Chapter 1
Introduction

Purpose

The Local Agency Guidelines (LAG) manual is intended to help Montana's city and county governments plan, design, construct, and maintain transportation facilities. To assist local government agencies in accomplishing these goals, the manual describes the processes, documents, and approvals necessary to obtain Federal-aid funds to develop and construct local transportation projects.

The LAG manual is a compilation of information from many sources and is a reference source for administrative and field personnel in the local agency. The manual describes development requirements and also outlines procedures for obtaining approval when local conditions warrant departures from adopted standards.

Background

The LAG process was initially developed to provide Montana's three Metropolitan Planning areas the flexibility to administer federally funded projects on the Urban Highway System. The process, agreed to by MDT and the local agency representatives on January 25, 2002, was limited to:

- Montana's three Metropolitan Planning Areas– Billings, Great Falls, and Missoula
- The Urban Highway Program Projects (STP-Urban funds)
- Projects implemented by qualified local agencies on a cost reimbursement basis

The Transportation Assistance Program (TAP) Office within the Montana Department of Transportation's (MDT) Engineering Division was designated to assist local officials with any questions they might have regarding the manual.

LAG Update Process

The LAG manual may be updated as necessary in order to conform to changes regarding Federal-aid funding programs and eligibility requirements. Local agencies are required to comply with all applicable rules, laws, and regulations that may not be up to date in this manual.

The 2013 update to the LAG manual includes:

- An expansion of local government participation to include all city and county governments
- An expansion of project type to include but not limited to CMAQ, STP-Urban, Transportation Alternatives, and local road projects (using locally secured congressionally directed funds) as part of the LAG process
- The requirement of a Project Specific Agreement (PSA) and a risk management plan to address available resources and capacity for project implementation at the local agency level
- Adapting the certification process to be at project level to address a local agency's extent of project development participation
- Further clarification on the cost reimbursement timeframe to allow reimbursement after contract conditions for each project phase has been met
- Requiring certified local agencies to begin with smaller scoped federally funded projects to demonstrate their ability to administer more complex projects

Comments and suggestions for improvement of the manual are welcome. They should be directed to

MDT's LAG Certification Liaison who will forward them to the appropriate MDT staff where they will be considered in the next revision.

Reimbursement for Eligible Activities

Federal-aid funds will not become available until Project Specific Agreements (PSAs) are fully executed, MDT issues a letter of authorization, and all contract conditions have been complied with. Actual eligible expenses must be paid out of local agency funds until federal/state reimbursement occurs.

Local government agencies can choose to be reimbursed quarterly with either a 25% retainage option or obtaining a performance bond option as agreed to in the PSA and other appropriate agreement items established by MDT to limit MDT risk. Along with these options, MDT would need to make sure an inspector is available to oversee the project and have direct contact with the consultant, if a consultant is used. MDT will require error and omissions insurance from local government agencies if they provide the services.

Organization of the Manual

Using the glossary and the cross-references, readers should be able to find answers to most questions regarding procedural requirements for Federal-aid assisted transportation projects. The manual is organized to reflect the flow of a project through the major phases of development and to incorporate the differing administrative needs of different projects.

The manual is divided into four parts. Each part contains one or more chapters which describe the requirements for completing specific project development activities:

Chapter 1-5: Guidelines Overview -Describes the purpose and objective of this manual; the process for becoming certified to administer Federal-aid projects; procedures for coordinating local transportation programs; and provides an overview of the project development process and program administration requirements.

Chapters 1-5 Appendices include:

- A flow chart summarizing major activities required to develop a transportation project.
- A checklist of required approvals.
- A checklist of tasks necessary to complete various project phases.

Chapters 6-13: General Project Development Processes - Describes procedures which apply to all FHWA assisted transportation projects.

Chapter 14-18: Design - Describes design standards for obtaining design phase approvals which must be incorporated into local projects, preparation of contract documents, and contracting for construction.

Chapters 19-21: Construction and Post-Construction - Describes procedures for administering the project construction phase, describe procedures for closing out Federal-aid projects.

In each chapter, there is a general discussion section which gives background information, policy, and the rationale for the requirements. This is followed by a detailed description of requirements (procedures, documents, and approvals). In most cases, general discussion appears at the beginning of each chapter, while details of the process appear later in the chapters. Backup data, checklists, sample letters, and instructions for completing forms appear in appendixes to each chapter.

Chapter 2
Planning Requirements & Funding Programs

2.1 General Discussion

This chapter describes local and state planning processes and requirements, and presents the basic procedures for local agency participation.

Federal-aid funds may be used to pay project costs for preliminary engineering, right-of-way acquisition, and construction. However, Federal-aid funds may only be expended after authorization by MDT through FHWA. These funds cannot be used for lobbying efforts.

The planning process needs to be consistent with federal planning requirements of Title 23 USC 134/135.

Montana MPOs and local government agency officials are given project prioritization authority with final project approval by the Montana Transportation Commission for use of STP-Urban funds, CMAQ funds, Transportation Alternative funds, or discretionary funds (on the Urban System or local roads).

Local agencies inside MPOs are also required to comply with federal law for any projects they wish to do with federal funds. Project identification is generally accomplished separately for locally and federally funded projects with project inclusion in the MPO TIP for federally funded projects. Public involvement includes the MPO public comment processes. Reporting is accomplished through the submittal of the MPO TIP to MDT's Rail, Transit and Planning Division. That MPO TIP is then used to assemble the STIP.

MDT has primary responsibility for implementation of the STIP process. This cannot be accomplished without recognizing the requirements of all transportation providers in the MPO developing their various TIPs. MDT District Offices and MDT Project Analysis have critical roles in managing the process and funds.

2.2 Planning Requirements

At the state and federal levels, policies and procedures have been established to provide for area wide coordination of transportation programs. A project must meet various planning and NEPA requirements.

- For Metropolitan Planning Areas (within a MPO):
  - The Project or phases of the Project within the time horizon of the Long Range Transportation Plan (LRTP) must be included in the fiscally constrained LRTP, and other phases of the Project and the associated costs beyond the LRTP horizon must be referenced in the Plan.
  - The Project or phase of the Project must be in the MPO's fiscally constrained Transportation Improvement Program (TIP), which includes:
    - At least one subsequent Project phase or the description of the next Project phase.
    - All Federal-aid Projects or Project phases and non-federally funded, regionally significant projects that require a Federal action. [23 CFR § 450.324(d)]

- The Project or phase of the Project must be in the fiscally constrained Statewide Transportation Improvement Program (STIP), which includes:
  - If the completion of the Project is beyond the timeframe of the STIP, the STIP must contain at least one subsequent Project phase, or a description of the next Project phase for informational purposes.
  - All Federal-aid projects or project phases and non-federally funded, regionally significant projects that require a Federal action [23 CFR § 450.216(h)]
  - Full funding is reasonably available for the completion of all phase(s) of the Project. [23 CFR § 450.216(l)-(m)]
- Full funding is reasonably available for the completion of all the phase(s) of the Project within the time period anticipated for completion of the Project. [23 CFR § 450.324(h)-(i)]

- For Non-metropolitan Areas:
  - The Project must be consistent with the Long Range Statewide Transportation Plan (also referred to as TranPlan 21).
  - The Project or phase of the Project must be in the fiscally constrained STIP, which includes:
    - If the completion of the Project is beyond the timeframe of the STIP, the STIP must contain at least one subsequent Project phase, or a description of the next Project phase for informational purposes.
    - All Federal-aid projects or project phases and non-federally funded, regionally significant projects that require a Federal action [23 CFR § 450.216(h)]
    - Full funding is reasonably available for the completion of all phase(s) of the Project. [23 CFR § 450.216(l)-(m)]

Table 1 describes the fiscal constraint actions that must be in place before a final environmental decision is taken

Table 1. Fiscal Constraint Requirement before Approving the NEPA Decision

Before a Final Environmental Decision (ROD, FONSI, CE) is approved in:	Fiscal Constraint must be demonstrated by:
Metropolitan Areas	• Entire Project is in the LRTP • At least one subsequent phase of the Project is in the TIP (more if within TIP timeframe) • Full funding is reasonably available for the completion of the entire Project[5]
Non-Metropolitan Areas (Outside MPO)	• Project is consistent with TranPlan 21 • Project is consistent with local long range transportation plan (if one exists) • At least one subsequent phase of the Project is in the STIP (more if within STIP timeframe) • Full funding is reasonably available for the completion of the entire Project

2.3 Coordination with Planning Agencies

23 USC 134 and 135 require a continuing, cooperative and comprehensive transportation planning process. That process involves:

- MPO long-range transportation plans
- MPO Transportation Improvement Programs (TIP)
- A statewide long-range transportation plan
- A Statewide Transportation Improvement Program (STIP)

2.4 Statewide Transportation Improvement Program (STIP)

2.4.1 Development of the STIP:

- All MPO transportation improvement programs using Title 23 or Title 49 funds
- All federally funded multimodal transportation projects
- Involvement of:
  - Local agencies
  - State and Federal agencies
  - Tribal governments
  - Metropolitan Planning Organizations (MPOs)
  - MDT
  - Transit agencies
  - Citizens
  - other interested parties

2.4.2 Elements of the STIP:

The following are the basic required elements of the STIP, which must be approved by FHWA and the Federal Transit Administration (FTA):

- Identifies all proposed highway and transit projects in the state funded under Title 23 United States Code (USC) and the Federal Transit Act (Title 49 USC), including Federal Lands projects.
- Incorporates the metropolitan transportation improvement programs approved by the MPOs.
- In carbon monoxide, ozone, or PM-10 nonattainment areas, includes projects that conform with the State Implementation Plan (SIP).
- Maintains consistency with expected available funding.
- Identifies selection priorities developed with appropriate consultation and/or coordination with local jurisdictions, metropolitan planning organizations, and Federal Lands agencies.
- Contains all regionally significant transportation projects requiring FHWA or FTA approval, regardless of funding.
- Projects must be listed by funding source, phase, and federal fiscal year
- Must cover at least a 4-year period and be updated a minimum of every 4 years
- Meets the requirements of 23 USC 135(f), Statewide Planning, coordination with local jurisdictions, and review by FHWA.

As part of the STIP, each MPO TIP must:

- Be updated at least every 4 years and approved by the MPO and the Governor (or designee).
- List all projects, including pedestrian and bicycle transportation facilities, to be funded by Title 23 or Title 49 over a 4-year period.
- Projects must be listed by funding source, phase, and federal fiscal year
- Have reasonable opportunity for public comment prior to approval.
- Include a list of prioritized projects.
- Include a financial plan for implementing the projects that is also consistent with reasonable expectation of available funding.
- Have projects consistent with the MPO long-range plan.

Additionally, projects funded only with state or local sources may be included in the STIP. For consistency in planning and coordination of projects, agencies are encouraged to include all projects for which funding is secured.

2.4.3 STIP Processes and Responsibilities

The following timelines reflect the general processes and responsibilities reflected in state and federal law to achieve compliance with the list above. This is a very time consuming process. All steps noted are dependent upon other steps in the process.

STIP timelines are crucial in managing transportation funding. The times noted are based on reasonable time limits to perform the various functions. Adequate time must also be provided for the physical transmission of paper and data, as well as the discussions and analyses required at the various levels.

TIP Timeline:

- The TIP must be updated every four years or less. Since these updates can occur at any time during the four-year period, there are no set timelines for TIPs.
- Amendments to TIP as required.

STIP Timeline:

- The STIP is updated yearly with timelines as follows:

MONTH	TASK
JANUARY	• Distribute list of STIP projects and write-ups to districts/program managers for review and comment (give them 30 days to respond) • Touch base with Urban on TIPs
FEBRUARY/MARCH	• Responses due from districts & program managers • Prepare & print draft STIP
MARCH	• Post on Web • Mail letters with postcards announcing draft is available on-line. • Mail STIPs to public libraries • Distribute to administrative staff, FHWA, & FTA for comment and review • Publish CN projects in Newsline (also transit?)
APRIL	• Public involvement ends • Update and print final STIP • Final STIP to Lori (only needs district lists & agenda item – not booklet)

MAY	• Distribute final "draft" STIP to commissioners and administrative staff to review prior to meeting • Take STIP to Commission for approval • Federal approval of STIP • Distribute final STIP

- Amendments to STIP/TIP as required

2.5 Surface Transportation Program – Urban (STPU)

Statutes
Title 23, U.S.C. Section 133 and MCA 60-2-110,111,126,127,211

Program Purpose
The STPU Program provides financial resources to develop and construct improvements on the state designated urban highway system.

Funding
The STPU program is a sub-allocation of the larger Surface Transportation Program. This sub-allocation is authorized by state statute and approved annually by the Montana Transportation Commission. The allocation is based on a per capita distribution and is recalculated each decade following the census. The per capita distribution is based on the Urban Area population. The Federal share for this program is 86.58 percent with the State contributing 13.42 percent matching funds.

Program Eligibilities
Activities eligible under the STPU program include:

- Construction of new facilities
- Reconstruction, resurfacing, restoration and rehabilitation of existing facilities
- Operational improvements
- Bicycle facilities, pedestrian walkways, and carpool projects and programs; and
- These funds may also be transferred into transit capital at the discretion of the urban area.

Project Selection
The selection process in Montana's three MPO's (Billings, Great Falls, Missoula) is as follows:

- STPU project proposals must advance through the metropolitan planning process, come from an approved transportation plan and metropolitan TIP.
- Projects are selected on the designated Urban System by the MPO in cooperation with MDT from the approved plan and metropolitan TIP
- The project is reviewed by MDT staff to assure it is affordable and eligible for STPU funds and has met the appropriate planning and programming regulations
- The Montana Transportation Commission must approve the project. Historically, the Commission has approved all projects nominated by local governments if the projects met the program criteria.
- Projects must be included in the STIP or a STIP amendment.
- Projects must be included in the MPO's approved long-range transportation plan.

The selection process in non-metropolitan urban areas is as follows:

- Projects are selected on the designated Urban System by the local government officials in cooperation with MDT and be consistent with an approved long-range transportation plan (if available). For urban areas with technical advisory committees representing the city and county, the committee will nominate a project. For urban areas without an established technical committee, requests will need to come from both City Mayor and County Commissioner Chairperson.
- The project is reviewed by MDT staff to assure it is affordable and eligible for STPU funds and has met the appropriate planning and programming regulations
- The Montana Transportation Commission must approve the project.
- Projects must be included in the STIP or a STIP amendment.

2.6 Transportation Alternatives

Statutes

Title 23, U.S.C. Section 1122 (23 U.S.C. 213(b), 101(a-g)(29))

Program Purpose

The Transportation Alternatives Program (TAP) authorized under Section 1122 of MAP-21 (23 U.S.C. 213(b), 101(a)(29)) provides funding for programs and projects defined as transportation alternatives, including on- and off-road pedestrian and bicycle facilities, infrastructure projects for improving non-driver access to public transportation and enhanced mobility, community improvement activities, and environmental mitigation; recreational trail program projects; safe routes to school projects; and projects for the planning, design or construction of boulevards and other roadways largely in the right-of-way of former Interstate System routes or other divided highways.

Funding

The Federal share for this program is 86.58 percent with the State contributing 13.42 percent matching funds.

Program Eligibilities

Activities eligible under the TAP program include:

- Construction, planning, and design of on-road and off-road trail facilities for pedestrians, bicyclists, and other non-motorized forms of transportation, including sidewalks, bicycle infrastructure, pedestrian and bicycle signals, traffic calming techniques, lighting and other safety-related infrastructure, and transportation projects to achieve compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).
- Construction, planning, and design of infrastructure-related projects and systems that will provide safe routes for non-drivers, including children, older adults, and individuals with disabilities to access daily needs.
- Conversion and use of abandoned railroad corridors for trails for pedestrians, bicyclists, or other non-motorized transportation users.
- Construction of turnouts, overlooks, and viewing areas.
- Community improvement activities, including--
    1. inventory, control, or removal of outdoor advertising;
    2. historic preservation and rehabilitation of historic transportation facilities;
    3. vegetation management practices in transportation rights-of-way to improve roadway safety, prevent against invasive species, and provide erosion control; and

4. archaeological activities relating to impacts from implementation of a transportation project eligible under this title.

- Any environmental mitigation activity, including pollution prevention and pollution abatement activities and mitigation to--
    1. address storm water management, control, and water pollution prevention or abatement related to highway construction or due to highway runoff, including activities described in sections 133(b)(11), 328(a), and 329; or
    2. reduce vehicle-caused wildlife mortality or to restore and maintain connectivity among terrestrial or aquatic habitats.

Project Selection

Funds are awarded through a competitive application process. (This process is still in development.)

2.7 Congestion Mitigation and Air Quality Program (CMAQ)

Statutes

Title 23, U.S.C. Section 149

Program Purpose

The purpose of the CMAQ program is to fund transportation projects or programs that will contribute to attainment or maintenance of the national ambient air quality standards (NAAQS) for ozone, carbon monoxide (CO), and particulate matter (PM10, PM2.5). For the purposes of the LAG manual, only Missoula, Great Falls and Billings receive annual allocations of this funding and may pursue certification for these funds.

Funding

The CMAQ program is an individual category of federal funding annually allocated to the state. Of this funding, Montana receives a portion for Missoula which was designated as a non-attainment area for CO (now in maintenance). The Montana Transportation Commission has designated that Billings and Great Falls will receive the same amount of funding annually as Missoula to address air quality.

At the project level, the use of CMAQ funds is not constrained to a particular system (i.e. Primary, Urban, or NHS). Of the total received, 86.58% is federal and 13.42% is non-federal match. A requirement for the use of these funds is to estimate the reduction in pollutants resulting from implementing the program/project. These estimates are reported yearly to FHWA.

Project Selection

Projects in the MPO areas are prioritized through the MPO planning process, come from an approved metropolitan LRTP and metropolitan TIP. Projects must be included in the STIP or a STIP amendment.

Program Eligibilities

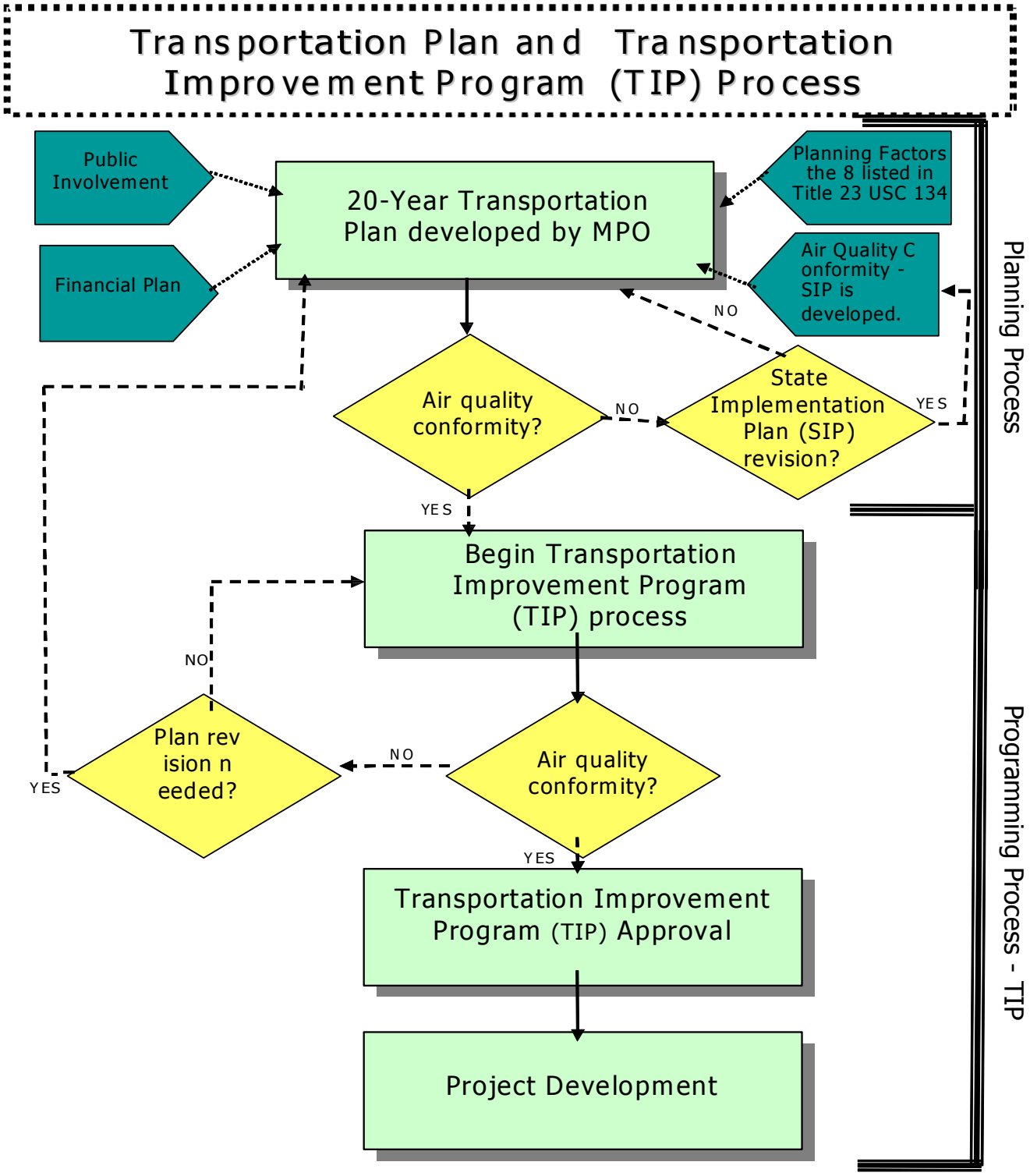
Activities eligible under the CMAQ program include:

- Traffic flow improvement projects
  MAP -21: "add turning lanes" and "through real-time" traffic information are now eligible federally. (SEC 1113 23 USC 149(b)(5))
- Signal synchronization,
- Transit improvements
- Travel demand management strategies

- Bike & pedestrian projects
- Air quality equipment purchase (sweepers, flush trucks, deicer applicators)

2.8 Appendix

Appendix 2.8.1 Transportation Plan and Transportation Improvement Program (TIP) Process



Chapter 3
Becoming Certified to Administer FHWA Projects

3.1 General Discussion

Certification Acceptance (CA) is a program in which the Federal Highway Administration (FHWA) delegates authority to the Montana Department of Transportation (MDT) for approving project development and construction administration. MDT has the option of delegating some or all of this authority, but not responsibility, to qualified local government agencies. This procedure permits a local government agency to retain more of the approval authority at the local level when developing Federal-aid assisted transportation projects. The CA program does not eliminate any project development procedures. CA authorizes agencies to develop, advertise, award, and manage their own projects which may result in time and money savings.

CA requires local government agencies to commit sufficient staff and other resources to project administration to ensure that all applicable state and federal requirements are met, and that the work can be accomplished efficiently. Certification will be made on a project level basis and not blanket certification. Local government agencies should begin with smaller scoped projects to demonstrate their ability to administer federally funded projects.

All projects will be implemented by CA local agencies on a cost reimbursement basis. Federal-aid funds will not become available until Project Specific Agreements (PSAs) are fully executed, MDT issues a letter of authorization, and all contract conditions have been met. Actual eligible expenses must be paid out of local agency funds until federal/state reimbursement occurs upon completion of the project or project phase as agreed to in the PSA and other appropriate agreement items established by MDT.

Local government agencies can choose to be reimbursed quarterly with either a 25% retainage option or issuance of a bond option as agreed to in the PSA and other appropriate agreement items established by MDT to limit MDT risk. Along with these options, MDT would need to make sure an MDT Project Manager is available to oversee the project and have direct contact with the consultant, if a consultant is used. MDT will require error and omissions insurance from local government agencies if they provide the services.

A CA local agency has the option of requesting that MDT administer any given project or phase.

3.2 Certification Acceptance Features

Programs eligible for CA include STP-U, CMAQ, TA, and local road projects using locally secured congressionally directed funds. A certified agency is the approving authority for the following project elements:

a. Location and design

b. Utility agreements

c. Railroad agreements

d. Standard consulting engineering agreements in accordance with MDT's approved

consultant design procedures

e. Public hearings, findings, and orders in accordance with MDT's approved public involvement procedures

f. Plans, specifications, and estimates

g. Tied bids

h. Advertisement and award of construction contracts

i. Construction administration, and

j. Construction material testing and testing personnel.

FHWA and MDT retain approval authority for the following:

a. Authorization of Federal-aid funds

b. Environmental requirements for NEPA and ESA (Endangered Species Act) Section 106 of the National Historic Preservation Act of 1966 and Section 4(f)

c. Right-of-way certification

d. Final Inspection

e. Equal employment opportunity programs

f. Disadvantaged Business Enterprise (DBE), and

g. Nonstandard Consultant Agreements, when applicable.

h. Advertising periods of less than three weeks only in rare cases and must have justification

3.3 Certification Acceptance Requirements

a. Projects must be administered in accordance with this manual

b. Projects must be administered by a Professional Civil Engineer registered in the state of Montana who is either on staff as a public employee or is a contract employee designated as the agency's Engineer.

c. The agency shall have sufficient expertise and capability to perform and supervise the design, environmental, PS&E, and construction-administration phases of the project.

d. The local agency must have designated an official approving authority for all MDT-delegated project approvals. This authority (e.g., agency executive or policy body) must officially approve each project step for which it is the approving authority, as identified in the agreement. Local agency must have a full-time employee of the agency in responsible charge of each federal-aid project, including those that employ consultants for design and

construction services.

3.4 Application for Certification Acceptance (CA)

Modified CA Status (Individual Project Approval): Modified CA status refers to the local agency having administration/approval authority limited:

1. To a specific project
2. To a specific project phase or phases

Approval to implement a project under Modified CA status will require submittal of a plan developed by the agency and approved based upon review by MDT. The project plan shall address how each of the following phases of the work will be performed:

1. Financing approvals - accounting/billing capabilities
2. Development of plans, specifications, and estimates
   a. Consultant involvement, selection, and monitoring
   b. Approval of contract documents
3. Advertising and award or use of local agency forces
4. Contractor or local agency monitoring and documentation, and
5. Final acceptance and records review.

A local agency seeking to operate under modified CA procedures must submit two copies of the Certification Acceptance Qualification Agreement and their Table of Organization to the MDT. A "Certification Acceptance Qualification Agreement" form is enclosed and is available through MDT. After receiving the CA Qualification Agreement, MDT will conduct a structured interview with the local agency administrators to determine whether the agency is capable of administering an FHWA-funded project. Areas of consideration will be a determination of past performance, current staffing, overall capability, and knowledge of FHWA and state requirements.

Based on the interview, the MDT will consider the following options on a case-by-case basis:

1. Permit full administration of the project by the local government agency;
2. Allow limited local agency administration on the project;
3. Allow local agency administration up to a maximum dollar limit;
4. Allow local agency administration of specific project phases (PE, IC, RW, CN or CE); or
5. Deny Certification Acceptance.

Probationary CA

Reduced delegation of authority of a CA agency to a project or phase of a project as the result of poor past performance as evidenced by either a PMR or Documentation Review. Continuation in a Probationary CA status, reinstating to Modified CA status, or complete removal of CA status will be reviewed on a project-by-project basis as evidenced by a PMR or Documentation review.

If MDT becomes aware of a significant issue during project development or implementation, MDT will conduct an investigation and develop a plan for successful completion of the project

that could include removing CA status of the local agency with MDT resuming oversight and approval authority through completion of the project and subsequent projects.

3.5 Certification Acceptance Compliance

MDT will consult and advise the CA agency concerning the project-management procedures to be followed. The level of this assistance will depend on the nature of each project and the demonstrated capabilities of the local agency. In addition, MDT will annually select projects for an in-depth procedural review as required by Internal Audit guidelines. Typical procedural review questions and documents to be examined during this review are listed in Chapter 21.

The local agency may lose CA status or be placed on probationary CA if problems are identified during project management reviews or documentation reviews by the MDT staff or:

- During an audit by a Federal, State or Local Auditor, or any audit conducted under the Single Audit Act.
- During final project inspections.
- If the qualifications and experience of the agency staff are significantly downgraded.

If a vacancy occurs in the positions described in the PSA as "Approving Authority," MDT must be notified and may schedule a meeting with the replacement to review qualifications.

The loss of CA status and reinstatement conditions will be outlined in a letter from the MDT LAG Certification Liaison.

3.6 Appendices

3.6.1 Certification Acceptance Qualification Agreement

3.6.2 Certification Acceptance Interview Form

Appendix 3.6.1 Certification Acceptance Qualification Agreement

AGENCY _____ AGENCY NO._____

The agency agrees to comply with the following requirements when developing all Federal Highway Administration (FHWA) projects under _____CA status:

1. Adherence to the Local Agency Guidelines and all policies and procedures promulgated by the Montana Department of Transportation (MDT) which accomplish the policies and objectives set forth in Title 23, U.S. Code, Highways, and the regulations issued pursuant thereto.

2. The overall approval authorities and conditions will be as follows:

   a. The designs and environmental documents will be reviewed and approved by the following state of Montana registered Professional Civil Engineer.

      _____
      Position Title Only

   b. The hearing's findings (if required) will be reviewed and approved by the following official or officials and conducted in accordance with MDT's approved procedures.

      _____
      Position Title or Titles Only

   c. The contract plans, specifications and estimate of cost will be reviewed and approved by the following state of Montana registered Professional Engineer.

      _____
      Position Title or Titles Only

   d. Agreements will be signed by the following responsible local official:

      (1) Railroad_____
      Position Title Only

      (2) Utility_____
      Position Title Only

      (3) Consultant _____
      Position Title Only

      (4) Technical Services _____
      Position Title Only

e. The award of contract will be signed by the following responsible local official.

_____
Position Title Only

f. The Local Agency and any consultant(s) and/or contractor(s) it may employ will design the project to MDT Geometric Design Standards for Urban and Developed Areas and to serve design year traffic.

g. The contract administration will be supervised by the following state of Montana registered Professional Civil Engineer who is an employee of the local agency.

_____
Position Title Only

h. Construction administration and material sampling and testing will be accomplished in accordance with the MDT Construction Manual and the Local Agency Guidelines.

3. The agency agrees that they have the means to provide adequate expertise and will have support staff available to perform the functions being sub-delegated. The support staff may include consultant or state services.

4. The agency agrees that the signature on each project prospectus and local agency agreement will be consistent with section 2 above.

5. The agency agrees that all projects implemented under Certification Acceptance shall be done on a cost reimbursement basis, and only federal-aid eligible project costs appropriately identified as STPU expenditures will be reimbursed by the State. Local government agencies can choose to be reimbursed quarterly with either a 25% retainage option or issuance of a bond option as agreed to in the PSA and other appropriate agreement items established by MDT to limit MDT risk.

6. All projects under Certification Acceptance shall be available for review by FHWA and the state at any time and all project documents shall be retained and available for inspection during the plan development and construction stages and for a three-year period following acceptance of the project by MDT.

7. Approval of the local agency certification by MDT may be rescinded at any time upon local agency request or if, in the opinion of MDT, it is necessary to do so. The rescission may be applied to all or part of the programs or projects approved in the local agency certification.

_____ _____
Mayor or Chairman Date

MONTANA DEPARTMENTOF TRANSPORTATION

Approved By:

_____ _____
(Insert Appropriate Staff) Date

Reviewed for Legal Content: _____ _____

Date

Appendix 3.6.2 Certification Acceptance Interview Form

Agency: _____ Date: _____

Interview Conducted By:

_____
_____
_____
_____
_____

Agency Representatives:

_____
_____
_____
_____
_____

Table of Organization
(Get copy from agency and review duties, requirements, and personnel currently in position.)

Function:	Position Responsible:
Transportation Planning Documents *Statewide Transportation Improvement Program (STIP), Long-range Plan (where applicable) & Metropolitan TIP (where applicable)	_____
Funding Plan	_____
Local Certification Coordinator	_____
PSA Authority	_____
Fiscal Management/& Accounting Controls	_____
Environmental Coordinator:	_____
Right of Way Coordinator	_____
Utility Coordinator	_____
Civil Rights Compliance	_____
Consultant Administration	_____
Project Design Management	_____
PS&E Approval	_____
Advertising and award	_____
Construction Project Manager	_____
Materials Inspecting and Testing	_____

Materials Certification _____

Final Change Order Approval _____

Construction Responsible Charge _____

Project Files _____

Consultants
For what areas does the agency expect to use consultants?

___Environmental
___Design
___PS&E Preparation
___Right-of-Way Appraisal
___Right-of-Way Yes_____ No_____ Negotiation
___Right-of-Way Yes _____ No_____ Relocation
___Construction Administration
___Construction Inspection
___Surveying
___Sampling and Testing

Does local agency have written procedures for the selection of consultants that are consistent with MDT's approved procedures? Yes ___No____

Comments:
_____
_____
_____
_____

If consultants are used, how will agency monitor and control the consultant's work?
_____
_____
_____

Remind agency that they will be in control of the consultant's work.

Right-of-Way
Does the agency have procedures approved by MDT for:

Right-of-Way Acquisitions

Relocation

Procedures for Ad, Award, and Execution of Contract

Position Responsible for:

Assembly of PS&E Package	
Approval to Advertise	
Award of Contract	
Execution of Contract	

General Questions about Administration
Who evaluates and approves design exceptions?

Describe accounting/ledger system:

Does the local agency have:
An acceptable accounting system and internal control policies;
Sufficient financial resources to complete the work on time;
Adequate and proper justification for the various rates, including federally approved Indirect Cost Rate charged to perform work and the respective cognizant agency;
The ability to track allowable and unallowable charges separately within their accounting system;
And knowledge of FHWA's cost eligibility and documentation requirements?

If consultants are used, does the local agency have:
A system to ensure the overhead rate of the consultant was calculated in accordance with FARs;
A review system to ensure invoices submitted by the consultant are in compliance with FARs and the contract.

Environmental Considerations:

Does the local agency understand that to comply with NEPA and MEPA, they must identify resources present in the area and fully assess potential for adverse social, economic, and environmental impacts? Does the agency have procedures approved by MDT to carry out the necessary analyses?

Does the local agency understand the necessary environmental permits and clearances that may be required for the project? (Clean Water Act 404, SPA 124, Construction General Permit for Stormwater, Biological Opinion, etc.)?

Does the local agency understand which permits need to be held solely by the contractor, jointly with the contractor, and solely by the agency?

Does the local agency environmental assessment team, at a minimum, have the following staff available for project development: an environmental engineer, a biologist, a historian/archaeologist?

Construction Administration
Who will verify payroll _____

Describe materials testing and approval process:

Describe change order review and approval process:

Describe processes for project diary and inspectors' daily work report keeping:

Who is responsible for tracking contract time assessment?

Describe processes used to track and pay for bid items:

Describe process for consent of subcontractors:

Describe process for managing and resolving contractor disputes and claims:

Who is responsible for the following components of the finalization process?
- Final Records
- Final Materials Certification
- Final Labor Certification
- Final Estimate
- Final Forms (e.g. Certification of Completion)

How will agency handle administration of more than one contract at the same time?

How will agency handle inspection of multiple operations of a project at the same time (e.g., traffic control, dirt work, electrical, paving, structure)?

How will agency respond if project engineer and/or inspector are unable to be on job site due to illness, etc.? Who will handle control of project if needed person cannot be there?

What are the procedures for the preconstruction conferences?

Who is responsible for ensuring permit requirements are being met?

Does Agency Have These Necessary Manuals & Publications?

Local Agency Guidelines	Yes No___
AASHTO — Policy on Geometric Design of Highways and Streets	Yes No___
MDT Construction Administration Manual	Yes No___
MDT Standard Specifications for Road & Bridge Construction	Yes No___
MDT Supplemental Specifications for Road & Bridge Construction	Yes No___
Item Master List	Yes No___
MUTCD	Yes No___
MDT Road Design Manual	Yes No___
MDT Detailed Drawings	Yes No___
MDT Utility Manual	Yes No___
FHWA Real Estate Acquisition Guide for Local Public Agencies	Yes No___
MDT Hydraulics Manual	Yes No___
MDT Materials & Testing Manual	Yes No___
MDT Geometric Design Standards	Yes No___
MDT Public Involvement Handbook	Yes No___
MDT Consultant Design Manual	Yes No___
FHWA Division Office Environmental Procedures	Yes No___
FHWA Project Development Book	Yes No___
NHI Course Manual - Contract Administration Core Curriculum	Yes No___
Montana Public Works Standard Specifications	Yes No___
MDT Right-of-Way Manual (2 volumes)	Yes No___
MDT CADD Standards Manual	Yes No___
MDT Bridge Design Manual	Yes No___
AASHTO Pavement Design Guidelines	Yes No___
MDT Environmental Procedures Manual	Yes No___
FHWA 1273 – Required Contract Provisions for Federal Aid Construction Contracts	Yes No___

Summary
Action to be taken by agency in following areas:

Comments From Reviewers

Recommendation of Review
___Full administration by agency of all projects
___Administration by agency for:
- ____Preliminary Engineering
- ____Right-of-Way
- ____Incidental Construction
- ____Construction
- ____Construction Engineering

___Administration by agency on a project-by-project basis
___Administration by agency for projects up to $_____

___Deny approval for certification acceptance

Concurrence by (Insert Appropriate Title)

_____

_____

(Insert Appropriate Title) Date

Chapter 4
Developing Projects Using the Local Agency Guidelines

4.1 General Discussion

The previous three parts of this manual explained how local agencies may qualify to receive Federal-aid funding for their transportation projects. The remainder of the manual explains procedures for developing specific projects.

Once a loca1 agency has qualified to receive Federal-aid funds, as described in Chapter 3, the next action is to apply for authorization of funds to develop specific projects in its transportation program. Depending on their size and complexity, different projects may require different development procedures. The remaining parts of the manual are arranged to reflect these differences.

The next part, "General Project Development," Chapters 6-13, describe activities required during preliminary engineering on all projects.

The sections entitled "Design" and "Construction and Post Construction," Chapters 14-18 and 19-21, offer the local agency a choice of procedures, depending on whether the state will administer its construction contracts.

The specific requirements for a project may change as project development progresses and as more information about a project becomes available. Further details of the specific requirements are shown in the Project Development Process Flow Chart and Checklist. Unfamiliar term definitions are found in the Glossary. Once the local agency has identified the steps required on a particular project, only the parts in the manual that deal specifically with those steps need to be referred to.

4.2 Project Development Process Overview

This section describes the project development process by setting forth project phases, documentation requirements, options for construction administration, and required reviews and approvals.

4.2.1 Phases of Authorization

FHWA funds may be authorized for the following project phases:

- Preliminary engineering
- Right-of-way acquisition
- Incidental Construction
- Construction Engineering
- Construction

4.2.2 Documentation Required for Authorization of Funds.

a. Preliminary Engineering Funds: When applying for preliminary engineering funds only, the following documents are required:

1. Project Proposal (Chapter 6),
2. Local Agency Agreement (Chapter 7)
3. Detailed Cost Estimate, and
4. Typical sections, vicinity map, and evidence of PCC Approval date, TIP/STIP inclusion.

b. Right-of-Way Funds. When applying for right-of-way funds, after preliminary engineering funds have developed right-of-way plans, the following documents are required, if appropriate:

1. Supplement to original Local Agency Agreement(Chapter 7),
2. FHWA and MDT approval of environmental documents and clearances (Chapter 9),
3. Relocation plan, if relocation is required (Chapter 10),
4. Right-of-way plan (Chapter 10),
5. Right-of-way Project Funding Estimate or True-Cost estimate (Chapter 10), and
6. Detailed Cost Estimate
7. Evidence of TIP/STIP inclusion.

c. Incidental Construction

d. Construction Funds: The following documents must be submitted to request construction funds:

1. Supplement to Local Agency Agreement,
2. Right-of-way certification (if required),
3. Final FHWA and MDT approval of environmental documents and clearances (Chapter 9),
4. Evidence of TIP/STIP inclusion, and
5. PS& E.

e. Combined Preliminary Engineering and Construction Funds (no right-of-way acquired); When applying for preliminary engineering and construction funds simultaneously, the following documents are required:

1. Project Proposal,
2. Local Agency Agreement,
3. Detailed Cost Estimate
4. Final FHWA and MDT approval of environmental documents and clearances (Chapter 9), and
5. Typical sections, vicinity map, and evidence of STIP inclusion.

4.2.3 Construction Contract Administration

The local agency has the option of:

a. Administering the contract if it has approved certification acceptance procedures and operates in compliance with Chapter 3.

b. Requesting that MDT administer the contract.

c. Performing contract administration by a consultant (Chapter 12). The local agency still must have a full-time employee in charge.

4.2.4 Reviews and Approvals

The chart below shows required approvals for urban projects using local CA. These actions apply to non-NHS, regardless of project funding source.

Action	Agency
a. PE Fund Auth. and Modification.	FHWA
b. Exceptions to Design Standards	State/ FHWA
c. Preliminary Design Approval (Preliminary Field Review, Scope of Work)	Local Agency/State
d. Experimental Work Plans	FHWA
e. PS&E Approval	FHWA/State
f. Proprietary item, sole source (public interest finding, certification)	FHWA/State
g. Concurrence in Award	State
h. State Forces Work	Local Agency /State

When the local agency is the approving authority for any phase of work, it must operate within the Local Agency Guidelines and all applicable federal, state, and local laws and regulations. As outlined in Chapter 3, MDT will monitor the agency's procedure. MDT is the approval authority when the local agency is not certified.

4.3 Standards

Standards are addressed in Chapter 14.

4.4 Project Development Process Flow Chart and Checklist

The flow chart (see Appendix 4.6.1) and checklist (see Appendix 4.6.2) depict the sequence of major activities necessary to develop transportation projects using FHWA funds.

It is recommended that a copy of the checklist be inserted in the project file and used to initiate and document the activities necessary to complete a project.

4.5 Tools

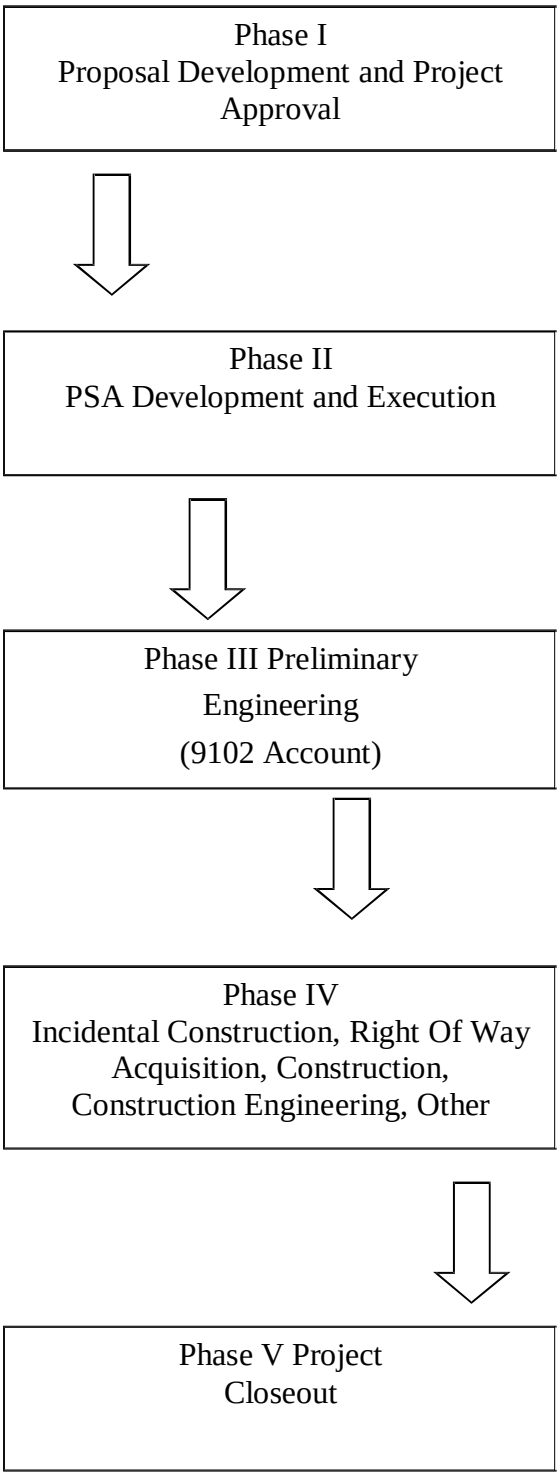
Link to FHWA training videos on Project Development:
http://www.fhwa.dot.gov/federal-aidessentials/catmod.cfm?id=66

4.6 Appendices

4.6.1 Project Development Process Flow Chart

4.6.2 Project Development Checklist

Appendix 4.6.1 Project Development Flow Chart



Appendix 4.6.2 Project Development Checklist

Project Title: _____

Project Location: _____

Road or Street Number: _____ FA Program: _____

Project Initiation
(Chapter 2)

Initials	Date or N/A	
_____	_____	Project in STIP
_____	_____	Federal aid program form (Sheet 1 of Proposal) to: _____Metropolitan planning organization _____Or MDT CTEP Office
_____	_____	Program of projects approved by appropriate agency

Project Proposal
(Chapters 6, 10, 14, and 16)

_____	_____	Sheet 1 _____Project information, local agency project number _____Description of proposed work and existing facility _____Cost estimate of all phases _____Proposed obligation date _____Environmental determination (Cat Ex, EIS, EA) _____Request species listing from USFWS and MNHP _____Signature block
_____	_____	Sheet 2 _____Geometric design data _____Accident data _____Environmental considerations _____Performance of work
_____	_____	Sheet 3 _____Right-of-way relocation _____Utility relocations _____FAA Involvement _____Signature _____Resurfacing and Rehabilitation safety checklist, typical roadway, vicinity map
_____	_____	Project application checklist

Local Agency Agreement
(Chapters 7 and 8)

Initials	Date or N/A	
_____	_____	Billing address
		_____Description of work matches proposal
		_____Check math on agreement
		_____Federal aid matching percentage
		_____Method of financing
		_____Agreement signed by approving authority

Request Preliminary Engineering Funds
(Chapter 4)

_____	_____	Project programmed
_____	_____	Project application package to LAG Certification Liaison
		_____Project proposal with attachments
		_____Local Agency Agreement
		_____Project application checklist completed
_____	_____	PE funds authorized by LAG Certification Liaison

Consultant Selection Process
(Chapter 13)

_____	_____	Independent estimate for consultant services and recommendation (request) to approving authority
_____	_____	Receive approval to advertise for consultant services
_____	_____	Advertise for consultant services
_____	_____	Develop consultant evaluation selection criteria
_____	_____	Select minimum of three best-qualified firms
_____	_____	Submit request for approval of selected firm to approving authority
_____	_____	Conduct pre-award audit (if necessary) before negotiations
_____	_____	Approving authority approves selection, negotiation begins
_____	_____	Negotiation completed submit final draft of agreement, etc., to the approving authority
_____	_____	Receive approval from approving authority
_____	_____	Agreement signed by consultant
_____	_____	Agreement executed by approving authority (consultant may now begin work)
_____	_____	Notice to proceed sent to the consultant
_____	_____	Send copy of agreement to LAG Certification Liaison.

