract files and change order documentation should clearly indicate the contractor's estimate, the project engineer's estimate and any subsequent negotiations that take place to arrive at contract costs for change orders.

LPA Manual Updates

Technician Certification Program

Section amended: 136.11.9

New Section Added:

All technicians who perform, or are required by the FHWA to witness, such sampling and testing shall be deemed as qualified by virtue of successfully completing the requirements of 106.18 Technician Certification Program, for that specific technical area. They will be identified by a certification card issued by the certifying authority. The card will note the expiration date and each certification level. Any individual who has not been qualified is not eligible to perform these functions on federal aid projects.

LPA Manual Updates: Progress Invoices for Preliminary Engineering

Section: 136.12.1

Change: The following was removed: Progress payments for preliminary engineering will not be made until after the preliminary plans have been submitted.

LPA Manual Updates: Progress Invoice Sample Form

A form resembling this sample must be used when submitting all invoices.

County Name:			
Street:			
City		State	Zip Code

Project Number		Progress Invoice No.	9
Bridge Number			
Location			
Consultant			
Contractor			

			Amount
Preliminary Engineering	Contract Maximum		
Design Costs to Date			
Survey			
Survey			
Total	\$0.00		\$0.00
Construction Engineering	Contract Maximum		
Costs to date			\$0.00
Construction			
Contractor Estimate			
Change Order			
Total	\$0.00		\$0.00
Work by Local Forces			\$0.00
Other Costs			
Right of Way Costs	\$0.00		
Legal Costs	\$0.00		
Utility Adjustments	\$0.00		
Advertising	\$0.00		
Other	\$0.00		
Total	\$0.00		\$0.00
Total Costs to Date			\$0.00

Consultant Prequalification

- Financial prequalification
- Federal compliance issue
- Notification of consultants
- MoDOT Contact:

Sandy Riley
573-522-2002

Prime and Sub Consultant Certification

- FHWA presented an order dated October 27, 2010
- Order requires consultant and contractor certification of the costs used to establish indirect cost rate for application to Federal-aid engineering and design-related services contracts.
- The requirement applies to all prime and sub-consultants.
- Date of implementation is January 1, 2011

LPA Website

- New updates
- Forms
- Good reference tool
- <http://www.modot.mo.gov/business/manuals/localpublicagency.htm>

LPA Website: Location

- 1) Go to MoDOT's main web site:
<http://www.modot.mo.gov/>
- 2) At the bottom of the page are several boxes, choose the red box titled "Local Public Agency"



LPA Website: Location

- 3) Clicking on the red box will take you to the new LPA main site:

<http://www.modot.mo.gov/business/manuals/localpublicagency.htm>

- 4) Additional links on the page take you to the following:

EPG Local Policy Section
Local Program definitions
Contacts
Forms
FAQs

Local Public Agency, LPA - Internet Explorer provided by MoDOT
 http://www.modot.mo.gov/business/manuals/localpublicagency.htm

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 Missouri Department of Transportation

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Our mission is to provide a world-class transportation experience that delights our customers and promotes a prosperous Missouri.

HOME >> BUSINESS >> MANUALS >> LOCAL PUBLIC AGENCY, LPA.

Local Public Agency, LPA:

MoDOT and Local Programs Annual Financial Pre-Qualification Process:

- Annual Financial Pre-Qualification Cover Letter (pdf, 80 kB, 2 pages)
- Annual Financial Pre-Qualification Process (pdf, 70 kB, 2 pages)

Technician Certification:

- LPA Policy Manual section 136.11.9 Materials Testing.
- Contact Information:
 - Jeff Huffman
 Senior Materials Specialist
 Technician Certification Program
 Construction & Materials
 Phone: 373-522-2742
 Fax: 373-526-0857
 Jeffrev.Huffman@modot.mo.gov
- Program Information Handout (pdf, 22 kB, 1 page)

Forms:

- Form 1590, Executive Compensation, DUNS Number and CCR Registration (xls, 47 kB, 1 sheet)
- EPG Helpful Information and Links.

