



LOCAL GOVERNMENT PROJECTS

Overview of Program
Requirements



Local Government Projects Program

- Local Governments must follow federal requirements when:
 - Using design/environmental costs as in-kind contributions on TA projects
 - Seeking reimbursement for design/environmental work on SRTS projects
 - Overseeing letting (bids) and construction



Local Government Projects Program

■ Definition of a Local Government Project

- At least one phase of project development* or the program is managed by a local government agency for which it is being reimbursed with federal (FHWA) and/or state (TxDOT) funding, or
- It is a totally local-funded project managed by the LG on the State Highway System

* *Environmental, design, ROW, utility relocation, construction*



Local Government Projects Program

- Projects are initiated by signing of a contract between TxDOT and LG - Advance Funding Agreement

- Typical AFA contract clauses:
 - *Financial commitments*
 - *Termination clauses*
 - *Right of way and real property*
 - *Utilities*
 - *Environmental assessment and mitigation*
 - *Use of professional services*
 - *Design criteria*
 - *Construction responsibilities*
 - *Non-construction agreement commitments*

 - *Applicable federal provisions*
 - *Form 1273*
 - *Civil rights compliance*
 - *DBE program*
 - *Debarment certifications*
 - *Anti-lobbying certification*
 - *Etc.*
 - *Applicable state provisions*
 - *Child support documentation*
 - *TDLR review*
 - *Etc.*

Risk Assessment

- TxDOT risk assessment is required by 2 CFR §200.331
 - All pass-through entities (TxDOT) must evaluate each subrecipient's risk of noncompliance with federal statutes, regulations, and the terms and conditions of the subaward for purposes of determining the appropriate subrecipient monitoring



Risk Assessment

▪ Risk assessment process

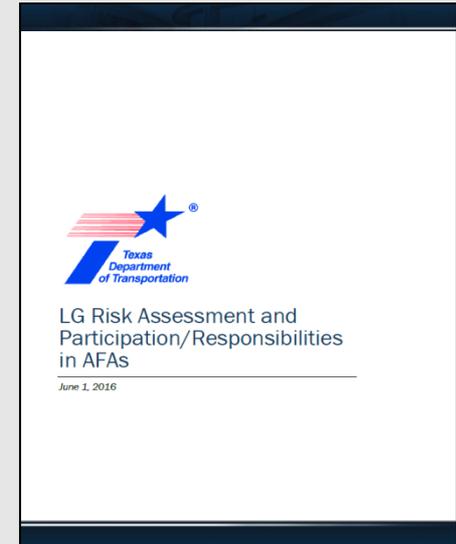
- TxDOT has a responsibility to determine if a LG has the capability to successfully manage one or more phases of project development

▪ Guidance document

- Used for all AFAs
 - LG Risk Assessment and Participation/Responsibilities in AFAs

▪ Forms

- Used when LG is to perform work on SHS or will be reimbursed with FHWA or TxDOT funds
 - LG Risk Assessment
 - Special Approval per TAC 15.52
 - *Part A – LG Qualification (prepared by LG)*
 - *Part B – TxDOT Evaluation and Special Approval*
 - Project Update Evaluation of LG Qualifications



<http://www.txdot.gov/government/programs/local-government-projects.html>

Local Government Projects Program

- When LG manages any elements of project development, typically:
 - LG responsible for cost overruns on elements it is managing, or as stated in the AFA
 - TxDOT participation is a reimbursement program
 - *LG incurs cost and seeks reimbursement from TxDOT*
 - *TxDOT (upon approval of LG documentation) pays LG*
 - *If federally funded project:*
 - *TxDOT seeks reimbursement from FHWA*
 - *FHWA (upon approval of documentation) pays TxDOT*

In-Kind Contributions by LG

- Costs by the LG after execution of the AFA and a notice to proceed from TXDOT may be eligible as in-kind contributions
- Eligible in-kind contribution costs include payments to professional consulting firms and work done by LG staff (force account)
- Eligible in-kind contribution may only be applied toward project construction costs
- Costs incurred by the LG should be submitted to TxDOT district staff on regular basis (monthly)
- LG must keep supporting backup documentation on in-kind contribution costs and provide information to TxDOT if requested



