

# PS&E Checklist Narrative

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## Engineering Department

The Plans, Specifications, and Estimate (PS&E) is an [FHWA policy](#) that represents an array of actions and approvals required before authorization of construction. The PS&E Checklist is composed of a series of yes/no questions in various sections of project development. The checklist accounts for several major federal-aid requirements, but it is not all inclusive. This document includes references to source documents for further review.

The appropriate person to complete each section is noted. The typical order for completing the checklist is

1. Designer – uploads checklist to ERMS with Stage 3 submittal, except **use the prefix “FT”**.
2. Plan Reviewer – begins when Stage 3 review is complete. Must be INDOT employee, except for Certified LPAs (LPA’s Design Liaison/Engineer of Record)
3. Project Manager – begins when Plan Reviewer items are sufficiently addressed. Must be INDOT employee, except for Certified LPAs (LPA’s Employee in Responsible Charge, ERC)
4. Contract Administration – begins when FT package is submitted at RFC. Must be INDOT employee.

All questions must be answered by selecting Yes, No, or N/A and providing support information, e.g. approval date. If additional documentation or comments are needed to address the question or satisfy a requirement, use the Comments field.

## PROJECT INFORMATION – Designer

Complete all fields except Contract Complete Date. Upload the checklist with the Stage 3 submittal using the appropriate ERMS file naming convention, except **use the prefix “FT”**.

## PLANS – Plan Reviewer

The plan reviewer must be an INDOT employee.

1. **Engineer’s Report/Scoping Report.** Verify that the Engineer’s Report/Scoping Report is signed and is consistent with the design of the project. Provide last date report signed.

For bridge preservation projects, the bridge rehabilitation report or preventive maintenance meeting minutes may serve as Engineer’s Report.

2. **Hydraulic Review.** Provide date of approval, if applicable. *Indiana Design Manual* (IDM) Sections 201-1.02(03) and 201-1.02(04) provide guidance when drainage structures and detention areas require INDOT Hydraulics approval (Hydraulics memo).

3. **Geotechnical Information.** IDM Section 107-2.0 identifies project work types that do not require a geotechnical waiver or investigation and ones that may qualify for a waiver. Select one of the following

- A waiver or geotechnical investigation is not required (Not Required)
- A waiver was granted (Waiver Granted)
- A geotechnical investigation was required. (Geotech Investigation Req’d)

For a waiver or geotechnical investigation provide the approval date.

4. **Pavement Design.** 23 CFR 626.7. Verify that the approved pavement design and the typical cross-

sections are consistent. The approved pavement design must be in ERMS. Select one of the following

- Yes – has approved pavement design and matches typical section. Add date from approved pavement design cover sheet.
- No – Either has approved pavement design and does not match typical section or does not have approved pavement design (where one is required). Add date of approved pavement design cover sheet. Must be reconciled prior to RFC date.
- Standard – standard pavement design
- N/A – no pavement work

The Office of Pavement Engineering has the responsibility for the pavement design of all Central Office and District developed projects. Standard pavement sections have been developed for eligible standalone small structure and bridge projects. Approved pavement designs will not be issued for these projects. See IDM Part 6 for more details on pavement and underdrain design and procedures for submitting a request for a pavement design. Contact Office of Pavement Engineering for pavement design questions.

5. **Pedestrian Facilities.** Where sidewalks are present, review intersections to ensure curb ramp details are provided. Spot check pinch points where minimum 4 ft clear width may be at risk, e.g. signal poles placed within the sidewalk width. Spot check typical sections to ensure appropriate cross-slope and running slopes. Approved ADA Technical Advisory Committee (TAC) inquiries should be noted on the plans.
6. **Pedestrian MOT.** Where pedestrian facilities are provided within the limits of a project, verify that pedestrian MOT is provided. This may include detours, temporary pedestrian facilities, pedestrian signage and special provisions. When there are sidewalks on both sides of the street, the design should phase MOT to retain one sidewalk open while the other is closed.

Where detour routes are being used, consider the length of the detour and that the detour route must provide accessible features (curb ramps, push buttons, etc).

7. **Transportation Management Plans (TMP).** 23 CFR 630.1012(c) TMPs are required as part of the PSE submittal process. Verify that the TMP complies with the Maintenance of Traffic (MOT) scheme shown on the plans and in the contract documents.
  - a. TMPs for significant projects must be developed in accordance with 23 CFR 630.1010 and include three elements:
    - a temporary traffic control plan (TTC), also known as MOT plan,
    - public information plan (PIP), and
    - transportation operations plan (TOP), including transit where appropriate.
  - b. TMPs for non-significant projects include a temporary traffic control/MOT plan.

