

I. PUBLIC INVOLVEMENT IN THE LOCAL PUBLIC AGENCY (LPA) PROJECT DEVELOPMENT PROCESS

As the Local Public Agency (LPA) makes decisions on transportation projects that utilize federal-aid funding or require a federal action, the LPA must integrate input from the public, local government, resources agencies and others (such as historic resources) while assessing transportation needs, cost, funding availability and engineering constraints. Selection of the appropriate project classification is based on the anticipated level of project development complexity. The project classification identifies the recommended level of analysis, amount of stakeholder involvement and activities performed during each step. There are three types of environmental classifications under NEPA, plus an additional classification established by INDOT, and each is accompanied by its own public involvement requirements.

Categorical Exclusions (CEs) include projects which individually or cumulatively produce no significant adverse impacts on the human or natural environment. CEs are typically "simple" projects which have limited scope and one feasible alternative. CEs are generally used for such projects as resurfacing, restoration, and safety projects, and rehabilitation or reconstruction of existing bridges or other infrastructure. Most LPA projects fall under the CE classification. Following the preparation of the CE environmental document, the project may proceed to its next steps in implementation, such as final design, right-of-way acquisition, and construction. See INDOT's CE Manual at www.in.gov/dot for more information.

Environmental Assessments (EAs) include actions in which the significance of the impact on the environment is not clearly established. If there is uncertainty about whether the project will have significant impacts, an EA is prepared, with some analysis to determine whether the project has significant impacts. If the answer is "Yes," then a full Environmental Impact Statement (EIS) is prepared (see below). If the answer is "No," then this decision is formally documented by FHWA with a Finding of No Significant Impacts (FONSI), and the project may proceed to its next steps in implementation, such as final design, right-of-way acquisition, and construction. Major reconstruction and/or minor roadway relocation projects generally fall into this category. See INDOT's Procedural Manual for Preparing Environmental Documents at www.in.gov/dot for more information.

Environmental Impact Statements (EISs) are prepared for large-scale projects involving major expansion or new location construction where it is likely that the project will have significant environmental impacts.¹ The EIS entails a study to set forth the Purpose and Need of a project, identify a range of alternatives to address the transportation need(s) in a given study area, and analyze the social, economic, and environmental impacts of the alternatives. A Draft EIS (DEIS) is circulated for comment to the public and to relevant public agencies. This document provides a full description of the proposed project and the existing environment and an analysis of

¹ 40 CFR 1502.1 states, "The primary purpose of an environmental impact statement is to serve as an action-forcing device to insure that the policies and goals defined in the Act [NEPA] are infused into the ongoing programs and actions of the Federal Government. It shall provide full and fair discussion of significant environmental impacts and shall inform decision-makers and the public of the reasonable alternatives which would avoid or minimize adverse impacts or enhance the quality of the human environment."

the anticipated beneficial and adverse effects of all reasonable alternatives. Following consideration of comments, a Final EIS (FEIS) is prepared. A Record of Decision (ROD) indicates the alternative selected for the project, including any required mitigation measures. Following the approval of the ROD by FHWA, the project may proceed to its next steps in implementation, such as final design, right-of-way acquisition, and construction. See INDOT's Procedural Manual for Preparing Environmental Documents at www.in.gov/dot for more information.

Historically most LPA projects are classified as a Categorical Exclusion (CE). Projects involving a historic bridge must hold a public hearing prior to the completion of NEPA. For CEs (not involving a historic bridge), the LPA will be required to offer the opportunity to request a public hearing or hold a public hearing, prior to the completion of NEPA, when the project meets any of the conditions listed below.²

- a. The proposal requires significant amounts [interpreted by INDOT to be more than one-half acre] of permanent right-of-way (r/w). **(Note: Any proposal resulting in the increase in right-of-way due to the factors listed below would be exempt from this requirement).**
 - (1) *The proposal does not involve NEW r/w impacts but rather reacquiring past prescriptions (i.e. existing or apparent existing r/w)*
 - (2) *The proposal involves the acquisition of donated r/w from property owner*
 - (3) *Acquiring r/w presently within INDOT apparent r/w to establish legal documented ownership*
 - (4) *Additional R/W needed for mitigation purposes, for projects where original R/W impacts as described in the environmental document were less than 0.5 acre*
- b. The proposal substantially changes the layout or functions of connecting roadways or the facility being improved.
- c. The proposal may have a substantial adverse impact on abutting property.
- d. The proposal may have a significant social, economic, environmental or other effect.
- e. The proposal is determined by the Federal Highway Administration to warrant a public hearing in the public's interest.
- f. The proposal is for a plan for the location of a Federal-aid highway project involving the bypassing of, or going through, any city, town, or village either incorporated or unincorporated or the proposal is for an Interstate System project³.

