

1 Introduction

1.1 Background and Purpose

The Local Public Agency Policy Manual (LPA), Engineering Policy Guide (EPG) Section 136, produced by the Missouri Department of Transportation (MoDOT) is intended to be used as a guide for LPA's that sponsor projects utilizing federal transportation funds. An LPA is a city or county governmental entity sponsoring a federally funded transportation project.

This manual addresses nine local programs that are funded under the current transportation act:

1. [Highway Bridge Program \(BRO\)](#)
2. Highway Bridge Program (BRM)
3. [Surface Transportation Program \(STP\) Large Urban – Attributable](#)
4. Surface Transportation Program (STP) Small Urban – Non-Attributable
5. [Surface Transportation Program \(STP\) – Enhancement](#)
6. [Congestion Mitigation and Air Quality \(CMAQ\)](#)
7. [Safe Routes to School \(SRTS\)](#)
8. Scenic Byways
9. Earmarks / Discretionary (Federal Awards)

[Title 23](#) United States Code (U.S.C.) requires MoDOT to administer all funds apportioned and allocated to the state under the current transportation act. A transportation act is legislation that establishes or continues federal programs by defining the rules and regulations and establishing funding levels for the programs. Federal law directs that certain percentages of federal funding categories within the state's apportionment must be sub-allocated toward the Off-System Bridge Replacement and Rehabilitation (BRO), STP Large Urban – Attributable, STP-Enhancement, Congestion Mitigation and Air Quality (CMAQ) and Safe Routes to School (SRTS) programs.

Utilization of federal funds requires compliance with federal regulations and specific responsibilities for LPA's. The purpose of this manual is to document these regulations and responsibilities and provide a resource for LPA's.

1.2 Roles and Responsibilities (what to expect)

For projects administered by LPA officials, MoDOT will furnish information concerning the necessary federal requirements and will act as a coordinator. The necessary design, right of way acquisition, environmental, historical and archaeological clearances and approvals, construction and maintenance of improvements will be the responsibility of the LPA. A **MoDOT district representative** will be the primary contact, furnish the necessary guidelines and coordinate the necessary reviews and approvals. MoDOT personnel will advise and assist the LPA in meeting the requirements of the program. Additional information regarding federal requirements is available through the MoDOT district representative. [Link to contact info-Section 1.6]

Projects are performed under the terms of an agreement between the LPA and MoDOT (refer to **EPG 136.3 Federal Aid Basics**). Work on any part of the project cannot proceed until federal

funding has been approved (obligated) by the [Federal Highway Administration \(FHWA\)](#) and the LPA has been notified by MoDOT.

The federally funded transportation program is a **reimbursement program** in which the LPA is reimbursed minus its matching percentage after MoDOT receives proper proof of payment for work incurred to date. If funds are approved, they will be distributed through MoDOT to the LPA sponsoring the project. If a project is not completed per federal regulations, the LPA sponsoring the project will be required to repay MoDOT the lump sum of federal funds reimbursed to date.

When an LPA project uses federal funds for preliminary engineering or right-of-way acquisition, the project must advance to the construction phase within a specific period of time per the following federal regulations:

Preliminary Engineering – In the event that right-of-way acquisition or construction is not started by the close of the tenth fiscal year following the fiscal year in which the preliminary engineering is authorized by FHWA, the LPA will be required to repay to MoDOT the sum of federal funds reimbursed to date. The LPA may request a time extension beyond the 10-year limit.

Right-of-Way Acquisition – In the event that construction is not started by the close of the twentieth fiscal year following the fiscal year in which the right-of-way acquisition is authorized by FHWA, the LPA will be required to repay to MoDOT the sum of federal funds reimbursed to date. The LPA may request a time extension beyond the 20-year limit.

Items eligible for federal participation include preliminary engineering, surveys, public hearings, environmental and historical documentation, right of way, project advertising costs, construction, construction engineering, beautification, traffic control devices, and those portions of utility relocation costs for which the LPA is responsible. Incidental costs will not be eligible for federal reimbursement.