Consultant Administration
(Chapter 13)

_____	_____	Oversee the consultant's work and billings to ensure compliance with the agreement
_____	_____	Prepare diary to record discussions and visitation with the consultant
_____	_____	Check consultant billings regarding employee classification, wage rate, actual invoices for direct non salary costs, etc.
_____	_____	Enter consultant payment on ledger system
_____	_____	Conduct consultant employee interviews

Environmental Processes
(Chapter 10)

Initials	Date or N/A	
		Categorical Exclusion
_____	_____	For Categorical exclusion to be approved by FHWA complete the Endangered Species Act (ESA) Biological Assessment (BA) process and Section 106 process
		_____Submit species listings requests
		_____Submit determination of APE to MDT Cultural Resource Staff
		_____Complete the Environmental Classification Summary (ECS) using the listings
		_____Submit completed draft biological resource report (BRR) to LAG Certification Liaison
		_____Programs for review
		_____Submit completed Section 106 documentation to LAG Certification Liaison
		_____Revise and re-submit BRR to MDT
		_____Get concurrence from MDT and/or USFWS
		_____Get concurrence as necessary for affects greater than "no affect" from MDT and/or USFWS
		_____Submit concurrence letters for BRR and Section 106 requirements, final BRR, final Section 106 documentation, and final ECS to MDT CTEP Office for FHWA approval
		Environmental Assessment
_____	_____	Prepare MEPA/NEPA checklist for local environmental assessment
_____	_____	Submit draft environmental assessment to LAG Certification Liaison
_____	_____	Revise draft environmental assessment
_____	_____	Approve draft environmental assessment
_____	_____	Publish environmental assessment notice
_____	_____	Publish opportunity for public hearing
_____	_____	Submit revised environmental assessment and legal notice to LAG Certification Liaison
_____	_____	Finding of no significant impact by FHWA
		-or-
_____	_____	Establish requirement for Environmental Impact Statement

Environmental Impact Statement
(Chapter 10)

_____	_____	Publish notice of intent
_____	_____	Submit interdisciplinary team recommendations to project manager
_____	_____	Develop public involvement plan
_____	_____	Develop data inventory and evaluation from interdisciplinary team
_____	_____	Project manager reviews preliminary discipline reports
_____	_____	Submit preliminary Draft Environmental Impact Statement to LAG Certification Liaison
_____	_____	Receive Montana Department of Transportation comments on above
_____	_____	Submit camera-ready Draft Environmental Impact Statement LAG Certification Liaison for signature
_____	_____	Receive approval to print Draft Environmental Impact Statement
_____	_____	Submit circulation copies to LAG Certification Liaison
_____	_____	Publish in Federal Register (minimum 45 days comment period)
_____	_____	For state route, obtain Montana Department of Transportation approval before advertising for public hearing
_____	_____	Advertise opportunity for public hearing
_____	_____	Submit preliminary Final Environmental Impact Statement and draft record of decision to MDT
_____	_____	Receive comments from LAG Certification Liaison
_____	_____	Receive approval to print Final Environmental Impact Statement
_____	_____	Submit final Environmental impact Statement to LAG Certification Liaison
	Date	

Initials	or N/A	
_____	_____	Receive FHWA approval
_____	_____	Circulate final Environmental Impact Statement
_____	_____	Final record of decision approved by FHWA

Location and Design Approval (Chapter 16)

_____	_____	Submit project proposal
_____	_____	Submit design report
_____	_____	Submit pavement design criteria
_____	_____	Meet public hearing requirements
_____	_____	Meet environmental requirements
_____	_____	Concurrence with BA effect determinations
_____	_____	ECS approval by FHWA
_____	_____	For major bridge project, submit type, size, and location study to LAG Certification Liaison
_____	_____	Obtain FHWA approval of the type, size, and location study
_____	_____	For traffic signal projects, submit warrants for signalization to LAG Certification Liaison
_____	_____	Obtain location and design approval
_____	_____	Publish design approval notice

Right-of-Way Funding and Acquisition

Funding (Chapter 4)

_____	_____	Project in STIP
_____	_____	Complete design hearing requirements
_____	_____	Approve right-of-way plan
_____	_____	Submit right-of-way relocation plan (if required) to LAG Certification Liaison
_____	_____	Submit right-of-way acquisition plan, right-of-way project funding estimate or true cost estimate, supplement to Local Agency Agreement and FHWA approval of environmental documents, to LAG Certification Liaison with request for right-of-way funds
_____	_____	Receive authorization to acquire ROW from LAG Certification Liaison

Acquisition (Chapter 11)

_____	_____	Acquisition procedures approved by LAG Certification Liaison
_____	_____	Set up documentation file for each parcel
_____	_____	Set up commitment file
		Appraisal:
_____	_____	Appraiser meets MDT criteria
_____	_____	Give landowner opportunity to accompany appraiser
_____	_____	Signed appraiser certification in file
		Appraisal Review:
_____	_____	Appraisal reviewer meets MDT criteria
_____	_____	Date of value determination precedes commencement of negotiations
_____	_____	Just compensation set by agency
_____	_____	Signed review appraiser certification in file
		Negotiations:
_____	_____	Ensure that private firms negotiators are licensed and have a licensed broker
_____	_____	Prepare diary of all owner contacts
_____	_____	Make appointment with property owner
_____	_____	Give owner written statement of just compensation
_____	_____	Ensure that settlement contains construction clauses

Initials	Date or N/A	
_____	_____	Obtain evidence of clear title
_____	_____	Specify salvage

Relocation Plan:

_____ _____ Approved by MDT
_____ _____ Furnished plan to person scheduled to be displaced
_____ _____ Send written notice to vacate
_____ _____ Pay last resort housing costs
_____ _____ Check for filed appeal against local agency offer
_____ _____ Complete relocation
_____ _____ Complete acquisition
_____ _____ Complete administrative settlement documentation
_____ _____ Place a copy of deeds in file
_____ _____ Send:
___Letter of certification
___LPA coordinator conducts certification review
___MDT's certification by LAG Certification Liaison

Plans, Specifications, and Estimates (Chapters 10, 12, and 17)

_____ _____ Review commitment and correspondence file
When applicable, secure the following permits or interagency coordination:
_____Airport roadway clearance from FAA
_____Coastal zone management compliance from DOE
_____For cultural, archeological, or historic sites SHPO contacted
_____Obtain concurrence letters for environmental determination
_____Request updated ESA species lists every six months
_____When waters modified or controlled, USFWS and State Department of Fisheries and Wildlife consulted
_____When stream is affected, permit from DOE
_____For timber supporting land, permit from DNR
_____When construction might reduce water quality, contact DOE
_____For quarries of 2 acres (0.81 ha) and 10.000 tons (9 091 metric tons) or more --DNR contacted
_____Waters/wetlands -- Army Corps of Engineers contacted
_____For navigable waterways, permit from Coast Guard obtained
_____If wetlands are affected, U.S. Fish and Wildlife Service or National Marine Fisheries Services contacted
_____Utility agreement obtained
_____Railway agreement(s) obtained

_____ _____ PS&E completed:
_____Vicinity map
_____Summary of quantities
_____Pit, quarry, stockpile, and waste sites
_____Reclamation plans
_____Roadway sections
_____Plans/profiles
_____Utility
_____Structure notes
_____Signing
_____Illumination
_____Bridge plans
_____Traffic control
_____Standard plans
_____Sheets numbered and dated
_____Each sheet signed and stamped by Professional Engineer _____Bridge plans, design calculations, and soil report to LAG Certification Liaison (State Ad and Award only)
_____Form FHWA-1273 and latest amendment included
_____Log of test borings
_____Training requirements

_____EEO requirement clauses
_____For steel. Included Buy America requirement
_____Traffic control special provisions
_____Specialty items
_____General special provisions and amendments arranged in order and indexed
_____Project proposal
_____Federal Aid Proposal Notices (2 pages)
_____Noncollusion Declaration
_____Contract
_____Certification for Federal Aid Contracts (Lobbying)
_____DBE Utilization Certification
_____Engineer's estimate complete
_____Documentation for each item in engineer's estimated
_____Justification for nonparticipating items
_____Detailed documentation for lump sum items available in project files
_____Estimate to LAG Certification Liaison
_____Training goal set by LAG Certification Liaison
_____Sources approved by approving authority
_____Approval of stockpiling by LAG Certification Liaison
(when payment is requested for material when stockpiling aggregates, etc., for use on a future federal aid project)
_____Distribution of preliminary plans as determined by local agency

_____ _____ Field review of PS&E (State Ad and Award only)
_____ _____ For tied bids, letter from approving authority
_____ _____ For State Ad and Award, financial responsibility letter with PS&E documents sent to LAG Certification Liaison
_____ _____ PS&E approved by approving authority
_____ _____ Plans, contract specifications and estimate stamped, signed, and dated, and on file in the local agency office
_____ _____ State and federal wage rates added to ad plans
_____ _____ PS&E sent to LAG Certification Liaison

Request Construction Funds
(Chapter 4)

_____ _____ Project in STIP
_____ _____ Send letter with the following attachments to LAG Certification Liaison requesting construction funds:
_____Supplement to Local Agency Agreement, if project includes other phases
_____Letter of right-of-way certification
_____Final FHWA approval of environmental documents

Local Advertisement and Award
(if administered by local government)
Advertise for Bids (Chapter 18)

_____ _____ Get Highways and Local Programs Contract Number ____from LAG Certification Liaison
_____ _____ Approve ad period of less than 21 calendar days
_____ _____ Publish notice of bid opening
_____ _____ Date of publication for sealed bids

Bid Opening (Chapter 18)

Initials	Date or N/A	
_____	_____	Issued addendum (if within one week of bid opening, bid opening should be delayed)
_____	_____	Opened Bids
_____	_____	Prepared bid tabulation sheet
_____	_____	Checked submitted bids for tabulation errors
_____	_____	Completed bid and bidders tabulation sheet
_____	_____	Determine responsive bid
_____	_____	Determine contractor qualifications
_____	_____	Contractor registered by Montana Department of Labor and Industries
_____	_____	Contractor licensed as required by the laws of the state of Montana
_____	_____	Award recommendation sent to approving authority
_____	_____	When low bid is over engineer's estimate, submit justification and letter of award recommendation to approving authority
_____	_____	Submit supplement to Local Agency Agreement
_____	_____	Supplement approved by Assistant Secretary for Highways and Local Programs

Award of Contract (Chapter 18)

_____	_____	Establish contract award date_____, _____
_____	_____	Sent 'Award Letter" to successful low bidder
_____	_____	Notify all unsuccessful bidders
_____	_____	Return bid bonds (except for first three)
_____	_____	Notify second and third bidders of holding bid bonds until execution
_____	_____	Sent to LAG Certification Liaison:

_____Tabulation of bids
_____Engineer's estimate
_____Actual versus estimated costs shown in Local Agency Agreement
_____Award letter
_____DBE utilization certification
_____Estimated date of contract completion

DATE OF AWARD IS CUTOFF FOR CHARGING TO PRELIMINARY ENGINEERING

Construction Administration
Execution of Contract (Chapter 18)

_____	_____	Sent contract and contract bond papers to contractor for signature
_____	_____	"Certificate of Insurance" received from contractor
_____	_____	Approving authority executed contract documents
_____	_____	Notified the contractor by phone of the execution of the contract
_____	_____	Executed a copy of the contract to contractor
_____	_____	Sent notice to proceed to contractor, with cc to LAG Certification Liaison
_____	_____	Returned bid bonds to second and third bidders

Preconstruction Conference (Chapter 19)

_____	_____	Notice of preconstruction conference to:

_____Contractor
_____ LAG Certification Liaison
_____Affected utility companies
_____Police department
_____Fire department
_____ Hospital
_____Ambulance service
_____Post Office

_____Others _____
_____ _____

_____ _____ Preconstruction conference agenda prepared
_____ _____ Preconstruction conference held
_____ _____ Minutes of meeting to:
_____Contractor
_____Subcontractors
_____LAG Certification Liaison
_____Other attending persons
_____Invited but not represented agencies
_____Project file
_____ _____ "Training Program":
_____Received from contractor
_____Approved by agency
_____ _____ "Apprentice/Trainee":
_____Approval request from contractor
_____Approved by agency

Construction Documentation (Chapter 20)

_____ _____ Contractor provides copies of permits obtained from other agencies and/or property owners:
____ Montana State Dept. of Wildlife/Fisheries-Hydraulic Permit
____ Montana State Dept. of Ecology
____ Irrigation Regional
____ Burlington Northern Railroad
____ Union Pacific Railroad
____ Air Pollution Control Authority
____ _____
____ _____

_____ _____ Temporary water pollution control plan approved
_____ _____ Agency requests updated ESA species listing every six months
_____ _____ Approved contractor's progress schedule
_____ _____ Received railroad insurance from contractor
_____ _____ Construction diary started
_____ _____ Inspector's Daily Work Report started
_____ _____ 'Certification of Materials Origin" received from contractor
_____ _____ Material source approval received Plans for falsework and forms:
____Received from contractor
____Approved by agency

_____ _____ Required job site posters placed by contractor (reference EEO required bulletin board checklist) http://www.mdt.mt.gov/publications/forms.shtml#eeo
_____ _____ Daily construction traffic control records started (Checked twice daily and recorded)
_____ _____ Weekly statement of working days charged
_____ _____ Material acceptance sampler appointed
_____ _____ Material independent assurance sampler appointed
_____ _____ Appointed office engineer for progress estimates and final records
_____ _____ Obtain a copy of the scale certifications
_____ _____ Daily scale check
_____ _____ Received FHWA Form 1391 for each July from contractor and subcontractors
_____ _____ FHWA Form 1392 prepared and sent to LAG Certification Liaison
_____ _____ Received "Request to Sublet Work" and "Subcontractor or Agent Certification" from contractor
_____ _____ Approved request to sublet (subject to 60 percent limit) Received "Intent to Pay Prevailing
_____ _____ Wages" from contractor, subcontractors, and agents
_____ _____ Checked first certified payroll from contractor and subcontractors to ensure payment of prevailing wages
_____ _____ Conducted random check of each successive payroll
_____ _____ Wage rate interviews conducted
_____ _____ Checked employee interview wage rate against certified payroll and Labor and Industries approved prevailing rate

_____	_____	Assigned Change Order Numbers _____ (LAG Certification Liaison approval required when change order will alter the termini, character, or scope of work. Approval must be obtained before effective date of change order to be eligible for federal participation.) _____Prepare change order that details basis and need for the change _____Extension of time approved_____days _____Change order signed by contractor _____Verbal approval obtained from approving authority _____Signed by approving authority _____Original sent to contractor _____Copy of approved change order sent to LAG Certification Liaison _____Supplement to Local Agency Agreement approved by LAG Certification Liaison
_____	_____	Generated monthly estimate _____Verified and documented that DBE is performing a commercially useful function prior to making a monthly payment _____Prepared estimate _____Checked estimate _____Estimate sent to contractor
_____	_____	Overview of EEO (Chapter 11): _____Agency designates an EEO officer _____Conduct on-site compliance review _____Monitor DOT Form 820-010 each month for each trade _____Notify contractor of compliance or non-compliance with the contract provisions _____Ensure EEO signs are posted

Project Closure
(Chapter 21)

Initials	Date or N/A	
_____	_____	Prefinal inspection by local agency and contractor completed
_____	_____	Final inspection by local construction agency and contractor completed
_____	_____	Resolve deficiencies found during the above field inspection
_____	_____	Report of Non-American Made Material (Stand. Specs. 1-06.5) received from contractor
_____	_____	Notice of completion sent to contractor
_____	_____	Extension of time request with justification received from contractor
_____	_____	Extension of time granted,_____days
_____	_____	Extension of time refused, _____days _____liquidated damages
_____	_____	Letter sent notifying contractor of assessed liquidated damages
_____	_____	Receipt of Substantial Work Complete Date form from contractor
_____	_____	Copy of completion notice requesting inspection and acceptance by MDT and FHWA sent to LAG Certification Liaison
_____	_____	Contractor submitted claim _____No claim submitted
_____	_____	Notice of completion to: _____Department of Labor and Industries _____Department of Revenue _____Received from contractor
_____	_____	Received "Affidavit of Wages Paid" from contractor and subcontractors
_____	_____	Received ESA species listing for the project every six months
_____	_____	Comparison of preliminary and final quantities sent to approving authority
_____	_____	Material certification form sent to approving authority
_____	_____	As built plan completed (to be retained 50 years)
_____	_____	Final documentation completed
_____	_____	Final estimate approved by the approving authority

_____	_____	**Receipt of Contractors Request for Acceptance and Certification**
_____	_____	Paid final estimate
_____	_____	Completion of Certificate of Completion
_____	_____	Final billing sent to LAG Certification Liaison (within 90 days after completion)
_____	_____	Informed by LAG Certification Liaison of MDT final billing approval

Chapter 5
Program Administration

5.1 General Discussion

MDT will monitor and provide general oversight of locally sponsored projects.

Federal statute allows state transportation agencies to delegate authority to implement federal-aid projects to qualified local government and their consultants, through a certification program. Local agencies are required to adhere to the same regulations, policies, and procedures that apply to all MDT federal-aid programs. FHWA will continue to hold MDT responsible for ensuring that all federal-aid program requirements are met.

General guidelines for certification acceptance are contained in this manual. The Project Proposal Application, which provides general program information, requirements and simplifies the application process, is found in Chapter 6.

Appendix 4.61 in Chapter 4 shows the major project development and construction activities associated with implementing federal-aid projects. This flow chart can be used to assist Local agencies with financial management, and is used to inform the general public of a project's anticipated development schedule. Local agencies are encouraged to use this flow chart when developing a specific project's development schedule.

5.2 Local Government Responsibility

Recipients of FHWA funds are responsible for the following:

- Preparing their projects in a timely and satisfactory manner;
- Carrying out their projects substantially as they are described in the federally approved programming documents;
- Ensuring that only eligible activities are undertaken with federal-aid funds;
- Maintaining a financial management system that provides accurate information about project expenditures and assures financial accountability and control;
- No costs incurred before project phase authorization is eligible for reimbursement;
- Promoting equal opportunity in the implementation of project activity;
- Complying with the National Environmental Policy Act (NEPA); and
- Complying with all applicable laws and regulations, especially EEO, ADA, and Labor Compliance.

This chapter of the Guide summarizes the key considerations and important administrative steps, which the Local Elected Officials and staff should keep in mind as they implement their program and specific projects:

- Preparing the Projects Specific Agreements between MDT and the local agency;
- Establishing a Management Plan for project administration, Appendix 5.183;
- Preparing a Project Development Schedule;
- Establishing project files; and
- Incurring project costs.

5.3 Applicable Requirements

These regulations below make each state accountable for conducting such reviews of the units of general local government, as may be necessary or appropriate, to determine whether they have satisfied the applicable performance criteria which incorporate, among other things, the requirements of this Title 23 and other applicable laws.

5.3.1 Federal (select references)

- 23 USC 133 provides the statutory basis for the Federal Highway Administration (FHWA) nationwide transportation program. The FHWA has overall administrative responsibility for the distribution and use of funds that are allocated to the State.
- Title 23 of the Code of Federal Regulation (CFR), "Highways." These regulations adopted by the FHWA provide the basis for states to receive Federal Highway Funding. These must be adhered to when spending Federal Highway Funding.

5.3.2 State (selected references)

- The Certification Acceptance Qualification Agreement establishes the basic requirements to be certified to locally administer projects.
- The Project Application form establishes the basic requirements governing an application for federal-aid funds and describes the various conditions associated with projects selected or funding.
- The LAG Manual describes policies, procedures, and recommendations governing the administration and management of this program as well as the development and construction of a federal-aid project by Local agencies.

5.4 Project Start-up

5.4.1 Project Approval Letter

The approval of a project to be developed under this manual will be sent to a local agency in the form of a Project Approval Letter and the letter informs the local agency that MDT agrees that the proposed project substantially meets the eligibility criteria. As the proposed project develops, MDT recognizes modifications to the work; program budget and design may be necessary. The lines of communication must remain open between the local agency and MDT to make these modifications, which will allow for successful project completion.

The letter providing approval of a project does not, by itself, authorize the local agency to begin incurring costs. At this point in the project start-up process, projects selected for funding do not have authorization to encumber or expend any federal or local agency matching funds. Federal funds cannot be used for program administrative costs, such as expenditures associated with project application preparation, or previous engineering, or studies, or plans.

MDT will issue by letter a specific authorization to the local agency when acceptable PE activities can begin. The following activities are environmentally exempt and are unlikely to cause any environmental impact:

- Advertising for and evaluation of consultants to include any associated contract negotiations.
- Initiation of Preliminary Engineering activities
- Environmental review activities, including publication of notices, preparation of the Environmental Review Record, and submittal of an Environmental Finding to MDT.

If the environmental status of a particular activity is in doubt, the local agency should contact MDT for guidance. The Environmental Review process for federal-aid fund recipients is discussed in Chapter 10, Environmental Processes.

5.5 Reimbursement for Eligible Activities

Federal-aid funds will not become available until PSAs are fully executed, MDT issues a letter of authorization, and all contract conditions have been met. Project expenses will be the responsibility of the local agency. The PSA will determine the schedule for reimbursement by federal funding of incurred expenses.

If funds are obligated or costs are incurred without proper authorization those costs incurred will be the responsibility of the local agency. For this reason, MDT recommends that new participants not encumber funds or incur costs until they have been briefed on the requirements and responsibilities they assume in administering a federal-aid program and managing a federal-aid project.

Under no circumstance may the local agency expend funds for actual project construction until the environmental review and final project design has been completed and MDT issues a letter authorizing the local agency to begin the construction contract letting or materials procurement process.

5.6 Project Management Plan

MDT requires the local agency to have the capacity to undertake and satisfactorily complete projects in accordance with the Certification Acceptance Agreement. Once a project has been approved, MDT recommends the preparation of a project management plan that assigns roles and responsibilities to specific individuals for the day-to-day administration and management of the project. While reviewing this guide, bear in mind that someone will have to be responsible for assuring compliance with each of the requirements described.

Each local agency should prepare a project management plan that specifically demonstrates how and by whom the project will be managed. A carefully structured, appropriately supervised management plan will allow local officials to monitor project implementation more effectively. More specific information regarding the suggested content of the plan is contained in the Project Management Plan, Appendix 5.183.

If the decision is made to retain contracted services to assist with the management of your program or project, it is important that a local agency official or employee works closely with contracted individuals to gain a better understanding of the issues involved. No program administration activities and only some project management activities are eligible for federal-aid fund participation. If you have any questions regarding this subject contact MDT for a more detailed discussion.

As decisions are made on how the project will be managed, understand that administration of a project does not usually require the full-time attention of an employee or contracted service provider from the beginning of a project to its completion. It is not a prerequisite that local staff, or even a private consultant, have previous federal-aid program experience in order to be effective. The key concern for local agency officials is that the person who is assigned or contracted to serve as LPA be a conscientious and effective manager. The individual needs to be able to devote an appropriate amount of time to ensure that necessary tasks are properly completed.

Once elected, local agency officials decide on a general administrative approach to the program and project(s). They should meet with key staff (such as those responsible for project financial accounting), to discuss their individual roles and responsibilities. The meeting is an opportunity to discuss management plan details, operating procedures, and reporting requirements.

The process of finalizing the management plan will help identify any gaps in the assignment of duties that need to be addressed before beginning to implement the local project. Each person involved in the plan should have a copy of the task assignments and the project development schedule. In the event of staff turnovers, the plan will help familiarize new staff with the responsibilities and operating procedures required in project administration. The management plan should also be retained in your Project Management file.

5.7 Project Development Schedule

An important consideration in project management is the creation of a Project Development Schedule.

5.7.1 Project Start-Up Requirements

Each applicant:

- Must comply with all applicable state and federal requirements for project start-up;
- Must execute MDT/Local agency Project Specific Agreement (PSAs); and
- Must fulfill other appropriate agreement terms established by MDT.

5.7.2 Commitment of Non-FHWA Federal-Aid Financial Resources

Local agency projects which will require private, local, or state resources, as well as federal-aid funds, to implement, should have completed all necessary arrangements to ensure availability of those resources to guarantee timely project completion. The local agency may also have to consider any limitations on the use of those funds, as the overall project budget is prepared. Some programs allow their funds to be used for only certain purposes. These constraints should be kept in mind when deciding which funding source will finance each component of the project. A local agency must also keep in mind that if Federal-Aid is used to develop certain phases or activities (such as the environmental document) of a project than certain federal requirements may apply to all phases or activities regardless of the funding source.

5.7.3 Project Completion

Project schedule will be defined in the PSA. Failure to reasonably follow project schedule may result in the withdrawal of project approval. If local agency officials anticipate any problem in complying with these requirements, they should notify MDT as soon as possible.

The final schedule, which should be incorporated into the management plan, should use monthly milestones for each task. The schedule should be posted by the LPA for periodic reference to compare actual work completed with the original planned schedule.

5.7.4 Preparing the Project Specific Agreements (PSAs)

As part of the project start-up process, MDT and the local agency will work together to prepare the PSAs. The PSAs are the legal documents that govern the administration, development, and maintenance of the project and must include the following items:

- A project budget (by account) detailing funding splits by federal-aid funds, state funds, local agency match, and additional contributions involved in the project;
- The project scope;
- Project location;
- Proposed method of development; and
- The general terms and conditions associated with the program and project.

The negotiation process is limited to the project budget, scope of work, method of development, identification of any special conditions, and the definition of key elements of the project. Each contract consists of:

- Non-negotiable provisions common to all PSAs are generally referred as “boilerplate”. Those provisions refer to contract modification and amendment; method of payment; and compliance with applicable laws and regulations.

- Negotiable provisions specific to the agreement between the MDT and the local agency. These provisions refer to method of development and construction; the scope of work; the project budget; and any other special conditions.

Each provision is legally enforceable and spells out the respective obligations of MDT and the local agency.

MDT will prepare draft agreements for review by Local Agency officials. The drafts will reflect the key elements of the project as described in the original Project Application. Local agency officials should pay particular attention to the sections addressing scope of work, methods, conditions, and budget. It is recommended the local agency's legal counsel review the draft form of the PSAs to ensure each is consistent with the local agency's legal authority and interests. Any concerns should be communicated to the MDT. Once agreement is reached on the content, MDT will prepare final drafts for signature by local agency elected official(s) and MDT.

Federal-aid programing will not be requested from FHWA until the PSAs are fully executed.

If a project can be completed for less than the dollar amount in the PSA, the balance will be returned to the local agency's unobligated fund. For example, if actual construction award amount were less than the estimate included in the PSA, the FHWA construction account value would be established at the contract award amount.

In certain circumstances, additional funds may be used for an eligible activity, which further enhances the project. Prior to MDT allowing the additional activity, the local agency must demonstrate the activity will clearly enhance the overall impact of the original project; provide adequate benefits; be completed in a timely manner; and be completed with available funds. In addition the local agency must demonstrate satisfactory progress toward completion of the original project.

Amending the Project Specific Agreements (PSAs)

It is difficult to prepare a scope of work, budget, and an implementation schedule that anticipates all eventualities throughout the term of a project. Therefore, MDT will consider requests for PSA revision and/or modification. However, the local agency must request approval of revisions and/or modifications to the project in advance. Revisions and modifications that require approval include new termini, alteration of the existing activities or budget, or extending the schedule for project development and construction. Before MDT makes a determination to allow the modification, the local agency must provide a written request with justification that clearly demonstrates the change is appropriate and will enhance the overall impact of the original project.

MDT may require a public meeting, with reasonable public notification, by the local agency if the proposed amendment is determined to be a substantial change in project activities.

Substantial changes in project activities or the geographic area of the project may also obligate the local agency to publish legal notices and to conduct additional environmental analyses in order to comply with federal requirements.

5.8 Program & Project Files

This section provides a general outline of a suggested filing system for project records that meet MDT monitoring and record keeping requirements. By establishing and continuously updating the project files, the local agency will gather and organize all the information needed to assure effective project management, as well as documenting compliance with program requirements. Original and complete documentation for all files must be retained in the official offices of the local agency. These files need to be available during normal business hours to any person(s) authorized to review them, including state and federal representatives. Staff or consultants may also retain copies of key documents at a separate location.

Most projects will not require every file described below. The appropriate files for any project will vary depending on the type of project and activities involved.

The records retention policy for these files is seven years from the completion of the project. Project files for each phase must be retained until seven years after the final phase is completed and approved.

5.8.1 Program Administration File

This file contains the annual federal-aid sub-allocation notices, obligated, and expended fund balances. The LPA designation letter, lists of Project managers (PMs), and other program related correspondence, notes, etc. should also be kept in this file.

5.8.2 Project Application/Project Specific Agreements File

This file contains a copy of the local agency's original Project Application, all supporting documentation including publication notices, records of the required public hearing, correspondence and any other documentation used to prepare the application. Executed copies of the PSAs between the local agency and MDT should be retained in this file. Any related correspondence, telephone notes, or subsequent amendments to the PSA must be retained in this file.

5.8.3 Project Management & General Correspondence File

This file contains the project management plan, implementation schedule, notes, memorandums, or correspondence regarding project management that are not more appropriate to the specific topic files.

Copies of special directives from MDT pertaining to issues of policy or procedure affecting administration of the project belong here, as well as copies of local policies or procedures pertinent to the project. Copies of correspondence, telephone notes, or other documentation related to inquiries concerning potential conflicts of interest or requests to MDT for determination of a conflict of interest reside here. Copies of legal opinions or recommendations from the local agency attorney or from MDT that are relevant to the project belong here. Records of other contracts regarding legal issues should also be kept in the file.

5.8.4 Project Consultant/Contracted Services File

This file should contain records of the procedures followed in the solicitation for services, a copy of the agreement between the local agency and the Consultant, and contract administration documentation. Each contract should have its own subfolder as per standard MDT procedures.

5.8.5 Project Environmental Review File

This file contains all data and documentation prepared in response to the environmental review requirements including all notices, public comments, the preliminary environmental review or environmental assessment, and the final environmental document distributed by MDT.

5.8.6 Project Financial Management File

This file contains a complete record of all financial transactions concerning the project. The financial management file maintained by the LPA usually consists of several documents including a copy of all requests for reimbursement, project progress reports, and other supporting information submitted to MDT with the reimbursement request. This file needs to include up-to-date financial information regarding the status of federal, state, and other funds involved in the project. The official and detailed financial records, including all original source documentation, original invoices, or claims must be

maintained by the local agency's financial office. It is important the LPA and the local agency's financial officers work together to monitor project finances.

5.8.7 Project Civil Rights File

This file contains all documentation related to local agency compliance with state and federal civil rights requirements. Items like Disadvantaged Business Enterprise (DBE) Requirements, spot check interview forms, DBE Monitoring forms, and contractor's EEO policy are examples of documents that should be kept in this file.

5.8.8 Project Labor Standards File

This file contains all documentation related to compliance with applicable state and federal labor requirements. Prevailing wage rates forms are an example of documents to keep in this file.

5.8.9 Project Acquisition/Relocation File

This file contains a copy of records on acquisition activities and established policies and procedures used for relocating any displaced households and/or businesses. Keep a separate sub-file on each parcel, which includes copies of all notices, case information, and evidence of successful relocations with appropriate compensation or other assistance.

5.8.10 Project Design File

This file contains scope of work reports, plan in hand reports and design reports. It should also include investigation and special study reports, surveys, plans, specifications, detailed drawings, supporting calculations, design related meeting minutes, and correspondence. Detailed cost estimate reports and quantity summaries are kept in this file. Materials certification/testing requirements should be identified, recorded, and retained in this file.

5.8.11 Project Construction File

This file contains a separate sub-file for each project construction contract to include the request for bids, bid document, contract document, certified copies of legal advertisements, minutes of the pre-construction conference, permits, inspection reports, and all other related materials. All construction inspection, material certifications, and test results should be retained in the appropriate construction file.

5.8.12 Project Audit File

This file contains copies of any audit published for the local agency that covers the time period between award of the Urban funds and project closeout by MDT.

5.8.13 Project Closeout File

This file contains a copy of the local agency's preliminary and final closeout reports and any correspondence to or from MDT regarding closeout.

5.9 Public Involvement

The Federal Highways Administration (FHWA) and the Montana Department of Transportation (MDT) require citizen participation in the federal-aid program. As an applicant for federal-aid funds, your agency must hold meetings to solicit citizen comments on community needs. This section describes the requirements and obligations a federal-aid recipient has for involving the public during implementation of a federal-aid project.

5.9.1 Applicable Requirements

Federal

Title 23 USC

- Provide for and encourage citizen participation;
- Provide citizens with reasonable and timely access to local meetings, information, and records relating to the local government's (local agency) proposed use of funds;
- Provide for technical assistance to groups that request such assistance in developing proposals with the level and type of assistance to be determined by the local agency;
- Provide for public hearings to obtain citizen views and to respond to proposals and questions at all stages of the program development. Hearings shall be held following adequate notice, at times and locations convenient to potential or actual beneficiaries, and with accommodation for the handicapped;
- Provide for timely written answers to written complaints and grievances; and
- Provide for the need of non-English speaking residents, where a significant number of non-English speaking residents can reasonably be expected to participate.

State

- Each municipal governing body, shall develop procedures for permitting and encouraging the public to participate in decisions that are of significant interest to the public (7-1-4142 MCA);
- In any meeting required to be open to the public, the governing body shall adopt rules for conducting the meeting, affording citizens a reasonable opportunity to participate prior to the final decision (7-1-4143 MCA);
- All records, with limited exceptions and other written materials in the possession of a municipality shall be available for inspection and reproduction by any person during normal office hours.

5.9.2 Local Government Responsibilities

Involving the Public

All local agencies must keep the public informed about the federal-aid program and project on a continuing basis.

Federal law, Title 23 USC requires each state to develop a public involvement process that provides complete, continual, and timely information. Expectations are the same for all LAG certified governments. Refer to MDT's Public Involvement Handbook for guidance. http://www.mdt.mt.gov/publications/docs/manuals/pubinvhb.pdf

5.9.3 Resolving Complaints

Unfortunately, no discussion of public relations for a federal-aid project would be complete without mentioning the local agency's responsibility for dealing with complaints.

Though local officials do their best to improve their communities through their federal-aid project; human nature seems to guarantee that some citizens will probably be dissatisfied with some aspect of the

project. In a public facility project, a taxpayer may feel the proposed project is poorly designed or too expensive.

As the federal law cited at the beginning of this chapter makes clear, local citizens have the right to offer their views at any point during the federal-aid projects development and implementation. Any comment, suggestion, criticism, or complaint made by a citizen should be taken seriously and deserves a prompt response.

As a rule, the more promptly local officials can investigate the basis of a complaint and offer a reasonable solution, the better. It is human nature for the citizen lodging the complaint to feel that he or she is being ignored if the local agency does not respond with at least a telephone call immediately to investigate the situation. The longer the time before contact is made, the greater will be the frustration or anger. The usual pattern, if a citizen does not receive a quick and adequate response, is the next complaint is lodged with the MDT, Governor, FHWA, or a member of Montana's congressional delegation. A complaint at this level can create a lasting negative impression regarding the worth or effectiveness of the federal-aid program or the soundness of the state's or the local government's administration of the program.

The normal procedure if a complaint is filed with the local agency Mayor or Council, MDT, Governor, FHWA, or a member of the congressional delegation, is for the complaint to be referred to the appropriate local officials for response. MDT will not dictate the form or manner of the response to local officials. The Department's staff is available to advise the community regarding any federal or state requirement that may be in question.

In all cases, the final resolution of the complaint is the authority and responsibility of the local agency. When the local agency has reached a decision regarding how the complaint is to be resolved, MDT will communicate the local government's decision to the agency or office that originally referred it to the MDT.

Records of all citizens comments, whether in the form of letters or summarized telephones or oral comments, and the local agency's letter of reply should be placed in the appropriate project file. Hopefully, the file will be filled with compliments, rather than complaints.

5.10 Single Audit Act

Circular No. A-133 Revised June 27, 2003, and later revised June 26, 2007, Subpart B Audits .200

(a) Audit required. Non-Federal entities that expend $500,000 or more in a year in Federal awards shall have a single or program-specific audit conducted for that year in accordance with the provisions of this part. Guidance on determining Federal awards expended is provided in .205.

5.11 Summary

In summary, this chapter sets forth the following important steps the local agency needs to undertake to begin and continue a project.

1. Receive the required MDT authorization to incur costs for activities that are environmentally exempt.

2. Prepare the recommended Management Plan, Appendix 5.184 and Project Development schedule for project administration and management purposes.
   a. Determine whether public employees or private contractors will manage the various project activities under local agency guidance or direction.
   b. Comply with federal and state law regarding employment practices and hiring and/or procurement procedures.
   c. Assign responsibilities to individuals for all aspects of project management.
   d. Prepare final schedule prior to project implementation.

3. Develop the required Project Specific Agreements with MDT.
   a. Coordinate with MDT on preparation of the draft agreements
   b. Arrange for review by the local agency attorneys.
   c. Sign final agreements

4. Secure the firm commitment of any non-FHWA/MDT resources to be involved in the project.

5. Develop an effective public relations program.

6. Address and resolve citizen complaints.

5.12 Appendices

5.12.1 Acronym & Glossary Terms

5.12.2 Project Management Plan

5.12.3 Project Development Schedule

Specification Manual:
http://www.mdt.mt.gov/business/contracting/standard specs.shtml

Transportation Acronym Guide (TAG):
http://mdtinfo.mdt.mt.gov/tranplan/docs/tag.pdf

Management Plan-General

Preparing of a project management plan does not have to be a difficult task. Each project should have a management plan that describes how it will be managed. Preparation of the plan is a matter of how and who will manage the project. The plan should cover the following three basic areas.

1. Overall Program Administrative Structure (this will be the same for all projects)
   This element will describe how the local agency will integrate project management with its existing organizational structure. The most common alternatives for management (as discussed in the text of this chapter) are either administration by local staff or through contracted services. This portion of the plan should include a description of:

- The role of the mayor and council (or County Commission Chairperson and County Commission, or) in oversight of project administration and the expenditure of project funds and how this is to be coordinated by the Local Program Administrator (LPA);

- The role of the local agency's attorney in preparing and/or reviewing any proposed contracts required for the project;

- The key persons who will be involved in project management and administration including the chief elected official, the local agency's financial officer, the LPA, the LPA, the local agency's attorney, and any other officials or staff who will have a direct role in administering the project. The list should include names, titles, telephone numbers, and a brief description of their role in the project's administration.

2. Specific Project Management (this section may change for each individual project)
   This element should describe the procedures to be followed and the persons who will be responsible for specific project management activities including ensuring documentation of the local agency's compliance with all applicable requirements such as the environmental review, consultant/construction contract administration, preparation of project progress and closeout reports, etc. For example:

- If professional architect/engineering (AE) services will be required, a description of the role and responsibilities of elected officials and local staff in soliciting, evaluating, selecting, contract negotiation, contract award, and consultant contract administration; or

- For construction program management, a description of the role and responsibilities of elected officials, local staff (and/or contracted service provider) for compliance with general construction requirements; preparation of plans, specifications and estimate; contract documents; contract letting; conduct of pre-construction conferences; conducting on-site interviews with construction personnel for Labor and EEO compliance, quantity measurement, contractor payments, project inspections, and testing.

3. Financial Management
   This portion of the plan should describe the procedures to be used and the officials or staff that will be responsible for ensuring proper expenditure of and internal control over the use of funds. This description should:

- address the procedures to be followed for reviewing and approving expenditures, preparing and submitting reimbursement requests to MDT, processing payments, etc.;

- identify the persons who will be responsible for maintenance of the required financial records or processing of project funds;
- explain any arrangements with financial institutions or contractors which involve management of project funds;
- describe the accounting and management system to be used, such as the Budgetary, Accounting and Reporting System (BARS) or the Town Accounting System (TAS); and
- the role of the governing body in approving expenditures for the project.

The project implementation schedule should be included with the management plan demonstrating how the tasks described in the plan will be dealt with chronologically.

Sample Management Plan Format for a federal-aid transportation project administered and managed by Local Staff

I. Program Administrative Structure

The City of _____ is an incorporated city with a Mayor-Council form of government. The following persons will have lead responsibility for administration and management of the City's Transportation Enhancement project:

Mayor _____, as the City's chief elected official, will, as Local Program Administrator (LPA), have responsibility for all official contacts with the Montana Department of Transportation (MDT). The Mayor and City Council will have ultimate authority and responsibility for program administration and project management activities and the expenditure of funds. The LPA will ensure effective program management and develop Project Specific Agreements (PSAs) with MDT and assist the City with all requirements related to effective project start-up through completion. The approval of all contracts and reimbursement requests will be the responsibility of the City Council. (Telephone _____)

_____, Clerk-Treasurer, as the City's chief financial officer, will assist the LPA with fiscal management of program funds, and record keeping of all funds involved in the financing of this project. Approximately one-tenth of this position's time will be devoted to financial administration during the term of this program. (Telephone _____)

_____, Director of the City-County Planning Board, will be designated as Project Manager (PM) and will have overall responsibility for consultant and construction contract administration and for ensuring compliance with applicable federal and State requirements for this project. The PM will report to the LPA and will also serve as this project's designated Civil Rights Compliance Officer, Environmental Certifying Officer and Labor Standards Officer. Approximately one-forth of this position's time will be devoted to project management activities during the term of the project. (Telephone _____)

_____, City Attorney, as the City's legal counsel, will review and advise the Mayor and Council regarding any proposed contractual agreements associated with the project and provide any other legal guidance as requested. (Telephone _____)

The selected project Architect/Engineer (AE) will report to the PM for City authorizations and approvals and be responsible for the preparation of the project plans, specifications and estimates, and construction oversight.

II. Specific Project Management

A. The Project Manager (PM) will be responsible for:

1. Establishing and maintaining complete and accurate project files and preparing all documentation and reports incidental to the management of the project.

2. Assisting the City with selection of the AE service provider, in conformance with MDT program procurement requirements.

3. Preparing the Environmental Review Record (ERR) to ensure full compliance with the National and Montana Environmental Policy Acts, completion of the statutory checklist, and any other applicable environmental requirements. The PM will also be responsible for preparing any legal notices required to be published for the ERR process and conducting any required public hearings or informational meetings.

4. Submission of the ERR to MDT for review and approval.

5. Review of all proposed project expenditures or requests for payment to ensure their propriety and proper allocation of expenditures to the project budget.

6. In cooperation with the Clerk-Treasurer, process contractor payment requests and reimbursement requests for MDT.

7. Monitor the construction contract letting process, to include advertising, plan holders list maintenance, addenda issuance, tabulation and evaluation of bids received for conformance with federal and state requirements. Approval of the AE prepared award recommendation for LPA and City Council approval, and MDT concurrence. The PM will review the construction contract provisions for program compliance and make recommendations to the LPA. The LPA will obtain City award authority contingent on MDT concurrence before a contract is awarded.

8. Attend the pre-construction conference and monthly construction progress meetings. These meetings will be conducted by the AE.

9. Monitor consultant and construction contractors for compliance with applicable federal and state requirements.

10. Serve as the project's designated labor compliance officer ensuring prime and subcontractor compliance with all labor standards requirements. Responsibilities will include the review of weekly certified payroll reports to ensure compliance with Davis-Bacon prevailing wage requirements; periodic visits to the construction site to ensure that required posters and wage rate determinations have been posted by prime and each subcontractor; and conduct on-site interviews with prime and subcontractor construction personnel to ensure contractor compliance.

11. Ensure compliance with applicable civil rights requirements by periodically visiting the construction site to ensure that required, EEO Policy Statement, complaint form, and EEO Officer appointment letter have been posted by prime and each subcontractor; conducting on-site interviews

with construction personnel to ensure prime and subcontractor employees have attended monthly EEO meetings and know who the prime and subcontractor's EEO Officer are; and reviewing prime and each subcontractor's EEO meeting minutes.

12. Submit all required performance reports and closeout documents to the LPA for local approval.

13. Act as the project spokesperson at any public meetings, as deemed necessary by the LPA.

B. The Architect/Engineer (AE) will be responsible for:

1. Design investigations, calculations and design report preparation.

2. Preparation of the construction bid package in conformance with applicable federal-aid program requirements and conduct the construction contract letting process, to include ad preparation and advertising, project manual distribution and plan holders list maintenance, addenda issuance, tabulation and evaluation of bids received for conformance with state and federal requirements. Prepare award recommendation for local approval and MDT concurrence. Prepare the construction contract and request PM approval before issuance of the notice of award. The notice of award and other construction contract administration correspondence will be prepared for the PM's signature.

3. Assisting the PM with the pre-construction conference. Prepare correspondence such as the notice to proceed, contract time notices, change orders, additional work orders, etc.

