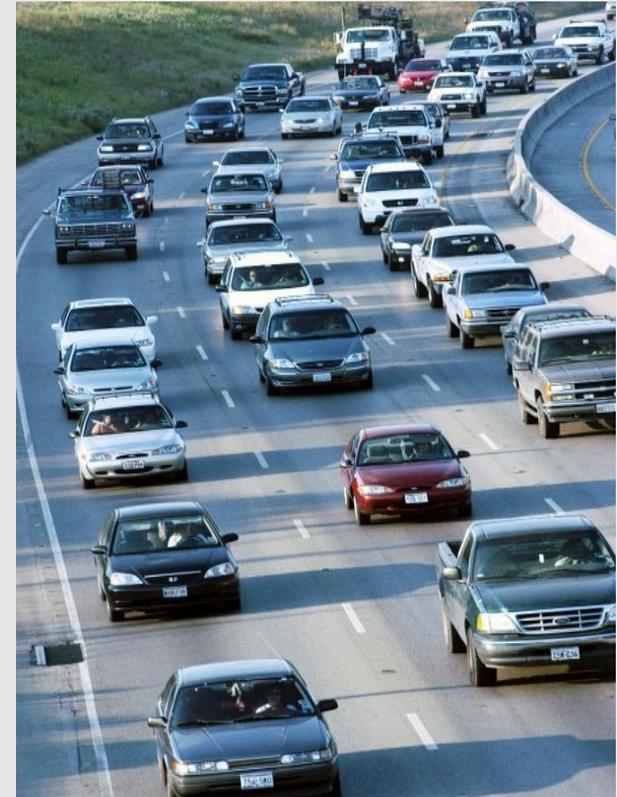




# LOCAL GOVERNMENT PROJECTS

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Overview of Program  
Requirements

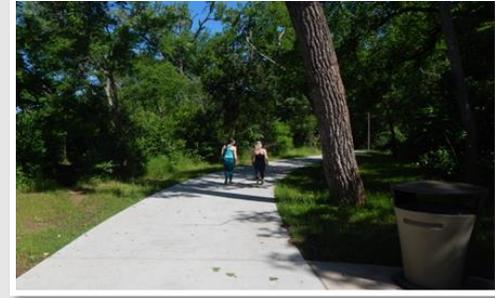


# Local Government Projects Program

## ■ Definition of a Local Government (LG) 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 the signing of a contract between TxDOT and LG - Advance Funding Agreement (AFA)
- 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

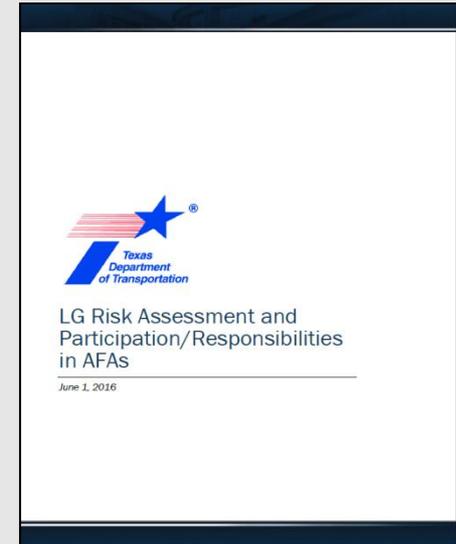
- TxDOT has a responsibility to determine if a LG has the capability to successfully manage one or more phases of project development

## ▪ Guidance document

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

## ▪ Forms

- Used when LG is to perform work on state highway system 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 (for eligible costs)*
    - *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 may 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
- Documentation of in-kind costs incurred by the LG must be submitted to TxDOT district staff on a regular basis (quarterly at minimum)
- 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

