



125 EAST 11TH STREET, AUSTIN, TEXAS 78701-2483 | 512.463.8588 | WWW.TXDOT.GOV

November 30, 2017

Mr. Al Alonzi
Texas Division Administrator
Federal Highways Administration
300 East 8th Street, Room 826
Austin, TX 78701

Subject: FY 2017 Annual Report – Local Government Projects Program (Local Public Agencies)

Dear Mr. Alonzi,

TxDOT is pleased to submit the “FY 2017 Annual Report – Local Government Projects Program (Local Public Agencies).” Five original copies of the report are enclosed. This report has been prepared to fulfil requirements in the “Stewardship and Oversight Agreement on Project Assumption and Program Oversight by and between Federal Highway Administration, Texas Division and the State of Texas Department of Transportation,” dated Dec. 8, 2015.

Please let me know if you, or members of your staff, have any questions or need additional information.

Sincerely,

David M.Y. Millikan, P.E.
Director, Local Government Projects
Transportation Programs

CC: Mr. Greg Punske, FHWA
Mr. Carl Highsmith, FHWA
Ms. Bindu Johnson, FHWA
Mr. Clarence Rumancik, FHWA
Mr. Marc D. Williams
Mr. William L. Hale
Mr. Brian Barth
Mr. Randy C. Hopmann
Mr. Lauren D, Garduno
Mr. Peter Smith
Mr. Jerry Haddican
Mr. Jesus “Chuy” Gonzalez

OUR VALUES: *People • Accountability • Trust • Honesty*

OUR MISSION: *Through collaboration and leadership, we deliver a safe, reliable, and integrated transportation system that enables the movement of people and goods.*

An Equal Opportunity Employer



FY 2017 Annual Report to FHWA-Texas

Local Government Projects Program (Local Public Agencies)

November 30, 2017

Local Government Projects Section
Transportation Planning & Programming Division

Introduction

This report has been prepared to fulfil requirements in the “Stewardship and Oversight Agreement on Project Assumption and Program Oversight by and between Federal Highway Administration, Texas Division and the State of Texas Department of Transportation,” dated Dec. 8, 2015. Federal government laws, rules and regulations refer to local government entities as local public agencies (LPAs). TxDOT refers to LPAs as local governments (LGs) since the state of Texas laws related to LG entities are codified in the Texas Local Government Code. For the purpose of this report, the use of LGs is to be considered interchangeable with LPAs. TxDOT defines a LG project as a transportation project for which at least one phase of project development (environmental, design, right of way, utility relocation or construction) or the program is managed by a LG entity and is reimbursed with FHWA or TxDOT funds. Even though projects being reimbursed with FHWA or TxDOT funds are considered LG projects by TxDOT, only projects that include reimbursement with FHWA funds are included in this report.

- At the start of TxDOT’s fiscal year 2017 (Sept. 1, 2016), 656 LG projects with total funding in the amount \$3.83 billion were identified in TxDOT’s list of active LG projects with federal funds. The total amount of federal funds committed to these projects was \$1.93 billion (51.5 percent).
- At the start of FY 2018 (Sept. 1, 2017), 678 active LG projects with total funding in the amount of \$4.55 billion were identified. The total amount of federal funds committed to these projects was \$2.44 billion (53.6 percent).
- Entering FY 2017, 56 projects with federal funds were scheduled for letting by LGs during FY 2017 with estimated total funding of \$129 million. LGs actually let 46 projects (82%) with federal funds in FY 2017 and awarded 42 (75%) of those projects totalling \$173 million in construction cost. During FY 2017, TxDOT provided concurrence-in-award on 57 LG-let projects totalling \$215 million in construction cost (28 of those projects were actually let in late FY 2016 and received TxDOT concurrence in early FY 2017).
- During FY 2016, LGs were reimbursed approximately \$161 million in FHWA funds on highway planning and construction projects.

In accordance with federal regulations, TxDOT is ultimately responsible for LG compliance with applicable federal laws, rules and regulations on LG projects. FHWA issues a Federal Project Authorization Agreement (FPAA) for each project to TxDOT. TxDOT has a funding agreement with a LG for each project. FHWA has no agreement with each LG. Therefore, FHWA holds TxDOT accountable for LG compliance with all applicable federal regulations.

FY 2016 LG Activities

The following paragraphs of this document report TxDOT's LG Project Program activities during TxDOT's FY 2017 (September 2016-August 2017).

- Training of LG and TxDOT personnel administering LG projects:

During FY 2016, TxDOT provided 33 Local Government Project Procedures (LGPP) classes in 15 districts with 574 students (129 TxDOT employees, 258 LG employees, 184 LG consultant employees, 2 FHWA employees, and one future course instructor). At the end of FY 2017, there were 1,146 qualified persons (TxDOT) and 2,345 (other agency and consultant) qualified persons. Since July 1, 2016, qualified persons are required to re-take the 12-hour LGPP training class and pass the exam at least once every three years to remain qualified. Anyone qualified prior to July 1, 2016 has until July 1, 2019 to re-take the class to remain qualified for an additional three years.

During FY 2017, additional training for LG project personnel has been developed by the following TxDOT divisions:

Civil Rights Division – full-day workshop for LG entity contract administration personnel in the areas of Title VI and DBE compliance. The initial workshop was held in the Austin area on November 17, 2017. Additional workshops will be held at additional locations during FY 2018.

Environmental Affairs Division – half-day training class for NEPA document preparation for LG entity and consultant personnel. The initial classes are scheduled to be held in multiple locations throughout the state starting in January 2018.

- TxDOT's verification process that LGs have adequate project delivery systems and sufficient accounting controls to properly manage federal-aid funds:

Effective Aug. 1, 2016, prior to submitting a draft funding agreement to TxDOT's Contract Services Division for legal review and approval, district personnel must complete a LG Risk Assessment, a Special Approval form, and submit a recommendation to the deputy executive director for approval. This Special Approval form includes obtaining a qualifications statement from the LG for the proposed project and the district's completion of an evaluation of the LG's capabilities to manage one or more elements of project delivery. It also includes a commitment from the TxDOT district to provide a specified minimum level of oversight for the LG performed project elements. As part of this procedure:

For entities that have previously submitted a single audit to TxDOT, the department's External Audit section furnishes a summary of relevant findings or observations to the district for use during its evaluation of the LG's qualifications.

Entities that have not previously submitted a single audit to TxDOT are required to submit an audited financial statement to the district as part of their qualifications statement for district review during its evaluation of the LG's qualifications.

The review of the single audit or an audited financial statement for the LG and TxDOT's completion of the evaluation portion of the Special Approval form are TxDOT's procedure to determine if the LG has adequate project delivery systems and sufficient accounting controls to properly manage federal-aid funds. LG Risk Assessments are required to be updated either once per year or once every two years depending upon the rating score on their most recent previous Risk Assessment. All existing projects are required to have a Project Update form completed within 90 days after an entity's Risk Assessment is created or updated. The Project Update form evaluates the LG's project performance to-date and commits the district to providing a certain minimum level of oversight for the future.