Significant projects are defined as those projects which cause sustained work zone impacts greater than considered tolerable. All interstate system projects within the boundaries of a designated Transportation Management Area (TMA) and that occupy a location for more than 3 days are considered significant. The Indiana TMAs are NIRPC, South Bend/Elkhart, Fort Wayne, Indianapolis, Evansville, OKE (Cincinnati), and Louisville. Other projects may be designated by the State as

significant. The State definition and identification of a significant project is located in the INDOT Work Zone Safety and Mobility Policy, pages 3-5. The policy is available at [https://www.in.gov/indot/doing-business-with-indot/files/Safety\\_WorkZoneSafetyandMobilityPolicy.pdf](https://www.in.gov/indot/doing-business-with-indot/files/Safety_WorkZoneSafetyandMobilityPolicy.pdf)

8. [INDOT Interstate Highways Congestion Policy \(IHCP\)](#). If the project work zone affects the interstate system and an IHCP exception is required, provide the approval date. Verify that the approved IHCP lane closure requirements are included in RSP 801-T-216 and any mitigation items, e.g. queue trucks, portable changeable message signs, etc., are included in contract documents.

Keep in mind that bridge projects over the interstate are likely to impact the interstate below at some point during construction. [Design Memo](#) 24-08 established requirements to maintain two lanes in each direction for certain high volume interstate segments.

9. **Interstate Access Document (IAD)**. As applicable, verify that an IAD has been completed and approved and include the date of approval from the FHWA approval letter on the checklist. Contact INDOT Traffic Engineering Division with questions. The FHWA approval letter should be included in the PSE package.

When interstate access is being modified in a construction contract, an FHWA approved Interstate Access Document (IAD) is required unless the modifications are minor, Minor modifications include:

- Construction of new signing, striping and or resurfacing of ramps where the geometric features are not changed
- Widening a single lane freeway exit or entrance ramp to two or more lanes
- Widening an off-ramp at its intersection with a crossroad to provide two or more intersecting approach lanes
- Minor horizontal or vertical realignment of a ramp
- Converting a taper type on or off ramp to a parallel type ramp
- Increasing the length of an on-ramp acceleration lane or an off ramp deceleration lane
- Addition of one or more continuous auxiliary lanes between two adjacent interchange ramps; or
- Implementation of ramp metering or other active control of vehicles entering the Interstate System

Title 23, United States Code, Highways Section 111 (23 U.S.C. 111) provides that all agreements between the Secretary of the U.S. Department of Transportation and the State DOTs for the construction of projects on the Interstate System shall contain a clause providing that the State will not add any points of access to, or exit from, the project in addition to those approved by the Secretary in the plans for such a project without prior approval of the Secretary. A policy statement consolidating a series of policy memoranda including guidance for justifying and documenting the need for additional access to the existing sections of the Interstate System, was published in the Federal Register on October 22, 1990 (55 FR 42670) entitled "Access to the Interstate System" and was then modified on February 11, 1998 (63 FR 7045) and on August 27, 2009 (74 FR 20679).

10. **Level One Checklist.** Verify that Level One checklist has been submitted for the project and that the checklist was reviewed and approved by INDOT. Indicate all criteria that have design exceptions and the approval date.

23 CFR 625.3(f) In 2016, FHWA revised the controlling criteria to 10 for the design of projects on the National Highway System (NHS). Of the 10 controlling criteria, only design loading structural capacity and design speed apply to all NHS facilities. The remaining 8 criteria apply only to high-speed (design speed  $\geq$  50 mph) NHS roadways. INDOT has established additional controlling criteria. Together with the FHWA criteria, INDOT denotes controlling criteria as Level One. See IDM Chapter 40.

In addition, project development philosophies have shifted from standards-driven design toward context-based and performance-based decision-making. Documenting these decisions via design exceptions is an important part of the development process.

FHWA must approve design exception requests to Level One criteria on the NHS, regardless of funding. FHWA has delegated the authority to approve design exception requests to the State for all projects, except those on the interstate system. Note that certain FHWA PODI (Projects of Division Interest) projects may include FHWA approval for design exception requests as part of the PODI plan.

11. **Non-participating Items.** Non-participating pay items must be entered into CES with the Funding Code "01Z". The PDF printout must be manually annotated with an asterisk. This indicates to FHWA and INDOT that a separate 100% state or local purchase order must be established and automates the payment of non-participating items when progress estimates are processed. Maintenance work items, such as culvert cleaning, mowing, and delivery of highway hardware salvaged from a project to an INDOT facility are not eligible for Federal participation.

12. **Proprietary Materials.** 23 CFR 635.411 was rescinded in 2019; however, INDOT continues to require approval for the use of proprietary materials. FHWA signatures are not required. Proprietary items are more likely to occur in unique special provisions for decorative items, utility fixtures (water lines), benches, lighting, signal components, protective coatings, paint, or pavers, to name a few.