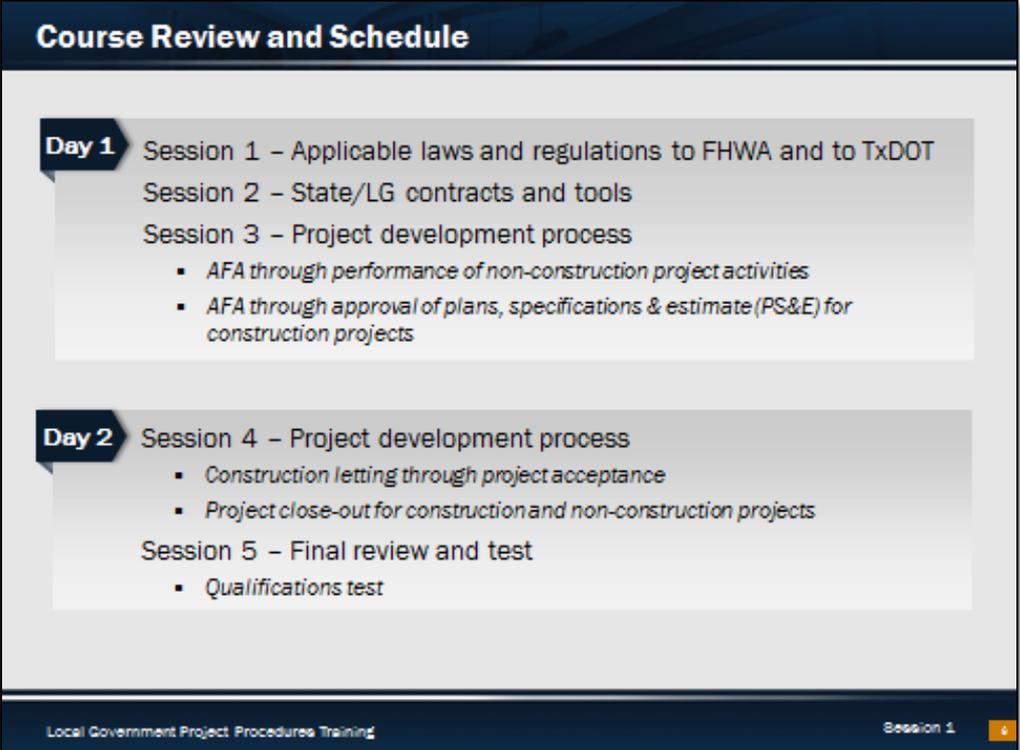
- **Prior to beginning work, the LG and TxDOT will name a Responsible Person In Charge (RPIC) who is accountable for the project**
  - *TxDOT's RPIC must be a full-time employee of TxDOT who is also a registered professional engineer*
  - *LG's RPIC must be a full-time employee of the LG*
- **RPIC duties 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
- 30 classes in 2016 for 564 students in 15 districts
- 2-3 classes per month scheduled for 2017 calendar year
- Check website for upcoming classes



**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**

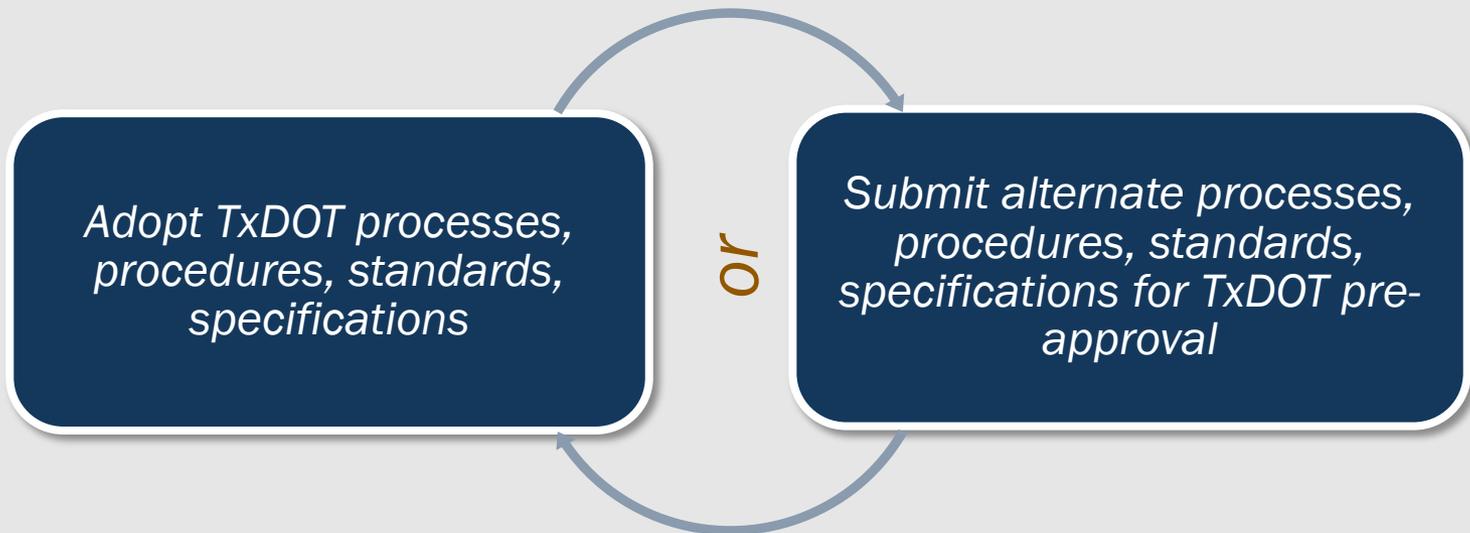
- Session 4 – Project development process
  - Construction letting through project acceptance
  - Project close-out for construction and non-construction projects
- Session 5 – Final review and test
  - Qualifications test