As of August 31, 2017, TxDOT has completed Risk Assessments for 145 local government entities and has Special Approval forms or Project Update forms for 318 individual projects for these entities. Copies of the standard forms are included in the Appendix.

- TxDOT's oversight structure, resources and program elements that provide effective oversight of LG projects

Predominantly, TxDOT assigns responsibility to oversee LG projects to the district where the project is located. In some instances, a division is assigned this responsibility for overseeing the LG subrecipient. Based upon the quantity of LG projects and other demands on district/division resources, each district/division assigns personnel to oversee the LG project activities. In many districts, the environmental, right-of-way, design and letting activities are overseen by personnel within the Transportation Planning and Development Office and the construction phase of the LG project is monitored by Area Office or District Construction Office personnel. In a few districts, dedicated district resources have been established to oversee and monitor the LG project throughout the project development life cycle. In divisions, LG projects are predominantly managed by the same group throughout the duration of the project.

In 2012, TxDOT established a Local Government Projects (LGP) Office to dedicate additional resources to oversight of LG projects. In the Department reorganization

in February 2016, LGP became a section within the Transportation Planning and Programming Division. The responsibilities of the LGP are to:

- develop policy and standardized LG project processes;
- provide training to TxDOT and LG personnel;
- provide guidance, advice and support to districts;
- monitor district performance of overseeing LGs; and
- serve as the primary point of contact with FHWA on LG projects.

LGP personnel co-teach the training classes, provide direct support to the districts/divisions managing LG projects, and make regular visits to district/area offices and project worksites to observe project activities, records and documentation. Throughout FY 2017, every district was visited at least once. Districts with a significant number of LG projects were visited by LGP personnel 10 or more times during the fiscal year. LGP personnel made more than 100 district visits throughout FY 2017.

In June 2015, TxDOT released its LG Online Toolkit that includes the following:

- Interactive website (<http://www.txdot.gov/government/processes-procedures/lgp-toolkit.html>)
- User-friendly, project development process-based format that leads the user to requirements and guidance for each phase within the project development process.



- Links to training resources and the documents below.



- Local Government Projects Policy Manual
 - General discussion of each phase of the project development process.
 - Itemized listing of applicable federal and state laws and regulations.
 - Links to federal and state laws and regulations.
- Local Government Project Management Guide
 - Discussion of required practices for each phase of the project development process.
 - Definition of LG responsibilities for each phase.
 - Definition of TxDOT responsibilities for each phase.
 - Links to internal and external websites (including FHWA Federal-aid Essentials).
- Links to internal and external manuals
- Local Government Best Practices Workbook
 - Project specific workbook to be completed by project personnel.
 - Links to internal and external forms and tools.

- Each document has links to other documents and additional resources. Use of the Toolkit is integrated within and provides the curriculum for the LGPP training class.

Effective Aug. 1, 2016, the LG Risk Assessment process described above was implemented to ensure a uniform, consistent procedure is in place to properly evaluate LG capabilities prior to execution of funding agreements and to establish minimum levels of TxDOT oversight of subrecipient performance throughout the project development process. The Risk Assessment Guidance document and forms are available online (<http://www.txdot.gov/government/programs/local-government-projects.html>).

- Quality control performed by TxDOT in its day-to-day oversight of LG projects to assure they comply with the following requirements

As discussed above, district/division personnel perform direct oversight of LG performance on active projects through site visits, meetings with LG personnel, review and approval of LG reimbursement requests, review of LG project records and documentation, and project acceptance/close-out. District/division personnel also reach out to receive technical expertise from TxDOT division personnel in the areas of roadway and bridge design, traffic operations and intelligent transportation system (ITS), environmental, transportation, construction, transportation planning, funding, safety, rail, aviation and other areas when the need arises. A summary of the quality control activities included within the LG Online Toolkit and documents that are implemented on projects by TxDOT personnel are as follows:

- Applicable environmental requirements

The district environmental coordinator is the primary point of contact on LG-performed environmental activities. The LG and TxDOT work collaboratively to develop a project scope that defines a mutual understanding of:

- applicable requirements;
- expectations for completed environmental work; and
- plan and schedule for addressing environmental requirements.

Environmental concerns need to be identified early in the project so that any mitigation may be addressed in the environmental document and permits as well as accurately reflected in the design documents using the Environmental Permits, Issues and Commitments (EPIC) sheet. These may include: sole source aquifer coordination; wetland permits; storm water permits; traffic noise abatement; threatened or

endangered species coordination; archaeological permits; and any mitigation or other environmental commitments.

Prior to obtaining the FPAA for construction from FHWA or TxDOT issuing the State Letter of Authority (SLOA) to the LG, Environmental Affairs Division staff verify the appropriate environmental document has been approved, and district staff review and approve the construction plans and specifications (including the EPIC sheet). Prior to approving significant change orders, the district checks the environmental document to ensure the changed work is part of the approved environmental document.

As part of its monitoring of the LG performance during construction site visits, TxDOT reviews LG documentation of maintenance of storm water pollution prevention plans and implementation of items identified on the EPIC sheet, including monitoring compliance during the project and for a defined period of time after construction completion (if required).

- Uniform Act for right-of-way acquisitions and relocations

Projects may involve the use of local, state or federal funds for the purchase of right of way and may be subject to the requirements of Title II and Title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, and amendments thereto. Even projects entirely locally funded require TxDOT oversight if the project impacts the State Highway System. The completion of the Environmental Compliance phase and the subsequent issuances of the FPAA for right of way by FHWA and the second SLOA by TxDOT allow the LG to proceed with right-of-way acquisition or utility accommodations. During FY 2016, TxDOT transferred many right-of-way personnel from the Right of Way Division to the districts. These personnel are responsible to ensure the LG uses TxDOT's procurement process, policies and forms to acquire title to the property and complies with the requirements of the federal and state funding program that is the source of the funds. Prior to issuance of the SLOA for construction, district personnel review LG right-of-way acquisition and relocation documentation, receive right-of-way certification from the LG indicating if all right of way is clear or not clear, verify compliance with relocation assistance requirements, and the status of utility accommodations/relocations.

- Applicable federal consultant and contractor selection procedures

For all projects with state or federal funds, and all projects on the state highway system, the district performs the following.

- Review the LG's professional services provider selection process. The district contacts TxDOT's Professional Engineering Procurement Services (PEPS) Division or LGP for assistance as needed. During this review, the TxDOT district submits the proposed scope of services to the Civil Rights Division in order for a Disadvantaged Business Enterprise goal to be assigned. The TxDOT district grants approval of the proposed procurement process if it complies with applicable federal and state rules and regulations.
- Review proposed agreements between the LG and the professional services provider. This may include providing the agreement to the Civil Rights Division for review for confirmation the required language from Title VI of the Civil Rights Act of 1964 is included. TxDOT grants approval of the proposed agreements if the approved procedures in the consultant selection process were followed and required federal and state requirements are included in the agreement.