Applicable Laws/Regulations

Texas Administrative Code

- *Title 43 – Transportation*

Texas Constitution and Statutes

- *Texas Local Government Code*
 - *Title 2 – Organization of Municipal Government*
 - *Title 3 – Organization of County Government*
- *Texas Transportation Code*
 - *Title 6 – Roadways (primarily)*

U.S. Code

- *Title 23 – Highways*
- *Title 49 – Transportation*

Code of Federal Regulations

- *23 CFR – Highways*
- *49 CFR – Transportation*

Key federal funding principles

- *Federal-aid funds shall not participate in any cost that is not incurred in conformity with applicable federal and state law*
- *Federal funds shall not be paid on account of any cost incurred prior to authorization by the FHWA*
- *TxDOT may utilize, under its supervision, the services of well-qualified and suitably equipped engineering organizations*
- *TxDOT is not relieved of its responsibilities under federal law and the regulations in the event it utilizes the services of any engineering organization*

Local Government Projects Program

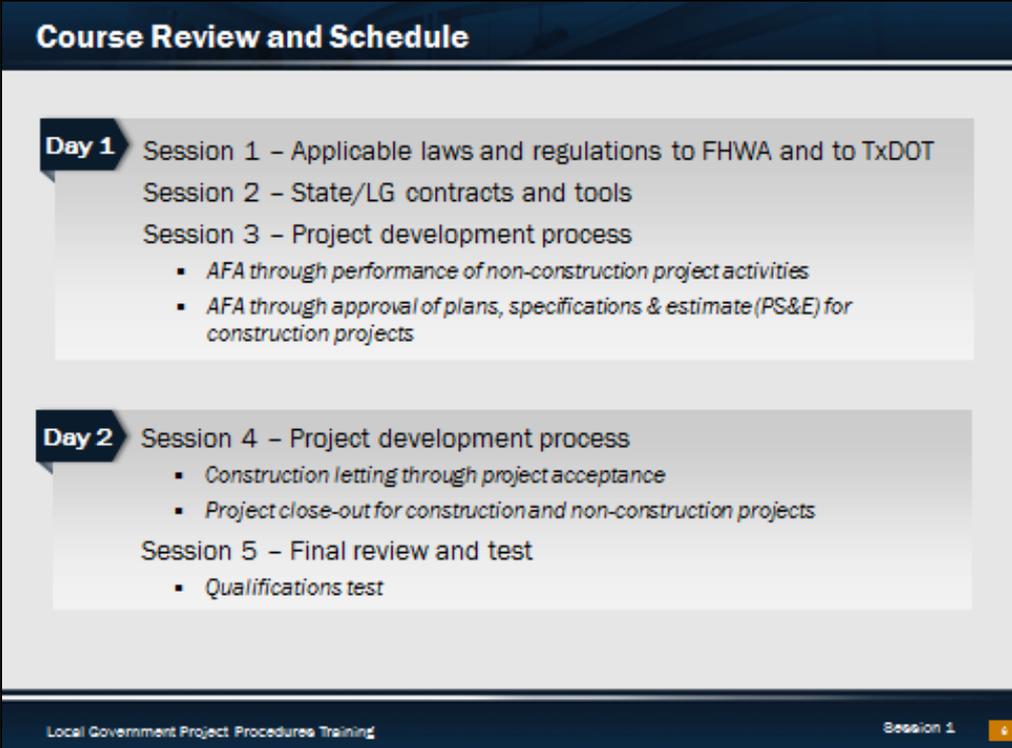
- **Prior to beginning work, the LG and TxDOT will name a Responsible Person In Charge (RPIC) who is accountable for the project**
 - *TxDOT's RPIC must be a full-time employee of TxDOT who is also a registered professional engineer*
 - *LG's RPIC must be a full-time employee of the LG*
- **RPIC duties include:**
 - *Administer project activities (cost, time, scope, adherence to contract requirements, construction quality, etc.)*
 - *Maintain familiarity with day-to-day project operations (including project safety)*
 - *Make or participate in decisions about change orders*
 - *Visit and review the project regularly*
 - *Review financial processes, transactions and documentation*
 - *Direct project staff (agency or consultant) at all stages of the project*

