

FUNDING AUTHORIZATION OVERVIEW

Funding Authorization is how the Federal Highway Administration authorizes, or obligates, funds for the project. No work can occur before Funding Authorization occurs.

POLICY: NCDOT will not participate in any work that occurs before Funding Authorization is obtained.

Authorizations are broken into 3 phases. For the work associated with the project, it is important to have the correct authorization. **All funding authorizations must be confirmed in writing from the Project Manager.**

For work associated with:	Authorization Needed:
Planning, Environmental Documentation, survey, design	Preliminary Engineering
Right of Way Acquisition, Utility Relocation	Right of Way
Construction Activities (including advertising and letting a Construction Contract)	Construction

Funds must be authorized in the Fiscal Year in which they were programmed. If the schedule programmed into the TIP cannot be met, then the LGA must request an amendment to the TIP – see **STIP** section for more information.

Once funds have been authorized for a particular phase, it is important that the LGA use those funds in a timely manner. FHWA ties project inactivity to the failure to use funds within a certain time frame after authorization – see **Milestone Dates** for more information.

MATCH REQUIREMENTS

Federal funds are usually matched in an 80/20 split, so that 80% of the project costs are paid by federal funds, and 20% of the project costs are paid by a local match. Some programs waive the local match and will provide 100% federal or federal/state funds, so that there is no local match. The Agreement will state the funding source and what match is required, if any.

If costs of the project exceed the authorized federal funds plus the local match, then the Local Government Agency will be responsible for those additional costs.

IMPORTANT: State funds only – State funds must be authorized before Agreement is prepared and executed.

PRELIMINARY ENGINEERING AUTHORIZATION

Preliminary Engineering Authorization allows the LGA to be reimbursed for eligible planning, design and professional services costs. Authorization occurs only after a Project Agreement has been fully executed.

POLICY: The LGA shall not initiate any work, nor solicit for professional services, prior to receiving preliminary engineering authorization.

Preliminary Engineering Authorization allows you to be reimbursed for costs related to preconstruction activities, or Preliminary Engineering (PE). That includes planning, environmental documentation, design, surveys, in short, everything except purchase of **right of way**, **utility relocation**, and **construction** – these activities have separate authorizations.

After full execution of a Project Agreement, NCDOT will request authorization of preliminary engineering funds, if this is an eligible phase of work. Generally, NCDOT will set up 10% of the funding for preliminary engineering. PE may be adjusted after the review and approval of a consultant contract. PE expenses should be monitored so that it stays within this range; additional funds may not be available.

WORK PERFORMED BY NCDOT – if any reviews are done by NCDOT, the cost will be charged against the project, therefore, it is important to factor those costs into an overall budget.

PROCEDURE:

- NCDOT will submit the funding request to FHWA
- NCDOT will notify the LGA, *in writing*, when funding is authorized and expenses may be incurred.

IMPORTANT: Any costs incurred before preliminary engineering is authorized are not eligible for reimbursement.

PROFESSIONAL SERVICES

Professional Services provide technical expertise in the planning and design phase of a project. Specialists that may be engaged for the design of the project include architects, engineers, and landscape architects, among others.

POLICY: Requirements for Professional Services must be publicly announced, acquired on the basis of **qualifications**, and engaged at a fair and reasonable price. NCDOT must approve the award of a professional services contract or the use of in-house services by a LGA.

Only project-related activities that directly contribute to the planning, design, development, or implementation of the project are eligible for Federal participation. These include the following:

1. Preliminary Engineering – This includes conceptual plans, planning or environmental studies, preliminary design, final design, and all other related design work necessary to advance a project to physical construction. Examples include preparation of surveys, environmental documents, plans, specifications, and estimates.
2. Construction Engineering – This includes supervision and inspection of construction activities; additional staking functions considered necessary for effective control of the construction operations; testing materials incorporated into construction; checking shop drawings; and measurements needed for the preparation of pay estimates.
3. Right-of-Way Acquisition Services – This includes all work associated with acquisition of property interests needed for the project. Examples include preparation of right-of-way plats, appraisals for parcel acquisitions, review of appraisals, preparation for and trial of condemnation cases, and furnishing of relocation advisory assistance.
4. Other Services – For projects that do not result in physical construction, this includes activities that are necessary for the development or implementation of the project. Examples include developing or preparing safety programs, feasibility studies, conceptual studies, or other planning documents.