Local Programs provide federal funding to cities and counties for their transportation improvements. Please refer to Local Public Agency in MoDOT's policy guide, for more information on utilizing federal funding through several programs.

Transportation Enhancements (TE)
 This program provides funding through a competitive selection process for transportation related activities other than routine highway and bridge construction. For program details and project examples, click on your area below to access the TE Guide.

Contacts:

- Andy Mueller, PE:**
 LPA Program Administrator.
 andrew.mueller@modot.mo.gov
 Phone: 417-895-7685
- More contacts.

Project Bid Opening Information

Career Opportunities

ONLINE Plans Room

Contact Us
 1-888-ASK-MODOT
 816-381-1201, ext. 4100

Request a Highway Map FREE!

Express Lane
 Missouri's Expressway

Motor Carrier Services

Certification Form

- 3) Clicking on the red box will take you to the new LPA main site:

<http://www.modot.mo.gov/business/manuals/localpublicagency.htm>

- 4) In the upper left hand corner is the Annual Prequalification Process for Consultants
- 5) See the Certification Form and the FHWA Order
- 6) Keep the form in the project file for FHWA review.

Our mission is to provide a world-class transportation experience that delights our customers and promotes a prosperous Missouri.

- Home
- About
- Business
- Bidding & Contracting
- Plans & Projects
- Safety
- Services
- Other Transportation
- News & Information
- E-Update
- Project Bid Opening Information

HOME >> BUSINESS >> MANUALS >> LOCAL PUBLIC AGENCY, LPA.

Local Public Agency, LPA:

Annual Financial Pre-Qualification Process for Consultants:

- **Mandatory Implementation 2011:**
 - Memorandum and Order (pdf, 14 pages)
 - Management Representation and Certification form (pdf, 1 page)
- Annual Financial Pre-Qualification Cover Letter (pdf, 30 KB, 2 pages)
- Annual Financial Pre-Qualification Process (pdf, 70 KB, 2 pages)

Technician Certification:

- LPA Policy Manual section 136.11.9 Materials Testing

Forms:

- Form 1590, Executive Compensation, DUNS Number and CCR Registration (xls, 41 KB, 1 sheet)
- Commonly Used Forms:

... provide federal funding to cities and counties for their improvements. Please refer to Local Public Agency in MoDOT's policy guide, for more information on utilizing federal funding through several programs.

Transportation Enhancements (TE)
This program provides funding through a competitive selection process for transportation related activities other than routine highway and bridge construction. For program details and project examples, click on your area below to access the TE Guide.



DBE Form: Location

- 1) From the main MoDOT website, click on red link <http://www.modot.mo.gov/business/manuals/localpublicagency.htm>
- 2) Click on Commonly Used Forms

HOME >> BUSINESS >> MANUALS >> LOCAL PUBLIC AGENCY, LPA.

Local Public Agency, LPA:

MoDOT and Local Programs Annual Financial Pre-Qualification Process:

- Annual Financial Pre-Qualification Cover Letter (pdf, 60 kB, 2 pages)
- Annual Financial Pre-Qualification Process (pdf, 70 kB, 1 sheet)

Technician Certification:

- LPA Policy Manual section 136.11.9 Materials Testing.
- Contact Information:
Jeff Huffman
Senior Materials Specialist
Technician Certification Program
Construction & Materials
Phone: 573-522-2742
Fax: 573-526-0857
Jeffrey.Huffman@modot.mo.gov
- Program Information Handout (pdf, 33 kB, 1 page)

Forms:

- Form 1590, Executive Compensation, DUNS Number and CCR Registration (xls, 41 KB, 1 sheet)
- Commonly Used Forms.

Local Programs provide federal funding to cities and counties for their transportation improvements. Please refer to Local Public Agency in MoDOT's policy guide, for more information on utilizing federal funding through several programs.