Local Government Projects Program

- TxDOT and LG will also designate a Project Manager
 - *Responsible for daily oversight of the project*
 - *Primary point of communication with the other agency for day-to-day matters*
 - *May be the same person as the RPIC or may be a consultant*
- LG is also required to have a “qualified” person actively involved in the project
 - *Must have completed the TxDOT Local Government Project Procedures (LGP101) training course*
 - *May be the same person as the RPIC or the Project Manager*
 - *May be an agency employee or a consultant*

■ LGPP Training

- 12 hours with exam
- 33 classes in 2018 for 586 students in 14 districts
- 2-3 classes per month scheduled for 2019 calendar year
- Check website for upcoming classes

A slide titled "Course Review and Schedule" with a dark blue header. The content is organized into two days. Day 1 includes three sessions: Session 1 (Applicable laws and regulations to FHWA and to TxDOT), Session 2 (State/LG contracts and tools), and Session 3 (Project development process) which includes two bullet points about AFA. Day 2 includes Session 4 (Project development process) with two bullet points about construction letting and close-out, and Session 5 (Final review and test) with one bullet point about a qualifications test. The footer contains "Local Government Project Procedures Training" and "Session 1" with a small orange square icon.

Course Review and Schedule

Day 1

- Session 1 – Applicable laws and regulations to FHWA and to TxDOT
- Session 2 – State/LG contracts and tools
- Session 3 – Project development process
 - AFA through performance of non-construction project activities
 - AFA through approval of plans, specifications & estimate (PS&E) for construction projects

Day 2

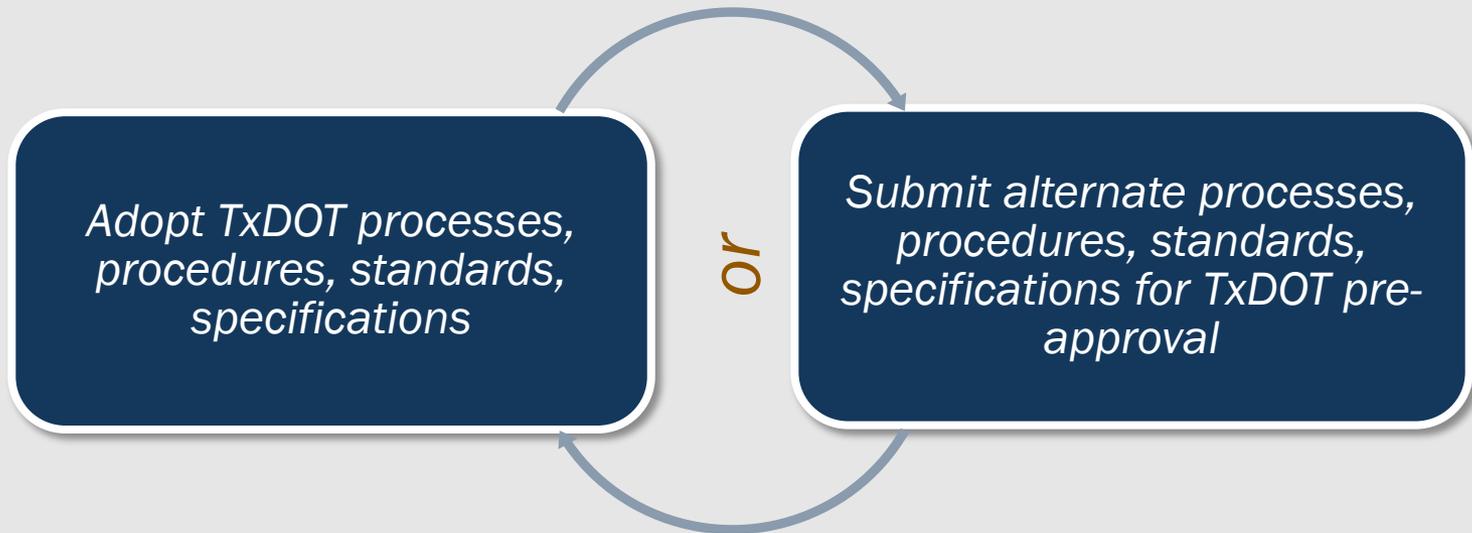
- Session 4 – Project development process
 - Construction letting through project acceptance
 - Project close-out for construction and non-construction projects
- Session 5 – Final review and test
 - Qualifications test