4. Construction oversight and preparation of construction oversight documents; project diary, staking notes, daily inspection reports, quantity measurement, materials testing and acceptance, and responsible for obtaining contractor submittals.

5. Review and preliminary approval of all contractor requests for payment and submitting the approved requests to the PM for further approval and payment.

6. Schedule and conduct final construction review with PM and MDT Liaison.

III. Financial Management

A. The Clerk-Treasurer's responsibilities will be as follows:

1. Disbursement of project funds, based on claims and supporting documents approved by the LPA.

2. Entering all project transactions into the City's existing accounting system (BARS), and prepare checks/warrants for approved expenditures.

3. With the assistance of the LPA, prepare a Request for Payment and Status of Funds Report (reimbursement request) to be submitted to MDT. All reimbursement requests will be signed by two of the three following persons: Mayor, Clerk-Treasurer, and Council President. No expenditures will be made without the approval of the Council at a regular meeting.

4. With the assistance of the LPA, prepare the final financial reports for project closeout.

B. The LPA and Clerk-Treasurer will review all proposed expenditures of funds and will prepare reimbursement requests, which will be signed by the officials cited above. All disbursements will be handled in accordance with the City's established claim review procedures. Before submitting the claim to the Clerk-Treasurer, the LPA will attach a certification to each claim stating that the proposed expenditure is an eligible expense of the project and consistent with the PSA's scope of work and budget. The Council will review all claims before approving them.

C. Financial record keeping will be done in conformance with the recommendations of the Department of Commerce/Local Government Services Bureau. The original financial documents (claims with attached supporting material) will be retained in the City's offices.

Note: while the management plan is not required, the use of this tool is highly recommended to aid the local agency in ensuring effective and efficient program administration and project management.

Appendix 5.12.3 Project Development Schedule

SAMPLE

PROJECT SCHEDULE

A.	START-UP		
1.	Prepare Management Plan	Local governing body/LPA	Apr 200X
2.	Establish Project Files	PM	Apr 200X
3.	Determine Audit Requirements	Financial Officer	May 200X
4.	Schedule Local Govt. Audit	Local governing body	May 200X
5.	Award AE contract after MDT review and approval-Authorize Preliminary Design	Local governing body	Aug 200X
6.	Complete ERR	PM	Oct 200X
7.	Secure MDT Approval of ERR	LPA	Oct 200X
8.	Complete Preliminary Design and submit to PM for local review and comment	AE	Oct 200X
B.	IMPLEMENTATION		
1.	Authorize Final Design	PM	Nov 200X
2.	Complete Final Plans	AE	Dec 200X
3.	Submit Bid Documents to PM	AE	Dec 200X
4.	Secure Wage Determination	AE	Dec 200X
5.	Transmit locally approved Bid Documents to MDT for review	LPA	Jan 200X
6.	Authorize Advertisement For Bids	Local governing body	Feb 200X
7.	Bid Opening	AE	Mar 200X
8.	Bid tabs/award recommendation sent to Local governing body for approval contingent on MDT concurrence.	Local governing body	Mar 200X

9.	Request Concurrence from MDT	LPA	Apr 200X
C.	CONSTRUCTION		
1.	Submit Compliance Documents	Contractor	Apr 200X
2.	Pre-construction Conference	AE, PM	Apr 200X
3.	Start Construction	PE, Contractor	May 200X
4.	Labor Standards Monitoring	AE, PM	Ongoing
5.	Final Inspection	A/E, PM, MDT Liaison	Aug 200X
6.	Final Payment to Contractor	Local governing body	Aug 200X
7.	Final Payment to Engineer	Local governing body	Aug 200X
8.	Certificate of Completion	PM	Aug 200X
D.	CLOSEOUT		
1.	Project Closeout Begins	LPA	Sept 200X
2.	Project Completion Report	LPA	Oct 200X
3.	Submit Final Reimbursement Request to MDT	LPA	Oct 200X

Chapter 6
The Project Proposal

6.1 General Discussion

The Project Proposal is the description of the proposed improvement which serves as the support document for Federal Highway Administration (FHWA) authorization of federal funds. The Project Proposal may serve as the design report for those projects that are categorically excluded. The proposal also provides a schedule which tells State and FHWA programmers when the local agency anticipates obligating federal funds.

The Project Proposal is one of the main items contained in the project application package discussed in this chapter. Other items in this package include the Local Agency Agreement (Chapter 7) and the items of supporting data listed in the Proposal Submittal Checklist (Appendix 6.3.1).

6.2 Procedure for Compiling the Project Application Package

Local agencies must submit the following to the MDT LAG Certification Liaison:

- Proposal Submittal Checklist;
- Original and one copy of the completed Project Proposal;
- Original and one copy of the Local Agency Agreement signed by the approving authority;
- Supporting data listed in the Project Application Checklist; and
- Original and one copy of the Environmental Classification Summary Form.

A given project may not require all of the items in the checklist; however, the local agency must include all items that are relevant. Identify those items included with an "x" in the right column of the checklist. Many of the items listed in the checklist take place during the course of project development and are not complete at the time the Project Proposal is submitted. An agency may note such items on the checklist and submit them when they are completed. The latest point at which each item may be submitted is noted in Appendix 6.3.2 describing the item in detail.

Incomplete, incorrect, or missing items will delay project authorization.

The first item in the project application package is the checklist. The next item is the three-page Federal Aid Project Proposal (Appendix 6.3.4) itself, which must be filled out with the current project information. Page 1 of the Federal Aid Project Proposal is used for the FHWA federal aid programming purposes. Pages 2 and 3 of the Federal Aid Project Proposal give the state and FHWA additional information about the proposed project, such as design and accident data, and identify other government agencies that will be involved during project development. Appendix 6.3.3 contains instructions for completing the Project Proposal.

6.3 Appendices

6.3.1 Proposal Submittal Checklist

6.3.2 Instructions for Project Application Transmittal Items

6.3.3 Instructions for Completing Project Proposal

6.3.4 Local Agency Federal Aid Project Proposal

6.3.5 Proposal Planning Scope of Work

Appendix 6.3.1 Proposal Submittal Checklist

Local Agency:_____ Project Identification: _____ _____

Use this sheet as a cover sheet to the Project Proposal package. Place an "X" in the right column to denote items included.
If not applicable, state N/A. Include in the cover letter a comment explaining the action taken on each item as appropriate.
Note later with an "L" if the information will be supplied at a future date.

Application:

1. Project Proposal (Chapter 6) …… _____
2. Vicinity Map …… _____
3. Typical Roadway Section…… _____
4. Typical Bridge Section…… _____
5. Local Agency Agreement (Chapter 7)…… _____
6. TIP/STIP Inclusion (MPO/County/Agency, selected/limited to $)…… _____
7. Project Cost Estimate…… _____

Supporting Data:

8. Safety Checklist- A Supplement to the Project Proposal for Resurfacing and Rehabilitation Projects _____
9. Photos:…… _____
10. Deviation Request and Deviation Analysis Form to Justify Request …….. _____
11. Environmental Considerations (Chapter 10)…… …… _____
    a. Categorically Excluded (CE)- Environmental Classification Summary (ECS)…….. _____
    b. Environmental Assessment (EA)…… _____
    c. Environmental Impact Statement (EIS)…… _____
12. Hearing Notices (Chapters 10 and 16)…… …… _____
a. Transcript of Hearing…… _____
13. Location and Design Approval (Chapter 16)…… _____
14. Right-of-Way Requirements (Chapter 11)…… ……
    a. Relocation Plan……..
    b. Right-of- Way Plans……... _____
    c. Right-of-Way Project Funding Estimate or True Cost Estimate…… _____
    d. Request Right-of-Way Fund Authorization…… _____
15. Right-of-Way Certification (Chapter 11)…… … ……..….. _____
16. Agreements/Easements with Railroads, Utilities, and Other Agencies _____
17. FAA Notification (FAA Form 7460-1) (Chapter 10)…… …… … _____
18. Tied Bids (Chapter 17)…… _____

Remarks:

Appendix 6.3.2 Instructions for Project Application Transmittal Items

The application package shall include:

1. Project Proposal (Attach completed proposal submittal checklist)
To be included with original submittal and whenever there is a change in the scope of work or termini. For planning and TDM projects, use the Project Proposal.

2. Vicinity Map
A vicinity map of the project with the termini clearly marked must be submitted with the Project Proposal. The map should be 8.5 inches by 11 inches and of a scale such that a reviewer can identify the project area in the field. Show the agency name, project title, project termini, north arrow, map scale, and nearest city or distance to the nearest city/town, or major road intersection.

3. Typical Roadway Section
Attach a sketch of the proposed roadway section showing all data pertaining to the section, including side slopes and limits of right-of-way. Also indicate stationing and note any variations of the section throughout the stationing. If the design does not conform to the design standards (see Section 13.6), a request for deviation from these standards with complete justification is required.

4. Typical Bridge Section
(If Necessary)
Attach a sketch of the proposed bridge section showing all dimensions and type of construction.

On bridge projects where approaches are to be included in the contract, include roadway section and length of the approaches. In cases where the structure consists of a main span and approach spans, the length of the approach spans should be indicated, if known.

5. Local Agency Agreement
This agreement is necessary on all projects involving federal funds and/or when state forces will be involved in the processing of projects. It must be submitted with the Project Proposal. See Chapter 7 for instructions on completing the agreement.

6. Deviation Request
See Section 13.52.

7. Hearing Notices
Chapters 10 and 16 outline procedures for public hearings.

8. Scope of Work Report Approval
For most projects, the Project Proposal along with the data satisfying items 1 to 14 of this transmittal, pavement design criteria and geometric design will be considered sufficient for the Scope of Work Report. Complicated projects require a more detailed Scope of Work Report. The items listed below are typically required discussion for Scope of Work Report approval.

a. Traffic Data, Design-year ADT
b. Accident Data
c. Right-of-Way
d. Utilities

e. Design Speed
f. Horizontal-Vertical Alignment
g. Roadway Section
h. Pavement Design Criteria
i. Grading
j. Hydraulics
k. Traffic
l. Bike/Pedestrian Features
m. Design Exceptions
n. Traffic Control
o. Cost Estimate
p. Environmental Considerations
q. Public Involvement
r. Permits

9. Right-of-Way Requirement

a. No right-of-way required. Mark appropriate box on proposal. This serves as the agency's right-of-way certification. (This replaces the no right-of-way certification.)

b. Right-of-way required. Mark appropriate box on proposal and refer to Chapter 11 for further instructions.

10. Right-of-Way Certification

Required on all projects where right-of-way was acquired. Refer to Chapter 11 for further explanation.

11. Agreements/Easements with Railroads

Refer to MDT LAG Certification Liaison

12. FAA Notification

Check with the nearest FAA office if the project is within 3.2 km (2 miles) of an airport, if significant.

13. Tied Bids

If the project has tied bids (see Chapter 17), indicate the approval date. If the project is tied to another federally funded project, include the federal aid project number of the project, along with other information outlined in Section 16.

Appendix 6.3.3 Instructions for Completing Project Proposal

Ensure that reproductions are readable.

Federal Aid Project Number
MDT will assign

Date
Form is filled out.

Local Agency Project Number
Limited to eight (8) alpha/numeric characters that your agency identifies.

Federal Employer Tax ID Number
Required. Indicate the agency's tax identification number.

Agency
Required. This is your agency's name.

Federal Program Title
Enter the program number or title from the following list:

20.205 Highway Planning and Construction

Project Title
Write the project's title, as shown in TIP/STIP.

Project Termini
Indicate the beginning and ending limits of the section to be improved. For railway/highway grade crossing projects, show the name of the railroad involved. For intersection projects write the name of the crossroad.

From: To;
Indicate MP to MP

Length of Project
Project's length in miles.

Award Type
Mark the appropriate type.

Federal Agency
Indicate where the federal funds are coming from FHWA, etc.

City Number
For a city project, write the city number.

County Number
Write your county number.

County Name
Write the county the project is in.

MDT District
Write your MDT District number.

Urban Area Route Number
For projects inside urban areas, locate the appropriate urban area route numbers.

Total Estimated Cost
Required for each phase of the project; estimate to the nearest hundred dollars.

Local Agency Funding
Required for each phase of the project; estimate to the nearest hundred dollars.

Federal Funds
Required for each phase of the project; estimate to the nearest hundred dollars.

Phase Start Date
Enter the month and year which expenditure for the phase will begin.

Description of Existing Facility
In one or two paragraphs, give a detailed description of the existing facility including but not limited to: (1) type, pavement, lane and shoulder width, horizontal and vertical alignment, and (2) condition of existing surfacing and roadway within project limits and on adjacent sections at each end of the project. Note any substandard existing alignment and grade or other project deficiencies.

Description of Proposed Work
Check whether the project is new construction, reconstruction, resurfacing, or rehabilitation as described in Chapter 13. Explain the nature of the improvement proposed, such as widening of existing roadway for additional lanes or left-turn channelization, or to provide signalization to an intersection. Give the purpose of the improvement, such as upgrade facility to current standards, or to remedy a hazardous situation, or reduce congestion. Indicate the major work involved, such as grading, surfacing, bridge construction, drainage, etc. Give a contact person for the project in case there are questions.

Design Approval
On all federal aid transportation projects, agencies should document a location and design report to the agency and should document any evidence prior to requesting approval to acquire right-of-way or the preparation of the PS&E.

A project design cannot be approved before the environmental considerations have been approved by FHWA.

In most cases, the Project Proposal serves as the location and design report; this space is provided for the approving authority of the local agency to sign and date indicating the location and design approval.

When there is a subsequent change to the project design, an amended location-design approval is

required.

Geometric Design Data Accidents
Refer to design report data and/or Chapter 15.

Enter the required accident information in the appropriate blanks according to the following definitions.

There are three categories of accidents differentiated by increasing degrees of severity — property damage, injury, and fatality?. An accident, irrespective of the number of vehicles involved or the number of persons killed or injured, is entered as one accident and defined as follows:

a. Property Damage Accident: If there is damage to one or more vehicles or property, with no injuries and no fatalities, this equals one property damage accident.

b. Injury Accident: If one or more persons are injured, regardless of property damage, this equals one injury accident.

c. Fatal Accident: If one or more persons are killed regardless of property damage, this equals one fatal accident.

Examples:
1. Vehicle leaves roadway and hits utility pole, but driver is not hurt.
   Category: Property Damage Acc.

2. Vehicle slows on roadway, is hit from behind and pushed into vehicle ahead. Two persons are injured.
   Category: Injury Accident (two persons injured)

3. Two vehicles collide at intersection and involve two other vehicles. Two people are killed, three occupants are injured, and one pedestrian is injured.
   Category: Fatal Accident (two fatalities, four injuries)

If the above examples were all of the accidents for a location during a year, the total annual accident experience would indicate:
1 Property damage
1 Injury accident
1 Fatal accident
3 Accidents total
6 Persons injured
2 Persons killed
All accident, injury, and fatality information must be derived from official records.

Performance of Work
PE: Indicate who will be performing the work and the percentage of the work they will do.
CN: Indicate if work is to be done by contract and/or local forces and the percentage to be done by each.
CE: Describe responsibilities
IC: Describe responsibilities

Environmental Classification

Mark the appropriate NEPA class of the project as defined in Chapter 10.2.

If the nature of the proposed improvement is likely to have a significant impact on the environment an "Environmental Impact Statement" (EIS) is required.

If the project is not expected to have a significant impact on the environment a "Categorical Exclusion" (Cat Ex) is determined.

When the significance of the impact on the environment is not clearly established an "Environmental Assessment" (EA) will be required.

Right-of-Way Requirements

a. No right-of-way required. Projects need only check no right-of-way.

b. Right-of-way required. A Right-of-Way Project Funding Estimate or True Cost Estimate, a Right-of-Way Plan, and a Relocation Plan (if required).

If right-of-way acquisition becomes necessary on a job previously submitted as having no right-of-way, a Project Funding Estimate or True Cost Estimate would need to be submitted to the MDT LAG Certification Liaison

Description of Utility Relocation or Adjustments and Existing Major Structures Involved

Indicate the agency responsible for any relocation and/or adjustments.

a. Existing utilities-type of utility, publicly or privately owned, and other pertinent information.

b. Existing major structures — number, year built, overall length and conditions, roadway width, estimated or posted capacity, and proposed treatment of any substandard structures to remain in place.

Appendix 6.3.4 Local Agency Federal Aid Project Proposal

Montana Department of Transportation

Local Agency Federal Aid
Project Proposal

	Prefix	Route	( )		
Federal Aid Project Number				Date	
Local Agency Project Number				Federal Employer Tax ID Number	

Local Agency			Federal Program Title D 20.205 D Other	
Project Title				
Project Termini From			To	
Length of Project		Award Type DLocal DLocal Forces DState		
Federal Agency DFHWA DOthers	City Number	County Number	County Name	MDT District
Congressional District	Legislative District		Urban Area Number	MPO

Phase	Total Estimated Cost (Nearest Hundred Dollar)	Local Agency Funding (Nearest Hundred Dollar)	Federal Funds (Nearest Hundred Dollar)	Phase Start Date Month Year
P.E.				
ROW				
Const.				
C.E.				
I.C.				
Total				

Description of Existing Facility (Existing Design and Present Condition)	
Roadway Width	Number of Lanes

Description of Proposed Work		
DNew Cnstr DRe-Cnstr DResurface/Rehab	Roadway Width	Number of Lanes

Local Agency Contact Person	Title		Phone
Mailing Address	City	State	Zip Code
Design Approval (CA Agencies Only)	By_____ Approving Authority Title _____Date_____		

Local Agency Federal Aid Project Proposal - Page 1 of 3

Local Agency	Project Title	Date

Geometric Design Data

Description	Through Route	Crossroad
Federal Functional Classification	Urban D Principal Arterial D Minor Arterial D Collector	Urban D Principal Arterial D Minor Arterial D Collector
Terrain	DFlat DRoll DMountain	DFlat DRoll DMountain
Posted Speed		
Design Speed		
Existing ADT		
Design Year ADT		
Design Year		
Design Hourly Volume (DHV)		

Accident – 3 Year Experience

Year	Property Damage Accidents	Injury Accidents		Fatal Accidents		Total Number of Accidents
		Number of Accidents	Number of Injuries	Number of Accidents	Number of Fatalities	
Total Number of Accidents Attributable to Lack of having the Proposed Improvement						

Performance of Work

Preliminary Engineering Will Be Performed By	Others %	Agency %
Construction Will Be Performed By	Contract %	Agency %
Construction Engineering Will Be Performed By	Others %	Agency %
Incidental Construction Will Be Performed By	Contract %	Agency %

Environmental Classification

D Final D Preliminary

D Environmental Impact Statement (EIS)
- D Project Involves NEPA/MEPA Section 404 Interagency Agreement

D Programmatic Categorically Excluded (Cat Ex)
- D Projects Requiring Documentation (Documented Cat Ex)

D Environmental Assessment (EA)
- D Project Involves NEPA/MEPA Section 404 Interagency Agreement

Environmental Considerations

Local Agency Federal Aid Project Proposal - Page 2 of 3

<table>
<tr><td>Local Agency</td><td>Project Title</td><td>Date</td></tr>
<tr><td colspan="3">Right of Way</td></tr>
<tr><td rowspan="2">D No Right of Way Required
All construction required by the contract can be accomplished within the existing right of way.</td><td colspan="2">D Right of Way Required</td></tr>
<tr><td>D No Relocation</td><td>D Relocation Required</td></tr>
<tr><td colspan="3">Incidental Construction</td></tr>
<tr><td colspan="3">Description of Utility Relocation of Adjustments and Existing Major Structures Involved in the Project</td></tr>
<tr><td colspan="3">FAA Involvement
Is any airport located within 3.2 kilometers (2 miles) of the proposed project? D Yes D No</td></tr>
<tr><td colspan="3">Remarks</td></tr>
</table>

This project has been reviewed by the legislative body of the administration agency or agencies, or its designee, and is not inconsistent with the agency's comprehensive plan for community development.

Agency _____

Date_____ By_____

Mayor/Chairperson

Local Agency Federal Aid Project Proposal - Page 3 of 3

Appendix 6.3.5 Proposal Planning Scope of Work

FEDERAL-AID PROJECT PROPOSAL
PLANNING SCOPE OF WORK

Agency: _____ Federal Aid Project Number: _____

Project Title:

_____

Federal Funding Program: _____ Amount: _____

Matching Funds: _____ Total Amount: _____

Project Area:

Background:

Type of Study (check all that apply):

Region _____ Area _____ Corridor _____ Intersection _____

Design _____ Feasibility _____ Modeling _____

Other

Scope of Work:

Public Involvement Plan:

Environmental Considerations:

TDM/TSM and Transit Alternatives to be considered:

Land Use Implications:

Project Schedule:

Cost Breakdown by Task:

Deliverable Final Products:

Chapter 7
The Project Specific Agreement

7.1 General Discussion

The Project Specific Agreement (PSA) is an agreement between a local agency and the Montana Department of Transportation (MDT). An agreement is prepared by MDT for each federal aid project, and it covers all phases of work involved in the project (preliminary engineering, right-of-way acquisition, construction). Its purpose is to ensure that the federal funds in the agreed-upon amount are spent in accordance with all applicable state and federal laws and regulations.

If the federal aid participation ratio entered in the agreement is not the full amount allowed by the Federal Highway Administration (FHWA), then the participation ratio entered becomes the limit of funding allowed.

MDT will request Transportation Commission approval for the project based on an acceptable agreement. Once that approval is received, MDT will request funding from FHWA. After FHWA authorizes and signs the federal-aid project agreement, MDT will notify the agency to proceed. No costs are eligible for federal aid reimbursement until authorized in writing by MDT. This authorization is separate from the agreement.

7.2 Preparation Procedure

To provide MDT with the information necessary to write the PSA, a Local Agency Agreement Form must be prepared and submitted by the local agency to the LAG Certification Liaison when the Project Proposal (see Chapter 6) is submitted. This agreement form will be retained by MDT. It is the responsibility of the local agency to retain a copy for their files.

An agreement form is contained in Appendix 7.4.1, with instructions for completing it in Appendix 7.4.2. Local agency cost estimates for each phase of a project are entered on the form, as well as the project name, length, termini, description, and method of financing. These methods are described in Appendix 7.4.2.

7.3 Supplemental Agreement

Funds requested beyond the amount set forth in a Project Specific Agreement will require execution of a Supplemental Agreement.

Changes to the project funding must be made in accordance with this manual (see Chapter 2). Projects that exceed the agreement amount at the time of construction contract award must receive written approval from the state for the additional federal funds required. This requires that the local agency prepare, sign, and submit a Supplemental Agreement to the LAG Certification Liaison before the approving authority concurs in the contract award.

A Supplemental Agreement form is shown in Appendix 7.4.3, and instructions for completing it are given in Appendix 7.4.4. Like the original agreement form, the Supplemental Agreement form requires information about the project's name, length, termini, description, and funding.

7.4 Appendices

7.4.1 Local Agency Agreement

7.4.2 Instructions for Preparing Local Agency Agreement

7.4.3 Local Agency Agreement Supplement

7.4.4 Instructions for Preparing Local Agency Agreement Supplement

Appendix 7.4.1 Local Agency Agreement Form

Montana Department of Transportation
Local Agency Agreement Form

Agency_____
Address_____
_____
_____

CFDA No. 20.205
(Catalog of Federal Domestic Assistance)
Project No._____
Control No._____
For OSC MDT Use Only

The Local Agency having complied, or hereby agreeing to comply, with the terms and conditions set forth in (1) Title 23, U.S. Code Highways, (2) the regulations issued pursuant thereto, (3) Office of Management and Budget Circulars A-102, A-87 and A-133, (4) the policies and procedures promulgated by the Montana Department of Transportation, and (5) the federal aid project agreement entered into between the State and Federal Government, relative to the above project, the Montana State Department of Transportation will authorize the Local Agency to proceed on the project by a separate notification. Federal funds which are to be obligated for the project may not exceed the amount shown herein on line (r), column 3, without written authority by the State, subject to the approval of the Federal Highway Administration. All project costs not reimbursed by the Federal Government shall be the responsibility of the Local Agency.

Project Description
Name _____Length_____
Termini_____
Description of Work

Type of Work		Estimate of Funding		
		(1) Estimated Total Project Funds	(2) Estimated Agency Funds	(3) Estimated Federal Funds
PE ___% Federal Aid Participation Ratio for PE	a. Agency			
	b. Other			
	c. Other			
	d. Total PE Cost Estimate (a+b+c)			
Right of Way ___% Federal Aid Participation Ratio for RW	e. Agency			
	f. Other			
	g. Other			
	h. Total ROW Cost Estimate (e+f+g)			
Construction _____% Federal Aid Participation Ratio for CN	i. Contract			
	j. Other			
	k. Other			
	l. Other			
	m. Agency			
	n. Total CN Cost Estimate (i+j+k+l+m)			
Construction Engineering ___% for CE	o. Agency			
	p. Other			
	q. Contract			
	r. Total CE Cost Estimate			
s. Total Project Cost Estimate (d+h+n+r)				

Appendix 7.4.2 Instructions for Preparing Local Agency Agreement

.01 Agency Name and Billing Address. Enter the Agency of primary interest which will become a party to the agreement.

.02 Project Number. Leave blank. This number will be assigned by MDT.

.03 Control Number. Leave blank. This number will be assigned by MDT.

.04 Project Description. Enter the project name, total length of the project, and a brief description of the termini.
Example: (Name) Regal Road; (Length) 0.84 km (0.52 miles): (Termini) Tuscan Road to approx. 76.2 m (250 feet) south of Michan Road.

Below "Description of Work," enter a brief outline of the major items of work to be performed. Examples: (a) "Widening, channelization, curbs, gutters, illumination, and traffic signals." (b) "Right-of-way will be acquired by Agency forces."

.05 Type of Work and Funding.

a. PE. Lines (a) through (d) show Preliminary Engineering costs for the project by type of work.
*Federal aid participation ratio for PE enter ratio for PE lines with amounts in column 3.

Line a — Enter the estimated amount of agency PE in columns 1 through 3.

Line b & c —Identify user, consultant, etc., and enter the estimated amounts in columns 1 through 3.

Line d — Total of lines (a) + (b) + (c).

b. Right-of-Way. If Right-of-Way is acquired on the project, the appropriate costs are shown in lines (e) through (h).

*Federal aid participation ratio for ROW — enter ratio for ROW lines with amounts in column 3.

Line e — Enter the estimated amount of agency work in columns 1 through 3.

Line f & g— Identify user, consultant, etc., and enter the estimated amounts in columns 1 through 3.

Line h — Total of lines (e) + (f) + (g).

c. Construction.
*Federal aid participation ratio for CN enter ratio for CN lines with amounts in column 3.

Line i — Enter the estimated cost of the contract.

Lines j & k & l — Enter other estimated costs such as utility and construction contracts or non-federally matched contract costs.

Line m — Enter estimated costs of all construction related agency work.

Line n — Total Construction Cost Estimate. Total of lines (i) + (j) + (k) + (l) + (m).

d. Construction Engineering
*Please remember, if the federal aid participation rate entered is not the full amount allowed by FHWA, then the participation rate entered becomes the maximum amount allowed.

Lines- Total Cost Estimate of the Project. Total of lines (d)+ (h)+ (n) + (r).

Appendix 7.4.3 Local Agency Agreement Supplement

Montana Department of Transportation

Local Agency Agreement Supplement

Agency		Supplement Number
Federal Aid Project Number	Control Number	CFDA No. 20.205 (Catalog of Federal Domestic Assistance)

The Local Agency desires to supplement the agreement entered into and executed or _____.
All provisions in the basic agreement remain in effect except as expressly modified by this supplement.
The changes to the agreement are described as follows:
Project Description
Name_____ Length _____
Termini _____
Description of Work No Change

Reason for Supplement

Type of Work		Estimate of Funding				
		(1) Previous Agreement /Suppl.	(2) Supplement	(3) Estimated Total Project Funds	(4) Estimated Agency Funds	(5) Estimated Federal Funds
PE _____% Federal Aid Participation Ratio for PE	a. Agency					
	b. Other					
	c. Other					
	d. Total PE Cost Estimate (a+b+c)					
Right of Way ____% Federal Aid Participation Ratio for RW	e. Agency					
	f. Other					
	g. Other					
	h. Total ROW cost Estimate (e+f+g)					
Construction _____% Federal Aid Participation Ratio for CN	i. Contract					
	j. Other					
	k. Other					
	l. Other					
	m.Agency					
	n. Total CN Cost Estimate (i+j+k+l+m)					
Incidental Construction	o.					
	p. Total Project Cost Estimate (d+h+n+o)					

Appendix 7.4.4 Instructions for Preparing Local Agency Agreement Supplement

.01 Agency. Enter the agency name as entered on the original agreement.

.02 Supplemental Number. Enter the number of the supplement. Supplemental numbers will be assigned in sequence beginning with Number 1 for the first supplement.

.03 Project Number. Enter the federal aid project number assigned by MDT on the original agreement.

.04 Control Number. Enter the agreement number assigned by MDT on the original agreement.

.05 Execution Date. Enter date of the original agreement execution.

.06 Project Description. Enter the project name, length, and termini.

.07 Description of Work. Clearly describe if there is a change in work. If the work has not changed put a check mark in the "No Change" box.

.08 Reason for Supplement. Enter reason for this supplement, i.e., increase PE funding to cover design changes presented in the revised prospectus; request funding of construction phase; decrease construction funding to the contract bid amount, etc.

.09 Types of Work and Funding. Complete this section in the manner described in Appendix 7.4.2, Paragraph .05.

a. Column 1	Enter the amounts from column 1 of the original Local Agency Agreement. If the agreement has already been supplemented, enter the amounts from column 3 of the last supplemental agreement.
b. Column 2	Enter additional amounts requested.
c. Column 3	Add the amounts in columns 1 and 2.
d. Columns 4 and 5	Enter the appropriate amounts based on the participation ratio recorded on the original agreement.

Chapter 8
Fiscal Management & Audit Procedures

8.1 General Discussion

All billing must be submitted to the MDT contact by the local agency in accordance with the terms of the Project Specific Agreement (PSA). Typically, the terms within the PSA will provide for quarterly reimbursements during each phase requiring either 1) a retainage of 25% from the local agency or 2) bonding from the local agency. MDT will review, on a case-by-case basis, for any exceptions to the reimbursement process. Acceptance will be made by MDT and FHWA.

The execution of the Project Specific Agreement does not constitute approval of federal funds. Project authorization from MDT is made in a separate notification (see Chapter 5 – Project Approval Letter).

MDT assigns a contract number on all federal aid construction projects that identifies the project. This number should be used in addition to the federal aid project number when corresponding with MDT.

Indirect cost recovery is accomplished through the Indirect Cost Accounting Plan (ICAP). As of July 1, 2007, MDT recovers indirect costs (IDC) on the federal funds of urban-funded projects and on any local participation or match on projects that are completed by local agencies through the LAG process. Projects will have language in the PSA regarding the application of IDC. The IDC rate will be applied to the federal (urban) funding portion of project costs and will also be applied to the required local match funding. Additional funds that the local agency may put into the project may have the IDC rate applied.

8.2 Billing Procedures

Once MDT has executed the PSA and has given the local agency written authority to proceed, the agency accumulates billings in accordance with the PSA. Any work performed before the official authorization date does not qualify for federal participation.

The final project billing is submitted as follows:

Cost Reimbursement

Reimbursement can only be requested after expenses have been incurred and work is certified as being complete in the local agency letter to MDT. The reimbursement request must:

- Detail the total amount of claims received
- Indicate the federal aid reimbursement amount expected
- Attach a copy of all supporting claims
- Certify the work has been satisfactorily completed
- Be delivered to the District Liaison for work occurring after MDT construction contract award concurrence has been issued. The request for PE account expenses should be directed to the LAG Certification Liaison
- Indicate to whom and where the warrant must be delivered. After completion of construction activities, notify the District Liaison who will perform a final project review and perform other closeout activities prior to submitting the final reimbursement request to the Helena office for processing. The reimbursement request should be mailed to the:

Montana Department of Transportation
2701 Prospect Avenue
P.O. Box 201001
Helena, MT 59620-1001

After receipt of the letter requesting reimbursement, a review by the LAG Certification Liaison will be conducted

- The LAG Certification Liaison will review the request and check:
  a. The federal aid project name and number for correctness;
  b. The appropriateness of the amount requested. The amount requested must be consistent with the approved budget and reported progress;
  c. The eligibility of all costs and their consistency with the scope of services and project location; and
  d. The financial numbers for accuracy.
- The LAG Certification Liaison will approve the request for payment and forward it to the Engineering Financial Contact. The Engineering Financial Contact collects the reimbursement requests and forwards them to the Engineering Accountant. The Engineering Accountant prepares the invoice for payment and forwards the claim to the Engineering Financial Contact for final approval
- A warrant is prepared and mailed within five business days
- If the information is unsatisfactory, the local agency will be notified as to the reason(s)

8.3 Identification of Federal Aid Participating and Nonparticipating Charges

Reimbursement of costs eligible for Federal Highway Administration's (FHWA) participation is provided under Title 23 of the United States Code. The following is an overview of participating and nonparticipating charges by FHWA.

a. Participating (Eligible for Federal Aid). The following criteria must be met for charges to be considered participating when charged directly to a federal aid project:
   - The work must be programmed with FHWA.
   - The costs must have been incurred after the FHWA authorization date to proceed with the work.
   - The costs must be wholly for the benefit of the project being charged, e.g.: labor performed directly for that project, supplies used up in the course of a project, etc.

Examples of federal aid participations follow. This list is not limiting or all-inclusive.

1. Labor—to design, survey, prepare plans, appraise right-of-way, inspect construction activities, audit agreements, etc. (see Section 8.32a).

2. Travel and Per Diem — of employees involved in any participating activity related to the project (see Section 8.32 b).

3. Materials — incorporated into a federally approved project

4. Supplies purchased and consumed entirely on a federally approved project. Supplies might include: cloth tapes, cylinder molds, drafting supplies, film including developing and printing, hubs, paint (marking spray), stakes, long distance telephone calls identified by project, royalty on

materials, and initial or new costs of temporary traffic control devices.

5. Services for material testing, document reproduction, mapping, computer, and equipment usage charges. All of these will be based upon Federal guidelines, as defined in 48 CFR, Chapter 1, Part 31.

6. Office Rental – including utilities and telephone service.

b. Nonparticipating. For specific projects, the following items are not eligible for federal aid participation:

1. Equipment Purchase and Repair – unless specifically approved by FHWA, e.g., engineering, safety, or office equipment and supplies.

2. Supplies purchased and consumed on a number of projects or for the general management or operation of the organizational unit or in administration signs, small tools, and temporary traffic control devices.

3. Labor for activities not directly related to the project nor programmed with FHWA. Labor activities pertaining to the general operation of an agency are not eligible for federal participation.

4. Travel and Per Diem of employees performing activities classified as nonparticipating or unrelated to a specific federal aid project.

8.3.1 Participating Functions

Classifications of work programmed with FHWA and eligible for federal aid:

a. Preliminary Engineering (PE). The work of locating and designing, making surveys and maps, sinking test holes, making foundation investigations, preparing plans, specifications and estimates, centerline, right-of-way plan preparation and other related preliminary work and incidental construction staking, to the extent such staking is necessary to review construction plans, and related general engineering preparatory to the letting of a contract for construction. The work may also include traffic counts, studies undertaken to determine traffic demands, holding of public hearings, preparation of right-of-way cost estimates, legal, and other costs incidental to the location and design of a highway project necessitating the acquisition of right-of-way thereon up to, but not including the appraisal of individual parcels for acquisition purposes.

These engineering costs are generally incurred prior to the date of construction approval or the date construction plan changes are completed prior to the beginning of construction. The date of contract award is the cutoff for charging to preliminary engineering. During the construction phase of a project when a major change takes place that requires additional design or PE effort, the appropriate job can be reopened on a case-by-case basis after approval from FHWA.

Also, any construction staking done in advance of the award should be charged to construction engineering, not PE.

b. Acquisition of Rights-of-Way. The continuation of preparation of right-of-way plans; appraisal for parcel acquisition; review of appraisals; preparation for and trial of condemnation cases; management of properties acquired; furnishing of relocation advisory assistance; and other related

labor expenses.

- Excess land (appraised value) including uneconomic remnants.
- Improvements (appraised salvage value).
- Right-of-way acquired after certification by the local agency that right-of-way necessary for a designated federal aid highway project has been acquired.
- Judgments in condemnation cases not appealed when the attorney's closing report indicates a basis for appeal. The amount in excess of the review appraiser's determination of value is nonparticipating.
- Landowners:
  - Attorneys' fees;
  - Witness fees; Expert witness fees; or
  - Similar costs to a landowner based on value of the services rendered to him which are paid by the local agency in connection with acquisition of rights-of-way, regardless of whether such costs are included in court judgments or court costs in litigated condemnation cases, e.g., statutory evaluation allowance.

c. Construction Engineering (CE). The work of supervising construction activities: the inspection of construction and related mechanical aspects (e.g., staking necessary to review construction plans together with those staking activities necessary for the local agency to control construction operations); testing of materials incorporated into construction, checking shop drawings and measurements for and preparations of progress and final estimates, and as-built drawings. Construction engineering costs are generally incurred only after approval of the PS&E and acquisitions of Rights-of-Way , and a contract number is issued, but incurred prior to:

- Completion date of the final contract pay estimate and its submission to the contractor;
- The final date of charges for required material testing; or
- Completion date of the separation of contract cost by code type, location, etc., whichever is applicable to that portion of the construction engineering phase involved.

d. Administrative Settlement Costs-Contract Claims. FHWA will participate, up to the appropriate Federal matching share, provided that: (1) The FHWA was consulted and concurred in the proposed course of action; (2) All appropriate courses of action had been considered; and (3) The local agency pursued the case diligently and in a professional manner.

e. Construction Costs. Construction costs, other than those described in item (8.32 h.) are comprised of contractor payments. Contractor payments are the full compensation for all resources (materials, equipment, labor, etc.) necessary to complete the work described in the contract plans package. Mobilization of personnel, equipment and supplies to the project site, miscellaneous work, temporary erosion control features, and traffic control are also included. The basis of payment is the unit prices and lump sum items in the Contract. Partial payment of the unit price or lump sum bid may be considered for materials furnished to the contractor and stockpiled prior to installation. Extra work beyond that described in the contract package is authorized by a change order signed by both parties.

f. Construction Costs for Other than Contractor Payments.
- Royalty expenses for material furnished by the local agency that are used by the contractor.

8.3.2 Standards for Selected Items of Costs

The following are standards for determining that the selected items of cost are allowable. In general, costs must be reasonable, necessary, and allocable to the specific project. The allowability of the selected items of cost is subject to the general policies and principles stated above.

a. Salaries and Wages.

1. Subject to appropriate authorization requirements, federal funds may participate in the cost of salaries, wages, and related payroll expenses incurred for periods of time public employees are actively engaged, either directly or indirectly, in project-related activities.

2. Salaries, wages, and related payroll expenses of a local agency for maintenance, general administration, supervision, and other overhead are not eligible for reimbursement except as provided for in Section 8.32 e2.

b. Travel and Transportation.

1. Federal funds may participate in the cost of commercial transportation, privately owned automobiles, and per diem or subsistence essential to the prosecution of the project and is performed in accordance with prescribed procedures.

2. Reimbursement may be made for use of privately owned automobiles and per diem or subsistence incurred in conformance with the established reimbursement policy and mileage of the local agency.

c. Employee Leave and Holidays.

1. A local agency may claim reimbursement for the costs of leave, e.g., annual, sick, military, jury, etc., that is earned, accounted for, and used in accordance with established procedures. The cost of such leave must be a liability of the local agency, must be equitably distributed to all activities, and the proportional costs distributed to a federal aid project must be representative of the amount that is earned and accrued while working on the project.

2. Compensatory leave granted by a local agency in lieu of payment of overtime to eligible employees may be claimed for reimbursement if accrued and granted under established policies on a uniform basis. Such leave costs must meet the criteria discussed in paragraph (1) of this section.

3. Costs for other leave of a similar nature which may be peculiar to a specific local agency may also be reimbursed provided it meets the criteria set forth in paragraph (1) of this section.

d. Social Security, Retirement, and Other Payroll Benefits.

1. Federal funds may participate in allocable costs incurred for social security, retirement, group insurance premiums, and similar items applicable to salaries and wages of public employees engaged in work in federal aid projects.

2. The costs for such benefits must be a liability of the local agency and must meet the criteria set forth in paragraph 1 of c above.

e. General Administration and Other Overhead Costs Are Not Allowed.

1. General administration, supervision, and other unallowable overhead costs of a local agency are those considered necessary for the management, supervision, and administrative control of a suitably equipped, staffed, and operational agency. Examples of such unallowable costs may include, but are not limited to: the following types of personnel, related payroll benefit costs, and other administrative or support services (refer to CFR 23, 1.11):

   - Directors, department heads, legal, accounting, budgeting, personnel, and procurement units.
   - Related clerical, secretarial, and other support services for officials and personnel listed immediately above.
   - Management, supervision, and administrative overhead costs incurred by other units or departments of the state, local agencies, or governmental organizations.

2. Costs incurred for services rendered by employees generally classified as administrative may, however, be considered eligible for reimbursement for:

   - A highway planning unit and a research development unit, in the ratio of time spent on the participating portion of work in the unit to the total unit's working hours; and
   - Other operating units if such employees are assigned for specific identifiable periods of time to perform project-related activities in the same manner as other operating personnel.

f. Use of Cost Accumulation Centers and Cost Distribution Methods.

1. Cost accumulation centers, i.e., cost centers, cost pools, or other acceptable cost accumulation methods, may be used to capture related types of costs for later distribution to all projects or other benefiting activities for which work was performed during the accounting period. The accounting and cost distribution procedures must be in accordance with paragraph (2) of this section for types of costs incurred under the following general criteria:

   - Salaries, wages, and related payroll benefit costs may be incurred during a payroll accounting period which affects a number of projects and, therefore, may not be easily adaptable to charging directly to individual projects due to such factors as (i) incompatibility of time increments for individual projects; (ii) an inordinate amount of time or an additional number of documents to provide separate project coding; or (iii) a documented reduction of overhead costs in the elimination of processing source and coding required, increased electronic data processing applications, and additional accounting requirements.
   - Small cost items may be incurred which affect several projects and would result in a disproportionate amount of time and number of documents for separate project accounting in relation to the amount of costs involved.
   - Items of costs may otherwise be eligible for reimbursement but, due to their nature and the small amounts involved, they are not being claimed for reimbursement, since the additional overhead costs required for separate project coding and effective internal controls are not cost beneficial relative to separate project reimbursable amounts.
   - Cost items must be directly attributable to and properly allocable to the projects to which they are distributed. They must not lose their identity, i.e., type, amount, purpose for which incurred, whether federally participating, input source, etc.

2. The use of separate cost accumulation centers for comparably related types of costs is a prerequisite to the use of percentages, or other acceptable distribution methods, for cost distribution to benefiting projects or other activities. The accounting procedures and methods of distribution used must have prior concurrence of the FHWA, be representative of average actual costs, and must assure that (1) costs are uniformly and equitably distributed to all projects and activities for which work was performed during the accounting period irrespective of source of funds, (2) provisions are established for an adequate segregation of costs and separate distribution methods for similarly related types of costs, (3) actual costs and liabilities are fully accounted for and controlled, and (4) that reviews are made periodically, and the rates or other distribution methods are adjusted at least once annually by any over or under distributed accumulated costs from the cost accumulation center for the preceding accounting period.

3. Percentages representative of average actual costs may be used to distribute leave, social security, and other payroll benefits. These rates are based on prior cost experience adjusted by anticipated known factors which will affect overall costs during the current year, e.g., scheduled salary increases, changes anticipated in insurance premiums, etc.

g. Audit Expense

Project related audits performed in accordance with generally accepted auditing standards (as modified by the Comptroller General of the United States) and applicable federal laws and regulations are eligible for federal participation.

The local agency may use other state, local public agency, and federal audit organizations as well as licensed or certified public accounting firms to augment its audit force.

Audits performed in accordance with the requirements of 23 CFR Part 172, audits of third party contract costs, and other audits providing assurance that a recipient has complied with FHWA regulations are all considered project related audits. Audits benefiting only nonfederal projects, those performed for local agency management use only, or those serving similar nonfederal purposes are not considered project related.

1. Federal funds may be used to reimburse a local agency for the following types of project related audit costs:

   - Salaries, wages, and related costs paid to public employees in accordance with Section 8.32 a;
   - Payments to any federal, state, or local public agency audit organization; and
   - Payments to licensed or certified public accounting firms.

2. Audit costs incurred by a local agency will be equitably distributed to all benefiting parties. The portion of these costs allocated to the Federal Aid Highway Program which are not directly related to a specific project or projects will be equitably distributed, as a minimum, to the major FHWA funding categories in that state.

h. Administrative Settlement Cost Contract Claims.

Administrative settlement costs are costs related to the defense and settlement of contract claims including, but not limited to, salaries of a contracting officer or their authorized representative,

attorneys, and/or members of state boards of arbitration, appeals boards, or similar tribunals. These costs are allocable to the findings and determinations of contract claims, but they do not include administrative or overhead costs.

1. Federal funds may participate in administrative settlement costs which are:

    - Incurred after notice of claim;
    - Properly supported as reasonable costs;
    - Directly allocable to a specific federal aid or federal project;
    - For employment of special counsel for review and defense of contract claims, when recommended by the State Attorney General or local agency legal counsel, and approved in advance by the FHWA Division Administrator, with advice of FHWA Regional Counsel; and
    - For travel and transportation expenses, if in accordance with established policy and practices.

