

## **FEDERAL AID TO LOCAL AGENCIES**

**Jim Miller, P.E.**

**Urban Design Engineer**

**Roadway Design Division**

**(402) 479-4442**

**jamesmiller@dor.state.ne.us**

### **Presentation Overview**

- Federal-Aid Eligibility/Types

- Project Initiation

- Consultant Selection

- Project Development

- Plans, Specifications and Estimates (PS&E)

- Construction & CE

- The Reimbursement Program

- Project Close-out

### **FEDERAL-AID ELIGIBILITY/TYPES**

#### **Federal-Aid Eligibility**

- Funds are authorized by Congress for several years under a single law, but are apportioned annually for a single year to the State. The State then allocates the STP funds to all Counties and First Class Cities. The LPA receives their apportionment on or about October 1 of each year.

- The new Highway Act - SAFETEA-LU (Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users) runs through FY2009. SAFETEA-LU provides added resources for Safety and Bridge projects.

- Federal Funds are typically available to finance up to 80% of eligible project costs.

- Only certain roads in the urban and rural systems are eligible for federal funding.

Roads must have a functional classification of collector or higher

#### **Funding Types**

- Federal Hazard Elimination (Safety) Funds are considered when locations constitute a danger to vehicles or pedestrians as shown by frequency of accidents. The Nebraska Department of Roads (NDOR) Safety Committee will perform a Cost/Benefit Analysis and assess the improvements to determine if the project will be eligible for these Safety Funds.

#### **Other Federal Funding**

- STP-Enhancement funds gives the LPA an opportunity to plan and develop the intermodal transportation system. Enhancement funds can be used on projects such as: facilities for pedestrians and bicycles, scenic or historic highways, highway landscaping, historic preservation and preservation of abandoned railroad corridors. Jim Pearson is the Enhancement Program Manager at NDOR. Jim can be reached at 402-479-4881.

### **PROJECT INITIATION**

#### **Project Initiation**

- STP funding is programmed by completion of a Highway Improvement Programming Request. An authorized representative of the LPA must complete and sign the form and submit it to the NDOR.
- It is important to be sure that the project description, schedule, estimated costs, and the environmental section of the programming form are completed as accurately as possible.
- These sections will be utilized to determine project funding, eligible workphases, and environmental classification.

## **Project Initiation**

### **LPA/STATE PROGRAM AGREEMENT**

- NDOR will prepare a LPA/State program agreement that is to be executed by both parties.
- The program agreement details the requirements that the LPA must follow in order to maintain Federal participation.
- The program agreement also lists the amount of funding, funding type, funding split, eligible workphases, and scope of project.
- No work can be completed on the project until the State has signed the agreement and has offered the LPA a Notice-to-Proceed.

### **CONSULTANT SELECTION**

#### **Consultant Selection**

- If the consultant engineering fee is estimated to be over \$40,000 the LPA must complete the Qualification Based Selection Process (QBS).
- If the consultant engineering fee is estimated to be under \$40,000 the contract is considered a “small purchase” and the LPA must complete the Small Purchase Procedure Process. (New requirement)

#### **Consultant Selection**

##### **QBS Process (> \$40,000)**

- Solicitation must include a public announcement or advertisement. In addition, an RFP can be submitted to qualified firms.
- Analysis & Selection – Every consultant submittal shall be evaluated and ranked using qualifications based criteria in accordance with State and Federal requirements.

#### **Consultant Selection**

##### **Small Purchase (< \$40,000)**

- The LPA must solicit proposals in a competitive manner by either public notice/advertisement or sending an RFP to a minimum of three qualified firms.
- Analysis & Selection – Every consultant submittal shall be evaluated and ranked using either qualifications based criteria, consultant fee proposal or a combination of both in accordance with State and Federal requirements.

#### **Consultant Selection**

##### **LPA/Consultant Agreement**

- Upon completion of the selection and negotiation process, the LPA must enter into a contract with the consultant using a “standard” NDOR agreement.

■ This agreement must consist of the following information and will be approved by NDOR prior to signatures being obtained:

- Complete scope of services.
- Fee schedule (Fixed Fee or Lump Sum).
- Completed Conflict of Interest (COI) form.

## **Consultant Selection**

### **City/Consultant Agreement**

- After the Engineering agreement has been signed by the State, NDOR will issue a Notice-to-Proceed (NTP) to the LPA allowing the consultant to proceed with the engineering services.
- After the LPA has received the NTP, they in return, may offer the consultant a NTP to begin work. The LPA shall send a copy of this letter to NDOR.
- Any engineering work performed prior to this (NTP) will **NOT** be eligible for Federal Reimbursement.