If a proprietary item is found, an approved Proprietary Material Request is required. When three or more products or services are listed as equivalent options, the item is not considered proprietary as competitive prices can be obtained - the checklist can be marked N/A. If a proprietary item is specified without approval, the item must be indicated as non-participating and funded with 100% state or local funds. For additional information on proprietary product use, refer to IDM Chapter 17.

13. **Estimate.** Spot check major items in the estimate to ensure quantities are correct and items are included. All items in the estimate must be covered by specification. Method of measurement and basis of payment that differs from that shown in the *Standard Specifications* requires a unique special provision (USP).

## PLANNING/FUNDING – Project Manager

14. **STIP/TIP.** 23 CFR 450.216 All federally funded construction projects must be included in the state transportation improvement program (STIP) and as applicable the Metropolitan Planning Organizations transportation improvement program (TIP). Exceptions may be granted only for emergencies and

necessities as described in 23 CFR 450.220(e).

The STIP approved by FHWA is available on the INDOT website at <http://www.in.gov/indot/2348.htm>. Select the Current STIP (based on letting date). Amendments and modifications are on this webpage. Supporting documentation consists of the page from the current STIP. Use Ctrl-F to search for the project Des number. Print the page upon which the listing is contained to a .pdf file. Each district program manager should be able to provide assistance when needed.

Items to check with relation to the STIP include:

- a. Is the STIP approved by FHWA without any conditions with respect to this project? The STIP approved by FHWA is available on the INDOT website at <http://www.in.gov/indot/2348.htm>. Click on the Current STIP
- b. Are there any discrepancies between the project to be let and the project information in the STIP? Any that exist need to be resolved with logic concerning the intent of the regulations. The items required to be included in the STIP are outlined in 23 CFR 450.216.
- c. Description of work and phase of work must agree.
- d. Normally the project location, termini and length should agree. A project totally within the project limits as listed in the STIP may be acceptable, providing the actual project information is either a more accurate description or a definite subdivision of a larger project listed in the STIP. Work outside the STIP limits, may be acceptable only if it is incidental to and necessary for proper completion of the project listed in the STIP.
- e. Estimated total cost and amount of Federal funds. The information in the STIP for the project should be in reasonable agreement with that used for programming. Any significant discrepancy, especially where there is an overage in the Federal amount for the project as compared with the STIP or TIP, should have documentation explaining the source of additional funds.
- f. If the project is in or near an Air Quality Sensitive Area/County, are there any changes that will affect air quality conformity? If so, contact the Long Range Planning Division Planning Liaison. See graphic at end of this section for decision tree. See the *Indiana Field Guide to Air Quality Conformity Compliance for the STIP Amendment Process*, page 6, for a map of Indiana Counties subject to Air Quality. <https://www.in.gov/indot/public-involvement/public-involvement/planning-efforts-at-indot/>