During FY 2017, LGP and PEPS conducted half-day workshops for LG subrecipients in the Laredo District and also in the Pharr District to present details on acceptable practices for professional services provider selection.

- Designed in accordance with applicable federal and state design criteria and standards

TxDOT oversight during preliminary engineering and plans, specifications and estimates (PS&E) development includes verification that the design criteria selected by the LG follows federal and state guidelines when state or federal funds are used or if the project is on the State Highway System. For all projects where TxDOT will review and approve the final PS&E, the districts review and approve the plans to assure the plans either meet the required criteria or have an approved exception. During the design process, district/division personnel review the progress drawings prepared by the LG or its consultant to assure the following areas comply with applicable federal and state design criteria and standards: level of service; hydraulics; longitudinal barriers; pavement; road closure/detours; specifications/special provisions; traffic engineering; illumination/electrical; ITS; pavement

markings; railroad crossings; signing and signals; design speed; temporary and permanent traffic control; bridges and structures; etc. These interim reviews of the LG-produced plans and specifications and final approval of the bid documents occur prior to TxDOT requesting issuance of a FPAA for construction from FHWA and prior to TxDOT issuance of a SLOA for the LG to advertise the project for bids.

- Received adequate inspection to ensure they were completed in conformance with approved plans and specifications

District personnel provide periodic site visits by Area Office, District Construction Office or dedicated LG project personnel during the construction phase. The frequency of visits can vary based upon the level of activity on the LG project site at various stages of construction. As part of the new LG Risk Assessment process, the district commits to a certain minimum level of oversight during the construction phase as indicated in the following chart.

TxDOT District Oversight Activity ¹	Minimum Frequency ²		
	Level of Oversight		
	1	2	3
LG submit and TxDOT review project reports	Quarterly	Monthly	Monthly
TxDOT host project review/coordination meetings with LG	Quarterly	Monthly	Semi-monthly
TxDOT conduct worksite/project site visits	Annually ³	Monthly	Weekly
TxDOT review LG project documentation/records	Annually ³	Monthly	Monthly
LG submit and TxDOT review and approve reimbursement requests	Monthly	Monthly	Monthly

¹ Refer to TxDOT LG Project Management Guide for additional detail on oversight activities

² Greater frequency may be at District discretion

³ Minimum of two times

District personnel document their site visits in their daily diary or in project records. Personnel from LGP provide support to districts in this activity by making periodic district visits including accompanying district personnel to project sites during the construction phase.

- Performed proper contract administration to comply with applicable federal and state rules, requirements and regulations

District personnel review some LG contract administration documentation on a monthly basis along with review and approval of reimbursement requests. The specific items reviewed each month vary by district and by type of project. Additional documentation is reviewed at key stages of the project development process. The new LG Risk

Assessment process also includes a commitment by the district engineer for personnel to perform a minimum level of oversight (including review of project documentation) as indicated in the table above. The culmination of these reviews is the audit of project records upon completion of the project prior to TxDOT payment of the final reimbursement request to the LG. Personnel from LGP also provide support to districts in this activity by spot-checking project documentation and accompanying district personnel on reviews of project records during the construction phase.

- Quality Assurance performed through development and implementation of a risk-based audit program for LG projects

The Internal Audit Division of TxDOT conducts independent appraisals and reports on internal TxDOT operations and procedures that are guided by a philosophy of adding value to improve the operations of TxDOT. The division employs a systematic and disciplined approach to evaluate and improve the effectiveness of TxDOT's risk management, control and governance processes. Each fiscal year, a department-wide audit plan is prepared based upon perceived risk to the department. In FY 2015, Internal Audit conducted an audit of the local letting process within TxDOT, including TxDOT oversight of federally funded projects being let by LGs. This audit was published in August 2015 and addressed the following LG project process items:

- organizational tone;
- policies/procedure development and maintenance;
- supporting evidence/records availability;
- segregation of duties;
- safeguarding assets; and
- information processing.

All items received a “satisfactory” rating. In addition, the summary assessment for the LG-letting process was “satisfactory.”

In FY 2016, the state of Texas hired an independent firm to perform an audit of multiple state agencies, including TxDOT, for FY 2015. The audit included many areas within the FHWA “highway planning and construction cluster.” The audit issued a finding of “significant deficiency and non-compliance” in the area of “subrecipient monitoring” and provided four recommendations which were listed in last year’s version of this report. As this FY 2017 report is being written, the independent firm is performing its follow-up audit of the previously issued findings. TxDOT has provided documentation to the auditors demonstrating the actions taken to achieve full compliance and anticipate that upon completion of

the follow up audit, the FY 2015 State Agency Audit findings will be considered closed.

During federal planning year 2016 (June 1, 2015 through May 31, 2016), FHWA's nationwide Compliance Assessment Program (CAP) was focused on local public agency projects. The purpose of the CAP was to help provide reasonable assurance that Federal-aid Highway construction projects performed by LG subrecipients are in compliance with key Federal requirements. As part of this effort, FHWA-Texas completed field and desk reviews of 31 LG projects throughout the state of Texas. The final report was issued by FHWA-Texas in December 2016 (within TxDOT's FY 2017).

The conclusion of the report states:

“FHWA found that Local Public Agency construction projects were delivered with acceptable quality and conformance with the Federal requirements and State policies. Our findings in few areas were isolated occurrences; however, there are several areas within the Federal-aid program that requires improvement to reach full compliance in key Federal requirements.”

A summarization of other items in the CAP report follows:

Zero findings were discovered when assessing compliance with the 7 key Federal requirements related to financial integrity. Review for compliance with the Core requirements and the Contract Administration requirements showed high level of compliance in 11 of the 21 key Federal requirements. The following 10 areas were found to have compliance levels at or below 90% and identified as needing improvement:

- ROW/Utility/Railroad Certifications (10%)
- Subcontract Authorization (42%)
- Disadvantaged Business Enterprise (DBE) Approval (71%)
- Change Order Documentation (74%)
- Buy America Compliance (77%)
- Work Quantities (77%)
- Erosion and Sediment Control (84%)
- Cost Estimate Documentation (90%)
- Bid Evaluation (90%)
- Time Extension Justification (90%)

In addition to the 28 key Federal requirements evaluated on a nationwide basis, FHWA-Texas evaluated for compliance with 23 CFR 630.1010 for documenting if a project is determined to be significant. Documented compliance with this requirement was found in 61% of the projects. The nationwide evaluation item related to this (having the appropriate Transportation Management Plan in the project plan set) was found to be compliant in 97% of the projects.