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<http://epg.modot.org/index.php?title=136.14> Helpful Information and Links#136.14.3.1 Commonly Used Forms

136.14.3 Other Helpful Information

- [Safe Routes To School \(SRTS\)](#) ⓘ
- [Scenic Byways](#) ⓘ
- [Local Public Agency Land Acquisition](#)
- [Frequently Asked Questions](#) ⓘ
- [AADT on MoDOT Routes](#) ⓘ
- [DBE Directory](#) ⓘ

136.14.3.1 Commonly Used Forms

[Bridge Inventory Survey Form](#)

[DBE Submittal Forms](#)

[Disadvantaged Business Enterprise Program Requirements for Local Programs](#)

[On the Job Training Manual and Submittal Forms](#) ⓘ

[FHWA Form 1273 Required Contract Provisions](#) ⓘ

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[Utility Agreement - Lump Sum](#)

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[Daily Force Account Record-Labor Account](#)

[Force Account Record - Cost Summary](#)

[Sample Timesheet](#)

[Construction Contract Calls for Bid](#)

[Awarded Construction Contracts](#)

[Local Project Checklist](#)



Technician Cert: Location

- 1) From the main MoDOT website, click on red link <http://www.modot.mo.gov/business/manuals/localpublicagency.htm>
- 2) See Technician Certification section

HOME >> BUSINESS >> MANUALS >> LOCAL PUBLIC AGENCY, LPA.

Local Public Agency, LPA:

MoDOT and Local Programs Annual Financial Pre-Qualification Process:

- [Annual Financial Pre-Qualification Cover Letter](#) (pdf, 80 kB, 2 pages)
- [Annual Financial Pre-Qualification Process](#) (pdf, 70 kB, 2 pages)

Technician Certification:

- [LPA Policy Manual section on Testing.](#)
- **Contact Information:**
Jeff Huffman
Senior Materials Specialist
Technician Certification Program
Construction & Materials
Phone: 573-522-2742
Fax: 573-526-0857
Jeffrey.Huffman@modot.mo.gov
- [Program Information Handout](#) (pdf, 33 kB, 1 page)

Forms:

- [Form 1590, Executive Compensation, DUNS Number and CCR Registration](#) (xls, 41 KB, 1 sheet)
- [Commonly Used Forms.](#)

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MoDOT

Click MoDOT symbol to return to this page.

[Home](#) [Registration](#) [PDH Certificates Now Available](#) [Contacts](#)
(Page 1 of 1)
(Rev. 07-21-08)

[Click here for details](#) [Go to the Bulletin Board for Details](#)

TECHNICIAN CERTIFICATION PROGRAM

How do I become certified?

- [Attend a certification course](#)
- [Reciprocity](#) (We may honor another certification)

What Certification Levels do I need?

- [Specifics about which tests are certified](#)

BULLETIN BOARD
Click Here for Information on Special Training Sessions And other recent changes to the TCP

Application to courses offered at Linn State should be submitted through their on-line application process at: <https://www.linnstate.edu/MoDOT/index.php>

Certification cards for the 09-10 season have been mailed. If you haven't received your card, please contact me or submit a request for a replacement. (Figure 3)

Course Calendar-----[Calendar](#)
 Application for MoDOT Technician Certification Program-----[Figure 1](#)
 Certification Levels – Course Content-----[Figure 2](#)
 Request for Replacement Card-----[Figure 3](#)
 Technician Certification Manuals-----[Manuals](#)
 Instructions for Reciprocity-----[Reciprocity](#)
 Technician Certification Status-----[Status Report](#)
 Math Topics-----[Math](#)
 Course Locations-----[Locations](#)
 Technician Certification Program Policy-----[Policy](#)
 Instructions for Intern Registration-----[Interns](#)

For additional information please contact:

Check [Figure 2](#) for Certification Courses and the Test Methods they contain!

See all Courses Available.

QA available at links in document

Handouts.

In many cases we already honor other state's certifications and other similar certifications. However, you must contact MoDOT to begin the process and actually receive the MoDOT Technician Certification card.

If they need to sign up for courses, they are available throughout the winter months. The courses do fill up quickly but Linn Tech will add courses as needed. Don't miss the early courses and sign up now.