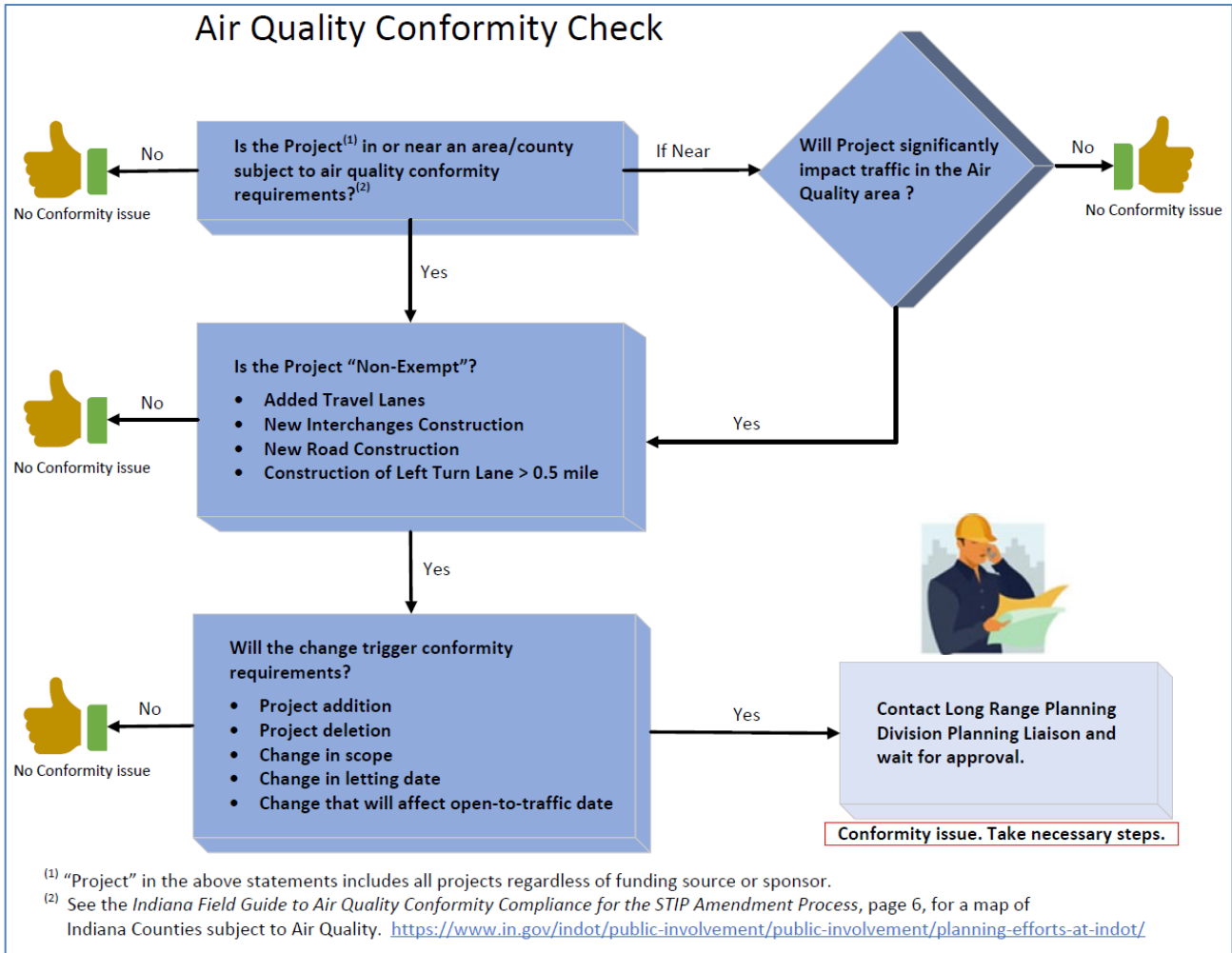


Figure 1 Air Quality Conformity Checks

15. **Federal-Aid System.** All projects except bridges and transportation enhancements (TE) are required to be on the federal-aid system of routes in order to receive federal funding. The federal-aid system is comprised of all routes designated rural major collector or above. This means that projects on local roads or rural minor collectors are in general ineligible for federal-aid funding unless they are bridge or TE projects. All state routes are on the federal-aid system. Functional classification maps should be provided for non- state route projects except those utilizing TE or bridge funds.
16. **Value Engineering (VE).** 23 USC 106 (e) and 23 CFR 627 require that all significant bridge projects where the total project costs exceeds \$40 million and all other projects where the total costs exceeds \$50 million have a completed value engineering study prior to advertisement. The study is required for projects on the NHS and encouraged for projects off the NHS that meet the cost thresholds. Value Engineering studies must be performed in accordance with the federal regulation and an approved state VE program. Total project cost is defined as the sum of all engineering, environmental, right-of-way, utility, rail, and construction costs attributable to the project. As appropriate, verify that a study has been conducted by reviewing the State’s implementation of VE recommendations letter, which should be included in the PSE submittal.

17. **Initial Financial Plans (IFPs).** 23 USC 106(h), An IFP is required for projects with a total cost between \$100 M and \$500 M and for Major Projects (as described in item 18). Total project cost is defined as the sum of all engineering, environmental, right-of-way, utility, rail, and construction costs attributable to the project. The IFP and subsequent annual updates should be based on detailed estimates of the cost to complete the project. Financial Plan Annual Updates (FPAUs) are to be submitted annually for review and approval. The FPAU must be submitted within 90 days after the end of the IFP one-year cycle or as specified in the IFP. For example, if the IFP was approved on 9/1/24, the cycle would be 9/2/24 - 9/1/25, and the update would be due 90 days later on 11/29/25.

Verify that the IFP or an annual update has been submitted and is current for projects whose total cost of \$100 M or more. The project on which the cost is based is the project as defined in the NEPA document. FHWA approval of the IFP and FPAU is not required for projects between \$100 M and \$500 M. It is recommended that projects with a construction cost of \$75 M be reviewed for this requirement as their total cost may exceed the \$100 M threshold.

FHWA Resource: [https://www.fhwa.dot.gov/majorprojects/financial\\_plans/process.cfm](https://www.fhwa.dot.gov/majorprojects/financial_plans/process.cfm)

18. **Project Management Plan (PMP).** 23 USC 106(h), a PMP is required when federal funds are used on a project with an estimated total cost of \$500 M or more (“Major Projects”), and for such other projects as identified by the Secretary of the USDOT. The same section of the code prescribes the requirement for IFPs for Major Projects. All Major Projects must have an independent Cost and Schedule Risk Assessment developed in conjunction with the FHWA. The project on which the cost is based is the project as defined in the NEPA document.