When an LPA project uses federal funds on any portion of the project, all realty rights must be acquired in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act). Regardless of whether federal funds are available at the time of acquisition, LPA's are strongly encouraged to comply with the Uniform Act of the Code of Federal Regulations when acquiring realty rights (right of way), easement access, or other real property. If the realty rights were acquired more than 5 years prior to the first request for federal funds, the LPA shall submit a statement certifying that no new realty rights are needed and the dates the existing realty rights were acquired. If the realty rights were acquired less than 5 years prior to the first request for federal funds, the acquisition must have occurred within the parameters of the Uniform Act in order for any portion of the project to receive federal funds.

1.2.1 Person of Responsible Charge - The key regulatory provision, [23 CFR 635.105](#) – Supervising Agency provides that the State Transportation Agency (MoDOT) is ultimately responsible for construction of federally funded projects, whether the work is performed by MoDOT or the LPA. The regulation provides that MoDOT and LPA must provide a full time employee to be in “responsible charge” of the project.

1.2.1.1 Requirements - For locally administered projects, the regulation requires that the person in “responsible charge” be a full time employee of the LPA. The regulation is silent about engineering credentials. Thus, the person in “responsible charge” of LPA administered projects need not be an engineer. This requirement applies even when consultants are providing construction engineering services. A consultant cannot be the person of responsible charge.

1.2.1.2 Duties - Regardless of whether the project is administered by MoDOT or the LPA, the person designated as being in "responsible charge" is expected to be a public employee who is accountable for a project. This person should be expected to be able to perform the following duties and functions:

- Administer inherently governmental project activities, including those dealing with cost, time, adherence to contract requirements, construction quality and scope of Federal-aid projects;
- Maintain familiarity of day to day project operations, including project safety issues;
- Make or participate in decisions about changed conditions or scope changes that require change orders or supplemental agreements;
- Visit and review the project on a frequency that is commensurate with the magnitude and complexity of the project;
- Review financial processes, transactions and documentation to ensure that safeguards are in place to minimize fraud, waste, and abuse; and
- Direct project staff, agency or consultant, to carry out project administration and contract oversight, including proper documentation.
- Be aware of the qualifications, assignments and on-the-job performance of the agency and consultant staff at all stages of the project.

The regulations do not restrict an agency’s organizational authority over the person designated in “responsible charge," and the regulations do not preclude sharing of these duties and functions among a number of public agency employees. The regulations also do not preclude one employee from having responsible charge of several projects and directing project managers assigned to specific projects.

1.2.2 Project Sponsor Eligibility - Federal funds are provided to local governmental entities (cities and counties) for public transportation improvements. Not-for-profit entities must partner with a city or county to be considered an eligible project sponsor. Project sponsor eligibility for the Safe Routes to School (SRTS) Program is expanded to include school districts and other public entities. For more information please see the [Administrative Guidelines for Safe Routes to School](#) or contact the Missouri SRTS Coordinator at [HOT LINK TO SRTS WEBPAGE](#)

1.2.3 Inventory - MoDOT partners with LPA's to compile and submit an annual inventory of all bridges and federal-aid highways in the state to FHWA. Failure to comply with the requirements of inventory and inspection by an LPA will jeopardize their eligibility to participate in the programs within this manual.

1.2.3.1 Bridge Inventory and Inspection - FHWA requires all bridges on public roads to be inventoried and inspected in accordance with the National Bridge Inspection Standards (NBIS). FHWA holds MoDOT responsible for collecting and submitting the bridge inventory data for all bridges within the state. The bridge inventory is utilized when allocating the Highway Bridge Program (BRO) funds to each county. As a condition of receiving federal funds on a bridge project, the LPA is required to cooperate with MoDOT and comply with the inventory and inspection requirements as specified in **EPG 753 Bridge Inspection Rating**.