2. Federal funds will not participate: (1) If it has been determined that local agency employees, officers, or agents acted with gross negligence, or participated in intentional acts or omissions, fraud, or other acts not consistent with usual State practices in project design, plan preparation, contract administration, or other activities which gave rise to the claim; (2) In such cost items as consequential or punitive damages, anticipated profit, or any award or payment of attorney's fees paid by a State to an opposing party in litigation; and (3) In tort, inverse condemnation, or other claims erroneously styled as claims "under a contract".

8.4 Audits

The local agency shall establish a reasonable accounting system, which enables ready identification of compliance with the requirements stated above. MDT may audit the local agency's records anytime during the project to verify use of the federal funds. The right to audit shall include subcontractors that are used during the project. The local agency shall insure MDT has these rights with the subcontractor(s).

8.5 Tools

Link to FHWA training videos regarding Finance:
http://www.fhwa.dot.gov/federal-aidessentials/catmod.cfm?id=55

Chapter 9
Utility Relocations, Adjustments, and Reimbursement

9.1 Utility Relocations

a. Eligibility

1. When requested by the local agency, federal funds may participate, at the pro rata share applicable, in an amount actually paid by a local agency for the costs of utility relocations. Federal participation is subject to the provisions of §645.107(k) of 23 CFR and may be made under one or more of the following conditions when:

    - The local agency certifies that the utility has the right of occupancy in its existing location because it holds the fee, an easement, or other real property interest, the damaging or taking of which is compensable in eminent domain;
    - The utility occupies privately or publicly owned land, including public road or street right-of-way, and the local agency certifies that the payment is made pursuant to a law authorizing such payment in conformance with the provisions of 23 U.S.C.123; and/or
    - The utility occupies publicly owned land, including public road right-of-way, and is owned by a public agency or political subdivision of the state, and is not required by law or agreement to move at its own expense, and the local agency certifies that it has the legal authority or obligation to make such payments.

2. When the local agency has the authority to participate in project costs, federal funds may not participate in payments made by a political subdivision for relocation of utility facilities when state law prohibits the local agency from making payment for relocation of utility facilities.

3. When the local agency does not have the authority to participate in project costs, federal funds may participate in payments made by a political subdivision for relocation of utility facilities. Such payments may be made when the local agency certifies that the payment is based upon the provisions of this part and does not violate the terms of a use and occupancy agreement, or legal contract, between the utility and the local agency.

4. Federal funds are not eligible to participate in any costs for which the utility contributes or repays the local agency except for utilities owned by the political subdivision on projects which qualify under the provisions of (3) of this part in which case the costs of the utility are considered to be costs of the local agency.

5. The MDT may deny federal fund participation in any payments made by a local agency for the relocation of utility facilities when such payments do not constitute a suitable basis for federal fund participation under the provisions of Title 23, U.S.C.

6. The rights of any public agency or political subdivision of a state under contract, franchise, or other instrument or agreement with the utility pertaining to the utility's use and occupancy of publicly owned land, including public road and street right-of-way, will be considered the rights of the local agency in the absence of state law to the contrary.

7. In lieu of the individual certifications required by section a-1, above, the local agency may file a statement with the MDT setting forth the conditions under which the local agency will make payments for the relocation of utility facilities. The MDT may approve federal fund participation in utility relocations proposed by the local agency under the conditions of the statement when the MDT has made an affirmative finding that such statement and conditions form a suitable basis for federal fund participation under the provisions of 23 U.S.C. 123.

8. Federal funds may not participate in the cost of relocations of utility facilities made solely for the benefit or convenience of a utility, its contractor, or a highway contractor.

9. When the advance installation of new utility facilities crossing or otherwise occupying the proposed right-of-way of a planned highway project is underway, or scheduled to be underway, prior to the time such right-of-way is purchased by or under control of the local agency, arrangements should be made for such facilities to be installed in a manner that will meet the requirements of the planned highway project. Federal funds are eligible to participate in the additional cost incurred by the utility that are attributable to, and in accommodation of, the highway project provided such costs are incurred subsequent to MDT authorization of the work. Subject to the other provisions of this regulation, federal participation may be approved under the foregoing circumstances when it is demonstrated that the action taken is necessary to protect the public interest and the adjustment of the facility is necessary by reason of the actual construction of the highway project.

10. Federal funds are eligible to participate in the costs of preliminary engineering when the existing utility facility in conflict is located on private right-of-way, the acquisition of replacement right-of-way for utilities, and the physical construction work associated with utility relocations. Such costs must be incurred by or on behalf of a utility after the date the work is included in an approved program and after the MDT has authorized the local agency to proceed in accordance with 23 CFR 630, Subpart A - Project Authorization and Agreements.

b. Cost Development and Reimbursement.

1. Developing and recording costs. All utility relocation costs will be recorded by means of work orders in accordance with an approved work order system except when another method of developing and recording costs, such as lump-sum agreement, has been approved by the local agency and the MDT. MDT has developed an alternative procedure for reimbursement for Utility Relocation in accordance with 23 CFR 645.117 - Cost Development and Reimbursement. Except for work done under contracts, the individual and total costs properly reported and recorded in the utility's accounts in accordance with the approved method for developing such costs, or the lump-sum agreement, will constitute the maximum amount on which federal participation may be based.

   Each utility will keep its work order system or other approved accounting procedure in such a manner as to show the nature of each addition to or retirement from a facility, the total costs thereof, and the source or sources of cost. Separate work orders may be issued for additions and retirements. Retirements, however, may be included with the construction work order provided that all items relating to retirements will be kept separately from those relating to construction.

2. Direct labor costs. Salaries and wages, at actual or average rates, and related expenses paid by the utility to individuals for the time worked on the project are reimbursable when supported by

adequate records. This may include labor associated with preliminary engineering, construction engineering, right-of-way, and force account construction.

Salaries and expenses paid to individuals who are normally part of the overhead organization of the utility may be reimbursed for the time worked directly on the project when supported by adequate records and when the work performed by such individuals is essential to the project and could not have been accomplished as economically by employees outside the overhead organization.

3. Labor surcharges. Labor surcharges include worker compensation insurance, public liability and property damage insurance, and such fringe benefits as the utility has established for the benefit of its employees. The cost of labor surcharges will be reimbursed at actual cost to the utility or, at the option of the utility, average rates which are representative of actual costs may be used in lieu of actual costs if approved by the MDT and the FHWA. These average rates should be adjusted at least once annually to take into account known anticipated changes and correction for any over or under applied costs for the preceding period.

   When the utility is a self-insurer, there may be reimbursement at experience rates properly developed from actual costs. The rates cannot exceed the rates of a regular insurance company for the class of employment covered.

4. The local agency may develop, or work in concert with utility companies to develop other acceptable costing methods, such as unit costs, to estimate and reimburse utility relocation expenditures. Such other methods will be founded on generally accepted industry practices and be reasonably supported by recent actual expenditures. Unit costs should be developed periodically and supported annually by a maintained database of relocation expenses. Streamlining of the cost development and reimbursement procedures is encouraged so long as adequate accountability for Federal expenditures is maintained. Concurrence by the MDT is required for any costing method used other than actual cost.

5. Material and supply costs. Materials and supplies, if available, are to be furnished from company stock except that they may be obtained from other sources near the project site when available at a lower cost. When not available from company stock, they may be purchased either under competitive bids or existing continuing contracts under which the lowest available prices are developed. Minor quantities of materials and supplies and proprietary products routinely used in the utility's operation and essential for the maintenance of system compatibility may be excluded from these requirements. The utility will not be required to change its existing standards for materials used in permanent changes to its facilities. Costs are determined as follows:

   - Materials and supplies furnished from company stock will be billed at the current stock prices for such new or used materials at the time of issue.
   - Materials and supplies not furnished from company stock will be billed at actual costs to the utility delivered to the project site.
   - A reasonable cost for plant inspection and testing may be included in the costs of materials and supplies when such expense has been incurred. The computation of actual costs of materials and supplies will include the deduction of all offered discounts, rebates, and allowances.
   - The cost of rehabilitating rather than replacing existing utility facilities to meet the requirements of a project is reimbursable, provided the rehabilitation costs do not exceed

replacement costs.

Materials recovered from temporary use and accepted for reuse by the utility will be credited to the project at prices charged to the job, less a 10 percent consideration for loss in service life. Materials recovered from the permanent facility of the utility that are accepted by the utility for return to stock will be credited to the project at the current stock prices of such used materials. Materials recovered and not accepted for reuse by the utility, if determined to have a net sale value, will be sold to the highest bidder by the local agency or utility following an opportunity for local agency inspection and appropriate solicitation for bids. If the utility practices a system of periodic disposal by sale, credit to the project will be at the going prices supported by records of the utility.

Federal participation may be approved for the total costs of removal when such removal is required by the highway construction or the existing facilities cannot be abandoned in place for aesthetic or safety reasons. When the utility facilities can be abandoned in place but the utility or highway contractor elects to remove and recover the materials, federal funds will not participate in removal costs which exceed the value of the materials removed.

The actual and direct costs of handling and loading materials and supplies at company stores or material yards, and of unloading and handling recovered materials accepted by the utility at its stores or material yards are reimbursable. In lieu of actual costs, average rates representative of actual costs may be used if approved by the local agency and the MDT. These average rates should be adjusted at least once annually to take into account known anticipated changes and correction for any over or under applied costs for the preceding period. At the option of the utility, 5 percent of the amounts billed for the materials and supplies issued from company stores and material yards, or the value of recovered materials will be reimbursed in lieu of actual or average costs for handling.

6. Equipment costs. The average or actual costs of operation, minor maintenance, and depreciation of utility-owned equipment may be reimbursed. Reimbursement for utility-owned vehicles may be made at average or actual costs. When utility-owned equipment is not available, reimbursement will be limited to the amount of rental paid (1) to the lowest qualified bidder, (2) under existing continuing contracts at reasonable costs, or (3) as an exception by negotiation when (1) and (2) of this section are impractical due to project location or schedule.

7. Transportation costs. The utility's cost, consistent with its overall policy, of necessary employee transportation and subsistence directly attributable to the project is reimbursable.

   Reasonable costs for the movement of materials, supplies, and equipment to the project and necessary return to storage including the associated cost of loading and unloading equipment is reimbursable.

8. Credits. Credit to the highway project will be required for the cost of any betterment to the facility being replaced or adjusted, and for the salvage value of the materials removed.

9 Credit to the highway project will be required for the accrued depreciation of a utility facility being replaced, such as a building, pumping station, filtration plant, power plant, substation, or any other similar operational unit. Such accrued depreciation is that amount based on the ratio between the period of actual length of service and total life expectancy applied to the original cost.

Credit for accrued depreciation will not be required for a segment of the utility's service, distribution, or transmission lines.

10. Billing. After the FHWA approves the executed local agency/utility agreement, the utility may be reimbursed through the local agency for costs incurred. MDT has developed an alternative procedure for reimbursement for Utility Relocation in accordance with CFR 23 part 645.117 Cost development and reimbursement.

    The utility will provide one final and complete billing of all costs incurred, or of the agreed-to lump-sum, within one year following completion of the utility relocation work, otherwise previous payments to the utility may be considered final, except as agreed to between the local agency and the utility. Billing received from utilities more than one year following completion of the utility relocation work may be paid if the local agency so desires and Federal-aid highway funds may participate in these payments. The final billing to the MDT will include a certification by the local agency that the work is complete, acceptable, and in accordance with the terms of the agreement.

    All utility cost records and accounts relating to the project are subject to audit by representatives of the state and federal government for a period of three years from the date final payment has been received by the utility.

9.2 Reimbursement for Railroad Work.

AUTHORITY: 23 U.S.C. 140 Subpart I; 49 CFR 1.49, unless otherwise noted.
SOURCE: 40 FR 16057, April 9, 1975, unless otherwise noted.

a. Applicability. This subpart, and all references hereinafter made to "urban projects," applies to federal aid projects which include as a component the elimination of hazards of railroad highway crossings, and other projects which use railroad properties or which involve adjustments required by highway construction to either railroad facilities or facilities that are jointly owned or used by railroad and utility companies.

b. Reimbursement Basis.
   1. General. On urban highway projects involving the elimination of hazards of railroad highway crossings where a railroad company is not obligated to move or to change its facilities at its own expense, reimbursement will be made for the costs incurred in making changes to railroad facilities, required in connection with a federal aid highway project, as hereinafter provided.

   2. Eligibility. To be eligible, the costs must be:
      - For work which is included in an approved program;
      - Incurred subsequent to the date of authorization by the FHWA;
      - Incurred in accordance with the provisions of 23 CFR, Part 646, Subpart B; and
      - Properly attributable to the project.

c. Labor costs.

   1. General. Salaries and wages, at actual or average rates, and related expenses paid by a company to individuals, for the time they are working on the project, are reimbursable when supported by adequate records. This will include labor costs associated with preliminary engineering, construction engineering, right-of-way, and force account construction.

- Salaries and expenses paid to individuals who are normally part of the overhead organization of the company may be reimbursed for the time they are working directly on the project, such as for accounting and bill preparation, when supported by adequate records and when the work performed by such individuals is essential to the project and could not have been accomplished as economically by employees outside the overhead organization.
- Amounts paid to engineers, architects and others for services directly related to projects may be reimbursed.

2. Labor surcharges. Labor surcharges include worker compensation insurance, public liability and property damage insurance, and such fringe benefits as the company has established for the benefit of its employees. The cost of labor surcharges will be reimbursed at actual cost to the company or a company may, at its option, use an additive rate or other similar technique in lieu of actual costs provided that the rate is based on historical cost data of the company, such rate is representative of actual costs incurred, the rate is adjusted at least annually taking into consideration known anticipated changes and correcting for any over or under applied costs for the preceding period, and the rate is approved by the SHA and FHWA.

   Where the company is a self-insurer there may be reimbursement:

   - At experience rates properly developed from actual costs, not to exceed the rates of a regular insurance company for the class of employment covered; or
   - At the option of the company, a fixed rate of 8 percent of direct labor costs for worker compensation and public liability and property damage insurance together.

d. Overhead and indirect construction costs. MDT may elect to reimburse the railroad company for its overhead and indirect construction costs. The FHWA will participate in these costs provided that:

- The costs are distributed to all applicable work orders and other functions on an equitable and uniform basis in accordance with generally accepted accounting principles;
- The costs included in the distribution are limited to costs actually incurred by the railroad;
- The costs are eligible in accordance with the Federal Acquisition Regulation (48 CFR), part 31, Contract Cost Principles and Procedures, relating to contracts with commercial organizations;
- The costs are considered reasonable;
- Records are readily available at a single location which adequately support the costs included in the distribution, the method used for distributing the costs, and the basis for determining additive rates;
- The rates are adjusted at least annually taking into consideration any over-recovery or under-recovery of costs; and
- The railroad maintains written procedures which assure proper control and distribution of the overhead and indirect construction costs.

e. Materials and Supplies.

1. Procurement. Materials and supplies, if available, are to be furnished from company stock, except they may be obtained from other sources near the project site when available at less cost.

Where not available from company stock, they may be purchased either under competitive bids or existing continuing contracts, under which the lowest available prices are developed. Minor quantities and proprietary products are excluded from these requirements. The company will not be required to change its existing standards for materials used in permanent changes to its facilities.

2. Costs.

- Materials and supplies furnished from company stock will be billed at current stock price of such new or used material at time of issue.
- Materials and supplies not furnished from company stock will be billed at actual costs to the company delivered to the point of entry on the railroad company's line nearest the source of procurement.
- A reasonable cost of plant inspection and testing may be included in the costs of materials and supplies where such expense has been incurred. The computation of actual costs of materials and supplies will include the deduction of all offered discounts, rebates and allowances.

3. Materials recovered.

- Materials recovered from temporary use and accepted for reuse by the company will be credited to the project at prices charged to the job, less a consideration for loss in service life at 10 percent for rails, angle bars, tie plates and metal turnout materials and 15 percent for all other materials. Materials recovered from the permanent facility of the company that are accepted by the company for return to stock will be credited to the project at current stock prices of such used material.
- Materials recovered and not accepted for reuse by the company, if determined to have a net sale value, will be sold by the State or railroad following an opportunity for State inspection and appropriate solicitation for bids, to the highest bidder; or if the company practices a system of periodic disposal by sale, credit to the project will be at the going prices supported by the records of the company. Where applicable, credit for materials recovered from the permanent facility in length or quantities in excess of that being placed should be reduced to reflect any increased cost of railroad operation resulting from the adjustment.

4. Removal costs. State participation in the costs of removing, salvaging, transporting, and handling recovered materials will be limited to the value of materials recovered, except where MDT approves additional measures for restoration of affected areas as required by the physical construction or by reason of safety or aesthetics.

5. Handling costs. The actual and direct costs of handling and loading out of materials and supplies at and from company stores or material yards and of unloading and handling of recovered materials accepted by the company at its stores or material yards, are reimbursable. At the option of the company, 5 percent of the amounts billed for the materials and supplies which are issued from company stores and material yards will be reimbursable in lieu of actual costs.

6. Credit losses. On projects where a company actually suffers loss by application of credits, the company will have the opportunity of submitting a detailed statement of such loss as a basis for further adjustment.

f. Equipment.

1. Company owned equipment. Cost of company-owned equipment may be reimbursed for the average or actual cost of operation, light and running repairs, and depreciation or at industry rates representative of actual costs as agreed to by the railroad and MDT. Reimbursement for company-owned vehicles may be made at average or actual costs or at rates of recorded use per mile which are representative of actual costs and agreed to by the company and MDT.

2. Other equipment. Where company owned equipment is not available, reimbursement will be limited to the amount of rental paid to the lowest qualified bidder, under existing continuing contracts at reasonable cost, or as an exception, by negotiation where the lowest qualified bidder and under the existing continuing contracts at reasonable cost are impractical due to project location or schedule.

g. Transportation.

1. Employees. The company's cost of necessary employee transportation and subsistence directly attributable to the project, which is consistent with overall policy of the company, is reimbursable.

2. Materials, supplies, and equipment. The most economical movement of materials, supplies and equipment to the project and necessary return to storage, including the associated costs of loading and unloading equipment, is reimbursable. Transportation by a railroad company over its own lines in a revenue train is reimbursable at average or actual costs, at rates which are representative of actual costs, or at rates which the company charges its customers for similar shipments provided the rate structure is documented and available to the public. These rates are to be agreed to by the company and MDT. No charge will be made for transportation by work train other than the operating expenses of the work train. When it is more practicable or more economical to move equipment on its own wheels, reimbursement may be made at average or actual costs or at rates which are representative of actual costs and are agreed to by the railroad and MDT.

h. Credits for Improvements.

1. Credit will be made to the project for additions or improvements which provide higher quality or increased service capability of the operating facility, and which are provided solely for the benefit of the company.

2. Where buildings and other depreciable company structures integral to operation of rail traffic must be replaced, credit will be made to the project as set forth in 23 CFR 646.216(c)(2).

3. No credit is required for additions or improvements which are:
   - Necessitated by the requirements of the highway project.
   - Replacement which, although not identical, are of equivalent standard.
   - Replacements of devices or materials no longer regularly manufactured and the next highest grade or size is used.
   - Required by governmental and appropriate regulatory commission requirements.

4. Protection. The cost of essential protective services which, in the opinion of a railroad company, are required to ensure safety to railroad operations during certain periods of the construction of a project, is reimbursable provided an item for such services is incorporated in the railroad agreement or in a work order issued by the local agency and approved by FHWA.

i. Maintenance and Extended Construction. The cost of maintenance and extended construction is reimbursable to the extent provided for in 23 CFR 646.216(f)(4), and where included in the State Railroad Agreement or otherwise approved by the state and FHWA.

j. Lump Sum Payments. Where approved by FHWA, pursuant to 23 CFR 646.216(d) (3), reimbursement may be made as a lump sum payment, in lieu of actual costs.

k. Billings.

1. After the executed Road Authority-Railroad Agreement, the company may be reimbursed on progress billings of incurred costs. Costs for materials stockpiled at the project site or specifically purchased and delivered to the company for use on the project may be reimbursed on progress billings following approval of the executed Road Authority-Railroad Agreement or the written agreement under 23 CFR 646.218(c).

2. The company will provide one final and complete billing of all incurred costs, or of the agreed-to lump sum, within one year following completion of the reimbursable railroad work. Otherwise, previous payments to the company may be considered final, except as agreed to between the SHA and the railroad.

3. All company cost records and accounts relating to the project are subject to audit by representatives of the State and/or the Federal Government for a period of three years from the date final payment has been received by the company.

4. A railroad company must advise the State promptly of any outstanding obligation of the State's contractor for services furnished by the company such as protective services.

9.3 Other Costs Allowable Subject to FHWA's Approval.

Although some categories of expenditures are not mentioned specifically in 23 CFR 140, "Reimbursement," as eligible for federal participation, should the local agency wish to seek federal participation it is allowed to request approval from the FHWA prior to billing. The expenditures that relate to the federal aid project should be well identified through proper documentation.

9.4 Unallowable Costs

- Bad debts. Any losses arising from uncollectible accounts and other claims and related costs Contingencies. Contributions to a contingency reserve or any similar provisions for unforeseen events.
- Contributions and Donations. Contributions and Donation.
- Entertainment. Costs of amusements, social activities, and incidental costs relating thereto, such as meals, beverages, lodgings, rentals, transportation, and gratuities.
- Fines and Penalties. Costs resulting from violations of or failure to comply with federal, state, and local laws and regulations.
- Governor's Expenses. The salaries and expense of the office of the governor of a state or the

chief executive of a political subdivision are considered a cost of general state or local government.

- Interest and Other Financial Costs. Interest on borrowings (however represented), bond discounts, cost of financing and refinancing operations, and legal and professional fees paid in connection therewith, are unallowable except when authorized by federal legislation.
- Legislative Expenses. Salaries and other expenses of the state legislature or similar local governmental bodies, such as county supervisors, city councils, school boards, etc., whether incurred for purposes of legislation or executive direction.
- Under-recovery of Costs under Grant Agreements. Any excess of cost over the federal contribution under one grant agreement is unallowable under other grant agreements

9.5 Tools

Link to FHWA training video on Utility Coordination and Certification Requirements:
http://www.fhwa.dot.gov/federal-aidessentials/catmod.cfm?id=9

Chapter 10
Environmental Processes

10.1 General Discussion

- As this manual outlines both the federal and state procedures that a local agency must follow for a Federal-aid funded project, compliance with the National Environmental Policy Act (NEPA) and Montana Environmental Policy Act (MEPA) will be described. If a local agency needs assistance in determining the environmental classification of a project, they are encouraged to contact the Montana Department of Transportation (MDT) Environmental Services Bureau (ESB). A field review of the proposed project can be arranged as needed.

When the project involves federal funds or federal permits, its environmental requirements are governed by:

- NEPA of 1969, 42-USC-4321 et seq.
- Council on Environmental Quality Regulations for Implementing NEPA, 40 CFR, Parts 1500, et seq.
- Federal Highway Administration — Federal Transit Administration, 23 CFR, Part 771.
- Environmental Impact and Related Procedures, 49 CFR, Part 622.
- Section 4(f) of the Department of Transportation (DOT) Act of 1966.
- A variety of Executive Orders (EOs).
- Any other Federal, State and local environmental laws, regulations, rules, or executive orders that may be applicable to the project. Refer to the Departments Environmental Manual: http://www.mdt.mt.gov/publications/docs/manuals/env/preface.pdf

A local agency should be aware of the following Montana Environmental Policy Act (MEPA) requirements:

- MEPA – Title 75 Chapter 1 MCA.
- All projects that require a MDT action must comply with MEPA. The local government environmental documentation must also comply with MEPA.
- While environmental documentation that meets NEPA requirements usually satisfies MEPA requirements, MEPA documents do not necessarily satisfy NEPA requirements. Local governments need to be aware to the differences.
- MDT's rules implementing MEPA are found at ARM 18.2.201, et seq.

When a project involves an MDT action, the proposed project must meet the requirements of ARM 18.2.235 through 18.2.260. According to ARM 18.2.236 (1), an "action" means a project, program, or activity directly undertaken by an agency; a project or activity supported through contract, grant subsidy, loan, or other form of funding assistance from the agency, either singly or in combination with one or more other state agencies; or a project or activity involving the issuance of a lease, permit, license, certificate, or other entitlement for use or permission to act by the agency, either singly or in combination with other state agencies.

Environmental evaluation starts with project classification which is normally the initial step in project development. A project will fall into one of three defined classes, depending on the extent of its impacts. The three classes are defined in Section 10.2.

Federal and State regulations require the use of an interdisciplinary approach to assess a project's social, economic, and environmental impacts. "Interdisciplinary" means integrated consideration of the project's aspects through such disciplines as biology, economics, geology, sociology, urban planning, archeology, communications, and noise in addition to traditional civil engineering expertise. Interdisciplinary requirements for each class of project are discussed in Sections 10.3, 10.4, and 10.5. The MDT ESB can advise local agencies on how to set up an interdisciplinary approach.

For projects that may involve historic and/or archaeological resources, the local agency should contact the MDT ESB. MDT will contact the State Historic Preservation Office (SHPO) and/or Tribal Historic Preservation Office (THPO). For projects that may involve water resources, the local agency should contact the MDT ESB. MDT will contact the US Army Corps of Engineers; Fish Wildlife, and Parks; Department of Environmental Quality; Environmental Protection Agency; and/or Tribal Environmental Authorities, as necessary. If permits are deemed necessary for the project, contact MDT ESB to discuss procedures for securing the permits and determine entities that should be applying for the permits.

It is permissible to complete some activities such as budgeting, proposal development, legislative or feasibility studies, and value engineering studies prior to the environmental evaluation. At the discretion of the local agency, other activities, such as preliminary engineering for soil surveys and location studies, may be done in conjunction with or prior to the environmental evaluation. The regulations describe the timing of activities related to the timing of environmental documentation at 23 CFR 771.113.

All environmental documentation will be written in a standard format. Contact the MDT ESB to receive the most up to date information on format.

10.2 Project Classification

All projects will be classified by the local agency, in coordination with MDT, as defined below. The classification should take place as early as possible in the project's development since the scope of the subsequent environmental evaluation and documentation processes depends on the project's class. Upon this determination, the local agency completes the environmental classification section of the project proposal. The following paragraphs define the three classes of projects and list types of work typically found in each class.

10.2.1 NEPA/MEPA — Environmental Impact Statement (EIS)

Actions that have significant social, economic, or environmental impacts require an EIS (40 CFR 1508.27 and ARM 18.2.238). These projects may trigger the EIS for a variety of reasons including their potential effects upon land use, planned growth, development patterns, traffic volumes, travel patterns, transportation services, natural resources, or by virtue of the fact that they are apt to create "significant" public controversy. Refer to Sections 9.3 and 9.7. Projects which usually require an EIS are:

a. A new controlled-access freeway.
b. A highway project of four or more lanes on a new location.

c. New construction or extension of fixed rail transit facilities (e.g., rapid rail, light rail, commuter rail, automated guideway transit).
d. New construction or extension of a separate roadway for buses or high-occupancy vehicles not located within an existing highway facility.

Local agencies will perform the required environmental scoping as a priority after project funding is obligated. After scoping is completed, the local agency checks the "final" box and completes the ECS for submittal to the MDT ESB for MDT and FHWA final concurrence. The ECS should be submitted as early as possible and/or practical in the project development stage. On behalf of the local agency, MDT will distribute copies to resource agencies for information and coordination purposes.

10.2.2 NEPA/MEPA — Categorical Exclusion (CE)

CE's are actions which meet the definition contained in 40 CFR 1508.4 and, based on past experience with similar actions; do not involve significant environmental impacts. They are actions which: do not induce significant impacts to planned growth or land use for the area; do not require the relocation of significant numbers of people; do not have a significant impact on any natural, cultural, recreational, historic, or other resource; do not involve significant air, noise, or water quality impacts; do not have significant impacts on travel patterns; or do not otherwise, either individually or cumulatively, have any significant environmental impacts. FHWA's CEs are described at 23 CFR 771.117. MDT's CEs are described at ARM 18.2.261 (1).

Any action which normally would be classified as a CE but could involve unusual circumstances will require the applicant to, in cooperation with the FHWA and MDT, conduct appropriate environmental studies to determine if the CE classification is proper. Such unusual circumstances include:

- Environmental impacts;
- Inducing significant impact to planned growth or land use for the area;
- Require the relocation of significant numbers of people;
- Have a significant impact on any natural, cultural, recreations, historic to other resource;
- Involve significant air, noise, or water quality impacts, have significant impacts on travel patterns, or otherwise either individually or cumulatively have any significant environmental impacts;
- Substantial controversy on social, economic, or environmental grounds; and
- Inconsistencies with any federal, state, or local law, requirement, or administrative determination relating to the environmental aspects of the action.

For purposes of MEPA, as described at ARM 18.2.261 (2), the preparation of an environmental assessment or an environmental impact statement will be required if the project involves any of the following extraordinary circumstances:

- Significant impact on publicly owned parklands, recreation areas, wildlife or waterfowl refuges or any significant historic site;
- Significant impact on wetlands or prime farmlands;
- Significant impact on the human environment that may result from large acquisitions of right-of-way, relocations of persons or businesses, changes in traffic patterns, changes in grade, or other types of changes;
- Significant impact on air, noise, or water quality;

- Substantial controversy on environmental grounds; and
- Any other kind of significant environmental impact.

Potential social, economic, and environmental impacts of the proposed project must be investigated to ensure that significant impacts will not occur and that the Categorical Exclusion (CE) determination is appropriate. Documentation of the analysis is necessary to demonstrate that the CE determination was not arbitrary. The level of analysis should be proportional to the potential for significant impact. Projects may require detailed environmental studies for CE documentation. After obligation of PE funds, the detailed analyses can take place and the local agency finalizes the ECS for final approval. Some situations that may require detailed environmental studies are as follows:

1. The acquisition of more than minor amounts of temporary or permanent strips of right-of-way for construction of such items as clear vision corners and grading. Such acquisitions will not require any commercial or residential displacements.
2. The use of properties protected by Section 4(f) of the Department of Transportation Act (49 USC 303).
3. A determination of adverse effects by the SHPO and/or THPO.
4. A COE Section 404 or Section 10 permit.
5. A Tribal permit.
6. Work in wetlands or streams.
7. Work encroaching on a regulatory flood-way or any work affecting the flood-plain (100-year flood) elevations of a water course or lake.
8. Any impact to federally listed Threatened and Endangered Species.
9. Any changes in access control.
10. The use of a temporary road, detour, or ramp closure unless the use of such facilities satisfy the following conditions:
    - Provisions are made for access by local traffic and so posted.
    - Through-traffic dependent business will not be adversely affected.
    - The detour or ramp closure, to the extent possible, will not interfere with any local special event or festival.
    - The temporary road, detour, or ramp closure does not substantially change the environmental consequences of the action.
    - There is no substantial controversy associated with the use of temporary road, detour, or ramp closure.
11. Any known petroleum release, solid waste, hazardous materials or previous land uses with potential for petroleum release, solid waste, or hazardous materials sites remains within the right-of-way.
12. Any projects that involve unusual circumstances not listed or public opposition. The local agency should contact the MDT ESB for additional guidance.

10.2.3 NEPA — Environmental Assessment (EA)

For actions in which the significance of the impact on the environment is not clearly established, an EA is prepared to determine the extent of environmental impact and to determine whether an EIS is needed. No EIS is required when the EA process leads to a Finding of No Significant Impact (FONSI). Refer to Section 9.5 and 9.8.

The local agency checks the "preliminary" box and completes the Local Agency "Environmental Classification Summary" (ECS) form utilizing known project information, as developed in the

planning stage on all EA projects. The ECS is submitted by the local agency with the Project Proposal and the Local Agency Agreement to the MDT for ESB and FHWA preliminary concurrence. The local agency distributes copies to resource agencies for information and coordination purposes.

Local agencies will perform the required environmental scoping as a priority after project funding is obligated. After scoping is completed, the local agency checks the "final" box and completes the ECS for submittal to the MDT for MDT's and FHWA's final concurrence. On behalf of the local agency, MDT will distribute copies to resource agencies for information and coordination purposes.

10.3 Procedures for EIS Projects

The procedures for an EIS project will be developed when necessary. MDT and FHWA will work with the local agency to develop project specific procedures for those projects requiring an EIS.

10.4 Procedures for CE Projects

The activities described in this section are necessary for projects that are categorized as a Categorical Exclusion.

10.4.1 Appointment of Disciplines and Project Manager

After authorization of preliminary engineering funds, the local agency appoints experts in various disciplines to conduct all studies necessary for the CE preparation and appoints a Project manager (PM) to be responsible for development of the project. These projects do require the use of an interdisciplinary approach for the needed investigations.

10.4.2 Coordination

The local agency prepares necessary correspondence to coordinate with affected federal, state, and local agencies, Indian tribes, interest groups, and the public in determining the issues to be addressed. The PM is responsible for supporting MDT ESB in the coordination efforts. MDT or FHWA may direct the local agency to contact local, state, federal, tribal or other agencies. Documentation of appropriate coordination is necessary.

10.4.3 Data Collection, Inventory, and Evaluation

The various discipline representatives conduct studies to assess the project's potential social, economic, and environmental impacts. The depth of a study varies with the magnitude of the project. Generally, discipline studies for a CE are developed using standard methods developed by the ESB. Contact the ESB for information methods and format. Once the preliminary analysis is made on the type and magnitude of the impact, the level and type of the studies can be determined. Studies are carried out to the point where the extent of environmental impact can be determined. If the potential "significance" of the impacts is unknown, an EA should be conducted. If the potential impacts are determined to be "significant", either an EIS would need to be conducted or at the local agencies discretion the project and environmental analysis may be terminated as a "no build". The decision to select a "no-build" alternative would require MDT and FHWA approval. Conversely, if the local agency decided to terminate the NEPA/MEPA document development with the selection of the "no-build" alternative the decision may require reimbursement of federal funds from the local agency.

10.4.4 Public Involvement

Refer to the MDT Public Involvement Handbook.

10.4.5 Submittal of Reports and ECS

The local agency completed an ECS form and prepares discipline reports, as appropriate. These may include but are not limited to, an Air Quality Analysis, Aquatic Findings Report (wetlands and streams), a Biological Resources Report, Cultural Resources Report, and Section 4(f) evaluation. The ESB can assist in providing the format and procedure for completing these reports. ESB will review the reports and ECS and determine the completeness. With proper documentation ESB will approve the CE and as necessary obtain FHWA approval.

10.5 Procedures for EA Projects

The procedures for an EA project will be developed when necessary. MDT and FHWA will work with the local agency to develop project specific procedures for those projects requiring an EA.

10.6 Project Reevaluation

As discussed in 23 CFR 771.129, whenever single or cumulative conditions have occurred that might cause new or more severe environmental impacts, the local agency must reevaluate an environmental document. A written reevaluation is required when any of the following conditions exist: (1) The project has not moved into the construction phase within three years of the FHWA approval of the environmental documentation. (2) Changes to environmental laws, rules, or regulations that affect the project have occurred. (3) The project scope has changed. (4) Conditions on the ground and/or resources in the area have changed.

The local agency reevaluates the project by conducting appropriate environmental studies. The reevaluation is submitted in written form to MDT ESB. If the reevaluation identifies changes in the proposed project, the affected environment, the anticipated impacts, or the proposed mitigation measures, a revised, new or supplemental document is prepared and circulated. For additional guidance on project reevaluations contact the ESB.

10.7 Section 4(f) Evaluation (49 U.S.C. 303 and 23 CFR 774)

Section 4(f) is only required for projects that receive FHWA funding, there is no similar state requirement. Section 4(f) of the Department of Transportation Act states that the FHWA will not approve the use of land from a significant publicly owned, park recreations area, or wildlife and waterfowl refuge, or any significant historic site unless a determination is made that:

- There is no feasible and prudent alternative to the use of land from the property; and
- The proposed action includes all possible planning to minimize harm to the property resulting from such use.

In Section 4(f) there are three types of determination that may be made:

- De Minimis – This may be used when the above referenced requirements are met and the impact is de minimis (very small). For further guidance on the use of de minimis finding contact the MDT ESB.
- Programmatic 4(f) evaluations – In certain circumstances a programmatic Section 4(f) evaluation may be used. There are four approved Nationwide Programmatic Section 4(f) evaluations. These evaluations are found at the FHWA Environmental Guidebook and the Project Development Website http://www.environment.fhwa.dot.gov/guidebook/index.asp Contact MDT ESB to receive copies of the current Programmatic 4(f) evaluation forms.

- Individual Section 4(f) evaluation – This evaluation and documentation is used when de minimis and programmatic 4(f) evaluations cannot be used due to the size or magnitude of impact. These are standalone documents that have public involvement and public comment requirements. For further information contact MDT ESB.

10.8 Project Reviews

References

a. NEPA: 40 CFR 1505.2 and 1505.3.
b. FHWA Rules Implementing NEPA: 23 CFR 771.109(b).
c. MEPA: 75-1-201 and 75-1-208 MCA
d. MDT Rules Implementing MEPA: ARM 18.2.235 through 18.2.261

Definition

Project reviews are procedures for monitoring project development to ensure that environmental commitments are kept and adverse impacts avoided, minimized, and/or mitigated. Reviews are conducted periodically by responsible local agency or monitoring agency officials throughout the various stages of project development and subsequent maintenance.

Procedures

a. The local agency ensures that decisions recorded in environmental documents are included into the project contract documents and accomplished in design and construction of projects and maintained or improved upon during the life of the project.
b. The local agency continues to maintain the project environmental commitment file which follows the project through survey, design, right-of-way acquisition, construction, and maintenance.
c. During construction, the local agency implements and monitors the adopted impact mitigation measures to ensure that they are satisfactorily maintained or improved upon.
d. When unique or unusual mitigation is required, the local agency conducts periodic reviews during construction or maintenance to evaluate the effectiveness of mitigation measures that were incorporated into the construction contract.
e. The local agency must request concurrence from the Chief Engineer (who may then need to seek concurrence form FHWA) for alterations to mitigation measures agreed to during the environmental process, even when changes are made during construction or maintenance.
f. The local agency makes available progress reports and any results of the impact mitigation measures at the request of the public or agencies.

Commitment Summary

Environmental commitments should be included in the environmental documentation and in the contract documents. Initially, as an initial part of project development, the local agency should establish a project commitment file. Establishment of this file generally coincides with preparation of the environmental document or could be at later stages as required. The file consists of proposed mitigating measures, commitments made to resource or other agencies with permitting authority, and other commitments made on the project. The file normally consists of design and environmental commitments. Other commitments may be added at the local agency's discretion, such as right-of-way, access, maintenance, permits, and agreements. The local agency continues to maintain the commitment file as a project progresses through its development process. Whenever commitments are made, they are incorporated into project documents and

transferred from one phase of the project to the next. Commitments are normally included or identified in the following documents or actions:

a. Environmental Impact Statement (Record of Decision), Environmental Assessment (Finding of No Significant Impact), or Categorical Exclusion.
b. Design reports.
c. Right-of-way negotiations.
d. Access plans.
e. Findings and order.
f. Contract plans.
g. Preconstruction conference.
h. Change orders.
i. End of project report.

Any environmental commitments that are made in the design phase of project development must be incorporated into the contract plans and documents to ensure they are complied with in the construction phase of the project. If the commitment arises from an enforceable permit or regulation, it must be noted in the contract documents by such means as a special provision. For example, projects that require a Clean Water Act Section 404 Permit must include a special provision detailing the permitted activities and any special conditions. Similarly, projects that include design aspects that were put in place to avoid impacting a site protected by Section 4(f) of the Department of Transportation Act must include a special provision and notation on the contract plans indicating the avoidance area. Contact MDT ESB for example contract language and special provision templates.

Maintenance: Environmental commitments from the design and construction phases of the project must be communicated to the entity responsible for the long-term maintenance of the site. The commitments and the rationale for the commitments should be documented in writing and discussed verbally at the project closeout inspection after construction is complete. The commitment documentation must be included in the project file.

Commitments which require ongoing maintenance need to be retained in the files as long as the commitment is active.

10.9 Tools

Link to FHWA training videos on Environmental Regulations:

http://www.fhwa.dot.gov/federal-aidessentials/catmod.cfm?id=35

Chapter 11
Right-of-Way Procedures

11.1 General Discussion

Since federal regulations do not allow the certification of right-of-way to be sub-delegated, MDT has overall responsibility to the FHWA for the acquisition of right-of-way on all Federal-aid funded transportation projects in the state.

For a current project to be eligible for federal funding on any part of the project, the project's right-of-way must be acquired in accordance with the requirements of this manual (right-of-way acquired prior to July 1, 1971, is exempt).

To assure fair and equitable treatment of displaced persons ("displacees"), and encourage and expedite acquisitions by negotiations, the acquisition process is regulated by the Uniform Relocation Assistance Act and Real Property Acquisition Policies Act of 1970 (Uniform Act) (49 United States Code Part 24) as amended. MDT may, by written agreement, use the services of land acquisition organizations of counties, municipalities, or other state or local governmental agencies for acquiring rights-of-way for Federal-aid projects. Any such organization may be used only if it is adequately staffed, equipped, and organized to provide such services, and if its practices and procedures are in conformity with MDT accepted procedures. In acquiring right-of-way, the local agency must follow all the requirements of the Uniform Act.

It is the responsibility of MDT to fully inform Local Agencies of their responsibilities in connection with federally assisted transportation projects. It is essential that local agencies and MDT communicate freely and work closely together during the entire acquisition process to expedite projects and to assure that all federal and state requirements are met. Guidance is provided in the MDT Right-of-Way Operations Manual. Responsibilities for non-project related program approval actions [FHWA (F), state (S), or local agency (L)] are shown below.

Action	
a. Non-highway Use and Occupancy of Right-of-Way	S/L
b. Air Space Agreements	S/L
c. Disposal of Right-of-Way No Longer Needed	S/L
d. Temporary Use of Right-of-Way	S/L
e. Disposal of Access Control and Relinquishment of Right-of-Way	S/L

Project related approval actions:

Action	
a. Use of Fee Negotiators	S/L
h. Interest on Right-of-Entry	S/L
c. Hardship and Protective Buying	F
d. Use of Fee Attorneys	S/L
e. Appraisal Fees	S/L
f. Land Service Facilities	S/L
g. Right-of-Way Certificates	S/L

General

a. Local agency may acquire sidewalk easements.
b. Local agency may acquire permanent right-of-way easements.
c. Right-of-way plans will be prepared for authorization and sent for filing, but are not required to be recorded. The decision to record is at the local agency's discretion.
d. Right-of-way may be purchased in the name of the appropriate public agency or private entity on a case-by-case basis.

11.1.1 MDT Services

MDT is committed to an ongoing program which will provide effective assistance and guidance to local acquiring agencies. To this end, MDT will designate a local agency Right-of-Way Coordinator (LA Coordinator) to provide information and establish appropriate state staff contacts; provide training and educational opportunities for local agencies through workshops and acquisition course offerings; and provide mutually acceptable technical and advisory services as necessary to accomplish the acquisition program.

MDT will consult and advise the local agency concerning real property acquisition activities to ensure that right-of-way is acquired in accordance with provisions of state and federal laws and FHWA directives.

At the earliest possible date, the local agency should advise the LA Coordinator of the need for MDT assistance.

11.1.2 Consultant Services

When the local agency does not have adequate staff to perform right-of-way plan preparation, appraisal, negotiation or relocation functions, it may contract for these services and obtain federal participation in the costs.

The local agency should contact MDT for assistance in preparing any contract for services to assure FHWA participation in the contract. FHWA has determined the consultant agreements for right-of-way services must meet the consultant contracting requirements as described in Chapter 13 "Using Consultants." This includes local contracting for right-of-way services as well as sub-contracting to prime design consultant. See Chapter 13 Appendices for sample consultant agreements for appraisal and negotiation.

11.2 Right-of-Way Acquisition Procedures

Before requesting authority to acquire right-of-way, the local agency must have secured approval of their Right-of-Way Acquisition Procedures (Appendix 11.14.1). Procedures should contain at a minimum the following:

a. Agreement to conform to state and federal laws and FHWA regulations. The agency should agree to follow MDT's Local Agency Guidelines Manual, MDT Right-of-Way Operations Manual, and FHWA Real Estate Acquisition Guide or the agency's own manual if they have a MDT approved right-of-way manual;

b. A listing of the positions performing the separate functions of program administration, appraisal and appraisal review, acquisition, relocation, and property management;

c. A listing of current staff filling the above positions and a brief statement of their qualifications;

d. A policy for handling administrative settlements including the approving authority(s) and process; and

e. Appraisal waiver process (see Section 11.14.1).

11.2.1 No Right-of-Way Acquisition

Local agencies, after determining that new right-of-way will not be required for the current project, need only check the appropriate box on the project proposal (see Chapter 6). If it is later determined that right-of-way is required, a Right-of-Way Project Funding Estimate (Appendix 11.14.2) or a True Cost Estimate (Appendix 11.14.3) must be prepared and MDT notified.

11.2.2 Acquiring Right-of-Way

Acquisition of right-of-way may be performed by the following entities:

a. By a local agency that is adequately staffed, equipped, and organized to discharge its right-of-way responsibilities and has right-of-way procedures approved by MDT. Staff may consist of qualified contract personnel and/or licensed private firms in addition to or in lieu of regular employees of the agency; or

b. By another local agency that meets the requirements above.

11.3 Funds for Right-of-Way

11.3.1 Acquisition

Authorization of federal funds for right-of-way requires compliance with Chapter 4, FHWA approval of environmental documents, and the submittal of the following documents to MDT:

a. Costs and expenses;

b. Local Agency Agreement Supplement;

c. Estimate of probable project right-of-way costs;

d. Right-of-way plan; and

e. Relocation plan (if relocation is required — contact the LA Coordinator for assistance).