FHWA Resources: <https://www.fhwa.dot.gov/majorprojects/pmp/>  
<https://www.fhwa.dot.gov/majorprojects/defined.cfm>

- a. PMP, Project Management Plan: The PMP shall document the processes and procedures in place to effect timely project delivery and effectively manage the scope, costs, schedules, quality of, and the Federal requirements applicable to the project in addition to documenting the role of agency leadership and management team delivery of the project. PMP’s should be advanced, reviewed and approved prior to the PSE submittal. Verify that an FHWA approved PMP exists for projects with total costs in excess of \$500 M.
- b. IFP, Initial Financial Plan (& Updates): The IFP and subsequent annual updates should be based on detailed estimates of the cost to complete the project. FPAUs are to be submitted for review and approval, (as described in item 17). Verify that the IFP is current or that an annual update has been submitted and approved by FHWA.
- c. CSRA, Cost and Schedule Risk Assessment (previously Cost Estimate Review, CER): CSRAs are an unbiased risk-based review to verify the reasonableness of the current total cost estimate to complete the project in year-of-expenditure (YOE) dollars. FHWA will conduct independent evaluations of the cost estimate as appropriate at critical stages throughout the project continuum. These stages include prior to approval of the FEIS or EA and again during the preparation of the IFP. Additional CSRAs may be conducted anytime an Annual Update of the Finance Plan shows a significant cost increase, schedule delay, or scope change from the previous Annual Update. Verify that the CSRA has been completed and approved by FHWA.

## ENVIRONMENTAL – Project Manager

19. **Environmental Document.** 23 CFR 635.309 (j) & 23 CFR 771.115- All federally funded projects are required to comply with the requirements of the National Environmental Policy Act of 1969, codified in 23 CFR 771.

There are 3 major classes of environmental documents: Environmental Impact Statements (EIS's), Categorical Exclusions (CE's), and Environmental Assessments (EAs). FHWA must approve all EIS and EAs respectively through either a Record of Decision (ROD) or Finding of No Significant Impact (FONSI). CE-4 documents are also approved by FHWA. Copies of all FHWA approved NEPA documents are available in the project files and only the signature page will be transmitted as part of the PSE approval package. CE 1-3 documents will be transmitted in their entirety as part of the PSE package.

Environmental Document Additional Information. You should verify that NEPA has been completed, the project submitted for approval is within the study limits of the NEPA document and consistent with the project description provided in the NEPA document. When 3 or more years have elapsed from the time of NEPA conclusion or a major development step, a written re-evaluation is needed. Re-evaluations, or Additional Information statements (AIs) are also needed when the project impacts areas outside of the original NEPA footprint. Verify that any required AIs are complete. Include the date of the originally signed NEPA document and the date of the most recent AI as applicable. Projects may not be advertised for construction until NEPA is complete. If the project is design-build, an RFQ may be issued prior to conclusion of NEPA but the RFP should be issued after conclusion of NEPA or the RFP must contain the status of the NEPA process in accordance with 23 CFR 636.109.

20. **Environmental Consultation Form (ECF).** Verify that the form is complete and approved. If not approved due to incomplete permits, a USP is required. See item 22.

The ECF documents that the NEPA for the project remains valid, in accordance with 23 CFR 771.129 (c). This is particularly important for projects where a significant amount of time has elapsed from completion of the NEPA to project letting. The ECF is completed and approved by the designer and INDOT Environmental staff and should be included in the project file.

21. **Environmental Commitments.** 23 CFR 635.771.109 (b) It is the responsibility of the project owner in coordination with FHWA to implement the mitigation measures stated as commitments in the NEPA document. Prior to construction, the state must list all NEPA commitments and include their provision in the construction contract. Verify that a commitments list has been developed and spot check that the commitments are included in the contract documents.
22. **Permitting.** 23 CFR 635.309 (i); Federal-aid projects must conform with all applicable state and federal regulations regarding permitting. The state must take all measures to minimize possible soil erosion and water pollution that is a result of highway construction operations. This is demonstrated by obtaining all required waterway permits from the Army Corps of Engineers, Indiana Department of Environmental Management, and / or Indiana Department of Natural Resources.

Typical permits are: 401, 404, Construction in Floodway, and the Construction Stormwater General Permit (formerly Rule 5). Where permits are required, work cannot be performed within the areas necessitating a permit until a permit is secured. **In rare instances, a conditional approval may be given to proceed with construction in the absence of permits when the contract specifications via a unique special provision (USP) that clearly define the restricted areas and date when permits will be secure, the**



permit process is underway, and there is sufficient work area for meaningful construction to proceed.