TxDOT has currently or has previously initiated process improvements related to each of these areas identified as needing improvement. All 31 of the projects reviewed received its FPAA for construction prior to March 31, 2015. Since that time, TxDOT has initiated the following:

- June 2015 – Release of LG Projects Online Toolkit
 - Frequently Used Forms and Documents
 - Project Policy Manual
 - Project Management Guide
 - Best Practices Workbook
- June 2015 – Local Government Standard Specifications and Special Provisions
- August 2016 – LG Risk Assessment Process
- LGP Newsletters with guidance to TXDOT personnel (June 2015, June 2016, December 2016, February 2017)

In addition, TxDOT has added emphasis on these items in the LG Qualifications training class which was held throughout the state 31 times in FY 2016 and 33 times in FY 2017.

APPENDIX



LG Risk Assessment and Participation/Responsibilities in AFAs

June 1, 2016

Local Government Participation and Responsibilities In Advance Funding Agreements

The Negotiated Contracts Policy Manual, developed by the Contract Services Office, presents statutory authority and policies for negotiated contract management. Negotiated contracts involve services whose authorizing statute requires TxDOT to select a performing entity using a process other than competitive bids. An Advance Funding Agreement (AFA) between TxDOT and a local government, another state agency, or another state where both parties agree to a funding arrangement to contribute funds, labor, raw materials, or land in order to develop or maintain a highway project is a negotiated contract. In an AFA, TxDOT and a local government will conduct separate “typical” procurements for each of the tasks assigned to them (if any) by the AFA. It is each party’s responsibility to fulfill all of its respective obligations under the AFA and applicable laws, rules and regulations.

Texas Administrative Code, Title 43, Part 1, Chapter 15, Subchapter E defines available methods for federal, state, and local cost participation in highway improvement projects. In addition to identifying the scope of the transportation project and the amount of funding provided by each party, two major decisions must be made by TxDOT and the local government prior to execution of an AFA:

1. Which party is responsible for performing the various phases of the project development process?
2. Which method of funding participation is appropriate: fixed price, specified percentage, or periodic payments?

This document includes guidance on how to address these topics consistently throughout the state. It is based upon a review of applicable laws and regulations and discussion with many districts, divisions, and the Administration.

Responsibility for Performing Project Development Phases:

Title 23 United States Code (USC) 106(g)(4) states:

Responsibility of the States -

(A) In general - The States shall be responsible for determining that subrecipients of Federal funds under this title have:

- (i) adequate project delivery systems for projects approved under this section; and
- (ii) sufficient accounting controls to properly manage such Federal funds.

(B) Periodic review - The Secretary shall periodically review the monitoring of subrecipients by the States.

Title 23 Code of Federal Regulations (CFR), Chapter I, Subchapter A, Part 1 §1.11 (b) states:

Governmental engineering organizations - The State highway department may utilize, under its supervision, the services of well-qualified and suitably equipped engineering organizations of other governmental instrumentalities for making surveys, preparing plans, specifications and estimates, and for supervising the construction of any project.

23 CFR, Subpart A §635.105 states:

Supervising agency -

(a) The State Transportation Department (STD) has responsibility for the construction of all Federal-aid projects, and is not relieved of such responsibility by authorizing performance of the work by a local public agency or other Federal agency. The STD shall be responsible for insuring that such projects receive adequate supervision and inspection to ensure that projects are completed in conformance with approved plans and specifications.

(b) Although the STD may employ a consultant to provide construction engineering services, such as inspection or survey work on a project, the STD shall provide a full-time employed State engineer to be in responsible charge of the project.

(c) When a project is located on a street or highway over which the STD does not have legal jurisdiction, or when special conditions warrant, the STD, while not relieved of overall project responsibility, may arrange for the local public agency having jurisdiction over such street or highway to perform the work with its own forces or by contract; provided the following conditions are met and the Division Administrator approves the arrangements in advance.

(1) In the case of force account work, there is full compliance with subpart B of this part.

(2) When the work is to be performed under a contract awarded by a local public agency, all Federal requirements including those prescribed in this subpart shall be met.

(3) The local public agency is adequately staffed and suitably equipped to undertake and satisfactorily complete the work; and

(4) In those instances where a local public agency elects to use consultants for construction engineering services, the local public agency shall provide a full-time employee of the agency to be in responsible charge of the project.

Paragraph 15.52 (8)(D) of Texas Administrative Code (TAC), Title 43, Part 1, Chapter 15, Subchapter E states:

Approval: ...In determining its approval or disapproval of local government's request to manage one or more elements of performance and management of a project, the Department will evaluate the following criteria:

- (i) previous experience of the local government in performing the type of work proposed;
- (ii) the capability of the local government to perform the type of work proposed or to award and manage a contract for that work in a timely manner, consistent with federal, state, and department regulations, standards, and specifications;
- (iii) the need for accelerated project delivery;
- (iv) Department resources available to perform or manage the highway improvement project in an efficient and timely manner;
- (v) cost effectiveness of local performance of the work as compared to awarding the highway improvement project through the competitive bidding process; and
- (vi) any other considerations relating to the benefit of the state, the traveling public, and the operations of the Department.

As clearly stated in federal law, federal regulations, and state regulations, TxDOT has a responsibility to determine each local government is qualified and has adequate resources and controls to perform the project work, prior to authorizing it to perform any element of the project development process.

LG Risk Assessment and Qualifications Review Process

In order to fulfil this requirement, and as good business practice, TxDOT has developed a standardized process and a series of forms to evaluate each local government's qualifications for performance of one or more elements of the project development process. The process includes the following forms:

1. LG Agency Risk Assessment,
2. Special Approval per TAC 15.52, Parts A & B, and
3. TxDOT Project Update Evaluation of LG Qualifications.

The LG Agency Risk Assessment is to be completed by the District in coordination with TxDOT's Local Government Projects Section (LGP). TxDOT's LGP Section will work with the Districts to develop a schedule to review the overall risk of each LG on a regular basis. This LG Agency Risk Assessment form uses multiple evaluation criteria to evaluate the overall risk to TxDOT if the LG is allowed to manage one or more elements of the project development process.

This form assigns one of the following risk levels to the LG:

- A – Low level of risk to TxDOT
- B – Moderate level of risk to TxDOT
- C – High level of risk to TxDOT
- D – Unacceptable level of risk to TxDOT

This overall agency level of risk is a component used in the other forms. If the LG agency is rated A or B, the agency will be re-evaluated every two years. If the LG agency is rated C or D, they will be re-evaluated annually. It is recommended that a group of individuals within the district familiar with the LG agency's capabilities work together to complete the form for acknowledgement by the District Engineer. District Engineers have the option of requesting that the evaluation for one or more LG agencies within their district be evaluated by a peer group of TxDOT individuals from other districts who manage LG projects. If this is requested, LGP will assemble a peer group and lead the LG agency evaluation process of completing the form for acknowledgement by the District Engineer.