Local Government Project Procedures Training Session 1

<http://www.txdot.gov/inside-txdot/office/local-government-projects/lgpp-training.html>

Local Government Projects Program

- Projects using state and/or federal funds and projects on the State Highway System*



* *State Highway System (designated by Texas Transportation Commission) includes all interstates, U.S. routes, state highways, FM/RM roads, park roads, etc.*

Local Government Projects Development Process

■ Phases of the project development process



■ Project Initiation Phase

- Provide copies of AFA to project team members
- Projects with federal funds
 - *TxDOT must have an executed Federal Project Authorization and Agreement (FPAA) from FHWA*
 - *LG must have State Letter of Authority (SLOA) from TxDOT for projects*
- Conduct kick-off meeting with TxDOT and visit project site
 - *Designation of a LG and a TxDOT Responsible Person in Charge (RPIC)*
 - *Scope of the project and desired outcome*
 - *Project management*
 - *Discussion of the Advanced Funding Agreement (AFA)*
 - *Project cost and financial information*
 - *Use and selection of consultant*
 - *Environmental process and documentation*
 - *Property and right-of-way acquisition and requirements*
 - *Utility adjustments*
 - *Requirements for design authorization*
 - *Design criteria and processes*
 - *Plans, specifications and estimate (PS&E) preparation*
 - *Accelerated construction strategies*
 - *Letting schedule*
 - *Construction criteria and processes*

■ Professional Procurement

- Develop procurement procedures that meet the federal regulations and seek TxDOT approval
- Develop solicitation or Request for Qualifications
 - *Scope of Work*
 - *Evaluation Criteria that assess the qualifications of professional services being solicited (shall not use price or cost-related items)*
 - *TxDOT Precertification Work Categories (optional)*
 - *Include requirement for FAR-compliant indirect cost rates*
 - *DBE goal (request from TxDOT)*
 - *Contract with required items*
- Prior to advertising seek TxDOT approval and obtain FPAA
- Negotiate contract and then manage and monitor consultant

■ Environmental Phase - LG Responsibilities

- Identify type of environmental action required
 - *Environmental Impact Statement (EIS)*
 - *Environmental Assessment (EA)*
 - *Categorical Exclusion (CE)*
- Prepare all documentation
- Secure all necessary approvals
- Submit NEPA documents to TxDOT for approval
- Primary TxDOT contact is through district



▪ **Preliminary Engineering & Design Phase – LG Responsibilities**

- Schematic design should occur concurrently with Environmental phase
- Schedule design concept conference with TxDOT to obtain approval of design criteria
- Submit preliminary layouts for TxDOT review and approval
- Prepare final design in accordance with established and agreed-upon design criteria
 - *Adopt TxDOT Standard Specifications, Special Specifications and required Special Provisions or obtain TxDOT preapproval of alternates*
 - *All traffic control devices on all roadways must comply with the Texas Manual on Uniform Traffic Control Devices (TMUTCD)*

▪ **Right of Way and Utility Phase - LG Responsibilities**

- Must acquire all ROW in conformance with TxDOT's Real Estate Acquisition Guide for Local Public Agencies and the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act (Uniform Act)
- Relocate all utilities in conformance with TxDOT's Right of Way Division Utility Manual
- There may be reasons to proceed with project letting even if ROW acquisition and utility relocation are incomplete
 - *Not preferred*
 - *Specific commitments on legal access to all property and completion of all utility relocations must be specified within contract documents to inform bidders/contractor of limitations*