When permits have not been secured, Letting with Exception due to incomplete permits must be approved by the Managing Director of Project Delivery. Contract Administration must issue a conditional authorization containing the following statement: “This project is being authorized without all waterway permits secured. This authorization is given with the understanding that federal-aid funds will not participate in additional costs, time extensions, or suspensions, which are necessitated by delay in the issuance of permits. Further, the project will be removed from federal funding eligibility if work proceeds in permit areas prior to issuance of a permit.”

23. **Right-of-Way (R/W).** 23 CFR 635.309(g): This section of the CFR requires that a statement is received stating that all R/W has been acquired or that acquisition is not necessary for the project. Verify that the R/W certificate is signed and dated. Letting a project without clear R/W, or “Letting with Exception”, is undesirable due to the potential to add costs and time through claims and change orders while the project is in construction. In rare instances, when all parcels have not been acquired, an exception may be requested under 23 CFR 635.309(c)(1) or (2). See item 25. For LPA projects, letting with exceptions due to lack of clear R/W is not allowed.

All R/W certifications must advise that R/W has been acquired in accordance with FHWA directives. When relocations are involved, the certification also advises that relocation assistance and payment rules were followed in accordance with 49 CFR Part 24.

24. **Right-of-Way Certification.** There are 3 levels of R/W Certifications as described below. A Level 2 or Level 3 Certification requires approval by the FHWA Right-of-Way Specialist. Verify that the right-of-way certificate is signed and dated by FHWA.
- a. Level 1. All needed R/W acquired, all occupants have moved. The contractor may access all parcels for construction activities.
  - b. Level 2. Not all needed R/W acquired, proof of payment to all property owners has been demonstrated and/or all recorded rights of entry have been obtained on all other remaining parcels while awaiting ancillary documentation as part of proof of payment, together with the relocation of all occupants. Any parcels with the aforementioned rights of entry and/or encroachments to be removed will have been clearly defined within the contract information book (CIB), and the current status will be conveyed to the contractor prior to issuance of the notice to proceed (NTP). The contractor may enter onto the parcels with right-of-entry; however, no construction, including utility relocations can begin on parcels with rights-of-entry until property acquisition is complete.
  - c. Level 3. Acquisition of R/W is not complete, and occupants are still on the project. Level 3 Certifications are not routinely approved for use on federal-aid contracts, they are exceptions granted only when it can be demonstrated to be in the public interest which requires a full explanation, notices in the bid proposals, and special assurance about protection of the occupant against in convenience, injury or any other action coercive in nature. Letting a project without clear right-of-way with Level 3 certification is undesirable due to the potential to add costs and time through claims and change orders while the project is in construction. The contractor may not enter onto parcels that have not been acquired.

25. **Right-of-Way Exceptions.** 23 CFR 635.309(b) – Following on item 23, if the project has been

approved for Letting with Exceptions due to unclear right of way, potential bidders must be notified about unclear right-of-way. There must be reasonable clearance dates given in the special provision. **Whenever all right-of-way has not been acquired letting with exceptions due to lack of clear right of way must be approved by the Managing Director of Project Delivery.** Contract Administration must issue a conditional authorization containing the following statement: “This project is being authorized without right-of-way clear. This authorization is given with the understanding that federal-aid funds will not participate in additional costs, time extensions, or suspensions, which are necessitated by right-of-way clearance.

**For LPA projects, letting with exceptions due to lack of clear right of way is not allowed.**

26. **Utility Certification.** 23 CFR 635.307 - Utility work is to be so coordinated with the construction contract that no unnecessary delay or cost for the physical construction will occur. The Utility Certificate demonstrates fulfillment of this requirement. Certificates are either Standard, Partial Limited, or Full Limited. Project eligibility and Utility Coordinator procedures are listed on the certificate itself. Only the Standard certificate is allowed to have exceptions.
27. **Utility Relocations.** 23 CFR 635.309(b) – Potential bidders must be notified about concurrent utility and railroad work. There must be reasonable clearance dates given in the special provision. **Whenever the utility relocations do not precede construction of the transportation project letting with exceptions for incomplete Utility coordination must be approved by the Managing Director of Project Delivery.** Contract Administration must issue a conditional authorization containing the following statement: “This project is being authorized without all utilities clear. This authorization is given with the understanding that federal-aid funds will not participate in additional costs, time extensions, or suspensions, which are necessitated by utility interference.” If a utility is to be reimbursed for their work, an executed agreement should be in hand. However, in some instances an agreement might not have been executed. In these cases, the utility company and INDOT should at a minimum formulate a plan for the adjustment of the facility. The project manager should be able to furnish appropriate information to make a determination on whether the project can be Let with Exception for incomplete utility coordination. This is not routinely approved on federal-aid contracts.
28. **Railroad.** 23 CFR 635.307 (a) & 23 CFR 646.216 (d) Where construction of a federal-aid project requires use of railroad properties or adjustment to railroad facilities, there shall be an agreement in writing between INDOT and the railroad company. This agreement is the result of coordination which is required if a project crosses or is adjacent to a railroad, and which potentially has an impact on the railroad facilities or operation. This includes roadway design features (e.g., roadway widening, earthwork) which obviously require work on railroad right-of-way, and not-so-obvious impacts (e.g., maintenance of traffic, contractor work activities during construction) which may impact the safe operations of the affected rail line.