## **PROJECT DEVELOPEMENT**

### **Project Development**

#### **Environmental**

- The environmental phase of a project should begin as early as possible in the design process.
- All Federal-aid projects must be in compliance with the National Environmental Policy Act (NEPA). Each project will be issued an environmental classification. Each class requires a different level of documentation. The environmental study and determination must be reviewed and approved by the Federal Highway Administration (FHWA) before Right-of-Way appraisals and property acquisition can take place.
- Leonard Sand is the LPA's primary contact to coordinate the NEPA process. Len can be contacted at 402-479-4411.

### **Project Development**

#### **Environmental**

- Environmental Classifications
- Class 1 – Environmental Impact Statement (EIS)  
Projects that significantly affect the environment. An EIS will include a study and a list of alternatives which would avoid or minimize adverse impacts.
- Class 2 – Categorical Exclusions (CE)  
An action that does not involve significant environmental impacts.
- Class 3 – Environmental Assessment (EA)  
Where further studies will determine the significance of the impact.

### **Project Development**

#### **Environmental**

- Nebraska State Historic Preservation Office (SHPO). All Federal Aid projects must be reviewed and studied for impacts on historical property, buildings and structures. The LPA is to submit this document to SHPO for their approval. SHPO will respond with a letter indicated if they agree with the LPA's findings and if further action is needed.

- Public Lands – A section 4(f) statement must be prepared by the LPA to document the affects of public parks and recreational areas being impacted. A review must be conducted on all federal-aid projects to see if these public lands will be impacted.

### **Project Development**

#### **Environmental**

- Additional Impacts and Documentation
- Storm Water Runoff – Permit needed from the Dept. of Environmental Quality. (Greater than 1 acre)
- Waterways – 401 & 404 permits if stream channels or wetlands are impacted.
- Wetland Evaluation/Delineation.
- Noise – NDOR Noise Analysis & Abatement Policy.
- Air – NDOR Air Quality Analysis.
- Threatened & Endangered Species – must be coordinated through the Fish & Wildlife Service.

### **Project Development**

#### **Right-of-Way**

- Right-of-Way (ROW) acquisition activities cannot begin until the environmental documentation has been submitted and approved for your project.
- All ROW acquisition must be in conformance with all rules under Title 3 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act.

### **Project Development**

#### **Right-of-Way**

- Uniform Act – To provide for uniform and equitable land acquisition policies for Federal and federally assisted programs. Also, to provide for uniform and equitable treatment of persons displaced from their homes, businesses, or farms by Federal and federally assisted programs.
- Failure to meet the requirements will result in the loss of Federal funding for the entire project.

### **Project Development**

#### **Right-of-Way**

- Before beginning any ROW acquisition activities (including appraisals), the LPA must submit a set of ROW plans and legal descriptions to NDOR for review and approval. Upon this approval, NDOR will offer the LPA a Notice-to-Proceed to begin with ROW activities.
- A public hearing must be held for every project where significant ROW will be taken.
- The LPA must submit sufficient documentation for the acquired tracts to NDOR to assure ROW acquisition according to State and Federal regulations.
- A ROW Certificate must be filed with NDOR and approved before a project can go to letting. This certificate certifies that all ROW has been acquired and paid for in accordance with the Uniform Act and that the project is clear and ready for construction.

### **Project Development**

#### **Design**

- The LPA or their consultant must follow all the necessary steps to meet federal requirements for design of a project.
- These standards must be complied with during design:
  - Minimum Design Standards of the Board of Public Roads Classifications and Standards.
  - ADA (Americans with Disabilities Act)
  - AASHTO Design policies. (design speed, typical sections, alignment, drainage, etc..)
  - Manual on Uniform Traffic Control Devices. (MUTCD)
  - Policy for Accommodating Utilities.

### **Project Development**

#### **Design**

##### **Project Plan-In-Hand (PIH)**

A PIH is a field inspection and/or meeting that takes place when the plans are approximately 30% complete. This inspection shall identify issues of concern and serve as a check of the progression of the project. A PIH must be held for every federal-aid project. NDOR must be invited to the PIH.

### **Project Development**

#### **Utilities**

- It is the LPA's responsibility to identify any adjustments that will need to be made. These rehabilitations or installations made within the project ROW must be in accordance with NDOR's Policy of Accommodating Utilities.
- LPA's are responsible for initiating and coordinating meetings to resolve any conflicts.
- Copies of all agreements, letters, estimates and miscellaneous correspondence must be submitted to NDOR.