Local Government Projects Program

■ PS&E Phase – LG Responsibilities

– Include all federal and state required items in project documents

- *Bonding*
- *Buy America*
- *Change Orders*
- *Child Support Documentation*
- *Claims*
- *Contract Time*
- *Debarment Certification*
- *Designated Material Sources / Disposal Sites*
- *Differing Site Conditions*
- *Disadvantaged Business Enterprises (DBE), Historically Underutilized Businesses (HUB), and Small Business Enterprises (SBE)*
- *Equal Employment Opportunity*
- *Equipment Rental Rates*
- *Form FHWA-1273*
- *Liquidated Damages*
- *Lobbying Certification*
- *Local Hiring Preference*
- *Non-collusion Statement*
- *Non-discrimination against Persons with Disabilities*
- *Non-Responsive Bid*
- *Non-segregated Facilities*
- *Patented/Proprietary Products*
- *Prequalification*
- *Prevailing Minimum Wage (Davis-Bacon Act)*
- *Prison Produced Materials*
- *Publicly-owned Equipment*
- *Railroad Insurance Provision*
- *Retainage*
- *Safety*
- *Subcontracting*
- *Termination of Contract*
- *Time Extensions*
- *Title VI Compliance*
- *Trench Safety*
- *Warranties and Warranty Clauses*
- *Workers Compensation Insurance*

■ PS&E Phase – LG Responsibilities

- Submit plans to Registered Accessibility Specialists (RAS) TDLR for review of accessibility (ADA)
- Submit Quality Assurance Plan to TxDOT for approval
- Submit documents to TxDOT for review 20 weeks prior to scheduled letting date



■ **Construction Letting Phase – LG Responsibilities**

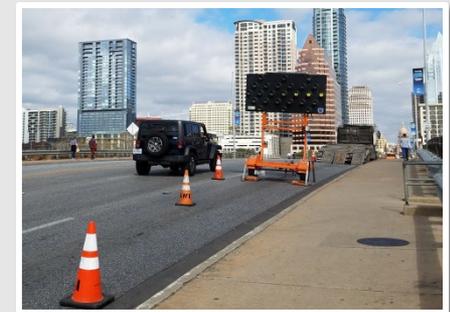
- Proposed procurement procedure for letting/bidding must be preapproved by TxDOT
- Must receive State Letter of Authority from TxDOT prior to commencement of advertising
- Advertise for a minimum of 21 days
- Public bid opening and tabulation
- Prepare bid analysis and submit to TxDOT
- May not execute construction contract prior to TxDOT's written concurrence in award

■ **Construction Phase - LG responsibilities**

- Upon execution of construction contract, LG costs for construction administration and inspection may be eligible costs in addition to contractor costs
- Provide written Notice to Proceed to contractor
- Lead pre-construction meeting
- Approve subcontractors and subcontract agreements
- Approve contractors schedule and submittals
- Make timely payments to contractor for work satisfactorily completed

■ **Construction Phase - LG responsibilities**

- Provide construction administration and daily project inspection to document that all project requirements are being met (including federal and state listed in PS&E)
- Provide reimbursement requests, with appropriate documentation, to TxDOT monthly
- Create project records that provide adequate assurance that quantities of completed work are determined accurately and uniformly
- Keep project records for at least time specified in AFA (with a minimum of three years following date of final reimbursement by FHWA to TxDOT)



■ **Close-out Phase - LG responsibilities**

- Assure all aspects of ROW acquisition and utility relocation are complete
- Submit final reimbursement request (billing statement) to TxDOT Project Manager with backup documentation and project records for final review and audit
 - *Include as-built plans and certification from professional engineer that project has been constructed in substantial conformance to plans and specifications*

■ **TxDOT, FHWA, State Auditor's Office and others still have right to audit the project records and documentation**