Verify that the agreement exists and is signed by both entities when there is a railroad within the limits of the project. **When railroad coordination is underway, but a signed agreement is not available, letting with exceptions for incomplete Railroad coordination must be approved by the Managing Director of Project Delivery, and a USP is required.** Contract Administration must issue a conditional authorization containing the following statement: “This project is being authorized without a railroad agreement in effect. This authorization is given with the understanding that federal-aid funds will not participate in additional costs, time extensions, or suspensions, which are

necessitated by delay in execution of a railroad agreement.” No work can take place within the limits of the railroad property until such an agreement is in place. Conditional authorizations require appropriate stipulations in the contract documents indicating the status of the agreement and an anticipated date of execution.

**For LPA projects, letting with exceptions due to lack of signed Railroad Agreement is not allowed.**

23 CFR 646.105,.107 & .109 describe the requirements for liability, property damage, and protective insurance when work is performed within, on or about the railroad right-of-way. In general, where work is within 50’ of the railroad right-of-way the contractor will be required to obtain insurance. Verify that the requirement for insurance is contained in the contract documents.

29. **FAA.** Title 23. United States Code, Highways Section 318 (23 USC 318) requires coordination of airport and highway developments. Contact the Office of Aviation Program Manager with questions. 23 CFR 620.103 (c) states: “Federal-aid funds shall not participate in projects where substandard clearances are created or will continue to exist.”

The requirements for filing with the Federal Aviation Administration for proposed structures vary based on a number of factors: height, proximity to an airport, location, and frequencies emitted from the structure, etc. Required vertical clearances over highways are contained in Part 77 of the Federal Aviation Administration Regulations. Non-regulatory Supplement NS 23 CFR 620A suggests examination of any federal-aid project within 2 miles of an airport to determine if there is a possibility of a conflict or if coordination is required. However, in accordance with [14 CFR Part 77.9](#) coordination may be required as far as 20,000 ft (approx. 4 miles).

Contact the INDOT Office of Aviation Program Manager with questions. NEPA requirements will usually identify potential conflicts, but it does not guarantee the avoidance or resolution of conflicts.

## EXPERIMENTAL, WARRANTIES, INCENTIVE/DISINCENTIVE, STATE FURNISHED MATERIAL – Project Manager

30. **Experimental Features.** 23 CFR 625.3(f) (i) Experimental Features are designs that have prior limited application or for which the department has minimal experience in utilization. Including experimental features within a project requires that the state submit and obtain approval of an Experimental Features Work Plan. As necessary, verify this is complete by reviewing the FHWA approval letter for the Experimental Work Plan.
31. **Guarantees and Warranties.** 23 CFR 635.413 Guarantees and warranties – For projects on the NHS system, warranty provisions may only be included when:
- a. The warranty is for a specific construction item
  - b. The warranty does not impose an undue burden on the contractor
  - c. The warranty does not include items of maintenance that are not routinely eligible for federal funds
  - d. Use of the warranty is approved by either the State for State Oversight Projects or the FHWA for FHWA Oversight Projects, based on the above items a-c.

e. Warranty provisions included in the INDOT *Standard Specifications* have been approved by FHWA as part of the approval of the *Standards Specifications*. Warranty provisions for HMA or PCC pavements have been approved on a programmatic basis and require no further approval or attachments. Electrical and mechanical equipment can (1) have the manufacturer's normal warranties transferred to INDOT or (2) there can be a specification providing for the contractor's in-service operation for no longer than 6 months after project acceptance without an individual project warranty approval. For all other warranty provisions, approval must be provided by INDOT for State Oversight projects or the FHWA Transportation Engineer assigned to the district in which the project occurs. To obtain approval, submit the item description, warranty terms, and the reason a warranty is being required to the approving authority no later than Stage 3 design submittal. The approving authority will issue approval or denial in writing for inclusion in the project file. INDOT approval should be given by the appropriate office, such as the Director for Highway, Bridge, or Construction.