MDT is responsible for review and approval of right-of-way plans, deeds, and exhibits. The right-of-way plans should be prepared in accordance with MDT Right-of-Way Design Manual and show, at a minimum, the following information:

a. Survey line or centerline for the alignment;

b. The old and new right-of-way limits with sufficient ties to the survey line to allow for legal descriptions of the areas to be acquired;

c. Show all rights to be acquired, for example, easements and permits;

d. Show the ownership boundaries of the parcels with rights to be acquired;

e. Parcel identification number should be shown;

f. Show the area of the parcel to be acquired; and

g. Show the area of the remainder.

Once FHWA approval has been obtained, the LA Coordinator will notify the local agency of authorization to acquire right-of-way. No acquisition costs are eligible prior to this authorization.

11.3.3 Acquisition in Advance of NEPA Clearance

There are three circumstances under which right-of-way can be acquired in advance of NEPA clearance:

1. An agency may use its own funds to purchase R/W prior to NEPA clearance and may apply the purchase price (or if donated, the fair market value) toward their share of project costs, as long as they meet the requirements of 23 CFR 710.501(b). They cannot be reimbursed for these project costs, however.

2. An agency may purchase R/W prior to NEPA clearance under the protective buying and hardship acquisition provisions, as per 23 CFR 710.503, and be reimbursed. Note, however, that while these purchases are in advance of formal NEPA clearance of the project, individual clearance via a Categorical Exclusion is required. Consequently, although the project has not yet been cleared, the individual parcels have been cleared.

3. An agency may purchase R/W prior to NEPA clearance under the corridor preservation provisions of 23 CFR 630.106 (c)(3&4) and be reimbursed. This process is similar to the process for protective buying. Generally, this is only done for parcels which will not require any displacement. Note, however, that as with hardship and protective buying, these purchases are in advance of formal NEPA clearance of the project and individual clearance via a Categorical Exclusion is required.

11.4 Appraisal

The requirements pertaining to appraisal of property to be acquired are given in Chapter 3 of the MDT Right-of-Way Operations Manual. If desired, a listing of MDT approved fee appraisers and appraisal reviewers is available from the District RW supervisor.

The appraiser must be an experienced, qualified appraiser approved by MDT. Federal statute requires contract appraisers to be certified. Staff appraisers for public agencies do not have to be certified. The appraiser must prepare a Form Appraisal Report (Appendix 11.14.4) which is a written document containing at least the following:

a. The purpose of the appraisal which includes a statement of the estimated value and the rights or interests being appraised;

b. Identification of the property and its ownership;

c. A statement of appropriate contingent and limiting conditions if any;

d. An adequate description of the neighborhood, the property, the portion of the property or interest therein being acquired, and the remainder(s) if any;

e. Identified photographs of the property including all principal above-ground improvements or unusual features affecting the value of the property;

f. A listing of the buildings, structures, fixtures, and other improvements which the appraiser considered part of the real property to be acquired;

g. The estimate of just compensation for the acquisition. In the case of a partial acquisition, allocate the estimate of just compensation for the property to be acquired and for damages to remaining property in either the report or a separate statement;

h. The data and analyses (or reference to same) to explain, substantiate, and document the estimate of just compensation;

i. The date to which the estimate of just compensation applies;

j. The certification, signature, and date of signature of the appraiser;

k. Other descriptive material (maps, charts, plans, photographs);

l. The federal aid project number and parcel identification; and

m. History of appraiser contact with owner.

11.4.1 Appraisal Waiver

In certain cases, an appraisal can be waived. To qualify, the just compensation must be $10,000 or less per parcel. The acquisition must be uncomplicated and the damages will be minor cost to cure items.

In such instances where the appraisal is waived, just compensation should be based on comparable sales. All data used to arrive at just compensation must be included in the project file. When a Waiver Valuation (Appendix 10.145) is used, it is important that the local agency determines that the offer being made is fair and equitable. If the owner wants an appraisal, the local agency is required to have an appraisal completed per guidelines of this section.

11.4.2 Appraisal Review

The requirements pertaining to appraisal review of the property to be acquired is given in Chapter 3 of the MDT Right-of-Way Operations Manual. The reviewing appraiser should be knowledgeable of the property values in the project area. The depth of review should be in direct relationship to the difficulty of the particular appraisal. The reviewing appraiser must be a MDT Review Appraiser, a review appraiser from the approved list maintained by MDT, or a permanent employee of the local agency who is qualified to review appraisals.

The reviewing appraiser should field inspect the property appraised as well as the comparable sales which the appraiser(s) considered in arriving at the fair market value of the whole property and of the remainder(s), if any. If a field inspection is not made, the file must contain the reason(s) why it was not made.

The reviewing appraiser will examine the Appraisal Reports to determine that they:

a. Are complete in accordance with the Local Agency Guidelines and contain the criteria required by the MDT Right-of-Way Operations Manual, Chapter 3.
b. Follow accepted appraisal principles and techniques in the valuation of real property in accordance with existing state law.
c. Include consideration of compensable items, damage, and benefits, but do not include compensation for items non-compensable under state law.

Prior to finalizing the estimate of just compensation, the reviewing appraiser must obtain corrections or revisions of Appraisal Reports which do not substantially meet the requirements set forth in the Local Agency Guidelines or Chapter 3, MDT Right-of-Way Operations Manual. These must be documented and retained in

the parcel file.

The reviewing appraiser may supplement an Appraisal Report with corrections of minor mathematical errors as long as such errors do not affect the final value conclusion. The reviewer may also supplement the appraisal file where the following factual data have been omitted:

a. Project and/or parcel number.

b. Parties to transaction, date of purchase, and deed-book reference to sale of subject property and comparables.

c. Statement that there was no sale of subject property in the past five years.

d. Location, zoning, or present use of subject property or comparables.

The reviewing appraiser must initial and date corrections and/or factual data supplements to the Appraisal Report. The reviewing appraiser may conclude a value other than that concluded in the appraisal only if the conclusion is supported by relevant market data and analysis in the review document.

The reviewing appraiser must place in the parcel file a signed and dated MDT Form 409-Review Appraiser's Report (Appendix 11.14.6) setting forth:

a. An estimate of just compensation including, where appropriate, the allocation of compensation for the property acquired and for damages to remaining property;

b. A listing of the buildings, structures, fixtures, and other improvements on the land which were considered part of the property to be acquired;

d. A statement that the reviewing appraiser has no direct or indirect present or future interest in such property or in any monetary benefit from its acquisition; and

e. A statement that the estimate has been reached independently, without collaboration or direction, and is based on appraisals and other factual data.

It is the responsibility of the local agency to set Just Compensation.

11.5 Title

The local agency will acquire evidence of the condition of title for all properties from which rights are to be acquired. It is suggested that a title commitment be ordered from a title company and the title to the property acquired cleared so that a policy of title insurance can be issued showing title vested in the agency subject only to those exceptions which can reasonably be accepted.

In general, the elements necessary to acquire the needed interest are:

a. Acquisition instruments signed by all parties with an interest in the fee title;

b. Releases from mortgages and deeds of trust as the agency determines to be reasonable;

c. Releases of encumbrances, such as easements, which adversely impact the rights being acquired; and

d. Releases of priority liens, such as material man's lien, judgments, state tax liens, and federal tax liens.

11.6 Negotiations

Various requirements in negotiating and acquisition of property are found in chapter 4 of the MDT Right-of-Way Operations Manual.

If a local agency uses a consultant fee negotiator, the negotiator must be approved by MDT.

Local agencies using staff to negotiate must work closely with the LA Coordinator as explained in the Procedures Approval letter (Appendix 11.14.1).

A separation of functions maintains the integrity of the acquiring local agency's transactions. Thus, the appraisal, appraisal review, and negotiations for a parcel are performed by three different persons. Recognizing the fact that the use of two separate individuals as appraiser and negotiator on a low-value taking can be both difficult and expensive, the use of a single individual to both appraise and negotiate a parcel is permitted where the value of the acquisition is $10,000 or less. It should be noted that the determination of value must be approved prior to negotiations, and the approving authority must be neither the appraiser nor the negotiator.

The local agency must establish just compensation and make a written offer to acquire in that amount. Appraisals are not required if the owner has indicated a willingness to donate the right-of-way after being informed of their right to receive just compensation.

A donation may be accepted only after the owner has been informed in writing of their right to just compensation. This applies to individuals, businesses, corporations, and other private entities. Donations from government agencies are exempt from these requirements.

Right-of-way obtained through normal zoning, subdivision, or building permit procedures requiring the donation or dedication of strips of land may be incorporated into a federal aid project without jeopardizing participation in other project costs.

11.7 Donated Property

Donations of right-of-way can be accepted only after the owner has been notified of their rights to receive just compensation. A signed donation statement (Appendix 11.14.7) must be included in each parcel file.

Section 323 of 23 U.S.C. provides for using the value of donated lands as part of the match against an agency's contribution to the project. The following conditions need be met if the local agency is going to use donated lands as part of their match:

a. The credit can only be applied to a federal aid project if Federal Financial assistance was not used in any form to acquire the land. Credit to the matching share may not exceed the matching share of costs for that project and excess costs may not be utilized on other projects;

b. The donation must be related to the project requiring the donated land;

c. Donations of privately owned real estate made after April 2, 1987, and subsequent to NEPA clearance, are eligible for credit purposes; and

d. Donations of publicly owned real estate after June 8, 1998, are eligible for credit purposes.

11.8 Administrative Settlements

The Uniform Act requires that "The head of a federal agency shall make every reasonable effort to expeditiously acquire real property by negotiation." Negotiation implies an honest effort by the local agency to resolve differences with property owners. Additionally, the legislative history of the Uniform Act indicates that offers can be flexible and there is no requirement that they reflect a "take it or leave it position." Negotiations should recognize the inexact nature of the process by which just compensation is determined. Further, the law requires an attempt by agencies to expedite the acquisition of real property by agreements with owners and to avoid litigation and relieve congestion in the courts.

In addition to the mandates of the Uniform Act, there are significant cost savings which can be realized through an increased use of administrative and legal settlements. Cost savings are in the areas of salaries, witness fees, travel, per diem, court costs, etc.

FHWA and MDT encourage local agencies to carefully consider and maximize use of administrative settlements in appropriate situations.

An administrative settlement or stipulated settlement is an administratively approved payment in excess of fair market value as shown on the local agency's approved just compensation.

Any administrative settlement which exceeds the fair market value must be documented and thoroughly justified in order to be eligible for federal aid funds. The rationale for the settlement must be set forth in writing. The extent of written explanation is a matter of judgment and should be consistent with the circumstances and the amount of money involved. If the local agency has any doubt as to eligibility, it should obtain prior approval from MDT through the LA Coordinator.

The local agency must document the following and make it available for review by MDT if it is not already part of the local agency's approved procedures:

a. Identify the responsible official who has the authority to approve administrative settlements; and

b. Describe the procedure for handling administrative settlements.

The designated local agency representative may approve an administrative settlement when it is determined that such action is in the public's best interest. In arriving at a determination to approve an administrative settlement, the designated official must give full consideration to all pertinent information including, but not limited to, the following:

a. All available appraisals, including the owner's, and the probable range of testimony in a condemnation trial;

b. Ability of the local agency to acquire the property, or possession, through the condemnation process and meet the construction schedule, including the impact of construction delay pending acquisition;

c. The negotiator's recorded information;

d. Recent court awards in cases involving similar acquisition and appraisal problems;

e. Legal counsel's opinion of obtaining an impartial jury in local jurisdiction; and

f. Estimate of trial cost weighed against other factors.

11.9 Condemnation Process

The local agency must refer to the MDT Right-of-Way Operations Manual, Chapter 4-1.

11.10 Relocation

The regulations governing relocation assistance are covered in Title 49, Code of Federal Regulations, Part 24.

The majority of local agencies will find that it is not economically feasible to maintain staff to perform the relocation function. Those agencies that have trained staff and are approved by MDT through the procedures process to provide relocation services may do so. All other agencies should contact the LA Coordinator for help in having MDT provide relocation services or for advice on contracting with private consultants. MDT does not maintain a list of qualified relocation consultants.

If a project includes relocation, a relocation plan must be submitted prior to right-of-way funding authorization. Since relocation plans are unique to each project requiring them, no sample is provided. Contact the LA Coordinator for assistance in preparing relocation plans and carrying out relocation activities.

11.11 Right-of-Way Certification

After right-of-way acquisition has been completed and about one month before the federal aid project is to be advertised for contract, the right-of-way certification must be submitted to MDT.

There are three categories of certifications.

#1 All Right-of-Way Acquired. Legal possession has been obtained. All occupants have vacated the right-of-way and the local agency has the right to remove any remaining improvements (Appendix 11.14.8).

#2 Right to Occupy All Right-of-Way Acquired. Trial or appeal of some parcels may be pending and some parcels may have right-of-way or possession and use only. All occupants have vacated the right-of-way and the local agency has the right to remove any remaining improvements (Appendix 11.14.9).

#3 All Right-of-Way Not Acquired. This certification is to be used only in very unusual circumstances and with prior approval of the LA Coordinator. Acquisition of a few remaining parcels is not complete. All occupants of residences have had replacement housing made available to them in accordance with 49 CFR 24.204. The local agency must adequately explain why construction of the project before acquisition is complete is in the public's best interest. The local agency will ensure that occupants of residences, businesses, farms or nonprofit organizations who have not yet moved from the right-of-way are protected against unnecessary inconvenience or coercive action. All uncured parcels will be identified and a realistic date given for completion of acquisition and relocation. An explanation of why the properties are not acquired and how they will be acquired by the given date is also required. Appropriate notification will be provided in the bid proposals identifying all locations where acquisition is not complete (Appendix 11.14.10).

Certifications with exception must be followed by a certification without exception when possession of all parcels is obtained.

The LA Coordinator will visit the local agency and review the acquisition files for the project prior to certification and determine if the right-of-way was acquired according to the guidelines. The general areas reviewed by the LA Coordinator are the coordinator's worksheets (Appendix 11.14.11) and the Federal Aid Requirement Checklist (Appendix 11.14.12).

If the LA Coordinator determines that the project cannot be certified, a letter will be provided to the local agency office detailing the deficiencies encountered and the corrective action required before certification can be completed.

11.12 Property Management

If using FHWA funding, the local agency must establish property management policies and procedures that will assure control and administration of excess lands and improvements acquired for right-of-way purposes. These procedures must establish:

a. Property records showing:

   1. An inventory of all improvements acquired as a part of the right-of-way;
   2. An accounting of excess properties acquired with FHWA funding;
   3. An accounting of the property management expenses and the rental payments received; and
   4. An accounting of the disposition of improvements and the recovery payments received.

b. Methods for accomplishing the clearing of right-of-way when such clearance is performed separately from the physical construction of the project.

c. The methods for managing the rodent control program.

d. The methods for employing private firms or public agencies for the management of real property.

e. The methods for accomplishing the disposition of improvements through resale, salvage, owner retention, or other means.

If the local agency permits an owner or tenant to occupy the real property acquired on a rental basis for a short term or for a period subject to termination by the local agency on short notice, the amount of rent required must not exceed the fair rental value of the property to a short-term occupier.

Property management activities will be handled in a manner consistent with the public's best interest and designed to reflect the maximum long-range public benefit.

The local agency is responsible for the preservation of the improvements and for reasonable safety measures when it has acquired ownership and possession of the property.

Should rights-of-way acquired with Federal-aid funds become excess, they may be disposed of only after FHWA approval. All disposals will be done in accordance with state statute. If the disposal is to a private party, the local agency must determine fair market value through the appraisal process. A disposal may be made to a governmental agency for a public use without charge.

Uneconomic remnants acquired by the local agency with federal funds but not incorporated into the right-of-way may be disposed of without FHWA approval, but a credit to FHWA is required.

Federal regulations provide for the use of airspace for non-highway purposes above, at, or below the highway's established grade line, lying within the approved right-of-way limits. The airspace may be put to various public and private uses, such as parks, play areas, parking, etc., as long as it is a proper operation and does not impose a safety hazard on the traveling public.

Where a local agency has acquired sufficient legal right, title, and interest in the right-of-way of a highway on a federal aid system to permit the use of certain airspace, the right to temporary or permanent occupancy or use of such airspace may be granted by the state subject to prior FHWA approval.

If the use of airspace is contemplated, the LA Coordinator should be contacted for more detailed policies and procedures that must be considered.

11.13 Document Retention

The local agency must maintain all records of its right-of-way actions for at least three years after payment of the final voucher to demonstrate compliance with 49 CFR Part 24. In addition, a diary must be maintained wherein each individual involved in relocation, negotiations, or property management functions must enter and initial a suitable description of each contact and other information concerning that function. Each entry must clearly show the month, day, and year of the contact; the name of the individual who made such contact and the name(s) of the individual(s) contacted. Upon request, the LA Coordinator will provide explanations and/or counseling as to what are considered adequate records.

11.14 Tools

Link to FHWA training videos for Right of Way:
http://www.fhwa.dot.gov/federal-aidessentials/catmod.cfm?id=6

11.15 Appendices

11.15.1 Right-of-Way Procedures

11.15.2 Right-of-Way Project Funding Estimate

11.15.3 True Cost Estimate

11.15.4 Form Appraisal Report

11.15.5 Waiver Valuation

11.15.6 Review Appraiser's Report

11.15.7 Donations Statements

11.15.8 Certification #1 All Right-of-Way Acquired

11.15.9 Certification #2 Right to Occupy All Right-of-Way Acquired

11.15.10 Certification #3 All Right-of-Way Not Acquired

11.15.11 Coordinators Worksheets

11.15.12 Federal Aid Requirement Checklist

11.15.13 Government Agreement for Aid

Appendix 11.15.1 Right-of-Way Procedures

AGENCY_____

The _____("LOCAL AGENCY'), desiring to acquire Real Property in accordance with the state Acquisition of Property (Title 60 Chapter 4 Part 1, MCA) and applicable federal regulations hereby adopts the following procedures to implement the above statutes and Montana Administrative Code. The _____("Department") of the LOCAL AGENCY is responsible for the real property acquisition and relocation activities on projects administered by the LOCAL AGENCY. To fulfill the above requirements the _____("Department") will acquire right-of-way in accordance with the policies set forth in the Montana Department of Transportation Right-of-Way Operations Manual and Local Agency Guidelines manual. The LOCAL AGENCY has the following expertise and personnel capabilities to accomplish these functions:

1. Include the following as they relate to the LOCAL AGENCY's request.

   a. List the functions below for which the local agency has qualified staff and the responsible position. Attach a list of the individuals on the LOCAL AGENCY staff who currently fill those positions and a brief summary of their qualifications. This list will need to be updated whenever staffing changes occur. An LOCAL AGENCY will be approved to acquire based upon staff qualifications.

   (1) PROGRAM ADMINISTRATION

   _____

   Agency Position

   (2) APPRAISAL

   _____

   Agency Position

   (3) APPRAISAL REVIEW

   _____

   Agency Position

   (4) ACQUISITION

   _____

   Agency Position

   (5) RELOCATION

   _____

   Agency Position

   (6) PROPERTY MANAGEMENT

   _____

   Agency Position

   b. Any functions for which the Local Agency does not have staff will be contracted for with MDT, another local agency with approved procedures or an outside contractor. A LOCAL AGENCY that proposes to use outside contractors for any of the

above functions will need to work closely with the MDT Local Agency Coordinator and Highways and Local Programs to ensure all requirements are met. When the LOCAL AGENCY proposes to have a staff person negotiate who is not experienced in negotiation for FHWA funded projects the Coordinator must be given a reasonable opportunity to review all offers and supporting data before they are presented to the property owners.

c. A LOCAL AGENCY wishing to take advantage of an Appraisal Waiver process on properties valued at $10,000 or less should make their proposed waiver process a part of these procedures. The process outlined in LAG manual Appendix 10.145 has already been approved. The LOCAL AGENCY may submit a process different than that shown and it will be reviewed and approved if it provides sufficient information to determine value.

d. Attach a copy of the Local Agency's administrative settlement policy showing the approving authority(s) and the process involved in making administrative settlements.

2. All projects shall be available for review by the FHWA and the state at any time and all project documents shall be retained and available for inspection during the plan development, right-of-way and construction stages and for a three year period following acceptance of the projects by MDT.

3. Approval of the LOCAL AGENCY's procedures by MDT may be rescinded at any time the LOCAL Agency is found to no longer have qualified staff or is found to be in non-compliance with the regulations. The rescission may be applied to all or part of the functions approved.

_____ _____

Mayor or Chairman Date

MONTANA DEPARTMENT
OF TRANSPORTATION

Approved By:

_____ _____

Right-of-Way Bureau Chief Date

Appendix 11.15.2 Right-of-Way Project Funding Estimate (Sample)

PFE PARCEL WORKSHEET

PROJECT: _____

OWNERS NAME: _____

PROPERTY LOCATION: _____

BEFORE AREA: _____ AFTER AREA: _____

ACQUISITION AREA

FEE: _____ _____EASEMENT: _____
(area) (type) (area)

CURRENT USE: _____ZONING: _____

HIGHEST & BEST USE: _____

EFFECTS OF
ACQUISITION:_____
_____
_____
_____

SALES RELIED ON:_____(contained in Project Catalog for this project dated _____)

Subject Sold within last 5 Years? _____ If yes, is Sale included in Project Catalog?_____

ACQUISITION COMPENSATION

FEE

LAND:

_____ $_____
(area) (unit value)

_____ $_____
(area) (unit value)

IMPROVEMENTS

_____ $_____
(type and size) (unit value)

_____ $_____
(type and size) (unit value)

EASEMENT: _____ $_____
(unit value)

DAMAGES:

_____ $_____

_____ $_____

TOTAL: $_____

Sheet __ of __ Sheets Parcel_____
Plan Approval Date _____Revision Date _____Worksheet Date _____

RIGHT-OF-WAY PROJECT FUNDING ESTIMATE

Project: _____ FA#_____

Date: _____

1	2	3	4	5	6	7	8	9	10	11
Parcel Number	Just Compensation (Offer)	Appraisal Fee Costs	Appraisal Review Fee Costs	Negotiation Fee Costs	Title, Escrow Costs	Property Mgmt Service Costs	Relocation Service Costs	Relocation Payments	Condemnation and Incidental Costs	Total parcel Costs
									Total ROW Costs	

SAMPLE
NEIGHBORHOOD DESCRIPTION

Date: February 10, 2007

The project neighborhood is the town of Seeley Lake, Montana, approximately 40 miles northwest of the Missoula city limits. The project area is a one-mile strip of highway passing through the town. The area is scenic and heavily used for recreation. Ownership and uses in the surrounding area includes USFS, State Trust lands, a wildlife management area, Plumb Creek Timber lands, and several recreational lakes.

Population estimates vary from 1400 to 4000 depending on area boundaries and time of year measured. One study estimates that the population doubled from 1990 to 1996.[1] Development is scattered outside of town on hillsides and around the lakes. Much of the population is seasonal. Traffic in this area is moderate in winter and heavier in the summer. Population growth and new development are expected to continue, considering increasing use of the lakes, snowmobiling, hunting, camping, and golfing activities in the area.

Historically a logging community, over the past four decades the area has experienced extensive development of rural residential vacation home-sites, resort property, and an expanding golf course. Vacant lake-frontage is now scarce and in high demand from second-home buyers from the four larger cities within 100 miles. New development must comply with state subdivision, water, septic, and air quality regulations.

The town of Seeley Lake has an elementary school and high school, a small airport, gas stations, a grocery store, several lodging facilities, and federal and state agency field offices. Electricity, phone and cable services are available.

The proposed project will widen this highway to four traffic lanes with a dual-left turn lane in the center. A traffic light is planned at the intersection of Boy Scout Road and Highway 83. The project will be at present grade and will include curbing and a pedestrian/bicycle lane. Access points will be controlled, preserving existing access. The right-of-way to be acquired is a 20-foot strip of land from each side of Highway 83 between the two ends of the Boy Scout Loop road.

Fourteen parcels will be affected, five retail properties, a church, a bank, a strip center, a maintenance shop, a gas station-convenience store, medical offices, a real estate office, a fast-food kiosk and a steakhouse. Parking area will be affected. All of the properties have excess parking area except the strip center where new parking area can be developed to the north or south of the existing building. A storage shed is in the acquisition area of the maintenance shop property. The gas station canopy is partially in the acquisition area. The project is expected to improve traffic flow and increase the safety of ingress and egress to the commercial uses.

[1] Seeley Swan Pathfinder, July 1996

Appendix 11.15.3 True Cost Estimate (Sample)

TRUE COST PARCEL WORKSHEET

Project: _____ Parcel #_____

Notes:

Assessor's Tax Parcel Number (s):

Zone Size Min. = _____: Assessed Value Land = _____:

A.V. Bldg. #1 = _____: Bldg.#2 = _____: Bldg.#3 = _____:

Bldg.#4 = _____: Total Property Assessed Value = _____

ROW Map Info:

Before Area = _____: After Area = _____: Fee Take= _____:

Permanent Easement Take = _____: Temporary Easement Take = _____

Property Costs:

Total Take = (total property A.V. x 1.20) =$_____
Or
Partial Take =
Fee Land = _____@$_____(A.V. land per unit) x 1.20 =$_____

Yard/Site Improvements in Take @Administrative Lump Sum =$_____

Major Building in Take @ (A.V. of Bldg.#____) x 1.20 =$_____

Perm. Esmt. = _____@$_____(A.V. land per unit) =$_____

Temp. Esmt. =_____@ $_____(A.V. land per unit) x10% =$_____

TOTAL PROPERTY COSTS (put in column 2 of True Cost) =$_____

Administrative Costs (put in respective columns of True Cost):

3. Appraisal Fee = _____
4. Appraisal Review Fee = _____
5. Negotiation Fee = _____
6. Title and Escrow Fee = _____
7. Prop. Mgmt. Services = _____
8. Relocation Services = _____
9. Relocation Payments = _____
10. Condemn & Incidentals = _____

TRUE COST ESTIMATE

Project:_____ FA#_____

Date:_____

1	2	3	4	5	6	7	8	9	10	11
Parcel Number	Just Compensation (Offer)	Appraisal Fee Costs	Appraisal Review Fee Costs	Negotiation Fee Costs	Title, Escrow Costs	Property Mgmt. Service Costs	Relocation Service Costs	Relocation Payments	Condemnation and Incidental Costs	Total parcel Costs
									Total ROW Costs	

SAMPLE
NEIGHBORHOOD DESCRIPTION

Date: February 10, 2007

The project neighborhood is the town of Seeley Lake, Montana, approximately 40 miles northwest of the Missoula city limits. The project area is a one-mile strip of highway passing through the town. The area is scenic and heavily used for recreation. Ownership and uses in the surrounding area includes USFS, State Trust lands, a wildlife management area, Plumb Creek Timber lands, and several recreational lakes.

Population estimates vary from 1400 to 4000 depending on area boundaries and time of year measured. One study estimates that the population doubled from 1990 to 1996.[2] Development is scattered outside of town on hillsides and around the lakes. Much of the population is seasonal. Traffic in this area is moderate in winter and heavier in the summer. Population growth and new development are expected to continue, considering increasing use of the lakes, snowmobiling, hunting, camping, and golfing activities in the area.

Historically a logging community, over the past four decades the area has experienced extensive development of rural residential vacation home-sites, resort property, and an expanding golf course. Vacant lake-frontage is now scarce and in high demand from second-home buyers from the four larger cities within 100 miles. New development must comply with state subdivision, water, septic, and air quality regulations.

The town of Seeley Lake has an elementary school and high school, a small airport, gas stations, a grocery store, several lodging facilities, and federal and state agency field offices. Electricity, phone and cable services are available.

The proposed project will widen this highway to four traffic lanes with a dual-left turn lane in the center. A traffic light is planned at the intersection of Boy Scout Road and Highway 83. The project will be at present grade and will include curbing and a pedestrian/bicycle lane. Access points will be controlled, preserving existing access. The right-of-way to be acquired is a 20-foot strip of land from each side of Highway 83 between the two ends of the Boy Scout Loop road.

Fourteen parcels will be affected, five retail properties, a church, a bank, a strip center, a maintenance shop, a gas station-convenience store, medical offices, a real estate office, a fast-food kiosk and a steakhouse. Parking area will be affected. All of the properties have excess parking area except the strip center where new parking area can be developed to the north or south of the existing building. A storage shed is in the acquisition area of the maintenance shop property. The gas station canopy is partially in the acquisition area. The project is expected to improve traffic flow and increase the safety of ingress and egress to the commercial uses.

[2] Seeley Swan Pathfinder, July 1996

Appendix 11.15.4 Form Appraisal Report (Sample)

R/W FORM APPRAISAL REPORT
(BEFORE AND AFTER SUMMARY REPORT FOR PARTIAL ACQUISITIONS)

(1) PROJECT N0.: PROJECT ID:
DESIGNATION: PARCEL NO.:

(2) RECORD OWNER:
ADDRESS:

CONTRACT PURCHASER:
ADDRESS:

LESSEE OF ACQUISITION:
ADDRESS:

(3) ADDRESS AND/OR LOCATION OF THE PROPERTY:

(4) BRIEF LEGAL DESCRIPTION OF THE PROPERTY:

Photo of Subject
(Additional photos are to be attached on a Photo Sheet)

Date Taken: Taken by:
Taken From: Facing:
Remarks:

---

(5) 5 YEAR DELINEATION OF TITLE:
To:
From: Recording Info.
Date:
Consideration (last transfer):

(6) PURPOSE: The purpose of the appraisal is to estimate the Market Value, as defined in MCA 70-30-313, of all the rights of ownership of the part to be acquired, and/or to address depreciation in market value to the remainder not offset by special benefits, and/or the value of the other rights to be acquired as designated by MDT in conjunction with a highway project, subject to the assumptions and limiting conditions.

A. Intended Use(s): The use of the appraisal is for acquisition of property rights, as part of a highway project. Briefly describe the project.

B. Intended User(s): Intended users are MDT Right of Way Bureau staff and contract acquisition agents. Third parties who may read the appraisal are not intended users.

Use of the appraisal and report for any other purpose, any other use, and / or any unintended users, could be misleading.

(7) PROPERTY RIGHTS BEING APPRAISED:
Fee Simple ☐ Easement ☐ Permit ☐ Other (specify) _____

(8) MARKET VALUE is to be established in terms of cash or based on terms of financial arrangements equivalent to cash for the rights being appraised.

MCA 70-30-313. Current fair market value: Current fair market value is the price that would be agreed to by a willing and informed seller and buyer, taking into consideration, but not limited to, the following factors:
(1) the highest and best reasonably available use and its value for such use, provided current use may not be presumed to be the highest and best use,
(2) the machinery, equipment, and fixtures forming part of the real estate taken; and
(3) any other relevant factors as to which evidence is offered.

(9) SCOPE OF THE APPRAISAL:

(10) ASSUMPTIONS AND LIMITING CONDITIONS: List only those assumptions and limiting conditions applicable to this parcel;

The information contained within this report may not be applicable to the same property under different conditions nor to other properties with similar conditions. Applying information in this appraisal to another property requires careful consideration of all value influencing factors for each of the properties concerned.

(11) SUMMARY DESCRIPTION OF NEIGHBORHOOD:
Refer to Project Report or
Surrounding area is: Depressed ☐ Declining ☐ Static ☐ Growing ☐ Other _____
Unusual features affecting property values:
Subject property conforms with general area: Yes ☐ No ☐
If no, explain:

Surrounding area is: Vacant ☐ Partially Developed ☐
Developed ☐ In Transition ☐

Zoning in the area and / or typical size and use of tracts in the area:
Has subject project influenced property values? Yes ☐ No ☐
If yes, explain:

(12) SUMMARY DESCRIPTION OF PROPERTY BEFORE ACQUISITION:
Total Area Contiguous Ownership (Larger Parcel-may be different from area shown on plans):
Shape:
Dimensions:
Corner Site: ☐ Interior Site: ☐ Alley Access: ☐
Access:
Traffic count:
Property's present location in respect to grade:
Topography:
Drainage:
Water availability:
Present Use: Residential: ☐ Commercial: ☐ Industrial: ☐
Suburban Residential: ☐ Special Purpose: ☐ Farm/Ranch: ☐
Other: _____

Zoning:
Utilities: Phone: ☐
Power: ☐
Sewerage: ☐
If septic, describe location and show on site plan:

Water: ☐

If private well, describe location and show on site plan:

Description of improvements:

(13) Fencing, Gates, Portals, Landscaping, Driveways, and/or Cattle Guards within R/W acquisition:

(14) HIGHEST AND BEST USE, BEFORE:

(15) LAND VALUATION, BEFORE:
Land values based on Sales Catalog/Project Report : Sale Numbers ; or
Sales attached (See Addenda).

(16) VALUE BASED ON COST APPROACH, BEFORE: If the property is improved include:
A. Estimated total accrued depreciation as gathered from the marketplace, or, if no market data is available in the same general location or similar locations,
B. Provide estimated depreciation from observation of physical deterioration, functional obsolescence, and external influences.
C. Total value of depreciated improvements added to Land Value

(17) VALUE BASED ON SALES COMPARISON APPROACH, BEFORE:

(18) VALUE BASED ON INCOME APPROACH, BEFORE:

(19) RECONCILIATION AND CONCLUSION TO VALUE, BEFORE:

(20) SUMMARY DESCRIPTION OF ACQUISITION:
Description of the acquisition, easement, permit, or (other) :
Type and amount of land:
Improvements:
Fixtures and Personal Property Considered Realty: See MDT Appraisal Manual Section 3-2.22

(21) VALUE OF THE ACQUISITION AS PART OF THE WHOLE, BEFORE:

(22) VALUE OF THE REMAINDER, BEFORE:

(23) DESCRIPTION OF THE PROPERTY AFTER THE ACQUISITION:
Is Access reasonable for the existing use?
Is Access reasonable for the highest and best use?

(24) HIGHEST AND BEST USE, AFTER:

(25) COST TO CURES TOTALING LESS THAN $1000:

(26) LAND VALUATION, AFTER:
Land values based on Sales Catalog/Project Report : Sale Numbers ; or
Sales attached (See Addenda).

(27) VALUE BASED ON COST APPROACH, AFTER:

(28) VALUE BASED ON SALES COMPARISON APPROACH, AFTER:

(29) VALUE BASED ON INCOME APPROACH, AFTER:

(30) RECONCILIATION AND CONCLUSION TO VALUE, AFTER:

(31) DEPRECIATION IN MARKET VALUE TO THE REMAINDER :
CURABLE ITEMS AND THEIR COST :
Value of the remainder as cured:
Special Benefits:
Remaining depreciation in market value:

(32) RECAPITULATION (Based on reconciled value(s)):
Value of Acquisition:
Land (include number of land size units and price per unit):

Improvements (Inclusive of site improvements):

Fixtures and Personal Property: _____

Permits: _____

Easements:

Depreciation in Market Value:
Not Offset by Special Benefits or Cured: _____

Curable Items And Their Cost: _____

(33) Total Compensation: Sum of Acquisition including Easements And Permits, Cost Of Curable Items, And Remaining Depreciation To The Remainder as of _____(Effective Date) _____

Compensation, Rounded _____

TOTAL COMPENSATION _____

The compensation is based on right-of-way plans dated _____.

IS ACCESS CONTROL BEING IMPLEMENTED ON THIS PARCEL? YES ☐ NO ☐

METRIC CONVERSIONS:

(34) LESSEES INTEREST:
LESSORS INTEREST:

(35) I CERTIFY THAT...:
...the statements of fact contained in this report are true and correct.
...the appraisal has been made in conformity with state laws, the Uniform Appraisal Standards for Federal Land Acquisitions and Chapter 3 (Appraisal) of the MDT R/W Manual, as they apply to the appraisal assignment.
...I have personally inspected the subject property and that I have afforded the owner, or their representative, the opportunity to accompany me on the inspection. (If not explain.)
...I have personally inspected and verified the comparable sales relied upon in making this appraisal. (If not explain.)
...I have no direct or indirect present or contemplated future personal interest in the subject property or in any benefit from the acquisition of such property beyond my responsibility as an appraiser for the Montana Department of Transportation.
...neither my employment or compensation is contingent on an action, event or value resulting from the analyses, opinions, or conclusions in, or the use of, this appraisal report.
...the reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions contained within this report.
...the value conclusion is based on my personal, unbiased professional analyses, opinions, and conclusions derived from the data collected for this appraisal.
...my determination has been reached independently based on analysis of data without collaboration or direction, except as outlined within this report.
...I understand that the value shown herein is to be used in connection with a Federal-aid highway project and that to the best of my knowledge, my determination does not contain items which are not eligible for Federal reimbursement, except as outlined within this report.

DATE: (Date of Report)

SIGNATURE: _____
Appraised By:
If certified, Lic# and level of certification _____

(36) REQUIRED ATTACHMENTS (Also see instructions.): Sketch(s) or Map(s) Showing: Acquisition, Improvements and Site Plan (if applicable); Supplemental Photos of the Subject; Last Deed of Record between seller and purchaser; Comparable Sale information (if applicable); Appraisal History.

Appendix 11.15.5 WAIVER VALUATION

(TOTAL COMPENSATION $25,000 OR UNDER)

Scope of Work: The Waiver Valuation is to be used to report the Market Value Estimate of uncomplicated low value acquisitions, with or without improvements and/or with nominal depreciation to the remainder, that can be measured by a cost to cure which results in no loss in market value to the remainder "as cured." Market information on similar property and cost estimates are used to develop the Market Value Estimate. See Section 4-3.3 of the R/W Operations Manual for instructions on completing a Waiver Valuation and Chapter 3 of the R/W Operations Manual for the definition of Market Value and USPAP Jurisdictional Exceptions.

(1) PROJECT ID: PROJECT NO.:
DESIGNATION: PARCEL NO.:

(2) RECORD OWNER:
ADDRESS:
PHONE NO:

CONTRACT PURCHASER:
ADDRESS:
PHONE NO:

LESSEE OF ACQUISITION:
ADDRESS:
PHONE NO:

Photo of Subject
(Additional photos are to be attached on a Photo Sheet)

Date Taken: Taken From: Facing:

Remarks:

---

(3) LARGER PARCEL SIZE AND LAND VALUE CLASSIFICATION:

(4) LAND VALUE ANALYSIS (State data source and/or reference sales used in support of the valuation.):

(5) VALUE of IMPROVEMENTS (Including signs):

(6) DEPRECIATION IN MARKET VALUE TO THE REMAINDER (State data source and/or attach contractor estimate(s):

(7) VALUATION:

Compensation for Land and Improvements:
Land:
Fee Simple:

Easement:

Improvements (Inclusive of site improvements):

Fixtures and Personal Property Considered Realty:

Subtotal of Land and Improvements ....._____

Other Compensation:
Construction Permits:

Cost to Cure:

Subtotal of Other Compensation....._____

Compensation.....

Compensation (Minimum Payment or Rounded) $_____

LESSEE'S INTEREST:
LESSOR'S INTEREST:
IS ACCESS CONTROL BEING IMPLEMENTED ON THIS PARCEL? YES NO

(8) I CERTIFY THAT..:
... in the preparation of this valuation assignment, I have personally inspected this property and have no present or contemplated future interest therein: that the compensation to me for this valuation service is not contingent upon my value conclusions herein set forth; and that all statements herein are true to the best of my knowledge and belief.

…that the landowner has approved the use of a Waiver Valuation, in writing, if the valuation is between $10,001 to $25,000.

Signature:_____ Date of Value: _____
Prepared by: Date of Report:_____

Signature:_____
Primary Consultant (If Applicable) Date: _____

(9) APPROVED FOR AND ON BEHALF OF MDT:
The data, analysis, adjustments, methods, techniques, opinions, and conclusions appear to be appropriate, complete, adequate, and relevant and are approved.

I CERTIFY THAT…:
...the estimated compensation does not contain items which are not eligible for Federal reimbursement
...the Waiver Valuation and Approval have been made in conformity with Federal Law, State Law, and Chapter 3 (Appraisal) of the MDT R/W Operations Manual
...I have no direct or indirect present or contemplated future personal interest in the subject property or in any benefit from the acquisition of such property.
…neither my employment nor compensation is contingent on an action, event or value resulting from the analyses, opinions, or conclusions in, or the use of, this report.
…This is a Restricted Use Report for Right-of-Way acquisition only

Access Control $_____

TOTAL COMPENSATION, ROUNDED $____

MDT R/W Supervisor or Acquisition Manager_____Date_____
or
*MDT Review Appraiser _____Date:_____
*Required if total compensation is between $10,001 to $25,000 and parcel is negotiated by Field Right of Way Supervisor.

(10) Existing Fencing in acquisition area

A Station to Station
.
B Station to Station
.
C Station to Station
.

Attachments: Appraisal History
Waiver Valuation Letter if the valuation is between $10,001 to $25,000

NOTE: The limitation of this form ($25,000) cannot be waived.

Appendix 11.15.6 Review Appraiser's Report (Sample)

REVIEW APPRAISER'S REPORT AND DETERMINATION OF JUST COMPENSATION FOR PARTIAL ACQUISITIONS

APPRAISAL REPORT FORMAT: _____

Project No.: Parcel No.:
Project ID: Owner:
Designation:

Name of Appraiser	Date of Appraisal	Revision Date(s)

DETERMINATION OF COMPENSATION

Value of Acquisition:
Land:
$
$
Improvements (Inclusive of site improvements):
$
$
Fixtures and Personal Property (considered realty):
$
$
Easements:
$
$
Subtotal of Acquisition..... $

Other Compensation:
Permits:
$
$
Depreciation in Current Fair Market Value:
(Not Offset by Special Benefits or Cured)
$
$
Cost to Cure:
$
$

Subtotal of Other Compensation..... $_____

Just Compensation as of (Effective Date) ..... (A) $_____

JUST COMPENSATION, ROUNDED ..... $

Access Control..... $

TOTAL COMPENSATION ..... $

Uneconomic Remnant:
(B) $_____
Total Just Compensation (A + B) ..... $
JUST COMPENSATION W/ UNECONOMIC REMNANT, ROUNDED..... $

Access Control..... $

TOTAL COMPENSATION W/UNECONOMIC REMNANT ..... $

The compensation is based on right-of-way plans dated _____.

Partial Interests to be Divided as Follows:

Lessor's Interest	$
Lessee's Interest	$

REMARKS:

Client: (MDT R/W Bureau or Other entity)

Property Interest:

Summary of Appraisal:

Intended Use of Review:

Purpose of the Review:

Scope of Review:

Completeness, adequacy, and relevance of data and appropriateness of adjustments:

Appropriateness of Appraisal Methods and Techniques:

I CERTIFY THAT...

___ The statements of fact contained in this report are true and correct.

___ This review has been made in conformity with state laws, the Uniform Appraisal Standards for Federal Land Acquisitions and Chapter 3 (Appraisal) of the MDT R/W Manual, as they apply to the review assignment.

___ I have personally inspected the subject property. (If not explain above.)

___ I have personally inspected the comparable sales applicable to this appraisal. (If not explain above.)

___ I have no direct or indirect present or contemplated future personal interest in the subject property or in any benefit from the acquisition or disposition of such property beyond my responsibility as review appraiser for the Montana Department of Transportation.

___ neither my employment nor compensation is contingent on an action, event or value resulting from the analyses, opinions, or conclusions in, or the use of, this review report.

___ my conclusions have been reached independently based on factual data of record.

___ (If reviewer is licensed) As of the date of this report, I have completed the requirements of the continuing education program of the Montana State Board of Real Estate Appraisers.

Reviewed by: Signature: _____

Date: If licensed, level of certification & lic #

_____

___

Approved for Compensation: Date: _____ No Remarks: ☐ Remarks Attached: ☐

Signature: _____ Title: _____

Appendix 11.15.7 Donation Statements (Sample)

WAIVER OF COMPENSATION

1. Project ID: _____ Project No.: _____

   Designation:

   Parcel #:

2. Description of Right-of-Way (Acreage, Lot & Block, COS, Section, Township, Range, etc.):

3. Property Owner:

4. Waiver by Property Owner:

   The undersigned, having first been informed concerning the right of the property owner to receive payment for land acquired for highway right-of-way, do hereby waive said right and voluntarily agree to donate the right-of-way needed for the above-named project.

   Dated this _____day of _____, 2_____.

   Property Owner:

   _____
   Signature: (Date)

   _____
   Signature: (Date)

Use the following if property owner is a Corporation, LLC, Trust, or Partnership, etc.

By _____as _____of _____
(Title or Capacity) (Name of Corporation, LLC, Trust, etc.)

By _____as _____of _____
(Title or Capacity) (Name of Corporation, LLC, Trust, etc.)

Witness: _____ _____
Signature Printed Name

Distribution:
Original to: Montana Department of Transportation
Copy to: Property Owner

Proposed Donation Letters (Through Local Agency)

Date

District Administrator/
Right-of-Way Bureau Chief
Montana Department of Transportation
Helena, MT 59620

Subject: (Project Title)
(Federal Aid Number)
Parcel Number_____

Sirs:
The attached instrument for donation of right-of-way to the agency is in compliance with the provisions of
*_____.

Sincerely,

_____

Concur and Approve

Accept and Approval

_____ _____

Title_____ State of Montana Department of Transportation

_____
(Local Agency)

*(Typical language.)
… City/County Ordinance No.111

(For use when a local agency project is adjacent to MDT right-of-way and MDT does not have an active project at this location.)

Appendix 11.15.8 Certification #1 (Sample)

All Right-of-Way Acquired

RIGHT-OF-WAY CERTIFICATE #1

TO: _____ Date: _____
Regional Highways and Local Programs Engineer

_____

_____ RE: Federal Aid No.:_____

Project Title:_____

_____

Local Agency:_____

Dear Sir:
As per title 23 CFR, Part 635, Section 309, Para(c), right-of-way has been acquired in accordance with current FHWA Directives covering the acquisition of real property and the following applies:

I hereby certify that all necessary rights-of-way, including control of access rights (when pertinent), have been acquired including legal and physical possession.

AND

(select (a) or (b))

(a) there are no improvements to be removed or demolished for the above cited project.