▪ **LG managed projects - TxDOT responsibilities**

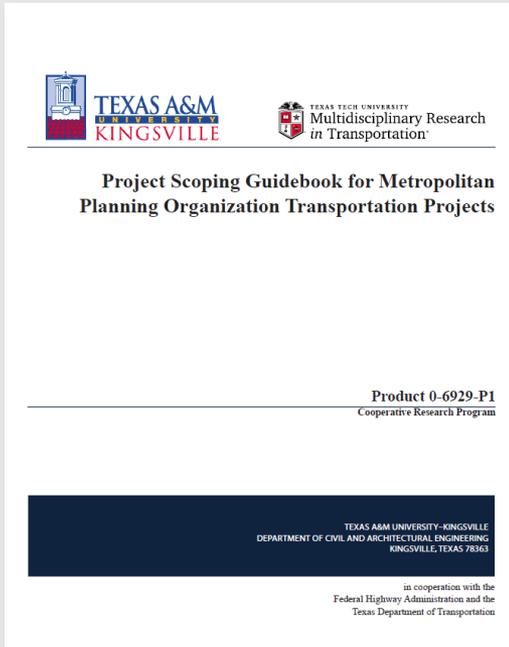
- Maintain oversight responsibility during all project development phases to ensure projects are managed, developed and constructed in accordance with approved policies, procedures, plans and specifications
- Review LG's reimbursement requests and documentation to facilitate timely payment of eligible costs

▪ **SAFETY is everyone's responsibility!**

- Ensure project site is safe for workers, traveling public, LG and state employees



Local Government Projects Program



TxDOT Resources

TxDOT Research Library

- *Project Scoping Guidebook for Metropolitan Planning Organization Transportation Projects Government*
 - » *Helps LGs more accurately develop project scopes, cost estimates and schedules for proposed projects.*
 - » <http://library.ctr.utexas.edu/hostedpdfs/tamuk/0-6929-p1.pdf>

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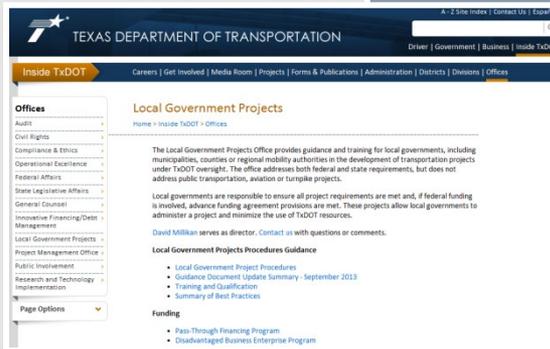


FHWA Resource

“Federal-Aid Essentials for Local Public Agencies” website

- www.fhwa.dot.gov/federal-aidessentials
- Informational videos and resources designed specifically for local public agencies

Local Government Projects Program



TxDOT Resources

Local Government Projects Office website

- www.txdot.gov
 - Government
 - » *Local Government Projects Toolkit*
 - » www.txdot.gov/government/processes-procedures/lgp-toolkit.html
 - *Inside TxDOT*
 - » *TxDOT Structure*
 - » *Offices*
 - » *Local Government Projects*
 - » www.txdot.gov/inside-txdot/office/local-government-projects.html