OUTSIDE CONSULTANT

If an LGA engages outside professionals in the planning, design and administration of the project, the LGA must follow state and federal regulation. All procurement is governed by The Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments (49 CFR 18). Specific guidance relating to procurement of specialized services is listed below—for all other procurement needs, adhere to the guidance in 49 CFR 18.

PROCEDURE:

- Announce all requirements for services – include scope of work and any technical qualifications by which firms will be judged.
- Include provisions for the utilization of **Small Professional Services Firms**.
- Select most qualified firm to undertake work and negotiate a price.

- Submit unexecuted contract to NCDOT for review and approval.
- NCDOT will limit reimbursement to an approved amount.

REFERENCES:

- 49 CFR 18.36(d)3(v) Procurement – Qualifications–Based Procurement
- 23 CFR 172 – Administration of Engineering and Design Related Service Contracts
- NCGS 143, Article 3D – Procurement of Architectural, Engineering and Surveying Services

IN-HOUSE STAFF

An LGA may choose to use qualified in-house staff to design the project. This is a reimbursable expense, but it will reduce the funding available for construction.

PROCEDURE:

- Submit a letter to NCDOT describing the proposed work and documentation showing staff qualifications, staff time, wage rates, and proposed equipment usage.
- NCDOT will respond in writing as to whether the decision to undertake this work in-house is acceptable.

SMALL PROFESSIONAL SERVICES FIRMS

The Small Professional Services Firm (SPSF) Program is a race, ethnicity, and gender neutral program designed to increase the availability of contracting opportunities for small businesses on federal, state or locally funded contracts.

SPSFs must meet size standards as determined by the Small Business Association (SBA).

POLICY: Provisions for the utilization of SPSFs must be included in the request for proposals or services that a LGA issues.

Although no goals are usually set for participation by SPSFs on a professional services contract, the LGA must include assurances in the proposed contract that encourages the use of SPSFs by a consultant.

PROCEDURE

- Include Special Provision (SP1G69) *Disadvantaged, Minority, Women Business Enterprises (Race And Gender Neutral) Professional Services Contracts Only*, as part of the professional services contract found at <http://www.ncdot.org/doh/preconstruct/ps/contracts/sp/2006sp/municipal.html> in the advertisement for proposals.
- SPSF firms are encouraged to be used and if everything is equal in the proposals, the team with SPSF participation should get preference

ENVIRONMENTAL DOCUMENTATION

An environmental document ensures that the project has been reviewed for potential impacts to the natural, cultural, and human environment.

POLICY: All federally-funded projects must be in compliance with the National Environmental Policy Act (NEPA), in order for construction funds to be authorized.

The National Environmental Policy Act, or NEPA, is applicable to all federally-funded projects. Many projects that are locally administered can often qualify for the lowest level of NEPA analysis, which is a programmatic Categorical Exclusion (CE). If more involved environmental documents are needed, they will be discussed when the agreement is being prepared.

PROCEDURE:

- During the Scoping Meeting, NCDOT will evaluate the project and determine the level of Environmental Documentation required.
- If the project qualifies for a Categorical Exclusion, then the Project LGA will submit the completed form to NCDOT for review and approval.

IMPORTANT: An approved Environmental Document is required before NCDOT can request construction authorization.

State-funded only projects have lesser requirements for environmental documentation – see State section for more information.

DESIGN – PLANS, SPECIFICATIONS & ENGINEER’S ESTIMATE

Design is the process of developing the plans and specifications from which the project will be constructed. Several different reviews may occur during the design phase.

POLICY: All projects on the NCDOT right of way must follow Departmental design standards. All projects off the NCDOT right of way may follow local standards, but will still be required to adhere to applicable federal design standards.

PROCEDURE:

Develop plans according to Departmental and other applicable design standards. Submit plans to NCDOT for review at the following stages:

- Preliminary Plans (design development)
- Intermediate Plans (60%-90%)
- Final Plans, Specifications, and Estimate

Remember, allow adequate time for review and approval

DESIGN STANDARDS (may not be inclusive)

- AASHTO (American Association of State Highway Transportation Officials)
- Americans with Disabilities Act (ADA) standards.
- Secretary of Interior’s Standards for Rehabilitation (Historic Properties)
- NCDOT’s Specifications Book
- NCDOT’s *Guidelines for Planting within Highway Right-of-Way*

ENGINEER’S ESTIMATE

The engineer's estimate should reflect the anticipated line item costs of the project in enough detail to permit an effective review and comparison of the bids received. The estimate can be based on historic data, actual cost or a combination of both. The estimate will be used to set goals for the participation of Minority Businesses and will be used as a baseline to compare bids received against it.