OR

(b) All occupants have vacated the lands and improvements and the agency has physical possession and the right to remove, salvage, or demolish these improvements and enter upon all lands.

AND

(select (a) or (b))

(a) I further certify that there were no individuals or families displaced by the above cited project. Therefore, the provisions of current FHWA Directives covering the relocation of displacees to DS&S housing and availability of adequate replacement housing are not applicable to this project.

OR

(b) I further certify that our previously submitted assurances of an adequate relocation assistance program and real property acquisition policies have been fully implemented. All eligible persons and occupants of the right-of-way within this project have been relocated to decent, safe and sanitary housing or have been offered decent, safe and sanitary housing.

Project Description:
Total parcels required for project: _____
Parcel(s) with Relocation: _____
Temporary Construction Permits: _____

Sincerely,

_____ _____
Chief Administrative Officer of Local Agency or Delegated Authority

Right of Way Bureau Operations Manager
_____Region

Appendix 11.15.9 Certification #2 (Sample)

Right to Occupy All Right-of-Way Acquired (Some P&U's or Rights of Entry)

RIGHT-OF-WAY CERTIFICATE #2

TO: _____ Date: _____
Regional Highways and Local Programs Engineer
_____
_____ RE: Federal Aid No.:_____
Project Title:_____
_____
Local Agency:_____

Dear Sir:
As per title 23 CFR, Part 635, Section 309, Para(c), right-of-way has been acquired in accordance with current FHWA Directives covering the acquisition of real property and the following applies:

I hereby certify that although all necessary rights-of-way have not been acquired, the right to occupy and use all rights of way required for the proper execution of the project have been acquired.

AND

(select (a) or (b))

(a) There are no improvements to be removed or demolished for the above cited project.

OR

(b) All occupants have vacated the lands and improvements and the agency has physical possession and the right to remove, salvage, or demolish these improvements and enter upon all lands.

AND

(select (a) or (b))

(a) I further certify that there were no individuals or families displaced by the above cited project. Therefore, the provisions of current FHWA Directives covering the relocation of displacees to DS&S housing and availability of adequate replacement housing are not applicable to this project.

OR

(b) I further certify that our previously submitted assurances of an adequate relocation assistance program and real property acquisition policies have been fully implemented. All eligible persons and occupants of the right-of-way within this project have been relocated to decent, safe and sanitary housing or have been offered decent, safe and sanitary housing.

Project Description:
Total parcels required for project: _____
a. Parcel(s) acquired: _____
b. Parcel(s) with possession and use only: _____
List:

P&U Parcel #	Owner	Effective Date
1.		
2.		

c. Parcels covered by right(s) of entry: _____
List:

R/E Parcel #	Owner	Effective Date	Termination Date
1.			
2.			

d. Temporary Construction Permit(s) acquired: _____
e. Parcel(s) with Relocation: _____

Sincerely,

_____ _____
Chief Administrative Officer of Local Agency or Delegated Authority
Right of Way Bureau Operations Manager _____Region

Appendix 11.15.10 Certification #3 (Sample)

All Right-of-Way Not Acquired (Use Only in Very Unusual Circumstances)

RIGHT-OF-WAY CERTIFICATE #3

TO: _____ Date: _____
Regional Highways and Local Programs Engineer
_____
_____ RE: Federal Aid No.:_____
Project Title:_____
_____
Local Agency:_____

Dear Sir:
As per title 23 CFR, Part 635, Section 309, Para(c), right-of-way has been acquired in accordance with current FHWA Directives covering the acquisition of real property and the following applies:

I hereby certify that the acquisition or right of occupancy and use of a few remaining parcels is not complete, but all occupants of the residences on such parcels have had replacement housing made available to them in accordance with 49 CFR 24.204.

AND

(select (a), (b), or (c))

(a) There are no improvements to be removed or demolished for the above cited project.

OR

(b) All occupants have vacated the lands and improvements and the agency has physical possession and the right to remove, salvage, or demolish these improvements and enter upon all lands.

OR

(c) Occupants remain to be vacated and the agency ensures that occupants who remain in the right-of-way will be protected against unnecessary inconvenience and disproportionate injury or any action coercive in nature.

AND

(select (a), (b) or (c))

(a) I further certify that there were no individuals or families displaced by the above cited project. Therefore, the provisions of current FHWA Directives covering the relocation of displacees to DS&S housing and availability of adequate replacement housing are not applicable to this project.

OR

(b) I further certify that our previously submitted assurances of an adequate relocation assistance program and real property acquisition policies have been fully implemented. All eligible persons and occupants of the right-of-way within this project have been relocated to decent, safe and sanitary housing or have been offered decent, safe and sanitary housing.

OR

(c) I further certify that our previously submitted assurances of an adequate relocation assistance program and real property acquisition policies have been fully implemented except for a few remaining parcels as explained in the exception section.

Project Description:
Total parcels required for project:
a. Parcel(s) acquired:
b. Parcel(s) with possession and use only: _____
List:

P&U Parcel #	Owner	Effective Date
1.		
2.		

c. Parcels covered by right(s) of entry: _____
List:

R/E Parcel #	Owner	Effective Date	Termination Date
1.			
2.			

d. Temporary Construction Permit(s) acquired: _____
e. Parcel(s) with Relocation: _____

Exceptions:

(List all exceptions by parcel number. A realistic date of occupancy of the parcel and of completion of relocation must be given with an explanation of why those dates are realistic. Explain also, why it is in the public interest that the project be advertised without acquisition being completed.)

I further certify that appropriate notification will be provided in the bid proposals identifying all locations where right of occupancy and use has not been obtained.

Sincerely,

Chief Administrative Officer of
Local Agency or Delegated Authority

Right of Way Bureau Operations Manager
Re on

Appendix 11.15.11 Coordinators Worksheets (Sample)

PROJECT WORK SHEET

AGENCY:_____ F.A. NUMBER:_____

PROJECT TITLE:_____

PROCEDURES DATED: _____

NUMBER OF PARCELS: _____

RELOCATION PLAN DATED: POSITIVE:_____ NEGATIVE:_____

PROJECT FUNDING ESTIMATE DATED:_____

FHWA PARTICIPATION IN ROW:_____ ACQ. AUTHORIZATION DATED_____

RIGHT OF WAY PLAN:

F.A. NUMBER:_____ OWNERSHIP INFORMATION:_____

AREAS BEFORE:_____ AFTER:_____ ROW:_____

ADEQUATE DATA FOR LEGAL:_____

COMMENTS:

PROJECT TITLE:

PARCEL NUMBER: ACREAGE:

APPRAISAL – DATED REVIEW – DATED_____
AMOUNT _____ AMOUNT_____
FIRM_____

JC SET BY AGENCY – DATED_____ OFFER LETTER – DATED_____
AMOUNT_____ AMOUNT_____

ADMN. SETTLEMENT AMOUNT_____ AGENCY APPROVED

TOTAL SETTLEMENT AMOUNT_____

UNECONOMIC REMNANT_____ VALUE_____ OFFER MADE

DONATION: STATEMENT SIGNED_____

TITLE REPORT_____ ENCUMBRANCES CLEARED

DEED DATED_____ RECORDED_____

DOCUMENTS 1. LEGAL DESCRIPTION_____
2. PARTIES _____
1. NOTARY _____

PROOF OF PAYMENT_____NEGOTIATOR DISCLAIMER_____

DIARY COMPLETE_____SIGNED_____

RELOCATION

ADDITIONAL COMMENTS

Parcel:

The following is a list of items needed in a Local Agency's files to allow the LA Coordinator to complete a project certification review. This list is not all-inclusive and is meant as an aid to file preparation only.

PROJECT FILE

1. RIGHT OF WAY PLAN
2. PROJECT FUNDING ESTIMATE
3 RELOCATION PLAN
4. FWHA ACQUISITION AUTHORIZATION
5. CONDEMNATION AUTHORIZATION (IF NEEDED)

NEGOTIATION FILE

1. APPRAISAL(S)
2. APPRAISAL REVIEW(S)
3. JUST COMPENSATION (SET BY AGENCY)
4. DIARY(S)
5. OFFER LETTER(S)
6. ADMINISTRATIVE SETTLEMENT JUSTIFICATION AND APPROVAL
7. DONATION STATEMENT APPLICABLE)
8. TITLE EVIDENCE
9. COPIES OF RECORDED DOCUMENTS
10. PROOF OF PAYMENT(S)
11. NEGOTIATOR DISCLAIMER STATEMENT
12. CONSULTANT CONTRACT(S)
13. CORRESPONDENCE

RELOCATION FILE

1. DIARY(S)
2. PROPER NOTICE(S):
   GENERAL INFORMATION
   RELOCATION ELIGIBILITY
   90 DAY NOTICE

RESIDENTIAL:
3. RELOCATION BENEFITS COMPUTATION
4. BENEFITS NOTICE
5. MOVING AGREEMENT
6. PROOF OF PURCHASE OR RENT
7. DS&S INSPECTION REPORT
8. EVIDENCE OF ADVISORY ASSISTANCE
9. ALL SUPPORTING DOCUMENTATION

BUSINESS:
10. BENEFITS NOTICE
11. MOVING AGREEMENT
12. CLAIM FORMS
13. EVIDENCE OF ADVISORY ASSISTANCE
14. ALL SUPPORTING DOCUMENTATION

15. PROOF OF PAYMENT(S)

Appendix 11.15.12 Federal Aid Requirement Checklist

Informational Only

Agency Region _____ Date _____ Project
(Federal Aid Number) (Name)

Federal Funds Will Be Used For: PE RJW _____ CONST. _____

Persons Will Be Displaced: YES _____ NO _____

Right-of-Way Acquired For This Project: YES _____ NO _____

(Reminders)	(Comments)
1. Real property must be appraised before initiation of negotiations with the owner, per 49 CFR 24.102(c) and 24.108.	1.
2. Owners must be given an opportunity to accompany each appraiser during his inspection of the property, per 49 CFR 24.102(c).	2.
3. The local agency must establish just compensation before initiation of negotiations with the owners, per 49 CFR 24.102(d).	3.
4. No increase or decrease in the FMV due to the project except physical deterioration, is to be considered in the valuation of the property, per 49 CFR 24.103(b).	4.
5. Appraisals are not to give consideration nor include any allowance for relocation assistance benefits.	5.
6. The owner is not to be left with an uneconomic remnant that the local agency did not offer to acquire, per 49 CFR 24.102(k).	6.
7. The owner is to be given a written statement of the amount offered as just compensation, and where appropriate, the compensation for real property to be acquired and the compensation for damages, if any, to the remaining real property shall be separately stated in the written statement, per 49 CFR 24.102(e).	7.
8. No owner shall be required to surrender possession before the agreed purchase price has been paid or the approved amount of compensation has been paid into the court, per 49 CFR 24.102(j).	8.
9. No lawful occupant shall be required to move unless the occupant has been given at least 90 days advance written notice of the earliest date by which the occupant may be required to move, per 49 CFR 24.203(c).	9.
10. The rental amount charged to owners and/or tenants permitted to occupy the property subsequent to acquisition must not exceed the fair rental value for such occupancy. per 49 CFR 24.102(m),	10.
11. No action must be taken to advance condemnation, defer negotiations or condemnation or the deposit of funds with the court or take any other coercive action in order to induce an agreement on the price to be paid for the property, per 49 CFR 24.102(h).	11.
12. The local agency must acquire an equal interest in all buildings, etc., located upon the real property acquired, per 49 CFR 24.105(a).	12.

(Reminders)	(Comments)
13. The local agency must pay recording fees, transfer taxes, etc.; penalty costs for pre-payment of a pre-existing mortgage and the pro rata share of real property taxes paid subsequent to vesting title in the local agency, per 49 CFR 24.106.	13.
14. No property owner can voluntarily donate his property prior to being informed of his right to receive just compensation.	14.
15. Provisions have been made for rodent control should it be necessary.	15.
16. No owner was intentionally required to institute legal proceedings to prove the fact of the taking of his real property.	16.

Prepared by_____

Title _____

Appendix 11.15.13 Government Agreement For Aid

Montana Department of Transportation

Organization and Address	
Government Agreement For Aid Work by State - Actual Cost Agreement Number - Federal Employers ID. Number	
Region	Land Acquisition, Relocation, and Related Services

THIS AGREEMENT, made and entered into this _____day of _____, between the STATE OF MONTANA, Department of Transportation, acting by and through the Secretary of Transportation, hereinafter the "DEPARTMENT" and the above named organization, hereinafter the "LOCAL AGENCY.

WHEREAS, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (PL 91-646. 84 Stat. 1894) amended by Uniform Relocation Act Amendments of 1987 (PL. 100-17, 101 Stat. 246-256) as implemented by the United States Department of Transportation (49 CFR 24), Chapter 8.26 Revised Code of Montana (RCW), and Chapter 468-I 00 Montana Administrative Code (WAC) promulgated by Montana State Office of Community Development (OCD), all of which are hereinafter referred to as the REGULATIONS, establish a uniform policy for the expedient and consistent treatment of owners subjected to land acquisition practices and provide for the fair and equitable treatment of persons displaced in connection with or as a result of public works programs or projects of a State agency or local public body; and

WHEREAS, the LOCAL AGENCY may propose to acquire or to administer the acquisition of real property in connection with public works programs or projects which may necessitate displacement of an individual, a family business, farm, or nonprofit organization; and

WHEREAS, the DEPARTMENT has an established organization to complete project impact studies and to conduct land acquisition, property management, and relocation assistance programs in compliance with the REGULATIONS and is empowered to provide such services to other governmental agencies pursuant to Chapter 39.34 RCW; and

WHEREAS, the DEPARTMENT, in accordance with its policies does not desire to perform services for a public agency by entering into or otherwise interfering with competitive bidding by private enterprise in response to advertisement or solicitation by such public agency; and

WHEREAS, the LOCAL AGENCY, in support of said departmental policies, assures the DEPARTMENT that the LOCAL AGENCY's assignments and/or requests for services under this AGREEMENT will not result from bidding, negotiation! or other competition involving private enterprise; and

WHEREAS, the LOCAL AGENCY may desire to obtain such services from the DEPARTMENT and the DEPARTMENT is willing to furnish such services to the LOCAL AGENCY, and both deem it in the interest of the public to enter into this AGREEMENT;

NOW, THEREFORE, in consideration of the stated premise and in the interest of providing expedient, fair, equitable, and uniform treatment of land owners and persons to be displaced by proposed land acquisition projects and pursuant to RCW 8.26.120, the parties hereto agree as follows.

I. GENERAL

A. The DEPARTMENT shall, to its maximum ability, provide the LOCAL AGENCY with impact study, appraisal, appraisal review, acquisition, relocation assistance, or property management services described hereinafter, all in accordance with the

appropriate elements of the department's operating requirements set forth in the departmental publication M26-O1 (HW), Right of Way Manual, except where specific operating requirements are otherwise described herein. All such requirements shall conform to the REGULATIONS.

B. The normal workload of the department shall have priority over any work performed under the AGREEMENT. The work performed under this AGREEMENT shall be pursued with care and diligence, making every effort to recognize pertinent schedules of the LOCAL AGENCY. The DEPARTMENT shall promptly notify the LOCAL AGENCY of any hardship or other inability to perform under this AGREEMENT including postponement of the local agency's work due to priority given to the departments work.

C This AGREEMENT may be increased or decreased in scope or character of work to be performed if such change becomes necessary, but any such change shall be accomplished by written supplement executed by all parties to said AGREEMENT.

D. The LOCAL AGENCY shall indemnify and hold the DEPARTMENT and its agents, employees, and/or officers harmless from and shall process and defend at its own expense any and all claims, demands, suits at law or equity, actions, penalties, losses, damages, or costs, of whatsoever kind or nature, brought against the DEPARTMENT arising out of, in connection with, or incident to the execution of this AGREEMENT and/or the LOCAL AGENCY performance or failure to perform any aspect of this AGREEMENT to the extent allowed by law.

II. WORK ASSIGNMENT/REQUEST

A. Specific assignments shall be made in writing to the DEPARTMENT by the LOCAL AGENCY. The LOCAL AGENCY shall make such assignments before any negotiations for property acquisition and before ny discussion of price with the property owner, when required by the REGULATIONS.

B. The LOCAL AGENCY shall furnish the DEPARTMENT with all information which has been compiled by or is available to the LOCAL AGENCY concerning the property to be affected by each particular project. Such information shall include, but not be limited to, a list identifying each property affected by the project by parcel number, a tabulation of improvements on each property, the geographical location and boundaries of each property, and a description of how the project affects each property. The LOCAL AGENCY

shall furnish the DEPARTMENT copies of plan sheets showing limits of parcels, rights to be acquired, and sufficient engineering data to develop legal descriptions.

C. The DEPARTMENT shall furnish all labor, materials, supplies, and incidentals necessary to complete the work assigned by the LOCAL AGENCY and shall furnish all information necessary to the conduct of a land acquisition program.

D The DEPARTMENT will at its discretion and upon written request from the LOCAL AGENCY furnish the following as required:

Impact Studies: Impact studies shall be made and reported in written narrative addressing potential influences by a program or project on land economics or land use factors, displacement/relocation factors, acquisition costs, and relocation plans, as requested.

Appraisal: Property shall be evaluated and value conclusions reported to conform with departmental operating requirements. Any request by the LOCAL AGENCY for court preparation and testimony will be a separate work assignment request under this AGREEMENT and shall be submitted to the DEPARTMENT in a timely manner to provide not less than ninety (90) days notice in advance of any expected court appearance.

Appraisal Review: Appraisal reports shall be reviewed to conform with departmental operating requirements for validity of value conclusions provided such reports are accompanied by a copy of the appraiser's contract and provided that the LOCAL AGENCY (or its agent) has determined that such reports appear to comply with the local agency's procedural requirements and include adequate description of the property appraised and the interest to be acquired and appear to include adequate data supporting said conclusions. The LOCAL AGENCY shall be responsible for obtaining any necessary replacements for unacceptable appraisal reports or for obtaining any substantive revisions of inadequate reports where such reports were furnished to the DEPARTMENT by the LOCAL AGENCY.

Acquisition: Every reasonable effort will be made to acquire real property by negotiations in accordance with the REGULATIONS The DEPARTMENT shall attempt to acquire all property within the project limits without commencing condemnation proceedings. A written offer will be presented to each owner at the time price is first discussed for the property The offer will be documented and retained as part of the parcel file. Individual parcel diaries will be maintained containing adequate written records of the negotiations including, but not limited to, the following:

1. Date and place of contacts;
2. Persons present;
3. Offers made (actual dollar amount);
4. Counter offers made;
5. Reasons settlement could not be reached (If appropriate).

Each request by the AGENCY shall specify the name of the grantee in whose name the property is to be conveyed. The DEPARTMENT shall provide the AGENCY with deeds to all property acquired and, wherever possible, instruments to clear encumbrances of title from those deeds. The DEPARTMENT will provide information leading to clearing of encumbrances which the DEPARTMENT cannot clear without legal action. Upon completion of a review of each acquisition by the DEPARTMENT's Title Section, all instruments and materials pertaining thereto will be provided to the AGENCY. Clearing remaining encumbrances of title and making the actual payment for the property shall be the responsibility of the AGENCY. Should it become apparent that negotiations for attempted acquisition have reached an impasse and sufficient time has elapsed for a property owner to make a decision, the DEPARTMENT will, either at its discretion or upon written request by the AGENCY, submit to the AGENCY a condemnation report that will contain a summary of negotiations, amounts of counter offers, if any, and other historic data relative to such attempted acquisition. The actual filing of condemnation and subsequent litigation shall be the responsibility of the AGENCY.

Relocation Assistance: Relocation assistance services
shall be provided to conform with departmental operating requirements. All relocation claims presented by displaces will be processed by the DEPARTMENT, but the actual disbursement of monies shall be made by the AGENCY As may be assigned by the AGENCY, the DEPARTMENT will respond to and assist the AGENCY with an appeal as to relocation assistance benefits filed by an aggrieved displacee; however, the AGENCY shall remain responsible for any appointment of a hearings officer, conducting hearings, maintaining records thereof, and rendering of the final decision of the AGENCY.

Property Management: Effective management of agency controlled properties will be provided in the name of the AGENCY in conformity with departmental operating requirements.

E. At the completion of the project the DEPARTMENT will, either at its discretion or upon written request by the AGENCY, turn over to the AGENCY all records including appraisal and appraisal review reports, acquisition, relocation assistance, and property management records pertinent to the work performed by the DEPARTMENT.

III. PAYMENT

The DEPARTMENT shall be paid by the AGENCY for completed work and for services rendered under the AGREEMENT as provided hereinafter. Such payment shall be full compensation for work performed or services rendered and for all labor, materials, supplies, and incidentals necessary to complete the work. The DEPARTMENT acknowledges and agrees that only those costs actually allocable to a project shall be charged to such project.
A. The DEPARTMENT shall be reimbursed in full by the AGENCY for its direct and related indirect costs accumulated in accordance with its current accounting procedures.

B. Partial payments will be made by the AGENCY upon receipt of the AGENCY of billings from the DEPARTMENT Billings will not be more frequent than one per month. It is agreed that payment of any particular claim will not constitute agreement as to the appropriateness of any item and that at the time of final billing all required adjustments will be made.

C. Upon termination of this AGREEMENT as provided in Section VI, the DEPARTMENT shall be paid by the AGENCY for services rendered to the effective date of termination less all payments previously made. No payment shall be made by the AGENCY for any expense incurred or work done following the effective date of termination unless authorized, in writing, by the AGENCY.

D. Final payment of any balance due the DEPARTMENT of the ultimate gross reimbursable amount, prior to the effective date of termination. will be made upon ascertainment of such balance by the DEPARTMENT and certification thereof to the AGENCY

IV. NONDISCRIMINATION

The DEPARTMENT shall comply with RCW Chapter 49.60 and with Title VI of the Civil Rights Act of 1964, 42 USC 2000d et seq. With respect to the work to be performed by the DEPARTMENT during the contract, the DEPARTMENT shall not discriminate on the grounds of race, color, sex, national origin, marital status, age, or the presence of any sensory, mental, or physical handicap in the selection and retention of agents, subcontractors or in the procurement of services or materials, leases, or equipment.

V. VENUE

In the event that any party deems it necessary to institute legal action or proceedings to enforce any right or obligation under this AGREEMENT, the parties hereto agree that any such action or proceeding shall be brought in a court of competent jurisdiction situated in Thurston County, Montana.

VI. COMMENCEMENT AND TERMINATION OF AGREEMENT

The work is of a continuing nature and will be in force as of the date of this AGREEMENT. Either party may terminate this AGREEMENT at any time upon not less than sixty (60) days written notice to the other party with or without cause. The AGREEMENT shall terminate three years from the date of execution hereof unless otherwise terminated or unless extended in writing signed by both parties.

IN WITNESS WHEREOF, the parties hereto have executed this AGREEMENT as of the date first above written,

AGENCY

STATE OF MONTANA
DEPARTMENT OF TRANSPORTATION

By _____ Title

By _____ Title

Chapter 12
Civil Rights and Davis Bacon Programs
(EEO Contract Compliance, Title VI, Labor Compliance, DBE, ADA)

12.1 General Discussion
(See the Civil Rights section at http://www.mdt.mt.gov/business/contracting/civil.shtml for further information.)

The Montana Department of Transportation (MDT) Civil Rights Bureau will monitor both the local agency and its contractors for compliance with all Civil Rights Programs as required by FHWA. Monitoring will be done as a part of normal project management reviews and through informal contract compliance reviews of selected contracts.

The local agency must designate an individual who is accountable for implementation of and compliance with all civil rights programs including Titles VI and VII, EEO Contract Compliance, Davis Bacon (current prevailing wage rates), Americans with Disabilities Act (ADA), and the Disadvantaged Business Enterprise (DBE) Program. This person will hereafter be referred to as the Local Agency Compliance Officer (LACO). The LACO must assure that all programs and services offered by the local agency are accomplished in a non-discriminatory manner in accordance with Titles VI and VII of the Civil Rights Act of 1964, the Restoration Act of 1987, the Americans with Disabilities Act, and the Montana Governmental Code of Fair Practices Title 49.

The Required Contract Provision: Federal-aid Construction Contracts (FHWA 1273) must be included in all federal-aid contracts (both prime and subcontractors of any tier) of $2,000 or more executed by the local agency. These can be found at:
http://www.mdt.mt.gov/publications/docs/forms/dbe/eeo_board/fhwa-1273.pdf

All civil rights related programs must be discussed at the preconstruction conference that will be held prior to any project site construction being accomplished. Attendees at the conference should include the LACO, the prime contractor and all subcontractors. MDT Civil Rights Bureau is available to attend as necessary. The Civil Rights CTEP Preconstruction Agenda is available at:
http://www.mdt.mt.gov/other/civilrights/external/ctep_agenda.doc or
http://www.mdt.mt.gov/other/civilrights/external/ctep_agenda.pdf.

12.2 Contract Administration – EEO Contract Compliance
Federal nondiscrimination provisions apply to all federal aid contracts, prime and/or sub, where the prime contract is $10,000 or more.

The LACO must develop a written compliance plan, with goals and timetables, to assure that:

- The project site bulletin board (see MDT CRB Manual for assistance), http://www.mdt.mt.gov/publications/docs/manuals/crb_manual.pdf contains all appropriate postings. See checklist at http://www.mdt.mt.gov/publications/docs/forms/dbe/eeo_board/eeo_bulletin_board_checklist.pdf

- Approved annual submissions consisting of the Company's EEO policy statement, identification

of the company's EEO Officer and that person's EEO authority and responsibility, and the company's discrimination complaint procedures and form have been received by the local agency. See EEO submission forms at - http://www.mdt.mt.gov/publications/docs/forms/dbe/annualeeo.pdf

- The contractor has complied with the requirements of the FHWA 1273
- All subcontracts physically attach the FHWA 1273
- The contractor has complied with section I through III of the FHWA 1273.

12.3 Contract Administration - Davis Bacon Compliance

Payment of Prevailing Wage provisions (Davis Bacon) apply to all federal aid contracts, prime and/or sub, where the prime contract is $2,000 or more.

The LACO must develop a written compliance plan, with goals and timetables, to assure that:

- Current wage rates are physically attached to the prime's contract as well as each subcontract. The current wage rates applicable to the project will be included with project CTEP documentation.
- The prime and each subcontractor are paying appropriate Davis Bacon wage rates.
- The prime and each subcontractor's payrolls have been collected, are complete and reviewed for accuracy.
- A procedure is in place to investigate wage complaints, complaints are investigated promptly, and appropriate action is taken.
- The contractor has complied with Sections IV through VII of the FHWA 1273.

12.4 Contract Administration – Disadvantaged Business Enterprise (DBE)

MDT's DBE website: http://www.mdt.mt.gov/business/contracting/civil/dbe.shtml

The LACO must ensure that:

- They confer with the MDT DBE Program Manager on a project-by-project basis to determine the appropriate DBE goal that is to be established on any given project. Project DBE goals must be established in the contract PRIOR to advertising.
- The apparent low bidder has committed to the use of a specific MDT-certified DBE firm prior to contract award if a numeric goal greater than 0% (zero percent) is required on the contract.
- Copies of all bid documents are submitted to the MDT DBE Program Manager.
- Any DBE working on the project site is performing a commercially useful function (CUF). The CUF report is available at: http://mdtinfo.mdt.mt.gov/other/civilrights/external/forms/MDT-CIV-024_DBE_Commercially_Useful_Function.pdf.
- The total dollar amount of any work performed by all subcontractors is reported to the MDT DBE Program Manager, including a description of the type of work and date paid. The reporting form is available at: http://www.mdt.mt.gov/publications/docs/forms/contracting/contract_payments.pdf.

12.5 Contract Administration – Title VI

The local agency will confer with the MDT Public Involvement Unit or Title VI Coordinator to ensure all Title VI requirements for projects are met including, but not limited to, notice to affected members of the public, opportunity for public input, substantive response to that input, all consultant contracts contain appropriate physically attached Title VI wording, etc. See applicable Title VI forms at http://www.mdt.mt.gov/business/contracting/civil/titlevi.shtml.

12.6 Contract Administration – ADA

Local Agency will comply with all regulations relative to implementation of the Americans with Disabilities Act.

- The regulations include but are not limited to the Public Rights of Way Accessibility Guidelines [PROWAG] constructability requirements. For assistance in this area, please contact the MDT – ADA Coordinator

- Website for PROWAG - http://www.mdt.mt.gov/business/contracting/civil/ada.shtml

- ["Local Agency"] will incorporate or communicate the intent of the following statement in all publications, announcements, video recordings, course offerings or other program outputs: "[The local agency] will provide reasonable accommodations for any known disability that may interfere with a person in participating in any service, program or activity offered by [the Local Agency]. In the case of documents, recordings or verbal presentations, alternative accessible formats will be provided. For further information, contact the Local Agency or the MDT – ADA Coordinator.

Publications Statement

MDT attempts to provide accommodations for any known disability that may interfere with a person participating in any service, program or activity of the Dept.
Alternative accessible formats of this information will be provided upon request.
For further information call (406) 444-6331 TTY (800) 335-7592, or Montana Relay at 711 or by contacting the ADA Coordinator at (406) 444-9229

Please remember to change the number highlighted to match the individual printing the documents or facilitating the meeting

- All video recordings produced and created under the Agreement will be closed captioned.

ADA Coordinator
(406)444-9229 (voice) or 1-800-335-7592 (TDD)
Montana Relay - 711
P.O. Box 201001
2701 Prospect Avenue
Helena, MT 59620-1001
Office hours: Monday-Friday 8:00 A.M. – 5:00 P.M.

12.7 Tools

Link to FHWA trainings regarding Civil Rights:
http://www.fhwa.dot.gov/federal-aidessentials/catmod.cfm?id=71

12.8 Appendices

All information and forms relating to Labor, EEO, Title VI, DBE and ADA is located on the web at http://www.mdt.mt.gov/business/contracting/civil.shtml. For most up-to-date procedures and forms, please contact the Civil Rights Bureau, (406) 447-6331.

12.8.1 Title VI/ADA Language

12.8.2 Form 1273

Appendix 12.8.1 Annual EEO Submission

(Excerpt from the Civil Rights Manual):

Annual EEO Submission

Every prime and subcontractor must submit the Annual EEO Submission EACH YEAR PRIOR TO ANY CONTRACT-RELATED WORK BEING PERFORMED.

The submission consists of:

(1) Company Policy Statement, signed by management and currently dated.

(2) Identification of the company EEO Officer and outlines that person's authority and responsibility, signed by management level and currently dated

(3) Discrimination Complaint Procedure, currently dated and signed by management level.

(4) Discrimination Complaint Form

Please submit your company's annual EEO submission electronically:
http://www.mdt.mt.gov/publications/docs/forms/dbe/annualeeo.pdf

The "Required Contract Provisions for Federal-Aid Construction Projects are available at
http://www.mdt.mt.gov/publications/docs/forms/dbe/eeo_board/fhwa-1273.pdf

Appendix 12.8.2 Fonn 1273
http://www.fhwa.dot.gov/prograrnadrnin/contracts/1273/1273.pdf

Chapter 13
Using Consultants

When a local agency will serve as the lead for the administration of a Consultant project that is funded with State and/or Federal funds, a MDT Consultant Project Engineer (CPE) will be assigned to the project. The city, county or Tribe must follow all MDT/FHWA policies and procedures related to the administration of a Consultant project.

MDT has developed the MDT Consultant Services Manual to provide guidance for the use of consultants for MDT projects and this manual complies with all State and Federal laws, statutes and regulations. The local agencies should use this manual as guidance. The manual is available on the MDT website at: (http://www.mdt.mt.gov/other/csd/external/consultant_manual/Subject%20Index.pdf)

MDT/FHWA policies and procedures related to the administration of a Consultant project include:

- Consultant selection (MDT Consultant Services Manual, Chapter 6),
- Consultant negotiations (MDT Consultant Services Manual, Chapter 7),
- Project administration (MDT Consultant Services Manual, Chapter 8), and
- Indirect cost rate audits (MDT Consultant Services Manual, Chapter 11).

The local agency must consistently coordinate with the CPE throughout project implementation. In particular, the Consultant Design Engineer must review and process for approval:

- The Consultant selection process;
- The Consultant contract before execution; and
- All contract amendments.

The MDT Consultant Services Manual identifies the responsibilities and authorizes various units and positions within the MDT Consultant Design Bureau. The local agency may take the place of MDT roles and assign responsibilities and authorities for all major project responsibilities. The local agency will assign one of its personnel as the project administrator to work with the consultant for the day-to-day administration and management of the project. These assignments should be stated in the proposal for LAG certification if a consultant will be used.

Chapter 14
Design Process

14.1 General Discussion

This chapter covers the design phase of projects on non-NHS routes, Federal Highway Administration (FHWA) funded projects, and discusses a delegation of authority by the FHWA to MDT Highways in administration of FHWA funds.

The next five chapters relating to the design phase of Federal-aid projects include General; Design Standards; Preliminary Field Review and Scope of Work Approval; Plans, Specifications, and Estimates; and Advertising and Award Procedures.

The approving agency identified for the various phases of work is illustrated in the following matrix.

Action	Agency
a. PE Fund Auth. and Modification.	FHWA
b. Exceptions to Design Standards	State/ FHWA
c. Preliminary Design Approval (Preliminary Field Review, Scope of Work)	Local Agency/State
d. Experimental Work Plans	FHWA
e. PS&E Approval	FHWA/State
f. Proprietary item, sole source (public interest finding, certification)	FHWA/State
g. Concurrence in Award	State
h. State Forces Work	Local Agency /State

In addition to the Department's geometric design standards, design criteria can vary based on the proposed type of roadway treatment (e.g. new construction, resurfacing, rehabilitation). Local agencies should determine which criteria apply before beginning design. The guidelines for various types of projects are given later in this chapter.

It is strongly encouraged that value engineering be used, as needed, throughout project development, construction, operation, and maintenance. Value engineering analysis should be performed on projects where its application has a high potential for public benefit such as on high cost and complex projects. The need for value engineering should be determined on a project-by-project basis (see Chapter 15).

14.2 New Construction/Reconstruction Projects (refer to Chapter 15 of this manual and Chapter 12 of the MDT Road Design Manual for design criteria)

New construction and reconstruction projects are typically designed to meet the design standards for the functional class of the roadway. Reconstruction may include significant changes in cross-section or shifts in both vertical and horizontal alignment as well as the replacement of the existing surfacing. If 25 percent or more of the project length involves vertical or horizontal alignment changes, the project will be considered reconstruction. Reconstruction may require acquisition of additional right-of-way, and may include all items of work usually associated with new construction, including items a. through o. below.

a. Pavement Type Determination. The determination of pavement type is of major importance in the

development of plans for any project involving improvement to the road surfacing. The local agency should contact the MDT Surfacing Design Unit through the LAG Certification Liaison to obtain the most current surfacing design guidelines.

The local agency should have on file documentation of factors considered in determining that the pavement to be used has been carefully selected in terms of engineering, economics, and current design criteria. The pavement analysis should identify the design life, lifecycle costs, and impacts of the various alternatives on the total project.

b. Structural Design. Design procedures must conform to accepted engineering practices approved by a registered professional engineer. The recommended process is outlined in the MDT Structures Manual.

c. Roadway Geometrics. Design(s) must be based upon accepted engineering practices and the requirements listed in the MDT Road Design Manual.

d. Construction Specifications. For all Federal-Aid projects, the local agency will construct and administer the project in conformance with Montana Public Works Standard Specifications or MDT Standard Specifications for Road and Bridge Construction, or a combination of the two (as outlined in Section 16.5). Where the two sets of specifications are in conflict, the local agency will contact the LAG Certification Liaison to determine which specification will govern.

e. Traffic Control. All traffic control devices must conform to the MUTCD, as adopted by the Transportation Commission

f. Clear Zone. The clear zone is the roadside border area starting at the edge of the traveled lane that is available for safe use by errant vehicles. The clear zone distance tables in the MDT Road Design Manual should be used to determine clear zone distances at specific locations.

g. Geometric Cross-Section. It is desirable that all new construction in urban areas provide embankment slopes and ditch in-slopes of 4:1 or flatter. Embankment slopes of 3: 1 or steeper may be used when achieving flatter slopes has demonstrated to be impractical. For construction in rural and transitional areas use the slope tables in Chapter 12 of the MDT Road Design Manual. A design exception request must be submitted to use slopes that do not meet these design criteria.

h. Vertical Clearance. Vertical clearance above the paved roadway surface must be a minimum of 16.5 feet for structures. Vertical clearance of structures above the walkway surface must be a minimum of 8 feet. Overhead utilities must provide a minimum vertical clearance of 21 feet above the paved roadway surface. Sign bridges must provide a minimum vertical clearance of 17 feet from the bottom of the lowest sign.

i. Bridge Approach Rail. Approach guardrail is required at all bridge ends and must be made structurally continuous with the bridge railing. A guardrail layout has also been developed for use when an intersecting roadway or private approach exists within the limit of the bridge approach guardrail. See the MDT Detailed Drawings for all necessary guardrail details.

j. Bridge Guardrail. Only bridge rail designs that have been successfully crash tested (or their equivalents) will be used on federally funded new construction or reconstruction projects. The MDT Structures Manual contains guidelines and performance levels for bridge rail.

k. Illumination.
   1. Consider roadway illumination for high activity pedestrian areas (bus stops, crosswalks, etc.).

   2. Consider low energy consumption designs.

l. Pedestrian Facilities. In urban areas, sidewalks are desirable on both sides of the street per the MDT Geometric Design Standards for Urban and Developed Areas.

m. Bicycle Facilities. On streets and roads intended to accommodate designated bicycle routes, the current AASHTO Guide for Development of Bicycle Facilities and the MDT Road Design Manual chapter 18 on bicycle facilities should be used as a design guideline.

n. Sidewalk Curb Ramps. ADA accessible ramps must be included in all walkways and/or curb construction. The ramps must meet the design requirements of the Americans with Disabilities Act and the Public Right-of-Way Accessibility Guidelines (PROWAG).

o. Drainage and Hydraulic Design. Refer to MDT Hydraulics Manual and local agency requirements.

14.3 Pavement Preservation and Rehabilitation Projects

As noted in Section 13.1 different design criteria can be applied based on the proposed type of roadway treatment. The treatments include pavement preservation and major and minor rehabilitation. The features of the roadway must still be assessed against the geometric design standards in Chapter 15. However, certain deviations from these standards are acceptable depending on the type of surface treatment.

Rehabilitation is a strategy to extend the useful life of a highway through pavement structure improvement, safety enhancement and operational improvement without necessarily improving geometrics. Engineering judgment is applied on individual rehabilitation projects to achieve appropriate levels of safety and operational characteristics.

Pavement preservation consists of various surface treatments that are limited to the existing plant mix. Projects may include safety enhancements but the existing geometric features will be used without modification.

Americans with Disabilities Act

Curb ramps must be installed along sections that have existing curb, gutter, and sidewalk for projects involving more extensive work than seal and cover (milling and filling, plant mix overlays, etc.). The condition of the sidewalks along the project should also be evaluated to determine if repairs are needed to eliminate obstacles to disabled people.

14.3.1 Pavement Preservation

The intent of these projects is to extend the useful life of the pavement based on observed pavement distress as opposed to scheduled maintenance. The existing pavement structure should be adequate and exhibit minimal distress. Projects on roadways that have had some type of rehabilitation in the past 20 years are the most appropriate candidates. Others will be evaluated on a case-by-case basis.

Pavement preservation treatments include the following:

Plant mix overlays $\leq$ 0.20’	Crack Seals
Mill and Fill $\leq$ 0.20’	Micro Surfacing
Seal and Cover	Rut Fill

Plant mix leveling quantities should not exceed 25% of the plant mix overlay quantity

Roadway Width. The width of the roadway is only a consideration for projects that will receive a plant mix overlay. The width for curbed sections should correspond to Urban Standards. For shouldered sections the minimum width should be the width in the Urban Standards or 28' whichever is less. The surfacing inslopes should be no steeper than 4:1.

Safety. An accident review should be conducted for projects involving plant mix overlays or mill and fills to determine if there are any accident clusters or accident rates that are higher than the statewide average. Any trends or clusters that have cost effective treatments should be addressed as part of the project.

Guardrail. Upgrading of substandard guardrail should be considered on overlay projects. The guardrail needs should be reviewed on a project-by-project basis to determine what upgrades will be included in the project. Decisions must be documented. The following deficiencies require upgrading:

- Blunt ends
- 12' post spacing
- Unconnected or no bridge approach rail

The following deficiencies should be considered for upgrading but are not mandatory:

- Incorrect rail height (Unless the height to the centerline of the bolt < 20")
- No rail at locations that meet warrants
- Inadequate length of need

Clear Zone. The clear zone should be checked to determine if any substantial hazards exists that can be removed or shielded with the project. Decisions should be documented.

14.3.2 Minor Rehabilitation

The intent of these projects is to rehabilitate the existing pavement surface through an engineered approach including appropriate subsurface analysis, observed pavement distress and a consideration of in-place materials. All work is usually accomplished within the existing R/W.

Minor rehabilitation is limited to engineered milling and plant mix overlays. Milling should be $\leq$ 0.20' and should not expose base gravel.

Roadway Width. The width for curbed sections should correspond to Urban Standards. For shouldered sections the minimum width should be the width in the Urban Standards or 28' whichever is less. The surfacing inslopes should be no steeper than 4:1. Minor shoulder work may be necessary to meet these criteria.

Safety. Traffic and accident data must be collected and an accident review should be conducted for the projects to determine if there are any accident clusters or accident rates that are higher than the statewide average. Any trends or clusters that have cost effective treatments should be addressed as part of the project. The inclusion of other safety features such as mailbox turnouts, approach slope flattening and upgraded signing should also be considered. See sample safety checklist in Appendix 14.5.1.

Guardrail. Upgrading of substandard guardrail should be considered on overlay projects. The guardrail

needs should be reviewed on a project-by-project basis to determine what upgrades will be included in the project. Decisions must be documented. The following deficiencies require upgrading:

- Blunt ends
- 12' post spacing
- Unconnected or no bridge approach rail

The deficiencies mentioned in Section 13.31 should also be considered for upgrading but are not mandatory:

Clear Zone. The clear zone should be checked to determine if any substantial hazards exists that can be removed or shielded with the project. Decisions should be documented

Geometrics. The following applies to geometric features that will be used without modification. For vertical curves where the design speed of the curve is 20 mph less than the design speed of the project segment of the roadway and for horizontal curves where the design speed of the curve is 15 mph less than the design speed of the project segment, a design exception is required if there is an accident cluster or trend associated with the design element.

14.3.3 Major Rehabilitation

The intent of these projects is to rehabilitate the existing surfacing structure through an engineered approach including appropriate subsurface analysis, observed pavement distress and a consideration of in-place materials. The work may include modification or treatment of the existing base material. The surfacing should be engineered to provide a 20-year design life. (Section 14.1 states that surfacing must provide an 8-year structural service life.) New right-of-way and utility relocation may be required to improve geometrics, widen the roadway or enhance safety.

Roadway Width. For urban routes the roadway width should correspond to Urban Standards. For rural routes the required roadway width will be determined through MDT's Roadway Width Decision Process. Major widening may be necessary to meet these criteria. Exceptions should be documented.

Bridge. Bridge work up to and including major rehabilitation should be considered.

Safety. Traffic and accident data must be collected and an accident review should be conducted for the projects to determine if there are any accident clusters or accident rates that are higher than the statewide average. Any trends or clusters that have cost effective treatments should be addressed as part of the project. The inclusion of other safety features could include the following:

- Improving existing operational features — operational features include traffic control devices, lighting, and pedestrian accommodations that provide for the safe and efficient movement of vehicles and pedestrians.
- Reducing the potential hazard of existing roadside features - roadside features include sideslopes, mailbox turnouts, approach slopes, ditches, drainage facilities, barrier systems, sign supports, luminaries, trees, utility poles, and other features adjacent to the roadway.
- Upgrading bridge safety features - on all projects which include structures with deficient safety features, consideration must be given to correcting the deficient features. Bridge rails, approach rails, connections, and terminals are considered bridge safety features.

See sample safety checklist in Appendix 14.5.1

Guardrail. Upgrade all guardrail to current standards (NCHRP 350 requirements). A complete guardrail inventory should be performed and all deficiencies corrected including installing new rail where warranted.

Clear Zone. The clear zone should be checked to determine if any substantial hazards exists that can be removed or shielded with the project. The clear zone must be given particular attention at identified high roadside accident locations (fixed object accidents). Decisions should be documented.

Geometrics. Alignment improvements should always be considered for elements that do not meet the current geometric standards. The following applies to geometric features that will be used without modification. For vertical curves where the design speed of the curve is 20 mph less than the design speed of the project segment of the roadway and for horizontal curves where the design speed of the curve is 15 mph less than the design speed of the project segment, a design exception is required.

14.4 Design Exceptions

Requests for deviations from the design criteria in Chapter 15 of this manual and Chapter 12 of the MDT Road Design Manual will be submitted to the Consultant Design Engineer for approval or denial. The design exception request will be submitted to the FHWA for approval on projects with full federal oversight.

The CA Agency is authorized to design projects to the criteria provided in Chapter 15, following the warrants and qualifying statements given. In the event all minimum recommendations cannot be incorporated into the design, the agency must submit the design exception request for review and approval by the MDT Consultant Design Engineer or the Federal Highway Administration.

14.4.1 Documentation

A local agency must document their reasons for exceptions from these design criteria. The design exception request must include a description of the problem and its proposed solution and a vicinity map in sufficient detail to aid in evaluating the problem. The design exception request document should generally stand complete on its own, without references to other sources or documents. Appropriate quotes and excerpts should be used if necessary.