Local Government Projects Program

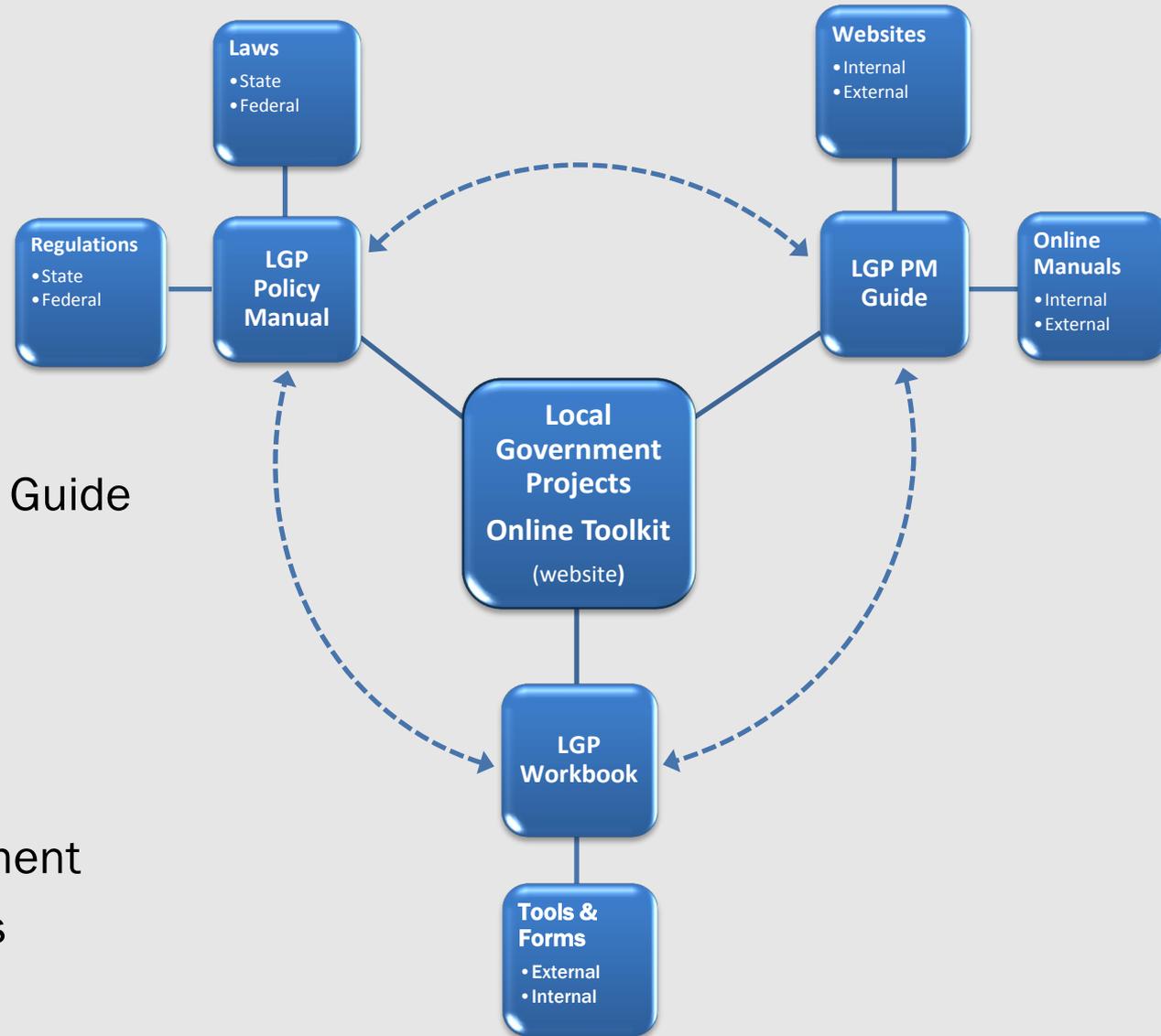
■ Single website

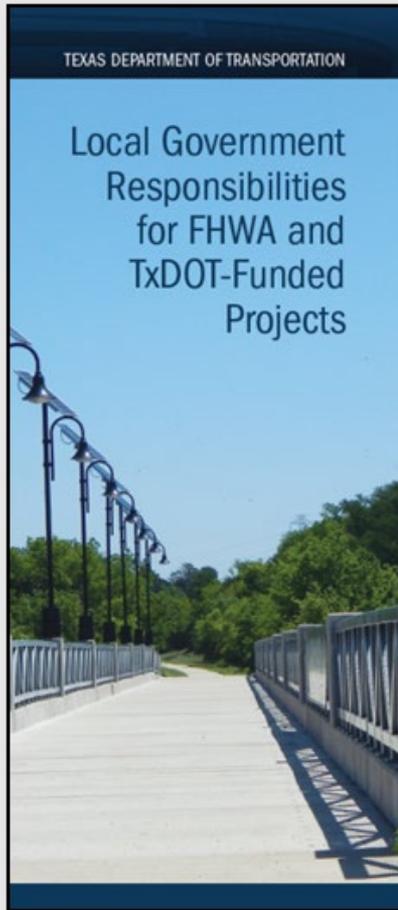
■ Three major documents

- Policy Manual
 - *Why - policies*
- Project Management Guide
 - *What - procedures*
- Project Workbook
 - *How - best practices*

■ Direct links

- Between each document
- To external resources





TxDOT Resources *(cont'd)*

- *Local Government Responsibilities for FHWA and TxDOT Funded Projects flyer*
- *Local Government Projects Toolkit*
- *LGPP training*
 - *Registration available through website*

Local Government Projects Program

TxDOT Local Government Projects Office

Points of Contact by Districts