1.2.3.2 Roadway Inventory - MoDOT will request the necessary information from the LPA for all federal-aid routes under their jurisdiction. Information requested includes mileage by surface type, surface width, number of lanes and traffic volume category. The information should include the submission of a system map (two copies) along with comments on the system from an area wide planning agency. If the LPA population is more than 50,000, the LPA is required to submit three copies.

1.3 Key Steps of a Typical Federally Funded Project

Fig. 136.1.10, Project Flowchart for Local Federal-Aid Projects

1.3.1 Conceptual Design

1. The LPA selects project. If the project involves a bridge, the bridge must meet the criteria discussed in **EPG 136.3** Federal Aid Basics. If the LPA is in a Metropolitan Planning Organization (**MPO**), the LPA must also ensure the project is on the current Transportation Improvement Program (TIP).
2. The LPA submits to MoDOT the programming information for the selected project. This includes the Programming Data form and project location map.
3. MoDOT will notify the LPA regarding project eligibility and if an environmental document is required.
4. If the LPA does not have the professional staff to perform the design and environmental work, the LPA will use the QBS process to select a consultant and negotiate a contract. Refer to **EPG 136.4 Consultant Contracts** for solicitation and selection procedures.

5. MoDOT will review and approve the consultant contract.
6. The MoDOT district office will coordinate with the LPA in completing an LPA/MHTC Program Agreement.
7. MoDOT requests federal funding for project. Upon approval by FHWA, MoDOT authorizes the LPA to begin preliminary engineering.
8. The LPA prepares the environmental document as directed in Step 3, above, and discussed in detail in **EPG 136.6 Environmental and Cultural Requirements**. The LPA is responsible for compliance with all applicable federal and state environmental laws and regulations; EPG 136.4 Environmental and Cultural Requirements contain guidance to aid the LPA in achieving such compliance.

No work is to be initiated on any part of the project until federal funding has been approved (obligated) by FHWA and the LPA has been notified by MoDOT to proceed.

1.3.2 Preliminary and Final Design

1. The LPA prepares preliminary plans for MoDOT district review. The LPA prepares right of way plans for certification and review by MoDOT. LPA requests right of way purchasing authorization prior to acquisition. Purchases made prior to authorized approval by FHWA will not be eligible for federal participation
2. The LPA coordinates with local utility companies regarding any utility conflicts within the project limits. If federal funds are to be used to complete utility adjustments, the LPA should submit a utility agreement to MoDOT.
3. The LPA acquires the necessary right of way for the project and requests right of way clearance through MoDOT in accordance with **EPG 136.8 Local Public Agency Land Acquisition**.
4. The LPA submits plans, specifications, and estimates (PS&E) to MoDOT for review. Submittals must include all commitments identified in environmental documents. Once PS&E documents have been reviewed and modifications completed, MoDOT will request an obligation of construction funds from FHWA.

No work is to be initiated on any part of the project until federal funding has been approved (obligated) by FHWA and the LPA has been notified by MoDOT to proceed.

1.3.3 Contract Letting and Construction

1. Once FHWA approves the obligation of construction funds, MoDOT will notify the LPA to advertise for bids. If all work is to be done by local forces and approved by MoDOT, skip to item 19, below. Also, please refer to **EPG 136.3** Federal Aid Basics for more

details on work performed by local forces.