For AFAs Executed on or after the effective date of this guidance:

"Special Approval per TAC 15.52, Parts A" is to be completed by the local government requesting approval to perform or manage one or more elements of the project development process. The district may assist the local government in preparation of this form. As indicated at the end of page four of the form, it must be signed and dated by a local government representative. It should then be submitted to the local district office to initiate the evaluation process. Upon receipt of the local government provided information form, the district will review the information furnished by the local government and complete its evaluation using "Part B - TxDOT Evaluation of LG Qualifications" of the Special Approval per TAC 15.52 form. The TxDOT risk rating (A, B, C, or D) from the LG Agency Risk Assessment Form is entered as one factor to be considered under evaluation criteria #1 on the "TxDOT Evaluation of LG Qualifications" form. Upon completion of its evaluation, the District Engineer is to recommend which elements, if any, be performed or managed by the local government. This recommendation will be signed and dated by the District Engineer and submitted to the Deputy Executive Director for review and concurrence. Upon receipt of concurrence from the Deputy Executive Director, the district and local government may complete negotiation of all Advance Funding Agreement terms and Contract Services is authorized to execute the AFA on behalf of the Department.

For Projects with Existing AFAs

As stated above, TxDOT's LGP Section will work with the Districts to develop a schedule to review the overall risk of each LG on a regular basis. The LGP Section and Districts will endeavour to complete the initial risk assessment of all local governments with active AFAs (approximately 200) prior to August 31, 2017. Within 90 calendar days after completion of the LG Agency Risk Assessment for a local agency, each district will complete a TxDOT Update Evaluation of LG Qualifications form for each active project which does not have a Special Approval per TAC 15.52, Parts A & B on file. For projects with AFAs executed on or after the effective date of this guidance, each District may

complete "TxDOT Project Update Evaluation of LG Qualification" forms at any time deemed appropriate by the District Engineer.

The Districts will coordinate these efforts with the LGP Section and will submit an electronic copy of all LG Agency Risk Assessment forms, Special Approval per TAC 15.52, Parts A & B forms, and TxDOT Project Update Evaluation of LG Qualification forms to the LGP Section within 30 days of execution.

Guidance on Method of Funding Participation:

Definitions:

Fixed Price - Costs will be allocated based on applicable Federal funding, State funding, and a fixed amount of Local Government funding until Local Government funding reaches the maximum obligated amount. The State (using State or Federal funds, as applicable) will then be responsible for 100% of the costs.

Specified Percentage - Costs will be allocated based on applicable percentages of Federal funding, State funding, and Local Government funding until Federal and State funding reach the maximum obligated amount. The Local Government will then be responsible for 100% of the costs. The following costs may be a fixed price with District Engineer approval:

- Environmental Direct State Costs
- Right of Way Direct State Costs
- Engineering Direct State Costs
- Utility Direct State Costs
- Construction Direct State Costs
- Non-Construction Direct State Costs
- Indirect State Costs

Periodic - The local government proposes a schedule to pay its allocated project costs that differs from the normal pre-payment schedule.

The standard funding arrangement on projects with a combination of local plus state and/or federal funds is Fixed Price according to T.A.C. §15.52 of Texas Administrative Code (TAC), Title 43, Part 1, Chapter 15, Subchapter E. This method of funding does not require final reconciliation of actual Department costs versus local government contributions on projects which include local funding participation. History has shown that on many Specified Percentage projects it has taken a considerable time to close out the project after construction completion due to the required process of:

- conducting a final project audit,
- preparation of a Statement of Cost,
- notifying the local government:
 - they have paid excess funds and reimbursing the local government the excess funds, or
 - additional local funds are required and collecting the additional funds from the local government, and
- closing out the project.

In many cases the funds owed/due were relatively minor yet required extensive analysis to quantify the exact amount.

Specified Percentage and Periodic Payments are alternate funding arrangements subject to special approval by the Executive Director (which has been delegated to the Deputy Executive Director).

The Commission's expectation is that the AFA for most projects which are managed from start to finish by TxDOT with partial funding from a local government will be Fixed Price. The districts should develop the initial cost estimates with proper care so that the projected costs for all elements of project development are reasonably accurate. This will minimize financial risk to TxDOT. The AFAs may be modified by written amendment when executed by both parties in the following instances:

- significantly differing site conditions,
- when work requested by the local government is determined to be ineligible for federal participation,
- when there is change in the scope of work,
- when the adjustment is mutually agreeable to the Department and the local government.

On substantial projects, it is likely that the Department and the local government should validate the local government Fixed Price upon receipt of construction bids to confirm the local government level of participation is at a similar percentage of total project costs as was anticipated upon execution of the AFA. If costs are considerably higher than originally estimated and the Department and the local government cannot agree upon a revised level for each party's financial participation through execution of an Amendment, the Agreement may be terminated in accordance with terms of the AFA.

For projects where the Department approves a local government to manage one or more elements of project development, using a Specified Percentage funding arrangement for the local government performed or managed elements of project development frequently is the appropriate choice. If the local government is managing all elements of the project development, Specified Percentage (in most cases) will be the preferred method of sharing costs. In Specified Percentage agreements, a maximum amount of federal and/or state participation is also appropriate. In these cases, the local government will be responsible for all project costs above the funding commitment of state and/or federal funds.

Examples of how this guidance may be implemented are as follows;

1. Off-system project with only federal and local funding, the local government is managing the entire process from start to finish.
 - a. Specified Percentage for all elements
2. Off-system project with only federal and local funding, the local government is managing design, utility relocation, and right-of-way acquisition, TxDOT is managing environmental and construction.
 - a. Specified Percentage for LG managed tasks
 - b. Fixed Price for TxDOT managed tasks
3. On-system project at request of the local government, TxDOT is managing the entire process from start to finish.
 - a. Fixed Price for LG contribution, TxDOT responsible for cost overruns.
 - b. Evaluate whether an Amendment is necessary upon receipt of construction bids to adjust LG financial participation to properly allocate actual construction bid amount to LG.
4. Major on-system project being managed by TxDOT with federal/state funding. Original project scope was all federal/state funding. Minor additions have been requested by LG and are incorporated into the project to accommodate local requests.
 - a. Fixed price for LG contribution, TxDOT responsible for cost overruns
 - b. Evaluate whether an Amendment is necessary upon receipt of construction bids to adjust LG financial participation to properly allocate actual construction bid amount for requested additions to LG.
5. Major on-system project with federal/state/local funding with all elements of work being managed by a Regional Mobility Authority.
 - a. Specified Percentage for all elements, LG responsible for cost overruns.

The attached FAQ responds to some recently asked questions.

Frequently Asked Questions
Fixed Price vs. Specified Percentage on AFAs

Estimates

Question: In general, the project estimate for LG projects is based on an estimate the LG submits in their project nomination packet when responding to an MPO's Call for Projects for Cat 5, 7, and 9 funding. The project is selected by the MPO without review or input from the State on the accuracy of the estimate. Are we expected to update the estimate at the time of AFA development or are we supposed to use the project nomination estimate?

Answer: The AFA should only be executed using an estimate that is mutually agreed upon by the State and the Local Government. This may differ from the initial estimate submitted to the MPO by the LG. The agreed-upon estimate should be provided to the MPO to reflect the current estimated project cost.