An analysis of the engineering and financial aspects of the proposal as compared to the standard and options considered must be provided. The analysis must specifically address safety issues, including accident history and projections. It must address applicable operational characteristics, including traffic speeds, traffic volumes, capacity, and route continuity. It should include financial considerations such as high construction costs, unusual or extraordinary site conditions, or environmental requirements that may impact the decision. The analysis may include a Benefit/Cost comparison, and/or Life Cycle Costing of alternatives considered. The analysis should also include any other information which may be helpful as a future reference.

The level of detail of the request should be based on the relative complexity and scope of the project and the deviation requested. Requests will be considered based on the merits presented. This analysis and design exception request must be documented and completed prior to the agency's completion of PS&E documents.

14.4.2 Format

Appendix 13.52 is a Sample Design Exception Analysis Format sheet. The sample is intended to present format and items to be included in the request.

14.5 Appendices

14.5.1 Safety Checklist-A Guideline for Resurfacing and Rehabilitation Projects

14.5.2 Sample Design Exception Analysis Format

Appendix 14.5.1 Safety Checklist — A Guideline for Resurfacing and Rehabilitation Projects

Project_____
Number Title

_____
Local Agency

The proposed project should be given a roadside hazard inventory to determine if the following elements exist within the project termini and if the scope of the project includes construction, elimination, modification, or protection of these elements:

Drainage Structures
Existing:_____ Proposed:_____
Project includes mitering end sections: Yes: _____No:_____
Comments:

Guardrail (Reviewed for Adequacy)
Comments:

Signs, Signals, and Illumination Supports
Existing:_____
Proposed:_____
Breakaway bases proposed: Yes: _____No: _____
Comments:

Bridge Piers/Abutments
Protection Existing:_____
Protection Proposed:_____
Comments:

Clear Zone (Reviewed for Adequacy)
Roadside Obstacles:
Trees:
Utility Poles:
Ditch Cross-Sections:
Protection Proposed:
Comments:

Horizontal Alignment (Reviewed for Adequacy)
Comments:

Vertical Alignment (Reviewed for Adequacy)
Comments:

Roadway Widths (Reviewed for Adequacy)
Comments:

Sight Distance (Reviewed for Adequacy)
Comments:

Pavement Structure (Reviewed for Adequacy)
Comments:

Traffic Control Devices Warranted:
Unwarranted: _____
Comments:

Side Slopes (Reviewed for Adequacy)
Comments:

Appendix 14.5.2 Sample Design Exception Analysis Format

Project Number:
Project Title:

We are providing the following guidelines and format to assist in the writing of requests for design exceptions. The format may not be appropriate for all design exceptions but will serve for the majority of requests.

Description
Provide a brief description of the features that will require an exception to approved design criteria for the route. The features will be described in more detail under the "Basis For Request".

Example
We request that you approve an exception to the design criteria for principal arterials (NHS primary) to allow the use of the following existing design features:

- Nonstandard fill slopes at four locations on the project
- A horizontal curve that does not meet the criteria for a 60 mph design speed
- A grade of 4.5%

Project Intent
Describe the project scope (reconstruction, overlay, etc.) and provide a brief summary of the work.

Specify if the project will follow the existing horizontal and vertical alignment. Note if the project will require the acquisition of new right-of-way and if the relocation of utilities is necessary.

Project Location
This section should include the following information:

- Route
- Beginning and ending reference posts
- County
- Terrain (level, rolling, mountainous)
- Predominant use of the land adjacent to the project. Include a description of the land use adjacent to the feature in question if it is different than the overall land use on the project.

Traffic and Accident Data
Provide the traffic data (current and projected volumes, design hourly volume, percent commercial truck traffic).

The accident data should include the following information:

- Number of accidents during the specified period
- Accident rate and severity rate
- Accident trends and deviations from statewide averages

- Accident clusters that may pertain to the design features in question

Design Speed

Note the design speed of the project. Discuss the posted speed limits, speed zone studies and approved speed zones if they are relevant to the issues. This discussion is particularly useful in the transition zones between rural and urban areas.

Project Design Features

Briefly describe the design features of the project and note which existing features will be used in place.

When the project involves changes to a number of existing design features, provide a comparison between the existing and the new features.

Example

The vertical alignment will provide the stopping sight distance (SSD) for a 60 mph design speed and will have a maximum grade of 3.8%. The existing vertical alignment includes 5 crests and 2 sags that do not provide the SSD for a 60 mph design speed. The existing grade exceeds 4% at 3 locations on the project.

Basis for Request

The basis for the request for a design exception should include a discussion of the following items:

- Describe the feature that requires an exception in more detail if appropriate
- Other design features associated with the site (top width, alignment, side slopes)
- Discuss the effect on the clear zone
- Accidents associated with the site
- Natural features that may limit what can practicably be constructed
- Measures that will mitigate the effect of the design feature in question (improved geometrics, use of guardrail, rumble strips, etc.)
- Environmental or cultural impacts resulting from the use of standard design criteria.
- Costs involved with constructing the feature to meet the required design criteria
- Right-of-way and utility impacts – these items typically have a cost associated with them (railroads are an exception)
- Clear Zone - clear zone impacts usually apply to changes in side slopes and potentially the outside of horizontal curves
- Driver expectancy – will this feature reasonably be anticipated by the driver

Conclusion

In general terms summarize the request, the cost savings and reduced impacts associated with the use of nonstandard features and the cumulative effect of the project on safety.

Chapter 15
Design Standards

15.1 General

This chapter defines the design standards that comply with the requirements of Title 23, USC Section 109(p) for Federal-Aid non-NHS public road projects on local streets and roads. The MDT Geometric Design Standards for Urban and Developed Areas have been adopted by local agencies and apply to all arterial streets and roads. These standards cannot provide for all situations, but are intended to define the minimum elements for assistance to competent design professionals, without limiting innovation or creative engineering.

For Federal-aid projects, these standards apply to all non-NHS streets and highways on federal functionally classified streets and roads except for rural minor collector and local access roads. These standards have also been accepted by the Montana Transportation Commission as the standards applicable to this funding program.

The included text and tables illustrate the minimum standards that apply to most of the design elements for FHWA funded projects. For other items of design, refer to the MDT Road Design Manual and the current version of AASHTO's A Policy on Geometric Design of Highways and Streets (the Green Book).

15.2 Geometric Design Standards for Urban and Developed Areas

Appendix 15.3.1 is incorporated into this manual for use in construction of local roads and streets. The statutory city and county design standards committee has adopted these publications for use on all public roads, classified as collector arterial or higher throughout Montana. As updates are made by this committee, they will be included as an update to this manual.

15.3 Appendix

15.3.1 MDT Geometric Design Standards for Urban and Developed Areas

Appendix 15.3.1 MDT Geometric Design Standards for Urban and Developed Areas

MONTANA DEPARTMENT OF TRANSPORTATION
Geometric Design Standards for Urban and Developed Areas

INTRODUCTION

The Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) made sweeping changes to Montana's highway program. It placed an emphasis on better managing, maintaining and operating existing transportation systems and giving state and local governments the flexibility to meet their needs. This included environmental and social goals and objectives of communities as related to their transportation needs. The emphasis areas under ISTEA have been continued with the Transportation Efficiency Act for the 21st Century (TEA-21). On December 4, 1992, the Montana Transportation Commission approved the Montana Department of Transportation Highways Division's Geometric Design Standards. While these Geometric Design Standards established actual standards for the National Highway System, Primary and Secondary Highway Systems, they defaulted to full AASHTO standards to the extent economically feasible for streets/highways in urban and developed areas.

Full AASHTO standards are actually a range of criteria that allow transportation officials flexibility in addressing their transportation needs while considering environmental and social goals; however, the application of this flexibility has sometimes been an area of conflict between MDT and local officials. Through a collaborative effort, representatives from major urban areas in Montana and MDT staff developed a set of minimum criteria that will be applied on all on-system streets and highways in urban and developed areas, except for routes on the National Highway System. These criteria are contained in this document as Montana Department of Transportation Geometric Design Standards for Urban and Developed Areas (Table 1 - Urban Standards) and replace the Highway Design Standards for Urban and Developed Areas section of MDT's Geometric Design Standards. In those situations where adjacent development, other physical features or environmental features or factors limit the standards to which a facility can be constructed, exceptions to standards must be approved to deviate to lesser design criteria. In design practice, these Urban Standards must be supplemented with criteria from the most current edition of the AASHTO "Policy on Geometric Design of Highways and Streets", for those elements of design not included herein and for those transitional or undeveloped areas based upon their existing operating conditions.

DEFINITIONS

Clear Zone. The clear zone is an area unencumbered by obstacles starting at the edge of a travel lane that is available for the safe use and recovery of errant vehicles.

Clear Area. The clear area is the area extending two (2) feet behind the curb that must be free of all obstacles.

Design Vehicle. The design vehicle is a vehicle with the dimensions and operating characteristics used to establish design controls for accommodating vehicles of designated classes. It should be the largest type vehicle commonly served by the route and the adjacent land use.

Functional Classification. Functional Classification is the grouping of roadways according to the character of service they are intended to provide. Ideally the classification provides the optimum balance between access and mobility for a highway system. The roadway classifications referred to in these standards are the Federal Functional Classifications shown on the official functional class maps prepared by the MDT Rail, Transit and Planning Division and approved by the Montana Transportation Commission and the Federal Highway Administration.

On-system. Any route of the National Highway System (including Interstate), or Primary, Secondary, or Urban Highway Systems.

Transitional Area. Transitional areas provide connections between urban and rural areas. Running speeds in excess of 40 mph are typically found on these roadway segments.

Urban Area. An urbanized area or urban place as designated by the Bureau of Census having a population of 5,000 or more, within boundaries to be fixed by responsible State and local officials in cooperation with each other, subject to approval by the US Secretary of Transportation. Such boundaries must encompass, at a minimum, the entire urban place designated by the Bureau of Census.

Urbanized Area. An area with a population of 50,000 or more designated by the Bureau of Census, within boundaries to be fixed by responsible State and local officials in cooperation with each other, subject to approval by the US Secretary of Transportation. Such boundaries must encompass, at a minimum, the entire urbanized area within a State as designated by the Bureau of Census.

TABLE 1 – URBAN STANDARDS (ENGLISH)

Design Standards	Arterial [a]				Collector [a]
	Principal [a]		Minor [a]		
	(b)	(c)	(b)	(c)	(d)
Design Speed (mph)	40	40	35	35	30
Intersection Sight Distance	Refer to AASHTO's A Policy on Geometric Design of Highways and Streets (Green book)				
(e) Stopping Sight Distance (ft)	305	305	250	250	200
Minimum Roadway Width (ft)	28	36	26	30	24
Exterior Lane Width (ft)	12 [f]	12	11 [f]	11	10 [g]
Interior Thru Lane Width (ft)	11	11	11	11	10 [g]
2-Way Left Turn Lane (ft)	12	12	11	11	11
Exclusive Turn Lane Width (ft) Flush Median	12	12	11	11	10 [g]
Parking Lane Width (ft) [h]	10 [i]		10 [i]		8
Minimum Shoulder Width (ft)	0	6	0	4	4 [j]
Minimum Raised Median Width (ft) [k]	4	4	4	4	4
Ditch Slope	Slopes steeper than 4:1 should be used only when achieving a 4:1 slope is impractical				
Bicycle Lane	4 ft [l]				
Right-of-Way	Not less than required for all design elements				
Clear Zone	Refer to the AASHTO Roadside Design Guide as a guideline				
Landscaping	Landscaping will be included as an element to be considered in the design of all urban streets				

These standards are to be used on routes within the urban and urbanized limits of major communities and within the city limits of communities which do not meet the criteria for urban areas. These design standards do not apply to routes on the National Highway System.

(a) Federal functional classification defined by MDT and approved by the Montana Transportation Commission and FHWA.

(b) Curbed.

(c) Shouldered.

(d) Includes both curbed and shouldered cross sections.

(e) The stopping sight distance must be adjusted for higher design speeds and grades. Refer to the AASHTO Green book.

(f) The lane width does not include the gutter section. Add three feet where wide curb lane is provided for accommodating bicycles.

(g) Use 11 feet for collectors that primarily serve commercial/industrial areas.

(h) Includes the width of the gutter section.

(i) 8 feet may be acceptable when the lane is not likely to become a traffic lane in the foreseeable future.

(j) Shouldered cross section only.

(k) The raised median width needs to be added to the exclusive left-turn lane width.

(l) The bike lane width can include the shoulder width if there is no parking. A 5-foot width is recommended from the face of curb, guardrail or other roadside barriers. An increased lane width is recommended where the percentage of trucks or buses is high. See the current edition of the AASHTO Guide for the Development of Bicycle Facilities for additional information.

New Sidewalks	Minimum Width [(a)]	60” (for Passage) 48” (minimum continuous clear width)
	Cross Slopes	1:50 (maximum)
	Gradient [(b)]	5% (maximum)
	Buffer [(c)]	18”

a) The clear width is exclusive of the curb width. Where it is impractical to provide the minimum clear width of 60 inches, provide a minimum 48-inch clear width and 60 inch by 60 inch clear passing spaces at 200-foot minimum intervals.

(b) The sidewalk gradient should typically follow the roadway gradient. Where the roadway gradient exceeds 5%, a maximum sidewalk gradient of 5% should be maintained unless it is impractical to do so.

(c) Where there is a drop-off next to the sidewalk that could pose a fall hazard (ditches, embankments steeper than 1:3), provide an 18-inch buffer between the edge of the sidewalk and the hazard.

ROADWAY GEOMETRICS

The AASHTO's A Policy on Geometric Design of Highways and Streets (current edition) and the MDT Road Design Manual provide references for design elements not included in Table 1. The designer should read the text associated with the referenced tables and should consider other related text and tables in the AASHTO policy.

The following information provides some basic guidance for intersection design. The design vehicle must be identified based upon the functional intent of the intersecting roadways. If the passage is from arterial to arterial then the C–70, tractor semi-trailer unit should be used. If the passage is from arterial to collector the design vehicle associated with the collector route should be used. If the passage involves a local road approach then largest vehicle typically accessing the local road should be the control. In all cases the passage should be made from the near lane directly into a departure lane on the downstream approach. The design vehicle must not encroach on an opposing traffic lane.

Chapter 16
Preliminary Field Review and Scope of Work Approval

16.1 General Discussion

On all Federal-aid funded transportation projects, local agencies must submit a report documenting the intended scope of the project and receive approval from MDT or FHWA prior to beginning the preparation of plans, specifications, and estimates (PS&E). For the majority of projects the Project Proposal will serve as the preliminary field review report.

For complex projects a preliminary field review should be considered to determine project-related issues and major design features. The review should be attended by representatives from the local agency, MDT, the FHWA and focus groups as appropriate. A Preliminary Field Review (PFR) worksheet that summarizes the items to be addressed at the review and a format for the report are provided in the Appendix 16.7.4.

Local agencies must submit a Scope of Work Report and receive approval from the MDT or FHWA prior to the preparation of final plans, specifications, and estimates (PS&E). The Scope of Work Report identifies the major project issues and objectives, as well as how they will be addressed in the development of the project. It also includes a discussion of alternatives and the basis for the selection of the alternative that will be utilized. The report also provides an overview of the project's major design features. The project design will proceed as described in the report unless opposition is expressed within the specified comment period. Any disagreement in the scope of the project must be resolved before final approval of the report.

A project's Scope of Work will not be approved until the project's environmental document has been approved by FHWA, and/or MDT and its public involvement requirements have been met.

When there is a subsequent change to the project design or scope, an amended scope of work approval is required.

16.2 Requirements for Scope of Work Approval

The items listed below are typically required for Scope of Work approval. The list is not all-inclusive, and all of the areas listed will not be required on every project. The level of coverage for each item will also vary from project to project. Additional information is also available in chapter 3 of the MDT Road Design Manual. Examples of Scope of Work Reports and assistance in preparing them may be obtained from the LAG Certification Liaison.

16.2.1 Traffic Data

Design-year ADT, Design Hourly Volume (DHV), percentage of commercial truck traffic, and the average daily traffic forecast during the design year should be included. The design year may be any point within 8 to 20 years from the projected completion of construction.

Crash Data. Number and type of crashes. Locations of unexpectedly high numbers of crashes. A brief discussion of why a higher than normal number of crashes may be occurring and proposed countermeasures.

16.2.2 Right-of-Way

Refer to Chapter 11, Right-of-Way Procedures.

Utilities. Summarize the utility conflicts on the project and any potential problems relative to railroads.

16.2.3 Design Speed

Basis for selection of the design speed. If more than one design speed is selected for the project, the termini for each design speed selected must be clearly identified.

16.2.4 Horizontal-Vertical Alignment

A discussion of the proposed horizontal alignment, existing streets, and proposed intersections will be included. A brief explanation of features that do not meet the project design criteria. Provide only sufficient detail to generally portray the characteristics of the alignment. If there is little change in the vertical alignment note the major features, stopping sight distance and vertical controls, such as existing structures and railroad crossings. If there is significant change, include a discussion of the existing and recommended vertical alignments. Provide a brief discussion of the need for the changes and the anticipated impacts associated with the changes.

16.2.5 Roadway Section

Provide typical roadway sections for each general type of roadway in the project. This is not required on signal projects if the lane description has been shown.

16.2.6 Pavement Design Criteria

Rationale for selection of the pavement type and depth of surfacing. The local agency should contact the MDT Surfacing Design Unit through the LAG Certification Liaison to obtain the most current surfacing design guidelines.

Grading. Discuss the grading that will be needed on the project, special excavation (street excavation, muck excavation), the need for large amounts of borrow, special soils requirements, the need for disposal of large amounts of excavated material.

16.2.7 Hydraulics

Provide a brief summary of the proposed treatment for the hydraulic elements on the project. These may include storm drain systems, culvert replacements, irrigation facilities, and designs of facilities within the delineated floodplains.

16.2.8 Traffic

Provide a brief summary of the traffic-related issues and how they will be addressed. The summary should include intersection improvements, turn lanes, auxiliary lanes, parking requirements, and any traffic control devices (signals, lighting, signing, and pavement markings).

16.2.9 Bike/Pedestrian Features

Briefly summarize the bicycle and pedestrian features that will be incorporated into the project, including bike lanes, sidewalks, and ADA accessibility requirements.

16.2.10 Design Exceptions

Identify and briefly summarize any approved design exceptions.

16.2.11 Traffic Control

Provide a discussion on the proposed traffic control strategy. This may include the need for detours, road or lane closures, traffic shifts, construction limitations, sequencing issues, etc.

16.2.12 Geotechnical Considerations
Identify geotechnical or subsurface problems and any techniques that will be used to address these concerns.

16.2.13 Cost Estimate
The costs submitted must be included for the Project Proposal and the Local Agency Agreement will be used.

16.2.14 Environmental Considerations
Documentation, including resources present, potential social, economic, and environmental impacts and avoidance and mitigation measures.

16.2.15 Public Involvement
Reviewing the above documentation, the local agency will determine whether the design is in conformance with all requirements. Demonstrate that the design is in conformance, the necessary environmental actions (Chapter 9) have been completed and approved by FHWA, and if public involvement requirements have been met.

16.2.16 Permits
Refer to Chapter 10, Federal Environmental Process, and Appendix 16.74 for a sample list of permits that may be required.

16.3 Bridge Design Policy
The local agency will coordinate all work with MDT Bridge Bureau.

16.4 Value Engineering
Value Engineering may be applicable to some projects.

16.4.1 Definition
Value Engineering (VE) is the systematic application of recognized techniques, by multidisciplinary team(s). These techniques are to:

- Identify a product's function or service;
- Establish a function's monetary value or worth;
- Provide alternate ways, using creative techniques, to reliably accomplish necessary functions in the most effective and efficient manner.

Reducing the scope of a project, compromising the performance of an element, or simply substituting cheaper materials is not VE. VE is not just "good engineering." It simply answers the question, "What else will accomplish the purpose of the product, service, or process we are studying?" All costs are taken into account over the entire life of the project.

16.4.2 Authority for VE
Paragraph 4b of DOT Order 1395.1 Use of Value Engineering (VE) by the U.S. Department of Transportation dated April 13, 1987 provides: "All DOT grant awards for major transportation projects should strongly encourage the use of VE in the planning, design, and/or construction phases. This may include the use of VE incentive clauses in construction contracts."

16.4.3 Why VE is Necessary
The costs of highway needs far exceed the funds available for improvements. As the cost of highway construction increases, more emphasis is being placed on the maintenance and rehabilitation of existing facilities to maximize these available funds.

VE is a tool that can counteract these growing problems by providing (1) cost reduction, (2) product or process improvement, and (3) alternative means and materials for highway construction and maintenance.

16.4.4 VE Application (General)

VE may be applied at any point in highway development, operation, and maintenance. For maximum effectiveness, however, VE should be undertaken as early as possible (during the first 30 percent of the design process) when decisions on life-cycle costs are being made and valid project development recommendations can be implemented. When a complex, costly project is selected as a candidate for potential cost reductions, investigations should start as soon as a preliminary estimate is in hand.

VE should be employed when the ratio of potential savings to the cost of the VE study is significant. VE can also be used in evaluating standard details that are used repetitively on many projects. The cost of VE studies in preconstruction activities may be allocated to the preliminary engineering cost of the related project.

Local agencies are also encouraged to include a VE incentive clause in their construction specifications; such clauses encourage contractors to propose changes to the contract that fulfill a project's function requirements at lesser cost.

It is recommended that the local agency staff prepare a "VE Assessment Report" (Appendix 15.73) for all projects exceeding $2 million in total cost, or any other project determined by the staff to warrant a report. The report will address the project characteristics, cost per kilometer, potential savings of high cost items, and other considerations unique to the project. From this assessment, a recommendation will be developed as to whether a VE study is needed. If the local agency decides that a VE study should not be performed, the reasons should be documented.

When the local agency determines that a VE study should be performed, they should use the references listed in Section 15.47. The study results of the VE team should be included in the design report submitted to the LAG Certification Liaison along with the agency's recommended alternative.

When an alternative is acceptable to the local agency and MDT, the local agency submits a project prospectus to the LAG Certification Liaison. The project then proceeds as defined in this manual.

16.4.5 VE Coordinator

When the decision is made to proceed with a VE Team analysis, the Highways and Local Programs Operations Engineer will be the VE Coordinator.

The VE Coordinator will:

a. Inform the local agency in writing that a VE Study Team is being formed.
b. Reach agreement with the local agency on the time and place for the study. Select the VE Team Facilitator and the other members of the VE Team.
c. Request that the local agency provide the typical project related information, the name of the local agency's VE Team member, and the name of a local agency contact person (not the VE Team member) who will be responsible for providing facility and equipment related items required by the VE Team. The local agency team member should be an unbiased representative who would normally have no direct involvement in the project.

16.4.6 VE Study Team

The VE Study Team will be headed by a qualified facilitator not employed by the local agency. The duties and responsibilities of the facilitator will include, but are not limited to, the following:

a. Acts as chairperson at meetings of the VE Team.
b. Presents the findings and recommendations of the VE study to the local agency management and other interested agencies.
c. Provides the final VE Study Report to the local agency and the LAG Certification Liaison.

The VE Team will be comprised of five (5) members including the facilitator. One team member should have a background in bridge design or construction. If environmental factors are part of the study process, then the team should also include a member who has expertise on environmental issues. All VE Team charges will be billed to the local agency.

The VE Team will formally present their study results to local agency representatives, MDT Highways and Local Programs, and all other interested persons. Team findings and recommendations will then be documented in a formal report and sent to the local agency as soon as possible. Courtesy copies are sent to other appropriate agencies arid individuals.

The local agency will evaluate the VE Team recommendations. Should their preferred alternative differ from the prospectus or if no project prospectus has been approved, the local agency submits a new or revised prospectus for their preferred alternative to the LAG Certification Liaison. A summary of the VE study results should be included in this transmittal as reference material. The project then proceeds as defined in this manual.

16.4.7 Reference Materials

- Value Engineering Guide for Cities and Counties, Kernpter-Rossman International.
  Operating Tip — Value Engineering, NWT^2 Center, October 1985.
- Value Engineering Contract Provisions on Federal Aid Highway Construction Projects, Report No, 75-84-2 17, FHWA, December 1984.
- Pavement and Shoulder Maintenance Performance Guide, Report No. TS-84-208, FHWA, August 1984 (developed in conjunction with Arkansas, Colorado, Iowa, New Mexico, North Dakota, South Dakota, Utah, and Montana).
- Value Engineering for Highways, prepared for FHWA by Kempler-Rossman International, revised October 1983.
- Value Engineering - Conference Summary Report, Report No. TS-80-246, FHWA, August 7, 1980.
- Value Engineering: A Systematic Approach, Arthur E. Mudge. McGraw-Hill, New York, 1971.
- Value Engineering in the Construction Industry, Alphonse J. Dell'isola; Construction Publishing Co., Inc., New York, 1974.
- Guidelines for Value Engineering (VE), subcommittee on New Highway Materials, AASHTO-AGC-ARTBA Joint Cooperative Committee. Reprinted by USDOT/ FHWA, February 1983.
- MDT Standard Specifications (latest edition).
- Montana Public Works Standard Specifications (latest edition).

16.5 Additional Data Required for Special Projects

16.5.1 Traffic Signal Projects

The local agency must provide warrants for signalization in accordance with Part 4c of the Manual of Uniform Traffic Control Devices (MUTCD). Designs for signalization at intersections with state routes require review by MDT. A signal permit is required for all traffic signals on state routes. An early application to the MDT Regional Administrator is advisable.

16.5.2 Projects Involving State Routes

Designs for all projects involving state routes must be submitted to the LAG Certification Liaison for approval. All work at intersections with state routes requires submittal of an intersection plan to the LAG Certification Liaison for approval. Prints of existing intersection plans are available from MDT. Revisions should be shown on these prints.

16.6 Design Approval Notices

If hearings are held or if the opportunity for a hearing has been afforded, the local agency will publish a notice of design approval. The notice is published after the hearing has been held (or the opportunity offered) and after the design has been developed and approved. Its purpose is to inform interested parties of action taken in response to their comments or concerns.

The notice is published in the same manner as the hearing notice and should include the following:

a. A description of the location or design.
b. A map or sketch of the area involved.
c. A statement announcing that maps, sketches, and other supporting documentation are available to the public at a convenient location.

16.7 Appendices

16.7.1 Sample Request to Publish Notice of Design Approval

16.7.2 Sample FHWA Project Notice of Approval of Location and Design

16.7.3 Sample Format VE Assessment Report

16.7.4 Preliminary Field Review (PFR) Checklist

Appendix 16.7.1 Sample Request to Publish Notice of Design Approval

Ladies and Gentlemen:

Please publish one time only the attached Notice of Approval of Location and Design for the project referenced above.

It is further requested that you send to this office three (3) copies of an affidavit of publication, together with your billing in triplicate.

Please mail the affidavits and invoices to:

(Address of Approving Authority)

Very truly yours,

_____
Approving Authority

Attachment

Appendix 16.7.2 Sample FHWA Project Notice of Approval of Location and Design

The (Agency Name) does advise that the (Approving Authority on CA Agreement) has approved the following described Location and Design on _____
in_____Agency.

The project _____(Termini)

The proposed project provides for

All maps and data concerning this project are available for public inspection at the office of the _____Agency Engineer, _____, Montana.

This notice is in conformance with Federal Aid Highway Act, 23 U.S.C. 101 et. seq., 128, 315, section 2(a), 2(b)(2), and 9(e)(1) of the Department of Transportation Act, 49 U.S.C. 1651(a) and (a)(2), 1657(e)(1); 49 CFR SS 1.4(c); and 23 CFR SS 1.32.

_____
Approving Authority

Appendix 16.7.3 Sample Format — VE Assessment Report

Agency:_____ Date:_____

Project:_____ Project #:_____

Project Limits:_____

Reviewing Team:_____

Project Characteristics
Length:_____Cost: $_____Cost/Unit Length: $_____

Major structure (Y/N)_____ Includes items that have questionable complex or costly function (Y/N)_____
Extensive ROW (Y/N)_ _____
Complex project (Y/N)_____ Includes items difficult to construct (Y/N)_____
Includes items that appear too costly (Y/N) _____Complicated or costly traffic control or detours (Y/N)_____
Includes critical or expensive materials (Y/N) _____

Horizontal Alignment: _____

Vertical Alignment: _____

Materials Source: _____

Design Concept: _____

Other Considerations: _____

Other Alternatives Considered: _____

Major High Cost Items and Potential Cost Savings Ideas	Cost	Potential Savings
1. _____	$_____	$_____
2. _____	$_____	$_____
3. _____	$_____	$_____

Conclusions and Recommendations: _____

Approving Authority Recommendations:

APPENDIX 16.7.4 Preliminary Field Review Checklist

Project No.
Project Name
Date of Review
Proposed Ready Date_____

PROJECT LOCATION

County_____ Route Name_____

"AS-BUILT" PROJECTS Identification Number	FROM Station	(Reference Point)	TO Station	(Reference Point)

Begin Station_____

End Station_____

Begin Reference Point_____

End Reference Point_____

Length: Urban_____, Rural_____, Total_____

Speed Zones_____

Last Major Work_____ Improved_____

ROADWAY FUNCTIONAL CLASSIFICATION

Type:_____

ACCIDENT DATA

Accident Rate_____ Avg. Accident Rate – Statewide:_____

Severity Rate_____ Avg. Accident Rate – Statewide:_____

Clusters

EXISTING GEOMETRIC DESIGN

Type of Surface

Existing Surface Width

Horizontal Curves that do not meet the criteria described in MDT's Geometric Design Standards for Urban and Developed Areas

P.I. Station (Reference Post) Radius Direction Superelevation

Crest Curves that do not meet the criteria described in MDT's Geometric Design Standards for Urban and Developed Areas

Sag Curves that do not meet MDT criteria

V.P.I. Station (Reference Post) Length G1 G2 Design Speed/SSD

Grades that do not meet MDT criteria

Location Grade

Maximum Grade_____

Existing Fill Slopes (fill height, slope)

_____

Existing Cut Slopes (cut depth, slope)

_____

TRAFFIC DATA

Present AADT_____ DHV_____ Future AADT/year_____

Other_____

_____

_____

ROADSIDE HAZARDS (mailboxes, utilities, trees, rocks, signs, culvert ends, etc.)

_____

_____

_____

_____

PROPOSED WORK (type of project)_____

_____

FIELD REVIEW RECOMMENDATION

Design Speed_____ Terrain_____

Finished Surface Width_____ Standard Width_____

Overlay Thickness_____

Pedestrian Features (sidewalk, ADA criteria)_____

_____

_____

Curb & Gutter_____

Cold Milling (depth, width, use of millings)_____

_____

Guardrail (new, upgrade, structure, etc.)_____

_____

Special Considerations_____

_____

_____

_____

SURVEY

Aerial Mapping_____ Full Survey_____ Partial Survey_____

Cross Sections_____

Pipes: Condition_____ Soil Tests_____

R-Value_____ Corings_____

Digouts_____

Hydraulic Survey_____

Target Date of Survey Completion_____

Other Items_____

_____

RIGHT-OF-WAY

Existing R/W Width_____

New R/W (incl. possible permits)_____

Limited Access_____

Railroad Requirements

UTILITIES

Telephone

Power Poles

Railroad Conflicts

Sewer & Water Conflicts

Adjustments (drains, valves, etc.)

Other

ENVIRONMENTAL ISSUES

Environmental Document Type

4(f) Lands

6(f) Lands

Wetlands

Possible Hazardous Waste Sites

Cultural Survey Required

Historic Bridges

Other (threatened and/or endangered species, protected streams, fisheries, landmarks, etc.)

PUBLIC HEARINGS

Formal Informational News Release

TRAFFIC ITEMS

Signing (upgraded to MUTCD criteria)

Lighting, Noise, etc.

Intersections (signalization, auxiliary lanes)

GEOMETRIC DESIGN EXCEPTION

Grade _____ Fill/Cut Slopes _____

Width _____ Design Speed _____

Vertical Curves _____ Clear Zones _____

Horizontal Alignment _____

Other _____

_____

_____

HYDRAULIC INFORMATION

Structures ("as-built", station, reference point, type, replace, name of drainage, detour)

_____

_____

_____

Storm Drain Systems (upgrades, new inlets, trunk lines etc.)

_____

_____

_____

_____

Irrigation Facilities (location, size, type, replace (y/n), detour)

_____

_____

Pipes Over 84" _____

_____

_____

Other (backwater, debris, overtopping, etc.)

Administer of the Floodplain (county and/or incorporated community)

Materials and Geotechnical Considerations

Chapter 17
Plans, Specifications, and Estimates

17.1 General Discussion

After a project's location and design have been approved, work begins on the final version of its plans, specifications, and cost estimates (PS&E). These documents are used to award and administer a construction contract. The PS&E must be approved as defined in Chapter 3, Becoming Certified to Administer FHWA Projects, before the project can be advertised for construction.

PS&E approval is done by the local agency as identified in the MDT/Local Agency Certification Acceptance (CA) Agreement. The approving authority identified on the CA Agreement must approve the plans and specifications, and a professional engineer licensed in the state of Montana must seal and date the plans and specifications.

The local agency should use the Project Development Checklist (Chapter 4, Developing Projects Using Local Agency Guidelines) to check for completeness of the contract plans prior to approving them.

The local agency should have a commitment file, when applicable, containing a summary of commitments made during project development. The file should be reviewed to ensure that the commitments are incorporated in the PS&E. These commitments typically involve right-of-way or environmental considerations (see Appendix 16.74 for list of possible required permits). Any environmental commitments that are made in the design phase of project development must be incorporated into the contract plans and documents to ensure they are complied with in the construction phase of the project. If the commitment arises from an enforceable permit or regulation, it must be noted in the contract documents by such means as a special provision. For example, projects that require a Clean Water Act Section 404 Permit must include a special provision detailing the permitted activities and any special conditions. Similarly, projects that include design aspects that were put in place to avoid impacting a site protected by Section 4(f) of the Department of Transportation Act must include a special provision and notation on the contract plans indicating the avoidance area. Contact MDT ESB for example contract language and special provision templates.

A copy of the bid documents should be furnished to LAG Certification Liaison prior to advertisement for a check of completeness.

Any local agency project with work on state routes must obtain PS&E approval from LAG Certification Liaison

On state ad-and-award projects, MDT will review and approve the PS&E prior to printing contract plans. An estimate of the cost of this service can be obtained from the LAG Certification Liaison. Refer to forms for a checklist.

17.2 PS&E Requirements

17.2.1 Wage Rates

For information on state law requirements, contact the MDT Contract Plans Bureau for a listing of current laws. State and federal wage rates must be included for all Federal Highway Administration (FHWA) projects advertised by a local agency. The wage rates used will reflect the latest rates approved by the Montana Department of Labor (DOL) and the U.S. Department of Labor. Refer to CFR 29 part 30 and MCA 18-2-402.

The Federal Davis-Bacon Act predetermined minimum wage must be paid to all covered workers on federal aid projects exceeding $2,000 that are located on a federal-aid eligible highway. The Davis-Bacon requirements do not apply to force account work performed by agency forces.

If a project is located on a federally classified minor collector or below and is funded through either the bridge (BR), safety (HES) or enhancement category, the project is not subject to the federal wage rate requirement; only the State prevailing wage rate applies.

The applicability of Davis-Bacon to a transportation enhancement project is dependent on the relationship or linkage of the project to a federal aid highway. If the project is "linked" to a federal aid highway based on proximity or impact (i.e., without the federal aid highway the project would not exist), then Davis-Bacon requirements apply. Examples of such projects include the removal of outdoor advertising, a wetland to filter highway drainage, etc.

If the project is not "linked" to a particular federal aid highway and is eligible based solely on function (i.e., a transportation facility, such as an independent bike path, the restoration of a railroad station, etc.), then the Davis-Bacon requirements do not apply. However, the Davis-Bacon requirements apply to all projects greater than $2,000 that are physically located within the existing right-of-way of a federal aid highway, regardless of the transportation enhancement characteristics.

Another Davis-Bacon issue is the acceptability of using volunteer labor on transportation enhancement projects. The Department of Labor states in its Field Operations Handbook (Section 15): "There are no exceptions to Davis-Bacon coverage for volunteer labor unless an exception is specifically provided for in the particular Davis-Bacon Related Act under which the project funds are derived." The Davis-Bacon Related Act for the Federal Aid Highway Program (23 U.S.C. Section 113) is silent on this subject. Therefore, on transportation enhancement projects subject to Davis-Bacon coverage, a contractor or subcontractor may not use volunteer labor. On the other hand, a state highway or local government agency may use volunteer laborers under their direct control as a force account effort.

Local agencies may access the Wage Rate data at: http://www.mdt.mt.gov/publications/docs/brochures/dbe_eeo/fedwagerate20030002.pdf . If a local agency is not "on line," wage rates can be requested through the LAG Certification Liaison.

The effective date for state and federal rates is determined as follows:

a. State Wage Rates. DOL will use the date that the date that the project is advertised as the effective date for determining prevailing wages.

b. Federal Wage Rates. This data is received from the USDOL in a document entitled "General Wage Determinations Issued under the Davis-Bacon and Related Acts." Modifications are issued weekly by the USDOL. The effective date for federal wage rates is the date of notice in the Federal Register or the date on which written notice is received by MDT, whichever occurs first. All modifications on projects to which the determination applies are effective if published before contract award. The following are exceptions:

1. The effective date for determining state prevailing wage rates is that which the project is advertised.
2. The effective date for determining federal prevailing wage rates will be ten days prior to bid opening (or fewer if determined that an addenda can be issued prior to bid opening).
3. Prior to bid opening, the local agency may visit

http://www.mdt.mt.gov/publications/docs/brochures/dbe_eeo/fedwagerate20030002.pdf or MDT Contract Plans Bureau at (406) 444-6214, to see if wage rates have changed or are pending.

4. To minimize the possibility of out-of-date state and federal wage rates at the time of bid opening, the wage rates should be requested seven days before the advertising date.

17.2.2 Other Requirements.

1. Form FHWA-1273. Each set of contract and sub-contract documents will include Form FHWA-1273, "Required Contract Provisions, FHWA Construction Contracts," and such amendments that modify the FHWA-1273. Copies of the FHWA-1273 Form and amendments are available from the MDT Contract Plans Section. Form 1273 must be physically incorporated in all contracts and sub-contracts.

2. Affirmative Action. See Chapter 12, Equal Employment Opportunity and Training.

c. Disadvantaged Business Enterprises. In accordance with FHWA and MDT efforts to increase DBE (Disadvantaged Business Enterprises) participation in FHWA projects, MDT has developed a management-by-objective goal-setting process for DBE participation. For additional information, see Chapter 12, Disadvantaged Business Enterprises.

d. "Buy-America" Requirements. Steel that is permanently incorporated into the project must consist of American-made materials, as outlined in the MDT Standard Specifications, Section 106.09.

e. Traffic Control Plans. Traffic Control Plans (TCP) must be consistent with Part VI of the MUTCD and must be referenced in the contract documents.

f. Justification for nonparticipating (non-federal aid eligible) work items, if included in the contract (tied bids), must be documented by the local agency. Combining of bid items must not increase the cost of the federally funded project

g. Justification for the use of agency-supplied materials must be documented by the local agency. The materials must have been produced by agency forces or acquired through competitive bidding. Material purchased from a sole source may be used only with MDT approval.

Local Ad and Award Projects, see Chapter 18. State Ad and Award Projects, see Chapter 18.

17.3 Document Requiring Professional Stamps

The following documents require a PE stamp upon completion. The Professional Engineer with responsible charge of the project will assure that appropriate engineering reports and documents are stamped in accordance with MCA 18.2.122. If a particular "Engineering Report or Document" is not listed, it is not necessarily exempt from the requirement.

In nearly all cases, the responsibility will rest with the agency or consultant PE, but if a MDT engineer has responsible charge of a particular item, they will also have the responsibility to stamp the appropriate document. The list includes:

- Design Reports

1. Type, Size, and Location Report
2. Design Decision Summary

3. Plan title sheets (this serves to indicate that professional engineer has responsible charge for the entire plan package)
4. Special Provisions
5. Plans for Falsework and Forms, normally the contractor's responsibility
6. Bridge Design Report
7. As Built Plans
8. Emergency Contracts that contain the equivalent of PS&E documents

In addition to requiring a PE stamp from the local agency or consultant, the following documents will require MDT approval:

1. Design Approval Report
2. Technical Change Orders
3. Value Engineering Study Report
4. Design Exceptions Request

17.4 Contract Plans

For state ad-and-award projects, the plans should be prepared in accordance with the MDT Road Design Manual. For local ad-and-award projects, there are no federal or state requirements for plan sheet size or guidelines for preparing contract plans.

For both state and local ad-and-award projects, the plans must carry the seal and signature of a registered Professional Engineer, in accordance with MCA 37-67-101.

17.5 Specifications

MDT publishes and distributes the Standard Specifications for Road and Bridge Construction, Supplemental Specifications and the Detailed Drawings. The Montana Contractors' Association, Inc. publishes and distributes the Montana Public Works Standard Specifications.

17.5.1 Standard Specifications for Road and Bridge Construction

All FHWA funded projects, including local agency force projects, will be constructed and administered in conformance with the current combined MDT and MPW Standard Specifications, and such amendments that modify these specifications.

17.5.2 Supplemental Specifications

These supplements are approved changes to the Standard Specifications.

17.5.3 Special Provisions

Since Special Provisions are specifications governing matters unique to an individual project, they are not covered in the Standard Specifications. Their use should be held to a minimum and applicable Standard Specifications should be used instead. Issues mandated in the state and federal laws will not be changed.

Special Provisions are required:

a. For the presentation of all features of a project not covered by the Standard Specifications and Special Provisions.

b. Where the Standard Specifications are being amended.

c. For any deviation from the Standard Specifications with regard to materials, construction details, measurement, and payment.

d. Environmental commitments arise from an enforceable permit or regulation. For example, projects that require a Clean Water Act Section 404 Permit must include a special provision detailing the permitted activities and any special conditions. Similarly, projects that include design aspects that were put in place to avoid impacting a site protected by Section 4(f) of the Department of Transportation Act must include a special provision and notation on the contract plans indicating the avoidance area. Contact MDT ESB for example contract language and special provision templates.

The following paragraphs discuss some pertinent aspects of special provisions.

1. All nonstandard pay items will be covered in the Special Provisions.
2. For high cost and major projects, the local agency is encouraged to include a value engineering incentive clause in their construction specifications encouraging the contractor to propose changes in contract requirements that will accomplish the project's functional requirements at less cost. Guidelines for Value Engineering proposals are contained in Section 104.08 of the MDT Standard Specifications.
3. Traffic control must be in accordance with the MUTCD. A Special Provision must be prepared outlining traffic control requirements and including any pay items.
4. Neatline measurement of quantities is allowed by special provision. This specification may allow payment of the neatline measurement from the lines and grades as shown on the plans or as directed by the Engineer's stakes on the ground. This may apply to aggregates, base course, and surfacing. On asphalt quantities, the unit price could include the cost of coring to verify density and depths. Culvert and pipeline installation may be paid by the lineal foot-in-place with bedding, backfill, and compaction as incidental to the unit price. In these instances, an item should be added for extra excavation or backfill if the profile varies or is subject to change during the contract. Shoring must be paid as a separate bid item.
5. Direct reference to proprietary specifications of national, regional, or local trade associations should not be included in FHWA contract specifications; such proprietary specifications are subject to change without notice to, or acceptance by, the state or FHWA. If proprietary specifications must be used, the complete text, or such parts as are applicable, should be incorporated into special provisions for the project. In order to use proprietary specifications, the public interest finding or certification must be prepared by the local agency and approved by MDT.
6. The use of trade names in specifications and on plans should be avoided. Instead, specifications should be formulated to assure full opportunity for competition among equivalent materials, equipment, and methods. References in specifications and on plans to single trade-name materials require justification. However, where satisfactory specifications based on laboratory tests or other performance requirements cannot be developed or obtained from organizations which develop specifications, a local agency may use trade name designations, provided that at least three names of acceptable materials or products, if available, are listed. Experimental and research items require MDT approval.

17.6 Estimates

The engineer's estimate of a proposed project's cost must include the estimated quantity and estimated unit price for each proposed work item. Bridge items must be segregated from roadway items. Tabulation for each bridge showing its applicable items must be submitted.

If materials salvaged from the project are to be used for roadway purposes, the value of such materials should not be included in the project cost.

The estimate must separately list the costs of nonparticipating items, local agency force work, and local agency furnished materials.

The separate cost groups must be summarized and totaled on the first sheet of the estimate.

The LAG Certification Liaison may be contacted for assistance in preparing the estimate.