2. The LPA must advertise for bid a minimum of 21 calendar days prior to letting.
3. The LPA opens the bids, recommends award of the contract. At this time the successful bidder has three days to fill out information on DBE sub-contractors and return it to the LPA. The LPA must disqualify the bidder if DBE information is not returned within three business days.
4. The LPA submits bid tabs and all supporting documentation to MoDOT for concurrence. MoDOT will notify the LPA of their concurrence in the award of the bid and that the contract may be executed.
5. The LPA will execute the contract with the successful bidder and submit a copy of the executed contract to MoDOT. MoDOT will review the executed contract with the required documents and notify the LPA that they may issue a notice to proceed. The LPA will issue a notice to proceed to the contractor.
6. Construction begins. The LPA submits progress reports, conducts wage rate interviews, assures that construction is inspected for compliance with specifications, and ensures EEO compliance.
7. If construction changes are needed, the LPA determines the level of the change order and submits as needed to MoDOT. After the final change order, additional funding may be requested to cover change orders if funds are available.
8. The LPA maintains necessary documentation of quantities placed in support of quantities paid.
9. Once construction is complete, the LPA notifies MoDOT's district representative to coordinate the final inspection. The LPA submits the final inspection report.
10. The LPA submits all applicable final documentation to MoDOT including a final invoice for all project costs involving preliminary engineering, construction engineering services, right of way, utility adjustments and construction costs.
11. MoDOT audits the project as necessary and requests final adjustments from FHWA.

12. The LPA is responsible for implementing all commitments identified in the environmental documents.

1.4 Flow Charts / Checklists / Figures / Forms

Flow charts, checklists, figures and forms are available at [EPG 136.12](#),

1.5 Manual Maintenance and Updates

MoDOT has established a Statewide LPA Manual Revision Team that is responsible for maintaining and updating the LPA Manual to ensure compliance with federal laws & regulations, current processes & procedures, best practices, etc. This section of the LPA Manual describes the process that will be followed for implementing changes and updates to the manual.

The process for updating the LPA Manual is intended to be flexible enough to immediately accommodate changes in laws, rules or regulations when required, but yet stable enough that policy; procedural or grammatical changes are implemented on a known, periodic basis.

In order to accomplish this goal changes to the LPA Manual will be implemented in two forms. First, changes that require immediate implementation for the program to remain in compliance with federal laws and regulations will be issued in the form of an LPA Manual Bulletin. Second, less critical changes will be implemented twice per calendar year. These semi-annual manual updates will also incorporate any bulletins that have been issued in the previous six months.

1.5.1 Bulletins - LPA Manual Bulletins are created to disseminate policy and procedural changes that require immediate implementation and covers items that are of great importance. Guidance provided in Bulletins will supersede specific policy, procedures, guidance or standard forms included in the LPA Manual. The Bulletin will include a description of the specific sections of the LPA Manual that are being revised as well as the revised information that will be substituted in its place.

Users of this manual should be sure to review the list of active Bulletins included on the LPA Website prior to referencing the LPA Manual to make sure they have the latest information. The LPA Website also includes an electronic version of the LPA Manual that incorporates all active Bulletins into the manual.

LPA's and consultants may sign up at [HOT LINK](#) to receive e-mail updates on any new published bulletins.

1.5.2 Semi-annual Updates - The Statewide LPA Manual Advisory Team will update the LPA Manual two times per calendar year. These semi-annual manual updates will also incorporate any active bulletins that have been issued in the previous six months.

The manual update will include a cover memo that will give details about which pages, sections, etc., are being added, deleted or modified. The memo will also describe the active Bulletins that are being incorporated into the manual.

1.5.3 Providing Input for Future Changes - MoDOT invites comments and suggestions for improvements to the LPA Manual. Please direct comments for consideration to E-Mail address.

An on-line suggestions/feedback forum is also available at web address.

1.5.4 Notification of Changes - Users of the LPA Manual can subscribe to the Users and Stakeholders list by completing the contact information form located at web address. Once registered on this list you will receive announcements and alerts when Bulletins or manual updates are issued.

1.6 Contact Information

A [MoDOT district representative](#) will be the primary contact, furnish the necessary guidelines and coordinate the necessary reviews and approvals. MoDOT personnel will advise and assist the LPA in meeting the requirements of the program. Additional information regarding MoDOT's district representatives is available at <http://contribute.modot.mo.gov/business/manuals/LPAcontacts.htm>