Overruns

Question: If a fixed-price project overruns, is the State expected to amend the AFA to update the fixed price of the project? Or, is the intention to treat this like the Off-system Bridge Program and the LG costs are fixed regardless of work/cost overrun?

Answer: No, It is not anticipated that amendments to the AFA would be necessary or appropriate on a frequent basis to adjust for overruns due to changes in actual material and labor costs from those in the estimate used as the basis of the Agreement. Once the contract has been executed, the State has agreed to cover cost overruns, and should act accordingly. The State would be acting in bad faith if it requested an adjustment to the budget page due to cost overruns, when it agreed to cover them in the original contract. However, if anticipated costs of the project increase substantially due to major changes in scope or significant increases in material, right of way, or utility relocation costs, the State and LG should consider amending the AFA and adjusting participation by each party prior to awarding the construction contract. If a project's cost increases significantly and the parties cannot agree to an Amendment, the AFA can be terminated by either party in accordance with the terms of the AFA.

Question: If the project overruns its costs in a Fixed Price AFA, what funding source will be used to cover TxDOT's increased cost for the overrun? If the answer is, the overruns will come from the same funds for which it was funded, does this also apply to Category 5, 7, and 9 funds allocated by an MPO? Does this mean that future allocations of funding will be reduced to cover current overruns?

Answer: If a project overruns, the party responsible to cover the increased costs may use its available sources of funding to provide the required funds. If the available funds come from Category 5, 7, or 9 funds allocated by an MPO, and the MPO agrees to increase its contributions to this project, the MPO's available funds will be reduced for other projects from these sources.

ROW/Utilities

Question: Do fixed price provisions apply to ROW and Utility agreements?

Answer: Fixed Price provisions should be implemented similarly on all agreement types.

Locally Funded Projects

Question: Are Locally Funded Projects fixed price regardless of whether they are on or off system? If so, what source of funds will cover the overruns?

Answer: No. The funding structure for an agreement depends on the terms to which the parties agreed. However, Fixed Price provisions should be implemented for all TxDOT-managed elements of an AFA. If a project overruns, the party responsible to cover the increased costs may use its available sources of funding to provide the required funds.

Local Lets

Question: The Fixed Price AFA does not have a requirement that the State approve cost estimates before an LG lets a project or adds additional work after the project has let via change order. Is the State still responsible for overruns?

Answer: Yes, if you have a Fixed Price AFA. However, it is recommended that AFAs for Local Let project contain Specified Percentage funding structures for any LG-managed project activities. Local-let projects and specified percentage AFAs require the Deputy Executive Director's special approval. .

Use of Fixed Price Template

Question: In general, all of the LG federally funded projects were selected during previous MPO Program Calls, i.e., prior to the implementation of the Fixed Price AFA becoming the standard method. We would prefer to use specified percentage AFA for these projects; however, Contract Services is mandating use of the Fixed Price template. Can we use Specified Percentage for these projects?

Answer: All new AFAs should conform to the current requirements of TAC §15.52. Specified Percentage can be used with approval of the Deputy Executive Director.

Question: Amendments: Whenever an amendment to an agreement is necessary, Contract Services typically requires an update to all articles that have changed since execution of the original AFA. If we did that, we would change entirely the terms of the AFA. Will Contract Services amend specified percentage AFAs without requiring that we update to the new template?

Answer: Whenever an amendment to an AFA is necessary, any applicable changes in Federal or State law since the execution of the AFA (and subsequent amendments thereto) must be incorporated into the new amendment. Existing Specified Percentage AFAs do not need to be changed to conform to new TAC requirements unless it is deemed beneficial to both the State and the LG. Other Amendments to the AFAs may be executed without altering funding participation when there is no other business purpose to change the funding participation.



LG Name: _____
 LG Texas ID No. (TIN): _____
 District: _____

LG Agency Risk Assessment

Criteria	Range of Attributes	Risk Score	Comments/Justification for Score
Audits	Recent Single Audits, Federal Agency Audits, or Texas State Agency Audits	No findings of concern A	
		Minor findings that are actively being addressed B	
		Major findings being addressed or multiple minor findings C	
		Multiple findings of concern D	
Process	Project Delivery Process	Well-defined process that regularly demonstrates successful results A	
		Not well-defined process, but demonstrated success on past projects B	
		Well-defined process that is new or has not shown consistent success C	
		Inadequate process or no project delivery system has been provided D	
Program Past Performance (with TxDOT or Similar Agency)	Financial	Consistently provide accurate and timely billings A	
		Consistently accurate billings, not as frequently or timely as desired, or occasional inaccuracies B	
		Occasional inaccuracies, always resolved, less frequently or timely billings than desired C	
		Inaccurate, infrequent, or incomplete billings D	
	Compliance	Consistent compliance with thorough documentation A	
		Minor compliance or documentation issues, promptly addressed when notified B	
		Some compliance or documentation issues, addressed but not always promptly C	
		Poor performance, frequently lacking documentation D	
	Communication/Responsiveness	Always timely, credible, and complete information A	
		Credible and complete information, occasionally delayed B	
		Eventually provides credible and complete information upon repeated requests C	
		Non-responsive, inaccurate, or incomplete information D	
Program Leadership	Stability	Steady, consistent, continuity of personnel in key positions over extended time A	
		Current personnel have been in positions for a reasonable length of time B	
		Some turnover in key positions, but culture of LG remains relatively consistent C	
		Frequent turnover of personnel or changing positions D	
	Experience	Well-equipped through education and/or training A	
		Good basic level of experience and knowledge and commitment to further development of skills B	
		Limited experience and knowledge but commitment to further development of skills C	
		No relevant experience in required areas or no commitment to further development of skills D	
	Teamwork	Consistently looking for win-win outcomes A	
		Reasonable willingness to work with others to achieve acceptable outcomes B	
		Hesitant to agree with anything that is not clearly in best interest of LG C	
		Solely interested in winning at expense of others D	
Total Overall Risk Score			

Low level of risk to TxDOT	A
Moderate level of risk to TxDOT	B
High level of risk to TxDOT	C
Unacceptable level of risk to TxDOT	D

Notes	
--------------	--

Recommendation: _____

Acknowledgement: _____

 Director, District TP&D Director, District Construction District Engineer District Engineer Signature Date



Project CSJ: _____
 LG Name: _____
 LG Texas ID No. (TIN): _____
 District: _____
 Project Name: _____

Special Approval per TAC §15.52
Part A - LG Qualifications Statement
(Local Government Agency management of project development process elements)

Local government (LG) agencies may manage elements of the project development process (environmental, right-of-way acquisition, utility relocation, design/bid document preparation, letting and award, and construction/project close-out) with written TxDOT approval. This approval is typically provided by language in the Advance Funding Agreement executed by TxDOT and the local government agency. Local government completion of Part A (pages 1-4) of this form is required. Upon receipt of completed Part A, the TxDOT district will evaluate the LG's capabilities to manage one or more elements of a project using Part B (pages 5-8) for recommendation to the TxDOT's Deputy Executive Director.