17.7 Appendices

The following documents are available from the Department. Contact the LAG Certification Liaison to obtain the most current version:

- Proposal
- Contract
- Schedule of Values
- Engineer's Estimate
- Form 1273 Required Contract Provision (all federal-aid_
- EEO Affirmative Action Requirements on Federal & Federal-Aid Construction Contracts

17.7.1 Permits

17.7.2 Local Agency Plans Preparation Checklist

17.7.3 Subcontractor List

17.7.4 Form LLL Disclosure of Lobbying Activities

Appendix 17.7.1 Permits

Topic	Agency	Conditions Requiring	When to Initiate	References
Air Pollution	DEQ	Air pollution from newly-constructed or relocated point source (asphalt plant, rock crusher, etc)	Prior to commencing construction	
Airport-Roadway Clearance	FAA	Airspace intrusion of roadway facility (proposed construction in the vicinity of public use/military airports may require FAA notice)	During design/prior to commencing construction	FHPM 6-1-1-2 FAA Req. p. 77
Blackfeet Nation Water Resources (ALPO – 90A)	Blackfeet Environmental Office	all construction or fill projects that occur in waters, aquatic lands, riparian areas and streams on the Blackfeet Indian Reservation.	During design/prior to commencing construction	
Building Permit	County/City/State	Construction of any building	Prior to commencing Construction	
Conditional Use Permit	County/City/DEQ	Development within 61 km (200 feet) of water must be consistent with the local Shoreline Master Plan	No permit if consistent	
Cultural, Archaeological, Or Historic Sites #106 (Sec 106)	SHPO, FHWA, ACHP	Suspected/actual, cultural/archaeological historic properties impacted by project	During preparation of environmental document	36 CFR 800 16 USC 470 Historic Preservation Act
Endangered/ Threatened Species	USFWS	Plant or animal species that are suspected to be or actually are, of endangered or threatened status	During preparation of environmental document	16 USC 1531-1543
Fish & Wildlife	USFWS, FWP	Consultation required when any waters are Proposed to be modified or controlled	During preparation of environmental document	33 USC 66., 662
Floodplains	DEQ/County	Any structure/activity which may adversely affect The flood regime of any stream within the affected Flood zone	After/during preparation or environmental document	State-Flood Control Zone Act of 1935 Federal EO 11988
Forest Practices Approval	DNR (Area offices)	Public/private land capable of supporting merchant-able timber – some activities: Road construction, pits, pesticide use, , Hydraulic permits, shoreline permits, reforestation, etc.	Environmental document phase/prior to commencing construction	
Hydraulics Permit	DNRC	Projects that will use, divert, obstruct, or change the natural flow or bed of any state waters (culvert work, Realignment, bridge replacement, etc.)	During/after preparation of environmental document	
Prime & Unique Farmland	US Dept of Agriculture Natural Resources Conservation Service			
	Soil Conservation Services (USDOA)	Lands impacted are of prime or unique status	During preparation of environmental document	7 CFR 658
"Section 4(f)" Lands	FHWA, Affected Agency DOI, HUD And USDOA	Use of park and recreation lands, wildlife and waterfowl refuges, and historic sites of national, state or local significance	During preparation of environmental document (Amended 5/19/78)	49 USC 1651 (f) DOT Act of 1966 #4 FHPM 7-7-2(20) 23 CFR 138
Sewage Facilities	DEQ/County	Construction modification of domestic/industrial Wastewater facilities (sewer relocation, rest area Construction, etc.)	Prior to commencing construction	
Shoreline Management Substantial Develc pment	County/City/DEQ Tribal	Shoreline development or construction valued at $1,000 or more, or materially interfering with normal public use of water	During preparation of environmental document	
318 Authorization Modification (Water Quality)	DEQ	Short-term activities which may result in temporary reduction of water quality standard, and activities not subject to a waste discharge permit or water quality certification	During Design	
SM-2 Surface Mine Reclamation	DEQ	Mining (pisities, quarries), 0.8 ha (2 acres) or more/ 9 091 tonnes (10,000 tons) or more	During preparation of environmental document	
Sole Source	EPA/DEQ	Any activity which may affect the aquifer recharge	During preparation of	SDWA

Aquifer		zone	environmental document	P.L. 93-423
State Waster Disposal	DEQ	Discharge of waste material from sand and gravel washing, pit dewatering or cement/asphalt plant Discharge into state waters	During design	
Storm Water Discharge (MPDES or NPDES)	DEQ or EPA	Discharge of pollutants into state surface waters during construction activities	Prior to ground disturbing activities	Clean Water Act Section 402.
401 Certification	DEQ, EPA, or Tribe	Prior to issuance of a federal permit/license for Activity which involves discharge into navigable Waters, certification of compliance with state water Quality standards is necessary	During project development	FHWA #401
Stormwater Management within a Regulated Urban Area	DEQ/Local Government/ MDT	Storm water discharges within MS4 areas	During design, during construction	ARM 17.30.1101, et seq.
Water Rights	DNRC	Appropriation of ground water or surface water	Prior to putting water to use	
Waters/ Wetlands (Sec. 404 Dredge/ Fill)	Army Corps of Engineers (Coordination with USFWS)	Discharging, dredging, or placing fill materials within waters of the USA or adjacent wetlands	Early stages of project development	Sec. 404 FWPCA 1972 33 USC 1344
Waterways (Sec. 10)	Army Corps of Engineers (Coordination with USFWS)	Obstruction alteration, or improvement of any navigable water (rechanneling, piers, wharfs, dolphins, bulkheads, buoys, etc.)	Early stages of project development	Rivers and Harbors Act of 1899 33 33 USC 401 #10
Waterways (Sec. 9)	Coast Guard (Coordination with USFWS)	Bridges and causeways in navigable waters, including all tidal-influenced streams	After design	Rivers and Harbors Act of 1899 33 USC #9
Wetlands 11990(Protection	USFWS or NMFS	Impact to lowlands covered with shallow and Sometimes temporary/intermittent waters (swamps, marches, bogs, sloughs, potholes, etc.)	During preparation of environmental document	49 USC 1651 EO of Wetlands)
Wild & Scenic Rivers	USFS/NPS	Impacts to rivers or streams in or having potential for designation in the National Wild and Scenic River System	During preparation of environmental document	

LEGEND:

ACHP – Advisory Council on Historic Preservation
ARM – Administrative Codes of Montana
CFR – Code of Federal Regulations
CZMA – Coastal Zone Management Act
DNR – Department of Natural Resources (state)
DOE – Department of Ecology (state)
DOI – U.S. Department of Interior
DOT – U.S. Department of Transportation
EO – Executive Order
EPA – Environmental Protection Agency (federal)
FAA – Federal Aviation Administration (DOT)
FERC – Federal Energy Regulatory Commission
FHWA – Federal Highway Administration (DOT)
FWCA – Fish and Wildlife Coordination Act
FHPM – Federal Highway Program Manual
MCA – Montana Code Annotated
MPDES – Montana Pollution and Discharge System
NMFS – National Marine Fisheries Service (Department of Commerce)
NPDES – National Pollutant Discharge Elimination System
NPS – National Park System
OAHP – Office of Archaeology and Historic Preservation (state)
SDWA – Safe Drinking Water Act
USC – United States Code
USDOA – U.S. Department of Agriculture
USFS – U.S. Forest Service (USDOA)

Appendix 17.7.2 Local Agency Plans Preparation Checklist

PLANS PREPARATION CHECKLIST

Item	Required	
	Yes	No
Road Plans		
Title Sheet		
Table of Contents		
Notes Sheet		
Linear & Level Data		
Control Diagram		
Typical Sections		
Summaries of Plan Quantities		
Detail Sheets		
Plan & Profile Sheets		
Cross Sections		
Erosion Control Plans (Blank or complete depending on permitee)		
Signing Plans		
Title Sheet		
Table of Contents		
Signing & Delineation Quantities		
Sign Location & Specifications Sheet		
Detail Sheets		
Plan Sheets		
Electrical Plans		
Title Sheet		
Table of Contents		
Electrical Quantities Summaries		
Electrical Details		
Signal & Luminaire Pole Schedules		
Loop Detector Schedule		
Conduit & Wire Schedule		
Service Wiring Diagrams		
Electrical Plan Sheets		
Landscaping Plans		
Specifications		
Special Provisions		
MT Public Works Standard Specs		
MDT Standard Specifications		

Item	Required	
	Yes	NO
Miscellaneous Items		
State Furnished Material		
City Furnished Material		
County Furnished Material		
Design Exception Approval		
Proprietary Items Approval		
Cost Estimate		
Funding Splits		
Mobilization		
Traffic Control Costs		
Construction Engineering		
Contingency		
Right-of-Way & Utilities		
Right-of-Way Acquired		
Construction Permits		
Utilities Relocated		
Relocate Utilities During Construction		
Permits		
Corps of Engineers 404 and/or Section 10 Permit		
Storm-Water Construction General Permit		
124 Stream Protection Act		
Environmental Issues		
Wetland/Stream Mitigation Onsite		
Threatened or Endangered Species		
SHPO Approval - Cultural Requirements		
Hazardous Materials		
Section 4(f) and/or 6(f) protected sites.		
Agreements		
Railroad Agreement		
City Cost Participation		
County Cost Participation		
City Streets Used as Detours		
County Roads Used as Detours		
Memorandum of Understanding		

Appendix 17.7.3 Subcontractor List

Montana Department of Transportation Subcontractor List

To Be Submitted with the Bid Proposal

Project Name_____

The work to be performed is to be listed below the subcontractor(s) name.

If no subcontractor is listed below, the bidder acknowledges that it does not intend to use any subcontractor to perform those items of work.

Subcontractor Name _____
Work to be Performed _____
_____
_____
_____

Subcontractor Name _____
Work to be Performed _____
_____
_____
_____

Subcontractor Name _____
Work to be Performed _____
_____
_____
_____

Subcontractor Name _____
Work to be Performed _____
_____
_____
_____

Appendix 17.7.40 Form LLL Disclosure of Lobbying Activities

DISCLOSURE OF LOBBYING ACTIVITIES Approved by OMB
Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352 0348-0046
(See reverse for public burden disclosure.)

<table>
<tr><td>1. Type of Federal Action:
1. contract
2. grant
3. cooperative agreement
4. loan
5. loan guarantee
6. loan insurance</td><td>2. Status of Federal Action:
1. bid/offer/application
2. initial award
3. post-award</td><td>3. Report Type:
1. initial filing
2. material change
For Material Change Only:
year ___
quarter_____date of last report ____</td></tr>
<tr><td colspan="2">4. Name and Address of Reporting Entity:
D Prime D Subawardee
Tier _____, if known:

Congressional District, if known:</td><td>5. If Reporting Entity in No. 4 is a Subawardee, Enter Name and Address of Prime:

Congressional District, if known:</td></tr>
<tr><td colspan="2">6. Federal Department/Agency:</td><td>6. Federal Program Name/Description:

CFDA Number, if applicable: _____</td></tr>
<tr><td colspan="2">7. Federal Action Number, if known:</td><td>9. Award Amount, if known:
$</td></tr>
<tr><td colspan="2">10. a. Name and Address of Lobbying Entity

(if individual, last name, first name, MI):

(attach Continuation Sheet(s) SF-LLLA, if necessary)</td><td>b. Individuals Performing Services (including address if different from No. 10a)
(last name, first name, MI):

(attach Continuation Sheet(s) SF-LLLA, if necessary)</td></tr>
<tr><td colspan="2">11. Amount of Payment (check all that apply):
$ _____D_actual D planned

12. Form of Payment (check all that apply):
D a. cash
D b. in-kind; specify: nature _____
value _____</td><td>13. Type of Payment (check all that apply):
D a. retainer
D b. one-time fee
D c. commission
D d. contingent fee
D e. deferred
D f. other; specify: _____</td></tr>
<tr><td colspan="3">14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11:

(attach Continuation Sheet(s) SF-LLLA, if necessary)</td></tr>
<tr><td colspan="3">15. Continuation Sheet(s) SF-LLLA attached: D Yes D No</td></tr>
</table>

16. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less that $10,000 and not more than $100,000 for each such failure.	Signature: Print Name: Title: Telephone No.: _____ Date:
Federal Use Only:	Authorized for Local Reproduction Standard Form LLL (Rev. 7-97)

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES This disclosure form shall be completed by the reporting entity, whether sub-awardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Use the SF-LLLA Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3.Identify the appropriate classification of this report. If this is a follow up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4.Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8.Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, State and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.

(b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).

11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.

12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.

13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.

14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.

15. Check whether or not a SF-LLLA Continuation Sheet(s) is attached.

16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and Reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503.

Chapter 18
Advertising and Award Procedures

This chapter is used by local agencies wanting the Montana Department of Transportation (MDT) to advertise and award their Federal Highway Administration (FHWA) construction contracts at the service center level or at the regional level. For these agencies, Chapter 19, MDT Administered Projects, will also apply. This chapter is also used by local agencies operating under Certification Acceptance (Chapter 3) and choosing to advertise and award construction contracts themselves. Chapter 20, Local Administered Projects, will also apply to these agencies. All construction contracts must be on a Transportation Commission- approved letting list prior to award.

18.1 General Discussion – State Advertising and Award Procedures

The District Construction Engineer will appoint a MDT Project Manager to administer project construction (Chapter 19). The Project Manager will administer the project using the guidance in the Construction Administration Manual and in the same manner as other federally funded projects.

18.2 Submittals

When MDT is to advertise and award a construction contract on an FHWA project, the local agency will prepare and submit the following documents to MDT. (Additional details on the content and format of these documents are found in Chapter 16, "Plans, Specifications, Special Provisions, and Estimates,"

18.2.1 Contract Plans, Specifications, and Estimates PS&E

The originals and one copy of these shall be submitted to the LAG Certification Liaison. Review of the PS&E and bridge plans by MDT must be scheduled well in advance of the advertising date of the project. MDT review time on complex projects varies between 12 to 18 weeks depending on the type of project and whether the project is advertised by the region or by the service center. Contact the LAG Certification Liaison to coordinate the submittal time of the PS&E and bridge plans and for an advance estimate of the time and cost for the reviews.

18.2.2 Local Agency Letter of Financial Responsibility

See Chapter 16: Plans, Specifications, and Estimates.

18.3 Advertising and Award Procedures

The following process will be used for reviewing contract documents, advertising for bids, evaluating bids, and awarding a construction contract.

a. The local agency prepares the PS&E package and submits it to the LAG Certification Liaison a minimum of 15 weeks prior to letting.

b. The LAG Certification Liaison reviews the PS&E and sends it to the MDT Contract Plans Bureau for review and approval a minimum of 13 weeks prior to letting. At this time, an advertising date is set.

c. After its review, LAG Certification Liaison sends out office copies of the PS&E to the local agency and other offices within MDT for their final review prior to advertising. MDT advertises the project

for at least three weeks. MDT receives bids during the period set aside for bid preparation and receipt.

d. On the date established in the bid advertisement, MDT opens and reads the bids received.

e. MDT tabulates and evaluates the bids, and sends the bid results to the LAG Certification Liaison.

f. The LAG Certification Liaison advises the local agency of the bid results.

g. The Local Agency Agreement must be supplemented if any overrun or under run occurs beyond the authorized amount. See Section 7.3.

h. The Montana Transportation Commission awards the construction contract to the lowest responsive, responsible bidder.

i. The MDT Project Manager administers the project in the same manner as other federally funded projects and in accordance with departmental policy.

18.4 General Discussion- Local Advertising and Award Procedures

Local agencies may let contracts for their projects provided that the following conditions are met:

- The local agency uses the advertising and award procedures outlined in this section to advertise for bids, select the lowest response bid from a responsible bidder, and award the contract.

- A Local Agency Agreement between the state and local agency is in effect, setting forth the conditions under which the project will be constructed.

- The local agency is participating in the cost of the project or has other special interests relevant to the project.

- The local agency is certified for project administration in accordance with Chapter 3, Becoming Certified to Administer FHWA Projects.

No project can be advertised until the local agency has approved the PS&E, the environmental document is approved, the project's right-of-way has been certified to the Federal Highway Administration, construction funds have been authorized by the FHWA, and a project number has been obtained from MDT Fiscal Programming Section.

18.5 Procedures

The Local Programs Engineer will monitor local agency compliance with the following procedures for bid advertising and processing of projects.

18.5.1 Funding

A Local Agency Agreement and construction funds must be authorized by the MDT and FHWA before a contract is advertised.

18.5.2 Bidding Procedures

The local agency is prohibited from establishing any procedures or requirements for qualification or licensing of contractors, which prevents the submission of bids or prohibits consideration of bids submitted by any responsible contractor, whether resident or nonresident of the state, except as outlined below.

For all Federal-aid projects, bidding opportunities, on a nondiscriminatory basis, will be afforded to all qualified bidders. No bidder will be disqualified or prevented from competitive bidding by restricting the purchase of a surety bond or insurance policy from any surety or insurer outside the state and authorized to do business with the state.

18.5.3 Preparation of the Project Proposal

See Section 102 of the MDT Standard Specification.

18.5.4 Advertising of the Project

FHWA projects previously approved should be advertised for a four-week period prior to opening of bids. The four-week advertising period begins when the first advertisements is published. If an agency wants an advertising period of less than three weeks, documentation by the local agency and approval by FHWA and MDT for the shorter period must be in the project file. Examples where shorter advertising periods may be appropriate are as follows:

- Emergency correction of roadways or bridges
- To meet the conditions of a fisheries permit
- To meet the conditions of a Bureau of Reclamation Permit (irrigation canal)

The project will be advertised in the official legal publication for the agency and, if necessary, other newspapers to provide the widest possible, coverage commensurate with the size of the project.

The local agency will comply with the standard USDOT Title VI Assurances by inclusion of the following language in the solicitations for bids:

"The (local agency) in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 2000-4 and Title 49, Code of Federal Regulations, Department of Transportation, subtitle A, Office of the Secretary, Part 21, nondiscrimination in federally assisted programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidders that it will affirmatively insure that in any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color or national origin in consideration for an award."

Should an addendum be necessary during the advertising period to correct or add something to the bid or plan data, such addenda shall be approved by the local agency a minimum seven (7) days prior to transmittal to the individual contractors holding the plans, specifications, and bid document data. Each bidder must present with their bid written notice of their receipt of each addendum received.

18.5.5 Bid Opening

All bids received in accordance with the terms of the advertisement will be publicly opened and announced by total amount.

If any bid received is determined non-responsive, the name of the bidder will be publicly announced at the bid opening and the bid amount will not be read.

Adequate justification for rejecting any bids must be documented by the local agency and approved by the Transportation Commission.

18.5.6 Evaluating Bids for Award

The local agency will verify that all required bid documents have been property submitted and executed by all bidders. All bids are then reviewed for accuracy, unbalancing of bid items, etc., and tabulations checked and confirmed.

In order for a bid to be considered responsive, a bid deposit of at least 10 percent of the total bid proposal must accompany each bid. In accordance with Section 102.07of the Standard Specifications, the Proposal Guaranty will not be conditioned in any way to modify the minimum 10 percent required. When there is a specified DBE goal for the project, the successful bidder will be selected on the basis of having submitted: (1) the lowest responsive bid which has met the DBE goal; or (2) when the DBE participation is less than the specified goal, responsiveness will be determined on the basis of good faith efforts to attain the goal.

The local agency will prepare a tabulation of bids detailing items for all responsive and responsible bids.

The local agency will document the reason(s) for rejecting the low bid and may reject all bids for any reason(s) with Commission approval.

Reasons for justifying an unusual award:

- Where the competition is good; or
- Where the project is essential to the public interest (safety, emergency repair, etc.); or
- Where the engineer's estimate is clearly in error to a significant amount; or
- Where re-advertising would not likely result in lower bids.

If the local agency determines that the lowest bidder is responsive and responsible, it shall document those findings prior to awarding the bid to the next-lowest responsible bidder.

The Local Agency Agreement must be supplemented if any overrun or under run occurs beyond the authorized amount. See Section 7.3.

One originally-signed Supplemental Agreement form must be submitted to the LAG Certification Liaison. This supplemental agreement form will be retained by MDT. It is the responsibility of the local agency to submit an additional supplemental agreement form or copy if they need an executed supplemental agreement for their files.

18.5.7 Award of Contract

After bids have been tabulated and evaluated in accordance with the procedures described above, the construction contract may be awarded to the lowest responsive, responsible bidder.

After award by the Transportation Commission, the local agency must advise the contractor of the award in writing.

18.5.8 Execution of Contract

Local agencies shall not execute a contract with any contractor who is not registered in accordance with state laws.

The local agency prepares the necessary documents and forwards them for execution by the successful bidder and the proper officials of the local agency.

A sample of a standard contract agreement is in Appendix 16.72. The LAG Certification Liaison can furnish these standard forms upon request.

18.6 Submittal of Award Data

Before construction begins, the local agency must submit the following information to the LAG Certification Liaison

- Tabulation of bids
- Engineer's estimate
- Award letter to the contractor
- Notice to Proceed
- Names and addresses of all firms that submit a quote to the successful low bidder (if applicable)

If a DBE has been utilized during this contract then reference DBE utilization certification, Form 272-056A
http://www.mdt.mt.gov/business/contracting/civil/dbe.shtml

A revenue report must also be submitted:

- The estimated completion date or the number of working days for the contract
- Failure to submit the above listed information, before construction begins, will result in a delay of reimbursement for the billed cost, until the information is received.

18.7 Appendices

The following documents are available from the Department. Contact the LAG Certification Liaison to obtain the most current version:

- Invitation for Bids
- Bid Bond
- Award Letter
- Notice to Proceed Letter

18.7.1 Sample Submittal of Award Data

18.7.2 Sample Revenue Report

Appendix 18.7.1 Sample Submittal of Award Data

Project Title _____ FHWA Project No. _____

Attached are the following required documents plus any additional information that may be applicable:

_____ Bid proposal from the lowest responsible bidder.

_____ Bid bond.

_____ Noncollusion Plan Certification.

_____ DBE Certification (if required).

_____ Tabulation of Bids.

_____ FHWA cost breakdown showing total project cost, FHWA participation and local agency participation.

_____ Additional documents.

_____ _____
Date Local Agency Engineer

_____ _____
Date Approving Authority

Appendix 18.7.2 Sample Revenue Report

STATE OF MONTANA
DEPARTMENT OF REVENUE

CONTRACT AWARD REPORT

1	CONTRACT AWARDING AGENCY OR PRIME CONTRACTOR MUST COMPLETE THIS FORM AND MAIL TO THE STATE DEPARTMENT OF REVENUE IMMEDIATELY AFTER CONTRACT OR BID HAS BEEN OFFICIALLY AWARDED.		
2	Contract Awarded by (Agency or Prime Contractor) MONTANA DEPT OF TRANSPORTATION Name 2701 PROSPECT AVENUE Address HELENA MT 59620 City/Town Zip Code	MAIL TO: Miscellaneous Tax Division Department of Revenue Mitchell Building Helena, Montana 59620-2701	
3	Contract awarded to (Prime or Sub-Contractor) Name Address City/Town Zip Cod	4	Montana Public Contractor's License Number N/A
		5	Contract Award Date
		6	Construction Completion Date
7	Contract Number/Official Designation	8	Contract Amount $
9	Description and Location of work to be performed		
REPORT SUBMITTED BY			Agency or Prime Contractor MONTANA DEPARTMENT OF TRANSPORTATION CONTRACT PLANS SECTION
AWARD AUTHORIZATION			Authorized Representative Date Contract Plans Bureau Chief

Chapter 19
MDT Administered Projects

This chapter is used on routes by those local agencies for which the Montana Department of Transportation (MDT) advertises and awards projects.

19.1 General Discussion

MDT is responsible for the proper expenditure of Federal Highway Administration (FHWA) funds on local agency projects and will administer all construction activities to ensure compliance with applicable rules and that all documentation is in order.

After the local agency has submitted the PS&E package, MDT will assign a contract number, approve the PS&E package and authorize the construction funds. Reimbursement will follow the method indicated in Chapter 7, The Local Agency Agreement.

Projects administered by MDT will be in accordance with the CAM. The District Administrator will select one of the following for administration of the project:

1. Assign an MDT Project Manager and MDT staff.

2. Assign an MDT Project Manager and a mix of MDT staff and local agency staff.

3. Assign an MDT Project Manager and local agency staff.

4. Assign an MDT Project Manager and an MDT selected consultant's engineering staff (when available MDT and/or local agency staff will be used to supplement the consultant's staff).

The local agency will appoint a project coordinator to be the contact person for the Project Manager.

19.2 Preconstruction Conference

After the contract is awarded, the Project Manager will arrange a pre-construction conference with the contractor per specification 108.03.1. MDT will notify the local agency project coordinator and LAG Certification Liaison of the time and place.

Minutes of the conference will be taken and copies transmitted to the local agency, the contractor, and all other agencies and firms that attended the conference.

19.3 Changes and Extra Work

Except for emergency work, the Project Manager will coordinate with the local agency before executing a change order. The change order will be sent to the local agency for their concurrence and signature and a copy will be sent to the LAG Certification Liaison.

If a change order or the accumulation of change orders will result in the final cost of the project exceeding the amount authorized in the Local Agency Agreement, the local agency must submit a supplement to the Local Agency Agreement in accordance with Chapter 7 of this manual. The local agency should contact the LAG Certification Liaison for assistance in preparing the supplement and to determine if FHWA funds are available for the overrun.

19.4 Progress Payments

The Project Manager will send copies of all progress estimates to the local agency to monitor the status of the funding. The local agency should review the progress estimates and send any questions to the Project Manager for clarification.

Chapter 20
Local Administered Projects

This chapter is used by local agencies operating under Certification Acceptance and choosing to administer construction contracts themselves. In the sequence of project development, this follows Chapter 18, Advertising and Award Procedures.

Local agencies whose construction contracts are administered by MDT should refer to Chapter 18, MDT Administered Projects.

The following chart illustrates the contract administration and oversight responsibilities for the Federal Highway Administration (FHWA) (F), MDT (S), and local agencies (L):

Action	Responsible Party
a. Construction Fund Auth.	F
b. Changes/Extra Work	S, L, F
c. Nonparticipation	S, L, F
d. Claims	S, L, F
e. Project Inspections	L, S

20.1 General Discussion

MDT is responsible for the proper expenditure of FHWA funds on local agency projects. MDT will consult and work with local agencies as needed and will perform systematic project management reviews to ensure that proper procedures are followed.

The local agency will have the flexibility to administer the construction, material testing, and inspection in accordance with the MDT Road and Bridge Standard Specifications and contract documents. The local agency may include additional requirements or select MPWSS specifications as special provisions in the contract if determined during the Project Development phase.

The MDT Construction Administration Manual (CAM) is a guide for the local agency's reference.
For exceptions, see Section 20.4.2. In case of conflicting guidelines, this chapter governs over the CAM. All projects with federal funding are subject to EEO, Labor (Federal), and DBE compliance reviews by MDT. Refer to the CTEP Manual for Enhancement Projects.

Appendix 20.10.1 illustrates the major timeline for construction contracts and the minimum dates and project information that must be tracked.

Reimbursement of FHWA funds may be denied for work done contrary to or in disregard of the contract documents.

20.2 Preconstruction Conference

After a contract is awarded, the local agency will arrange a pre-construction conference with the

contractor per specification 108.03.1. The local agency engineer must notify the MDT District Administrator (or designee) of the time and place of the conference. They will notify appropriate MDT parties. It may be desirable to hold separate conferences for some specialized construction items such as paving, roadside planting, or electrical work.

The meeting must be documented and copies of the minutes transmitted to the District Administrator and each agency, organization, and firm that has involvement or interest in the project.

Ensure that all permits have been acquired and scheduled requirements met by the contractor before work begins.

20.3 Compliance with Federal Contract Provisions

Per Specification 108, all subcontracts must be in writing and consented by the local agency before they can begin work on the project. This includes subcontracts at any level. The prime contractor may not subcontract more than 60% of the original contract amount.

Each subcontract must physically contain the most current version of the following documents;

- General special provision (GSP) entitled "Required Federal Aid Provisions"
- Form FHWA 1273 "Required Contract Provisions Federal Aid Construction Contracts"
- Prevailing wage rates for the contract

None of these documents can be included by reference only.

It is the responsibility of the local agency to ensure full compliance with the provisions above.

Implementation of the DBE, Labor (Davis Bacon), and EEO programs are also federal contract requirements. Refer to Chapter 12 for Disadvantaged Business Enterprises and Equal Employment Opportunity and Training.

20.4 Quality Control

The quality of materials and workmanship on a project must conform to the contract specifications so that the public funds expended will have purchased a safe, economical, and fully functional transportation facility.

20.4.1 General

The source for each type of material must be approved by the local agency.

Upon request, the District Administrator (or designee) will provide information regarding material sources and instruct the local agency of the updating process. MDT may provide materials testing at the request of the local agency.

The local agency is required to follow the qualified testing program and acceptance testing outlined in the MDT Construction Administration Manual (CAM).

20.4.2 Exceptions to the CAM

The following exceptions to the CAM may be used by the local agency in developing a plan for construction oversight. The agency may submit their plan through the District Construction Engineer (DCE) for review and comment. If those alternate methods are not utilized, the CAM will prevail.

The following procedures are approved exceptions to the CAM requirements:

- The local agency may develop their own Record of Materials, and approve manufacturers not listed on the MDT QPL.
- Asphalt plant inspectors and scale persons are not required at established commercial sources. This exception does not allow the local agency to eliminate acceptance sampling of the materials.
- Local agencies have the option of independent assurance sampling.
- The following items may be accepted with an approved catalogue cut and documented by visual inspection or a manufacturer's material certification (provided manufacturer's certification is based on actual testing):
    - Electrical items
    - Paving or geotextile fabrics
    - Fencing of any kind
    - Landscaping or irrigation items
    - Glare screens
    - Traffic buttons or paints
    - Guardrail items
    - Drainage items

  Buy America requirements must be met regardless of how the item is accepted.
- Minor quantities may be increased to 500 tons for all aggregate items, treated or untreated, from an established commercial source.
- Local agencies may test their own signal cabinets.
- Local agencies may lower the density testing requirements to 90 percent of the Rice density for nonstructural overlay pavement designs with a thickness of 1.25 to 2 inches. This should be limited to areas or projects with documented foundation problems and on overlay of existing pavements.

20.5 Progress Payments

Progress payments must be based on measurements of work performed so that the contractor can be fairly compensated and so that public funds will not be expended on work that has not been done.

Progress estimates should be prepared on a pre-selected date each month. The local agency must document the quantities paid each month on a form pre-approved by MDT.

20.6 Changes and Extra Work

Prior to beginning work, an agency must have a written policy for the approval of change orders to ensure that approval, either verbal or written, is given and documented.

It is important to distinguish between actual changes to the contract work and normal overruns

and underruns that may occur. Whenever a change in the contract is required, the agency must prepare a change order. The change order must include documentation that explains the change in sufficient detail so that all involved parties understand the need for the change, and must include a detailed justification of the cost and time associated with the change. All change orders must be numbered in sequence.

To be eligible for FHWA participation, all change orders must be approved by the local agency. Except for emergency work, a change order must be executed prior to the work. In the case of emergency situations, (see the Standard Specifications and CAM for definition) verbal approval may suffice. Verbal approval must be followed by submission of the corresponding change order within ten (10) business days.

When changes in the work will alter the termini, character or scope of an approved project, the local agency must notify the District Administrator (or designee) prior to the commencement of the physical work. A new environmental document and program modification may be required.

20.6.1 Administrative Settlement Costs

Administrative settlement costs are costs related to the defense and settlement of contract claims including, but not limited to, salaries of contracting officers or their authorized representatives, attorneys or members of arbitration boards, appeal boards, etc., which are allowable to the findings and determination of contract claims, but not including administrative or overhead costs.

FHWA funds may participate in administrative settlement costs which are:

- Incurred after notice of claim;
- Properly supported;
- Directly allocable to a specific FHWA project; and
- For employment of special counsel for review and defense of contract claims when recommended by the agency's legal counsel and approved in advance by MDT.

When a claim is submitted, the District Administrator (or designee) should be contacted for advice on how to proceed.

20.7 Project Management Review

In order to be reasonably certain that local agencies are administering FHWA funds in accordance with the Local Agency Guidelines, the District Administrator (or designee) will conduct project management reviews periodically on selected local agency projects. These reviews will include, but are not limited to:

- General procedural compliance items noted in OMB Circular A-133.
- Procedures in the Local Agency Guidelines.
- Items of special interest developed from State Auditor's reports, recommendations from FHWA, and previous process reviews.
- Compliance with Equal Employment Opportunity (EEO) and Disadvantaged Business Enterprise (DBE) programs, Federal Davis Bacon and Montana Prevailing wage laws.

20.7.1 Preparation

The LAG Certification Liaison will schedule management reviews with the designated agencies

and will request that the local agency managers participate. The local agency should have all pertinent documentation ready for the scheduled review. Typical procedural review questions are listed in Appendix 19.10.3. All deficiencies will be identified for the agency at the Project Management Review (PMR). Copies of documentation not available at the time of review must be submitted through the LAG Certification Liaison within 21 calendar days. After the 21-day period, the final PMR letter will be sent to the agency.

20.7.2 Deficiencies

If no major deficiencies are found in the local agency's project management methods, the local agency will be informed in writing of the review team's findings and recommendations.

If major deficiencies exist, the local agency will be asked to take corrective action within 60 calendar days. If the deficiencies include ineligible work, MDT will issue a citation letter.

If deficiencies exist in the agency's procedures, management practices, or systems or if specific project errors are found, MDT's administrative response might be one or more of the following:

- No action against the agency.
- Joint conference with the local agency, LAG Certification Liaison and the MDT District Construction Engineer (or designee).
- Limit or withhold the agency's future Certification Acceptance authority (Chapter 3) to the extent deemed necessary:
  - Allow Certification on a project-by-project basis.
  - Assign an MDT Project Manager to each project for supervision, inspection and administration.
  - Contract the supervision, inspection and administration to a consulting firm.
  - Delay project authorization until adequate supervision, inspection, and administration is available from the local agency, MDT or consultants.
- Establish a repayment plan when violations to procedures make certain expenditures ineligible for federal reimbursement, Per Section VII of the Local Agency Agreement, withholding of funds from the local agency.

20.8 Termination of Contract

Follow procedures contained within the Standard Specifications.

20.9 Project Closure

The local agency will carry out the requirements to finalize and close the construction contract listed in Chapter 20 Project Closure.

20.10 Tools

Link to FHWA training videos on Project construction and Contract Administration:
http://www.fhwa.dot.gov/federal-aidessentials/catmod.cfm?id=80

20.11 Appendices

The following documents are available from the Department. Contact the LAG Certification Liaison to obtain the most current version:

- Pre-construction conference agenda and meeting minutes
- Notice to Proceed letter
- Change Order form
- Payroll Form WH347 (weekly payroll)
- Labor Compliance Spot Check

Additional documents are shown in the following appendices:

20.11.1 Timeline for Construction Contracts

20.11.2 Weekly Time Assessment

20.11.3 Local Agency Documentation Review Checklist

Appendix 20.11.1 Timeline for Construction Contracts

_____ Letting Date

_____ Award Date

_____ Execution Date (MDT)

_____ Notice to Proceed Date

_____ Work Begin Date

_____ Working or Calendar Days set by Contract

_____ Change Order Days

_____ Total Contract Time

_____ Days Over/Under

_____ Liquidated Damages (if applicable)

_____ Final Inspection Date

_____ Substantial Complete Work Date

_____ Contractor's Request for Certification and Acceptance

_____ Certificate of Completion

_____ Commission Acceptance Date

_____ Bid Amount

_____ Change Order Total Amount

_____ Total Contract Amount

_____ Final Payment

Appendix 20.11.2 Weekly Time Assessment

Contractor					
Contract Description					
Contract ID	Fed/St Prj Nbr		Highway No. or County	Statement Nbr	Date
THE FOLLOWING STATEMENT SHOWS THE NUMBER OF WORKING DAYS CHARGED TO YOUR CONTRACT FOR THE WEEK ENDING:					

Date	Day	Charge Type	High/Low Temps	Weather (AM/PM)	Credit Reason
	Monday				
	Tuesday				
	Wednesday				
	Thursday				
	Friday				
	Saturday				
	Sunday				

Days Previously Charged		NOTE: ROUND ALL TIME TO THE NEAREST WHOLE DAY
Charge Days This Report		
Days Charged to Date		
Days Remaining		
CURRENT STATUS		
Bid Days		
Change Order Days		
Current Bid Days		

SUMMARY OF WEEK'S ACTIVITIES	
	PROJECT ENGINEER

NOTE: The contractor has 10 business days from date of this report in which to protest in writing the correctness of this statement, otherwise it will be deemed to have been accepted as correct.

Appendix 20.11.3 Local Agency Documentation Review Checklist

Agency:_____ Review Date: _____
Contract Description: _____Contract ID: _____
Fed/St Prj Nbr: _____
Reviewers: _____

Table of Organization and CA Agreement Review:
Design Approval _____
PS&E Approval _____
Contract Award _____
Change Orders _____

Preliminary Engineering:
Design Approved By: _____ Date: _____
PS&E Approved By: _____ Date: _____
Agency Supplied Materials Approved By: _
Sole Source Items? Yes ____No _____ MDT Approval date: _____
Changes in Scope, Limits, Character, Cost? Yes ____No _____
If Yes, MDT Approval Date: _____

Advertising and Award:
MDT Construction Authorization Date: _____
Advertising Date: _____
Three Week Advertising Period? Yes ____No _____
Affidavits of Publication in File? Yes ____No _____
Bid Opening Date: _____
Award Date: _____
Award to Lowest Bidder? Yes ____No _____ If No, Explain: _____
Contract Execution Date: _____
Contract Award Amount: _____
Award Information Transmitted to MDT? Yes ____No _____
Notice to Proceed: _____
No. of Working Days: _____ No. of Working Days Complete: _____
Preconstruction Conference Minutes Review:
Comments:
_____
_____
_____
_____
Minutes Sent To: MDT? Yes ____No _____
Contractor? Yes ____No _____
All Invitees? Yes ____No _____

Commitment File (DOT Form 220-021 or equal)
Environmental and Permit Conditions Met Yes ____No _____
Met with Maintenance and Corrected Problems Identified in PS&E Yes ____No _____

Right-of Way

Right-of-Way Commitments to Landowner Met Yes ____No _____
Right-of-Way Acquired Yes ____No _____
Right-of-Way Acquisition Procedures Dated: _____
Listing of Right-of-Way Staff Current Yes ____No _____
(If No, attach new listing with individual staff qualifications)
Comments:_____
_____
_____
_____
_____
Project Right-of-Way Certification Dated:_____
Certification Review Letter in file (after 1/1/97) Yes_____ No_____

Construction Contract Administration

Subcontractors:

Subcontractor	Amount ($)	Approval Date	DBE/WBE?	

Specialty Items Subbed: _____ Amount: _____
Percent of Contract Subbed: _____%
Allowable (60%) _____

Change Orders:

Verbal Date	Written Date	Comments	Documented

Claims by Contractor? Yes_____ No_____
Comments:_____
_____
_____

Project Diaries and DWR Reports Signed and Up to Date? Yes _____No_____

Payrolls:

Wage Rates Included in Contract? Yes _____No_____
Payrolls on File? Yes _____No_____
Certified by Contractor? Yes _____No_____
Checked and Initialed by Agency? Yes _____No_____

Prime/Subs	Wage Rate Interview	Intent to Pay Wages	Affidavit Wages Paid
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Any DOL Violations of Contract? Yes _____No_____
If Yes, how resolved?_____
_____
_____

EEO Compliance:

PE Right-of-Way Yes _____No_____
Consultant Yes _____No_____
Hearings (Title VI) Yes _____No_____
Monthly Utilization Reports (CC 257) on File
For Prime and Subs (Greater than $10,000) Yes _____No_____
PR-1391 on File and Sent to Regional Local Programs? Yes _____No_____
Comments: _____
_____
_____

Training:

Training Goal Set? Yes _____No_____Hours_____
Training Plan Approved by Agency: Yes _____No_____
Training Goal Met? Yes _____No_____Hours_____
Comments: _____
_____
_____

DBE Compliance:

DBE Goal Set: $_____
DBE Condition of Award Amount: $_____
How Was DBE Certification Verified Prior to Award? _____
DBE On-Site Review Conducted for Each Sub? Yes _____No_____
Change Orders Effects on DBEs: Yes _____No_____
Additional Work Provided to DBEs? Yes _____No_____
Any Changes to DBE Goals? Yes _____No_____
Approved by Regional Local Programs Engineer? Yes _____No_____
Affidavit of Amounts Paid to DBEs Sent to

Regional Local Programs Engineer? Yes _____No_____

Bridge Construction Projects:

Bridge Rail Crash Tested Design Used? Yes _____No_____
(New Construction Only, Any Funding Program)

Contract Completion:

Completion Date: _____
Completion Letter to Contractor Date: _____
Final Materials Certification Date: _____

Chapter 21
Project Closure

21.1 General Discussion

After the physical completion of the project work, the agency must diligently pursue contract closeout. In cases where the contractor is not diligently pursuing completion, the agency may pursue the completion of remaining work with local forces.

After the construction phase of a non-NHS FHWA transportation project, done either by competitive bidding or by local agency forces, specific procedures are carried out to finalize the contract and terminate the project's finances. These procedures are necessary in order to settle any outstanding contract obligations and to ensure that funds were expended properly.

This chapter details requirements for finalizing the contract and closing the project accounts at MDT and FHWA. It discusses project management reviews and project audits.

The following chart illustrates the contract administration and oversight responsibilities for the Federal Highway Administration (FHWA) (F), MDT (S), local agencies (L) and Contractor (C):

Action	Responsible Party
a. Final Inspection	C, L, S
b. Substantial Work Complete Date	C, L
c. Final Material Certification	L
d. Final Labor Certification	L
e. Final Project Documentation	L
f. List of Change Orders	L
g. Final Estimate	L
h. Contractor's Request for Final Acceptance	C, L
i. Certificate of Completion (Commission Accept)	L, S
j. Nonpar. Approval	S, F
k. Advance FMIS Steps	F
l. Final Voucher	S, F

(FMIS = Federal Management Information Systems)

21.2 Finalization

After the physical work is complete, the project closure period begins. During this period, the local agency must complete the requirements described below.

21.2.1 Final Inspection

The local agency project engineer will arrange a final inspection with the Contractor and MDT. It is suggested that the District Administrator (or designee) be invited to the final inspection with the Contractor. If the final inspection reveals items that must be corrected or resolved before the project can be finalized, these will be noted in the final inspection report. The District Administrator (or designee) will work with the local agency to make the necessary corrections or

accomplish resolutions. If there is an unresolvable item indicating that a portion of project work is ineligible for FHWA reimbursement, MDT will issue a letter of notification outlining the ineligible work items and related.

21.2.2 Substantial Work Complete Date

Within ten (10) calendar days of the final inspection, the local agency must obtain form CSB105_15_2 from the Contractor for submission to the District Administrator (or designee). If there are any liquidated damages, it must be indicated on that form.

See Specification subsection 105.15.2.

21.2.3 Project Documentation

After the approval of the CSB105_15_2, the local agency must compile the following project documentation within sixty (60) calendar days:

a. Final Records
   The local agency project engineer must document the work performed on the contract. Documentation consists of, but is not limited to, field books, inspector's record of field tests, Project Engineer's and inspector's diaries, all invoices, weigh bills, truck measurements, quantity tickets, receiving reports, field office ledgers, cross-sections, computer listings, and work profiles. Photographs or videotapes before, during, and after construction could be useful, especially if care is taken to show any unusual conditions, equipment, or procedures.
b. Final Materials Certification
   The intent of the final materials certification is to assure that the quality of all materials incorporated into the project is in conformance with the plans and specifications and thus ensures a service life equivalent to the design life.
c. Final Labor Certification
   The intent of the final labor certification is to assure that all payrolls have been received and have been reviewed for correctness.
d. List of Change Orders
e. Final Estimate
   Include a comparison of bid and final quantities.

21.2.4 Contractor's Request for Certification and Acceptance

After the project documentation has been completed and the final estimate generated, the local agency must send the final estimate to the Contractor. Within ten (10) calendar days of sending the final estimate to the Contractor, the local agency must obtain form CSB105_15_3 from the Contractor for submission to the District Administrator (or designee).

See Specification subsection 105.15.3.

21.2.5 Certificate of Completion

After the approval of the CSB105_15_3, the local agency must generate the Certificate of Completion and submit it to the District Administrator (or designee) for signature with three (3) calendar days. MDT will submit the Certificate of Completion to the Transportation Commission for final acceptance of the project.

21.3 Local Agency Final Billing

Within thirty (10) calendar days of the final acceptance by the Transportation Commission, the local agency must submit the final payment to the Contractor.

The local agency must submit the "Final Billing" to the District Administrator with a written justification for billing exceeding the Local Agency Agreement amount. These require approval by the District Administrator.

Upon receipt of the final billing, MDT will pay the federal share or bill the local agency as appropriate.

21.4 Project Approval

The District Administrator (or designee) will inform the local agency when FHWA has approved the Final Voucher and will explain what records must be retained and for how long.

21.5 Financial and Compliance Audit

The local agency is responsible for providing an annual audit under MCA 2-7-503 and ensuring the audit is performed in accordance with OMB Circular A-133. MDT is also responsible for ensuring that FHWA funds are properly expended.

21.6 Appendices

The following documents are available from the Department. Contact the LAG Certification Liaison to obtain the most current version:

- Final Inspection
- Contractor's Substantial Work Complete Date
- Final Labor Certification
- Final Materials Certification
- Contractor's Request for Certification and Acceptance
- Certificate of Completion

Additional documents are shown in the following appendices:

21.6.1 Final Inspection of Federal Aid Project

Appendix 21.6.1 Final Inspection of Federal Aid Project

Montana Department of Transportation

Final Inspection of Federal Aid Project
Constructed Under 23 U.S.C. 117

<table>
<tr><td colspan="6">Contract Description</td></tr>
<tr><td colspan="2">Contract ID</td><td colspan="2">Fed/St Project Number</td><td colspan="2">Agency</td></tr>
<tr><td colspan="6">Description of Work</td></tr>
<tr><td colspan="2">Contractor</td><td colspan="2">Contract Award Amount
$</td><td colspan="2">Final Contract Cost (Do not include Construction Engineering)
$</td></tr>
<tr><td>% Sublet</td><td>Training Contract Hours</td><td>Total Hours Paid</td><td>DBE Contract Goal
$</td><td>DBE Condition of Award Amt.
$</td><td>DBE Affidavit of Amt. Paid
$</td></tr>
<tr><td colspan="2">Date of Inspection</td><td colspan="4">Inspection Made by</td></tr>
<tr><td colspan="6">Accompanied By</td></tr>
<tr><td colspan="6">Remarks</td></tr>
<tr><td colspan="6">Comments
Marking and signing in conformance with contract plans?
Roadside Obstacles?
Materials certified by agency?
Claims?
Change Orders?
Completed in accordance with specified working days?
Other?</td></tr>
</table>

This project has been completed in substantial conformance with the project prospectus and contract plans This project has the following deficiencies which must be corrected prior to final acceptance:	
Signature of Highways and Local Programs Engineer	Date