IMPORTANT: NCDOT must approve the final plans, specifications, and estimate before construction authorization can be issued.

ENCROACHMENT AGREEMENT

POLICY: An Encroachment Agreement executed between the LGA and NCDOT is required for all projects that encroach on the NCDOT Right of Way.

Projects may require an encroachment agreement with another entity depending upon the owner and the use agreement.

If your project encroaches on the NCDOT ROW, you will need to enter an encroachment agreement with NCDOT for the work.

The encroachment will address issues such as traffic control, landscaping requirements, and future maintenance.

PROCEDURE:

- Submit an encroachment application with a set of plans to your **District Engineer's Office**. Copy the Division Project Manager and the LPM Office on your submittal.
- Approval is a fully executed Encroachment Agreement executed between the LGA and NCDOT.

OTHER ENCROACHMENTS

An encroachment agreement may be required from other types of property holders – usually railroads, including those owned by NCDOT, require a separate encroachment agreement.

RIGHT OF WAY AUTHORIZATION

Right of Way Authorization is necessary for any Right of Way Acquisition or utility relocation. ROW Authorization occurs only after an Environmental Document has been approved.

POLICY: NCDOT will not participate in any right of way or utility costs that have been incurred before ROW funding authorization has been made. NCDOT will not participate in the costs of relocating municipally-owned utilities.

Right of Way Authorization is only necessary when NCDOT is participating in the costs of Right of Way Activities – Acquisition and/or Utility Relocation. Authorized funds may be used towards survey, appraisal, lawyer’s fees, and purchase of real property.

LGAs are solely responsible for relocating or improving utilities. The costs of utility relocation may be an eligible expense, in accordance with your Agreement. NCDOT will not participate in the costs of relocation or improvement of Municipally-owned utilities (usually water and sewer); however, adjusting manhole/water valves less than two feet may be reimbursable.

PROCEDURE:

- LGA submits Environmental Document, Estimated Cost for Right of Way, and Right of Way Acquisition Plan, which shows sufficient documentation of property (metes and bounds) to prepare a deed and record it.
- NCDOT will submit the Funding request to FHWA. NCDOT will provide notification when the funding is authorized and expenses may be incurred.

IMPORTANT: Any costs that are incurred related to right of way acquisition and/or utility relocation, before right of way funds are authorized, are not eligible for reimbursement.

RIGHT OF WAY

All projects must be accessible to the general public when completed. Sufficient public access may be guaranteed by public ownership or by a lease or easement document.

POLICY: All Right of Way must be acquired in accordance with the "Uniform Act" and the Federal Highway Administration must certify the Right of Way to ensure that acquisition procedures have been followed and that all property is publicly accessible.

PROCEDURE:

The LGA is responsible for ensuring that sufficient right of way exists for the project.

- If the project can be constructed within existing right of way/easements/property, proceed to Right of Way Certification.
 - If the project requires the acquisition of new right of way/easements/property, then you must adhere to specific federal guidelines.
- **ACQUISITION of NEW Right of Way and/or Easements**
If it is necessary to acquire right of way, the LGA must comply with the **Uniform Act: 49 CFR 24 - Uniform Relocation Assistance And Real Property Acquisition For Federal And Federally-Assisted Programs**. Most importantly, an owner must be notified that they are entitled to receive fair market value for their property and appraisals must be reviewed and approved by NCDOT.

IMPORTANT: See Authorization for information about obtaining right of way authorization if your acquisition will be reimbursed by NCDOT. If any of the above steps are taken prior to authorization, no reimbursement will be made.

- **LEASE**
A lease allows the use or occupation of a property for a specific length of time, usually in exchange for monetary value. If a project involves a building, it may require a lease from the Owner of the building to the LGA. It is important that lease agreements preserve the public access to the property and are commensurate with the Useful/Economic Life of the Project.