Describe the following items for the proposed project or program	
Project limits, type of work and any significant elements	
Preliminary estimated project costs	
Anticipated Funding Sources	FHWA <input type="checkbox"/> TxDOT <input type="checkbox"/> Local <input type="checkbox"/>

LG proposes to manage the following activities for this project	To be performed by LG with its own staff?	To be performed by consultant under contract with LG?
Environmental		
Right-of-way acquisition		
Utility relocation		
Design and bid document preparation		
Letting and award		
Construction oversight, inspection, documentation and project close-out		
Other _____		
Other _____		

Describe LG's approach to performing the proposed management services for this project

Project CSJ: _____
 LG Name: _____
 LG Texas ID No. (TIN): _____
 District: _____
 Project Name: _____

In evaluating a LG request to manage elements of the project development process for projects on the State Highway System or with TxDOT and/or FHWA funding, 43 TAC §15.52 requires TxDOT to consider six criteria. The LG is to provide information requested in Items 1 and 2 below. TxDOT district personnel will complete information on the remainder of the evaluation criteria in Part B (pages 5-8).

1. Previous experience of the LG in performing the type of work proposed

<p>Attach an audited financial statement of Local Government Agency for most recent fiscal year.</p> <p>If TxDOT already has a copy of a Single Audit report or other audited financial statement for a recent year insert the fiscal year in the box to the right (submittal of an additional audit is not required).</p>	
--	--

Please provide information on up to two similar projects completed in the past 5 years performed by the LG or by consultants under contract to the LG.

PROJECT A

Name of previously completed project				
Describe type of work				
Describe any complex items of work				
Construction cost	Estimated:		Actual:	
Letting date	Scheduled:		Actual:	
Contract time	Scheduled:		Actual:	
LG management activities performed by LG personnel				
LG management activities performed by consultants				
Name of current LG employee contact who worked on project			Phone #	
			Email	

Project CSJ: _____
 LG Name: _____
 LG Texas ID No. (TIN): _____
 District: _____
 Project Name: _____

PROJECT B

Name of previously completed project				
Describe type of work				
Describe any complex items of work				
Construction cost	Estimated:		Actual:	
Letting date	Scheduled:		Actual:	
Contract time	Scheduled:		Actual:	
LG management activities performed by LG personnel				
LG management activities performed by consultants				
Name of current LG employee contact who worked on project			Phone #	
			Email	

2. The capability of the LG to perform the type of work proposed or to award and manage a contract for that work in a timely manner, consistent with federal, state, and Department regulations, standards, and specifications

Please describe the LG's proposed personnel.

Name of person to serve in the position of Responsible Person in Charge		Position/Title	
---	--	----------------	--

- a. Must be full-time employee of LG;
- b. Must be able to administer project activities (cost, time, scope, adherence to contract requirements, construction quality, etc.);
- c. Must maintain familiarity with day-to-day project operations (including project safety);
- d. Must make or participate in decisions about change orders or supplemental agreements;
- e. Must visit and review the project regularly;
- f. Must review financial processes, transactions and documentation; and
- g. Must direct his/her project staff (agency or consultant) at all stages of the project.

Project CSJ: _____
 LG Name: _____
 LG Texas ID No. (TIN): _____
 District: _____
 Project Name: _____

Name of person to serve as Project Manager		Position/Title	
---	--	-----------------------	--

- a. Responsible for daily oversight of the project;
- b. Primary point of communication with TxDOT for day-to-day matters;
- c. May be same person as RPIC; and
- d. May be local government employee or consultant.

Project Manager's previous experience on projects of similar type, complexity and cost	
Project Manager's previous experience on TxDOT and/or FHWA-funded projects	

Name of person to serve in the position of Qualified Person		Position/Title	
--	--	-----------------------	--

- a. Must have completed TxDOT-required LGPP training prior to execution of AFA;
- b. May be same person as RPIC or PM; and
- c. May be LG employee or consultant.

Qualified Person's previous experience on projects of similar type, complexity and cost	
Qualified Person's previous experience on TxDOT and/or FHWA-funded projects	

Information submitted by:

_____ LG representative signature

_____ Date

_____ LG representative printed name

_____ LG representative title

Project CSJ: _____
 LG Name: _____
 LG Texas ID No. (TIN): _____
 District: _____
 Project Name: _____

Special Approval per TAC §15.52
Part B - TxDOT Evaluation and Special Approval of LG Qualifications
*(Local Government Agency management
of project development process elements)*

Local government (LG) agencies may manage elements of the project development process (environmental, right-of-way acquisition, utility relocation, design/bid document preparation, letting and award, and construction/project close-out) with written TxDOT approval. This approval is typically provided by language in the Advance Funding Agreement executed by TxDOT and the LG. Completion of Part A - LG Qualifications Statement and this Part B - TxDOT Evaluation and Special Approval of LG Qualifications are required for TxDOT to authorize the LG to manage one or more elements of a project.

In approving a LG request to manage elements of the project development process for projects on the State Highway System or with TxDOT and/or FHWA funding, 43 TAC §15.52 requires TxDOT to consider six criteria. TxDOT district personnel shall review Part A (pages 1-4), provide supplemental information by fully completing Part B (pages 5-8), and, based upon a determination of the adequacy of the LG's project delivery systems and accounting controls, recommend an appropriate role for the LG in project delivery on page 7 of this form.

43 TAC §15.52 regulations require the approval of the Executive Director (or authorized designee) for the LG to manage projects in the following cases:

	Applies
Any project on the State Highway System that improves freeway mainlanes	
A roadway improvement project that is to be on the State Highway System for which less than 50 percent of the funds come from sources other than federal or state highway funding	

1. LG's previous experience in performing the type of work proposed

In Section 1 of Part A (beginning on page 2), the LG submitted information on up to two similar projects completed in the past 5 years performed by the LG or by consultants under contract to the LG. Please rate if these previous projects are comparable or not comparable to the proposed new project.