Only the certifications applicable to the current project are required.

EPG Manual: Location

- 1) From the main MoDOT website, click on red link <http://www.modot.mo.gov/business/manuals/localpublicagency.htm>
- 2) See bottom of page on the LPA website
- 3) Choose the EPG 136 Chapter or individual Section links.

Local Public Agency Policy Articles:

EPG 136	Local Public Agency Policy
EPG 136.1	General
EPG 136.2	Bridge Soft Match Credit Program
EPG 136.3	Project Selection and Programming
EPG 136.4	Environmental and Cultural Requirements
EPG 136.5	Agreements
EPG 136.6	Consultant Contracts
EPG 136.7	Right of Way and Public Hearings
EPG 136.8	Preliminary Design
EPG 136.9	Final Design
EPG 136.10	Construction Authorization and Letting
EPG 136.11	Local Public Agency Construction
EPG 136.12	Reimbursement and Auditing
EPG 136.13	Glossary
EPG 136.14	Helpful Information and Links
EPG 136.14.1	Local Programs
EPG 136.14.2	Other Helpful Information
EPG 136.14.2.1	Commonly Used Forms
EPG 136.14.2.2	Examples of Completed Forms
EPG 136.14.3	Links to Other Resources

Other helpful information such as a printable version of the January 2010 LPA Information and Links.

<http://epg.modot.org/index.php?title=Category:136 Local Public Agency %28LPA%29 Policy>

Category:136 Local Public Agency (LPA) Policy

Local Public Agency

The Local Public Agency (LPA) Policy, produced by the Missouri Department of Transportation (MoDOT) is intended to be used as a guide for cities and counties that sponsor projects utilizing federal transportation funds provided under the current transportation bill, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU). The local agency may reference MoDOT's Standard Specifications for Highway Construction for issues not addressed in the LPA. The LPA addresses five local programs that are funded under the current transportation act:

- Highway Bridge program (HBP)
 - Off-System Bridge Replacement and Rehabilitation Program (BRO)
 - On-System Bridge Replacement and Rehabilitation Program (BRM)
- Surface Transportation Program (STP): Urban
 - STP Urban Attributable
 - STP Urban Non-Attributable
- Surface Transportation Program (STP): Enhancement
- Congestion Mitigation and Air Quality (CMAQ)
- Safe Routes to School

Title 23, as amended by SAFETEA-LU requires MoDOT to administer all funds apportioned and allocated to the state under this transportation act. SAFETEA-LU directs that certain percentages of funding categories within the state's apportionment must be sub-allocated towards the Off-System Bridge Replacement and Rehabilitation Program (BRO), the STP Urban Attributable Program, the STP - Enhancement Program, the Congestion Mitigation and Air Quality Program and Safe Routes to School. For projects administered by local officials, the state will furnish information concerning the necessary federal requirements and will act as coordinator. The necessary design, acquisition, environmental, historical and archaeological clearances and approvals, construction and maintenance of improvements will be the responsibility of the local agency. A MoDOT district representative will be the primary contact, furnish the necessary guidelines and coordinate the necessary reviews and approvals. MoDOT personnel will advise and assist the local agency in meeting the requirements of the program. Additional information regarding federal requirements is available through the MoDOT district representative.

Recent Changes to LPA Policy
MoDOT District & Central Office Information

Printable Version of EPG 136 LPA Policy
Local Public Agency Policy (as of early Aug. 2010)

EPG 136 LPA Policy presents the very latest LPA information and this Word file may be helpful for those wanting to easily print the LPA information.

Local Public Agency Land Acquisition
Specific detailed procedures concerning the acquisition of land for road and bridge improvement projects administered by a local public agency are contained in EPG 236.18 Local Public Agency Land Acquisition.

Check this often to stay current on recent LPA Policy changes.

There have been revisions since this presentation was developed on November 2, 2010.

What's Next?

- MoDOT and sponsors working closer to deliver improvements for our customers.