- **ENCROACHMENT – also see NCDOT Encroachment Agreement**
An encroachment agreement may be required when the project is located on someone else's right of way. NCDOT encroachments are discussed under DESIGN.

Railroads: If the project involves railroad right of way, there must be appropriate documents in place to allow access to the right of way for the period of useful life.

REFERENCES

Contact the Division Right of Way Agent for detailed instruction and assistance

RIGHT OF WAY CERTIFICATION

Right of Way Certification is the assurance from NCDOT to FHWA that Federal policies/regulations have been adhered to regarding the Right of Way Acquisition phase of the project.

POLICY: All projects must have ROW Certification before construction authorization can be released.

ROW Certification is issued by the Division Right of Way Agent for the county where the project is located, after receiving a request from the LGA accompanied by needed documentation – see Right of Way.

Projects are examined to determine whether new easements or property were acquired or whether the project is to be constructed within existing public right of way/property owned by the LGA.

There are four ways to prove existing public right of way limits

- Recorded right of way/deed/easement
- Recognition of right of way limits within a recorded deed/map of the subject property – the deed/map is specific to each property. That is, a right of way width on one property cannot be assumed by virtue of a deed/map on another.
- A survey which locates the property corners of the subject property – preferably by RLS
- Existing maintenance limits – if this is used on non-NCDOT roads, the LGA should furnish a letter on their letterhead, stating the ROW width claimed by them.

NOTE: On NCDOT roads, the NCDOT may be able to provide information to assist the LGA in determining the existing right of way limits. However, it is ultimately the responsibility of the LGA to locate/plot the existing public right of way along its proposed project.

PROCEDURE:

- Submit plan sheets showing the improvements along with the existing public right of way limits. **Existing public right of way should be verified prior to plan development.**
- If right of way was acquired, then LGA should also submit valuation evidence or copy of approved appraisal, copies of written offer communication.
- If right of way was donated, LGA should provide evidence of donor communication.
- The Right of Way Agent will issue a “Field Certification” if property acquisition procedures were followed correctly and documentation shows that the LGA has the right to construct the project on the property.

IMPORTANT: Right of Way Certification is required before NCDOT can request Construction Authorization.

BID DOCUMENTS

The Bid Document is prepared by the LGA in order to put the project out for bids. Several federal provisions must be included in the document in order for the project to be in compliance with federal regulations.

POLICY: Local Governmental Agencies may use their own Standard Provisions and Specifications, but **must** incorporate NCDOT's Special Provisions where applicable.

The LGA prepares a bid document that is used to bid out the project. Several federal provisions must be included in the bid document and it must be reviewed and approved by NCDOT **before** construction authorization is requested.

All federally-funded projects, regardless of type of work or location, require the inclusion of **FHWA 1273**, which is a compilation of required contract provisions for Federal-aid construction contracts. Not all requirements will apply to every project – check applicability notes.

Other Federal Provisions that may be required include Davis-Bacon Wage Rates, Buy America, and Equal Opportunity Provisions, among others. The NCDOT will assist in determining the correct specifications and provisions to include in the bid document.

PROCEDURE

- Access the NCDOT Specifications and Provisions page at http://www.ncdot.org/doh/preconstruct/ps/specifications/specifications_provisions.html and select "Municipal Projects." Incorporate relevant specifications and special provisions into contract manual.
- Submit contract documents to NCDOT for review and approval. Review can take up to 30 days.

REFERENCES

The Contract Standards and Development Unit will review the bid documents. Contact information can be found through the link above.

IMPORTANT: An approved bid document is required before NCDOT can request construction authorization.

CONSTRUCTION AUTHORIZATION

Construction funds are used to pay for the costs of construction activities, including construction administration and inspection. Construction authorization can only be requested after an environmental document is approved, right of way is certified, the final PS&E package is approved and bid documents are accepted by NCDOT.

POLICY: NCDOT will not reimburse any costs related to advertising and letting a construction contract prior to construction funds being authorized.

PROCEDURE:

- NCDOT will request construction funds to be authorized from FHWA
- NCDOT will notify the LGA and will provide a notice to proceed with procuring bids once construction funds have been authorized. The LGA may not advertise the construction contract until construction authorization is received (23 CFR 635.112).

IMPORTANT: If the LGA advertises for bids before construction is authorized, the work will not be eligible for reimbursement.