### **Project Development**

#### **Railroad**

- When a railroad exists within the project limits, the LPA will be responsible for obtaining all easements, agreements, and insurance necessary to occupy the railroad's ROW.
- Copies of all documents including agreements must be sent to NDOR.

### **PLANS, SPECIFICATIONS AND ESTIMATES**

#### **(PS&E)**

#### **PS&E**

- Before a project can be advertised and hold a bid letting, the LPA must submit a Final PS&E package to NDOR. This package must include:
  - Final plans, specifications and bid documents
  - Engineer's Estimate
  - Any necessary permits
  - All third party agreements
  - Status of Utilities Report
  - Any other documentation not previously submitted (ROW Certificate, environmental documentation, etc.)
- The review and approval of this final package will take approximately 3 weeks.

## **PS&E**

### **■ Bid Documents**

The bid proposal must contain all the appropriate requirements of a federally funded contract. The proposal must contain the following documents:

- FHWA Form 1273
- Disadvantage Business Enterprise (DBE)
- Noncollusion Affidavit
- Drug Free Workplace Policy
- Davis Bacon Wage Rates
- Buy America Provision

### **Bid Evaluation & Approval**

■ Advertising for Bids - Projects approved for bidding must be advertised for a minimum of 21 days prior to the opening of bids.

■ Competitive Bidding- It is a federal requirement that a contract method based on competitive bidding must be used. All bids received must be in accordance with the terms of the advertisement and be publicly opened and announced.

■ After the LPA evaluation, the LPA selects the lowest responsive bidder and submit a request for concurrence to NDOR with the itemized bid tabulation. All applicable DBE forms must also be attached.

■ NDOR will review the selection, and if acceptable, will issue a written concurrence to the LPA.

## **CONSTRUCTION & CONSTRUCTION ENGINEERING (CE)**

### **Construction & CE**

- An LPA Project Manager must be assigned for every project.
- NDOR will assign a State Project Representative to every project to work with the LPA Project Manager to ensure procedures are followed.
- Pre-Construction Conference - As soon as the contract is awarded, the LPA or their consultant should arrange a pre-con meeting.
- Change Orders - Prior to construction, the LPA should have a policy for approval of change orders. To be eligible for Federal reimbursement, ALL change orders must be approved by the NDOR State Representative.

### **Construction & CE**

■ C.E. duties are the responsibility of the LPA. The quality of materials, testing methods, inspection, and safe working conditions must conform to the contract specifications and in compliance with federal requirements.

■ Project detours, signing and workzone traffic control must meet requirements set forth in the Manual on Uniform Traffic Control Devices (MUTCD).

## **THE REIMBURSEMENT PROGRAM**

### **Reimbursement Program**

■ Federal funding for STP projects are not disbursed as a grant. Instead, the contractor or consultant are paid by the LPA through monthly “progress estimates”. These progress estimates must be based on measurements of work performed so that the contractor or consultant can be fairly compensated.

■ The LPA is responsible for ensuring that all expenses submitted are eligible for federal participation. All requests must contain the proper documentation for each project phase which will be described in the next few slides.

### **Reimbursement Program**

■ To obtain approval, all requests for utility rehabilitation, construction and construction engineering must first be sent to the NDOR Project Representative for review and approval. The NDOR Project Representative will then forward the request to the Urban Off-System Coordinator for further review and processing.

■ Preliminary Engineering and Right-of-Way requests can be submitted directly to the Urban Off-System Coordinator.

■ Project Retention Amount - Project retention is a pre-specified percentage of project costs (5%) that is withheld from the LPA until the end of the project. The 5% retention is withheld to ensure proper close-out and execution of the construction work (just as the LPA will withhold a retention amount from the contractor).

### **PROJECT**

#### **CLOSE-OUT**

##### **Project Close-out**

■ The LPA is responsible for arranging a final inspection of the project with NDOR’s State Project Representative to determine if it has been completed according to the plans and specifications.

■ Upon project completion and acceptance, the LPA must complete and submit a Project Completion and Materials Certification (DR299) form to NDOR for approval. This form initiates NDOR’s project closeout process.

■ The LPA shall prepare and submit a copy of the as-built plans to NDOR.

##### **Project Close-out**

###### **■ Audit**

■ All federal aid projects are subject to audit upon completion.

■ The LPA will need to keep project records for a minimum of three years. The construction contract needs to be kept for a period of 10 years.

■ The final 5% retention will be paid to the LPA after the project audit (pending adjustments).

Note: Audits can take a while to complete, NDOR will do our best to expedite this process.

### **Questions?**