	Yes/No
Project A Comparable	
Project B Comparable	

TxDOT Risk Rating of LG Agency: _____
 (for definition of ratings, see page 8)

Date of Rating: _____

2. District evaluation of LG capability to perform type of work proposed based on past projects identified above and other previous projects with TxDOT and/or FHWA funding

Please describe the LG's performance.

a. Timeliness and quality in acquisition of right of way	
b. Timeliness and quality in relocation of utilities	
c. Timeliness and quality of preparing environmental documents and obtaining required permits and clearances	

d. Timeliness and quality of project design and developing contract documents	
e. Timeliness and quality of letting and awarding construction contract	
f. Quality of performance in managing construction contractor and contract change orders	
g. Quality of performance in project inspection and documentation during construction	
h. Timeliness and quality of reimbursement requests throughout project	
i. Timeliness and quality of project close-out after project acceptance	
j. Timeliness of submitting supplemental funding when required	
k. Timeliness and adequacy in responding to audits	

3. The need for accelerated project delivery

Describe unique project situations requiring accelerated project delivery and any advantages of work being performed by LG rather than TxDOT.	
---	--

4. Department resources available to perform or manage the highway improvement project in an efficient and timely manner

Describe any Department resource constraints that suggest the LG management of project development activities is in the best interest of TxDOT and the LG.	
--	--

Project CSJ: _____
 LG Name: _____
 LG Texas ID No. (TIN): _____
 District: _____
 Project Name: _____

5. Cost effectiveness of local performance of the work as compared to awarding the highway improvement project through TxDOT's competitive bidding process

On federally funded projects, FHWA holds TxDOT entirely responsible for successful project delivery, including the proper acquisition of right of way, utility relocation, environmental, design, construction, and project close-out. LG management of the project requires the LG performance of activities plus TxDOT oversight to assure compliance with all federal and state requirements.

Explain why it is advantageous for successful delivery of this project for the LG to manage the proposed elements of project development.	
--	--

6. Any other considerations relating to the benefit of the state, the traveling public, and the operations of the Department

Please list any additional items to be considered in TxDOT's evaluation that are of benefit to the state, the traveling public, and the operations of the Department to allow the LG to manage the proposed elements of the project development process.	
---	--

Special approval for LG to manage the following items:

Environmental	<input type="checkbox"/>	ROW acquisition	<input type="checkbox"/>		<input type="checkbox"/>
Design/PS&E	<input type="checkbox"/>	Utility relocation	<input type="checkbox"/>	_____	<input type="checkbox"/>
Letting & award	<input type="checkbox"/>	Construction	<input type="checkbox"/>	_____	<input type="checkbox"/>
				None	<input type="checkbox"/>

Based upon review of Part A and completion of Part B, District determines the LG has adequate project delivery systems and sufficient accounting controls. Therefore, I (District Engineer) recommend Deputy Executive Director provide special approval of the LG performing the above marked project delivery items. The District commits to providing an appropriate level of oversight of LG activities to maximize compliance with applicable federal and state laws and regulations. District will provide: Level 1 , Level 2 , Level 3 oversight, as defined on page 8.

Recommendation for approval:

 District Engineer signature

 Date

Special approval:

 Deputy Executive Director signature

 Date

Project CSJ: _____
 LG Name: _____
 LG Texas ID No. (TIN): _____
 District: _____
 Project Name: _____

Local Government Projects – Risk Assessment

LG Risk Rating Definitions

Low level of risk to TxDOT	A
Moderate level of risk to TxDOT	B
High level of risk to TxDOT	C
Unacceptable level of risk to TxDOT	D

Oversight Levels

Level 1 Oversight – Relatively Low Risk Non-construction Projects and Very Low Risk Construction Projects

Level 2 Oversight – Higher Risk Non-construction Projects and Low to Moderate Risk Construction Projects

Level 3 Oversight – Higher Risk Construction Projects

TxDOT District Oversight Activity ¹	Minimum Frequency ²		
	Level of Oversight		
	1	2	3
LG submit and TxDOT review project reports	Quarterly	Monthly	Monthly
TxDOT host project review/coordination meetings with LG	Quarterly	Monthly	Semi-monthly
TxDOT conduct worksite/project site visits	Annually ³	Monthly	Weekly
TxDOT review LG project documentation/records	Annually ³	Monthly	Monthly
LG submit and TxDOT review and approve reimbursement requests	Monthly	Monthly	Monthly

¹ Refer to TxDOT LG Project Management Guide for additional detail on oversight activities

² Greater frequency may be at District discretion

³ Minimum of two times



Project CSJ: _____
 LG Name: _____
 LG Texas ID No. (TIN): _____
 District: _____
 Project Name: _____

TxDOT Project Update Evaluation of LG Qualifications
*(Local Government Agency management
 of project development process elements)*

In accordance with the executed Advance Funding Agreement, the local government (LG) agency is managing the following elements of the project development process:

LG is managing the following activities for this project	Being performed by LG with its own staff?	Being performed by consultant under contract with LG?
Environmental		
Right-of-way acquisition		
Utility relocation		
Design and bid document preparation		
Letting and award		
Construction oversight, inspection, documentation and project close-out		
Other _____		
Other _____		

Describe LG's method of performing these management services for this project

Name of person serving in the position of Qualified Person		Position/Title	
---	--	-----------------------	--

TxDOT Risk Rating of LG Agency: _____ Date of Rating: _____

LG's performance on this project to-date is as follows:

a. Timeliness and quality in acquisition of right of way	
b. Timeliness and quality in relocation of utilities	
c. Timeliness and quality of preparing environmental documents and obtaining required permits and clearances	
d. Timeliness and quality of project design and developing contract documents	

Project CSJ: _____
 LG Name: _____
 LG Texas ID No. (TIN): _____
 District: _____
 Project Name: _____

e. Timeliness and quality of letting and awarding construction contract	
f. Quality of performance in managing construction contractor and contract change orders	
g. Quality of performance in project inspection and documentation during construction	
h. Timeliness and quality of reimbursement requests throughout project	
i. Timeliness and quality of project close-out after project acceptance	
j. Timeliness of submitting supplemental funding when required	
k. Timeliness and adequacy in responding to audits	

Based upon the district's review of LG's project performance to-date, the District has determined that LG has adequate project delivery systems and sufficient accounting controls, to continue performing the following elements of the project development process:

Environmental	<input type="checkbox"/>	ROW acquisition	<input type="checkbox"/>	_____	<input type="checkbox"/>
Design/PS&E	<input type="checkbox"/>	Utility relocation	<input type="checkbox"/>	_____	<input type="checkbox"/>
Letting & award	<input type="checkbox"/>	Construction	<input type="checkbox"/>	None	<input type="checkbox"/>

The District has determined it will provide: Level 1 , Level 2 , Level 3 oversight, as defined below, for the duration of the project to maximize LG's compliance with applicable federal and state laws and regulations.

TxDOT District Oversight Activity ¹	Minimum Frequency ²		
	Level of Oversight		
	1	2	3
LG submit and TxDOT review project reports	Quarterly	Monthly	Monthly
TxDOT host project review/coordination meetings with LG	Quarterly	Monthly	Semi-monthly
TxDOT conduct worksite/project site visits	Annually ³	Monthly	Weekly
TxDOT review LG project documentation/records	Annually ³	Monthly	Monthly
LG submit and TxDOT review and approve reimbursement requests	Monthly	Monthly	Monthly

¹ Refer to TxDOT LG Project Management Guide for additional detail on oversight activities

² Greater frequency may be at District discretion

³ Minimum of two times

Recommendation:

Acknowledgement:

 Director, District TP&D

 Director, District
 Construction

 District Engineer

 District Engineer
 signature date