² 23 CFR 771.111(h)(2)(iii) states, "State public involvement procedures...must provide for...One or more public hearings or the opportunity for hearing(s) to be held by the State highway agency at a convenient time and place for any Federal-aid projects which requires significant amounts of right-of-way, substantially changes the layout or functions of connecting roadways or of the facility being improved, has a substantial adverse impact on abutting property, otherwise has a significant social, economic, environmental or other effect, or for which the FHWA determines that a public hearing is in the public interest".

³ 23 U.S.C. 128(a) states, "Any State transportation department which submits plans for a Federal-aid highway project involving the bypassing of, or going through, any city, town, or village, either incorporated

A change in project scope may require additional formal public involvement.

If a LPA project does not meet the minimum criteria listed above, please include the following statement in the Public Involvement section of the environmental document: *In accordance with current INDOT Public Involvement Procedures approved by the FHWA, the proposed project does not meet the minimum requirements for public involvement. Therefore, the opportunity for a public hearing will not be offered, and a public hearing will not be held.* This would conclude the public involvement requirements. Once the environmental document is completed it can be submitted for approval to District Environmental Scoping Manager (ESM).

Prior to advancing to the Public Involvement phase for LPA projects, the conditional release of the environmental documentation must be authorized by the District Environmental Scoping Manager (ESM) for Level 2 CEs or the INDOT Office of Environmental Services (OES) for Level 3 and 4 CEs and EAs. Once the conditional release of the environmental document is received by the LPA, the LPA is responsible for the preparation and placement of the legal notice(s) in widely circulated project area newspapers. The legal notice will run twice, the second at least 7-days subsequent to the first and no less than 5-days prior to the hearing or the established deadline to request one. The Section 106 legal notice offering the public and consulting parties the 30-day comment period for the Area of Potential Effect (APE), eligibility and effect finding and the legal notice offering the public the opportunity to request a public hearing may be combined in a single advertisement.

A copy of the legal notice(s) should be submitted to the following:

- Legislators / Elected Public Officials in area
- Minority groups and minority media (if any)
- Historical Societies and Historians etc. (if including the Section 106 wording)
- Metropolitan Planning Organization (if any)
- Affected / Impacted Property owners in the project area
- ESM and OES environmental document signature authority
- FHWA Indiana Division Administrator (for hearings only)
- FHWA Indiana Division Administrator (if planned improvement and only if the project is part of the National Highway System)

INDOT should not be listed in the Public Hearings Notice as an available public viewing location for documents of LPA projects. The environmental document and preliminary design plans (if available) should be sent to locations within or close to the project area. Specifically, copies of these documents should be on display at the LPA's office, a municipal office where documents are routinely displayed, a local library, and/or the offices of the consultant hired by the LPA. All comments, questions, hearing requests and/or public comments submitted as a result of the public hearing are to be sent directly to the LPA or to the consultant.

If no requests for a public hearing are received prior to the established deadline date posted in the legal notice, or the required 30-day public comment period for a combined Section 106-Public Hearing Opportunity legal notice, the Public Involvement section of the environmental document will be updated and the LPA's consultant may proceed to submit the final CE to the

or unincorporated, shall certify...that it has had public hearings, or has afforded the opportunity for such hearings...."

District ESM to receive environmental approval. **However, all public involvement materials will be sent to INDOT's Public Hearings Office to ensure public involvement requirements have been satisfied.** The Public Hearings Office will then sign off on the cover sheet of the environmental document to indicate that all public involvement requirements have been met. This signature will occur prior to the formal submission of the environmental document for approval.

If a public hearing is required, the LPA is responsible for the preparation and placement of the necessary properly worded legal notice(s) in widely circulated project area newspapers. The LPA is required to coordinate the time and date of the public hearing with the INDOT Public Hearings Office. **A representative of INDOT (meaning an employee of INDOT) must attend the public hearing in order for the LPA to receive hearing certification.**

At least one representative of the LPA must attend the public hearing. The LPA should also be prepared to explain the Purpose and Need for the proposed project in addition to providing a detailed description of the project, alternatives considered during project development and impacts associated with the proposal. Use the PUBLIC HEARING CHECKLIST FOR LPA PROJECTS prepared by the INDOT Public Hearings Office to ensure that the required documentation for a public hearing is offered. If the LPA is unsure as how to proceed with the public hearing requirements, INDOT's Public Hearings Office should be contacted.