32. **Incentive/Disincentive Clauses.** 23 CFR 635.127 (d) Incentive/ Disincentive Clauses may be included in contracts to promote early project completion. Approval of the PS&E grants FHWA concurrence for the use of the incentive/disincentive. Incentive/disincentive amounts must be based on user costs and require a user cost analysis. Review the user cost analysis which is included in the PSE package submittal. Incentives & Disincentives are not the same as liquidated damages which are routinely assessed in accordance with the INDOT *Standard Specifications*. See the [Design Manual Editable Documents](#) webpage, under Traffic Maintenance, for a Determination of Incentive/Disincentive Amount worksheet.

33. **Furnished Materials.** 23 CFR 635.407(a) It is required that the contractor supply and be able to select materials for incorporation in the project. Review the contract special provisions to ensure that there are no requirements to use material furnished by the State or Local transportation department of from designated sources. Use of designated materials may be offered as an option to the contractor but not mandated without a Public Interest Finding (PIF). If the contract mandates use of designated materials, verify that a PIF has been approved by FHWA and is included in the PSE package.

NOTE: This is not a proprietary materials PIF, but rather a demonstration that the requirement to use specified materials benefits the public. Typical acceptable reasons documented in a PIF include the following:

- Cost savings,
- Time savings,
- Addressing an emergency safety concern, or
- Other actions to safeguard the public or the public's interest.

## FINAL TRACINGS – Project Manager

34. **Non-participating Items.** After coordination with District construction, non-participating items may have been added to the project. The Project manager should verify that any new items are appropriately denoted as either participating or non-participating. See item 11 for further information.

35. **Proprietary Materials.** After coordination with District construction, proprietary items may have been added to the project. The Project manager should verify that any new items are appropriately denoted as

either participating or non-participating. See item 12 for further information.

36. **Stage 3 Comment Resolution.** Stage 3 review comments and responses should be reviewed to confirm that Stage 3 review occurred and that all review issues have been resolved. If Stage 3 review comments are not included in the Final Tracings submittal, contact the designer and as necessary the INDOT Plan Reviewer listed at the end of the Plans section.
37. **Contract Completion Date.** District Construction will provide the calendar completion date. Enter the date in the Project Information section of the checklist. 23 CFR 635.121 INDOT should specify the amount of time required for the completion of the federal-aid contract in accordance with their approved procedures for determining contract time. Review the time set with the scope of the contract and verify that it is reasonable. Issues may arise on projects whose letting date has changed without an update of the Contract Information Book (CIB).

## CONTRACT – Contract Administration

38. **Non-competitive Procurement.** 23 CFR 635.204: A central tenet of the Federal-Aid Highway Program is open, free and fair competition for government contracts. In some instances, such as emergencies, it may be in the public's interest to utilize a non-competitive procurement process for construction work. When any other process is used, a Cost Effectiveness Finding must be made and approved by FHWA. Cost Effectiveness Findings are most common in emergency situations and where it can be demonstrated that State or Local forces can complete the work with their own staff in a more cost-effective manner. If the bidding process is not being used, verify that there is an approved Cost Effectiveness Finding for the construction work.
39. **Specified Language.** Self-explanatory. 23 CFR 633.102 & 633.103, FAPG 23 CFR 633A & 635A require the state to include the specified language. Review the RSP menu at phase I PSE review and the CIB at phase II PSE review to ensure the appropriate recurring special provisions are contained in the contract.
40. **DBE Goals.** 23 CFR 635.107, 49 CFR 21 & 26, 23 CFR 230. It is FHWA policy to promote increased participation of minority business enterprises in federal-aid highway contracts. The state is required to develop a plan to address increased participation. As part of the DBE Program, contract specific goals for DBE utilization are set based on the work available in the contract and the available supply of DBE firms to provide the work. Only in rare cases, where the work is limited to very few items or is considered specialty work for which DBE businesses are not available, a contract is let without a DBE goal. Review the proposal page of the CIB and record the DBE goal set for the contract on the checklist.
41. **Advertisement Period.** 23 CFR 635.112 (b) requires a minimum advertisement of 3 weeks for federal-aid construction contracts. Reduced advertisement periods can be approved by the FHWA after receipt of a request and justification for a reduced advertisement period. When such a request is made, the TE should review the work type and project scope to determine whether a reduced advertisement period will excessively limit competition. Additionally, severe reductions in the

advertisement period are undesirable as they limit the ability of contractors to become pre-qualified within the advertisement timeframe (23 CFR 635.110 (c)). The state should ensure shortened prequalification timeframes when less than a 3-week advertisement period is requested.

42. **Comment Resolution.** Self-explanatory.

43. **FMIS.** Self-explanatory