Rickie Clark, INDOT Public Hearings Manager
INDOT Public Hearings Office
Indiana Government Center, Room N642
100 North Senate Avenue
Indianapolis, Indiana 46204-2219
Phone: (317) 232-6601 rclark@indot.in.gov

For public hearing certification the LPA must submit the following items listed on the PUBLIC HEARING CHECKLIST FOR LPA PROJECTS to the INDOT Public Hearings Office for review. The following items must be included in the hearings certification submittal:

- One copy of the public hearing notice or notice of planned improvement
- Copies of the Publisher's Affidavits from the newspaper(s)
- Complete mailing list including the property owners contacted
- Speeches (for hearings only)
- Information packet (for hearings only)
- Verbal statements transcribed (for hearings only)
- Copies of all letters, e-mails, all written comments or documentation of memos or phone conversations and how each comment/inquiry pertaining to the proposed project was addressed must be included in submission for INDOT Public Hearings Certification.

The Public Involvement section of the environmental document must be appropriately updated with a discussion of the steps taken to satisfy the public involvement requirements. The environmental document can then be submitted to the District ESM or the INDOT OES for signature approval.

Upon receipt of the signed title page of the environmental document, which will include a signature line indicating the satisfactory completion of the INDOT Public Involvement requirements, the project may proceed to the right-of-way services phase. Please see INDOT/LPA Process Guidance Document for Local Federal-Aid Projects.



INDIANA DEPARTMENT OF TRANSPORTATION
100 North Senate Avenue
Public Hearings Office, Room N642
Indianapolis, Indiana 46204-2249
(317) 232-6601 rclark@indot.in.gov
An Equal Opportunity Employer • <http://www.state.in.us/dot>

Mitchell E. Daniels Jr., Governor
Michael Reed, Commissioner

Writer's Direct Line
(317) 232-6601
rclark@indot.in.gov

INDIANA DEPARTMENT OF TRANSPORTATION PUBLIC HEARINGS OFFICE GUIDANCE

(5 STEP PROCESS FOR COMPLETING PUBLIC INVOLVEMENT REQUIREMENTS FOR LPA PROJECTS)

1. LPA Consultant completes the public involvement process and modifies the environmental document accordingly.
2. LPA Consultant submits the necessary public involvement documentation (legal notices, publisher's affidavits, any comments received, or if held, a public hearings transcript) and the CE title page with the certification signature line to the INDOT Public Hearings Section for certification.
3. INDOT Public Hearings Section reviews public involvement documentation and if complete, signs the certification signature line.
4. INDOT Public Hearings Section returns the signed CE title page to the LPA Consultant.
5. LPA Consultant adds the CE title page with the hearing signature line signed to the CE document and adds the date of certification in the Public Involvement section of the CE. Consultant submits final CE to the District ESM for environmental approval.

PUBLIC HEARING CHECKLIST FOR LPA PROJECTS

LEGAL NOTICE CHECKLIST	
	Date, time and location of hearing (if hearing is needed)
	Project description including limits, location, length, and construction to be performed
	New permanent right-of-way, easements, and temporary right-of-way in acres
	Displacement of residents, businesses etc.
	Maintenance of traffic (details not necessary)
	Cost estimate for the project
	Wetlands involvement (details not necessary)
	May combine Section 106 legal notice with public hearing opportunity legal notice
	Deadline date (for comments or hearing requests) for a Planned Improvement needs to be at least 15 days from the first advertising date. The second advertising date should be at least one week (seven days) after the first.
	To advertise a public hearing, the first ad must appear in the newspaper no less than 15 days prior to the date of the hearing and the second ad no less than five days prior to the hearing.
	Public viewing location for environmental documents, plans, and legal notice
	Legal ads need to be placed in local paid minority newspapers (if there are any in the area).

MAILING OF LEGAL NOTICE CHECKLIST	
	Legislators in area (for hearings only)
	Minority groups and minority media (if any)
	Historical Societies and Historians etc. (if including the Section 106 wording)
	Metropolitan Planning Organization (if any)
	FHWA Indiana Division Administrator for hearings
	FHWA Indiana Division Administrator, if planned improvement and only if the project is part of the National Highway System)
	Affected property owners
	Appropriate District ESM and OES Signature authority

LOCAL HEARING FOR FEDERAL-AID PROJECT CHECKLIST	
	Displays showing proposed new permanent right-of-way lines and the property(s) that will be affected
	Set of preliminary plans with cross-sections
	Brochures on "Relocation and You" and "How Land is Purchased by Local Agencies". (These can be found on the FHWA Real Estate Brochure website)
	Information packets
	Speakers schedule sign-up sheets
	Environmental documents with approval sheets