Local Government Project Procedures Training Session 1

<http://www.txdot.gov/government/programs/local-government-projects/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 execute a Federal Project Authorization and Agreement (FPAA) with FHWA for federal funding at various phases of project development*
  - *LG must have State Letter of Authority (SLOA) from TxDOT for project development*
- 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 Federal Acquisition Regulation (FAR) - compliant indirect cost rates*
  - *DBE goal (request from TxDOT)*
  - *Contract with required items*
- Prior to advertising for services seek TxDOT approval
- 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 National Environmental Policy Act (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 alternative specifications*
  - *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) Texas Department of Licensing and Regulation (TDLR) for review of ADA accessibility
- 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 (SLOA) 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

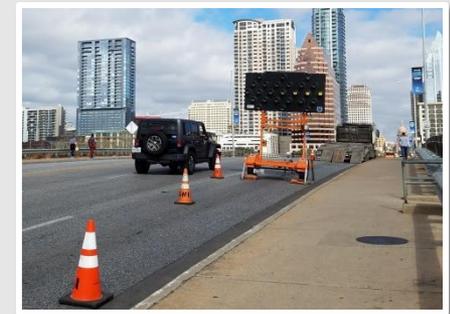
## ■ **Construction Phase - LG responsibilities**

- 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

# Local Government Projects Program

## ■ 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

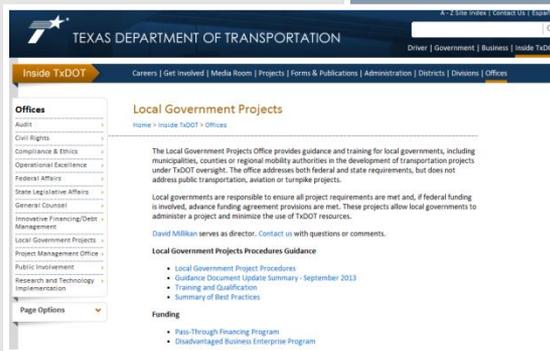


## FHWA Resource

### “Federal-Aid Essentials for Local Public Agencies” website

- [www.fhwa.dot.gov/federal-aidessentials](http://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](http://www.txdot.gov)
  - Government
    - » *Local Government Projects Toolkit*
    - » [www.txdot.gov/government/processes-procedures/lgp-toolkit.html](http://www.txdot.gov/government/processes-procedures/lgp-toolkit.html)
  - *Inside TxDOT*
    - » *TxDOT Structure - Divisions*
    - » *Transportation Planning and Programming*
    - » *Transportation Programs - Local Government Projects*
    - » <http://www.txdot.gov/government/programs/local-government-projects.html>

# Local Government Projects Program

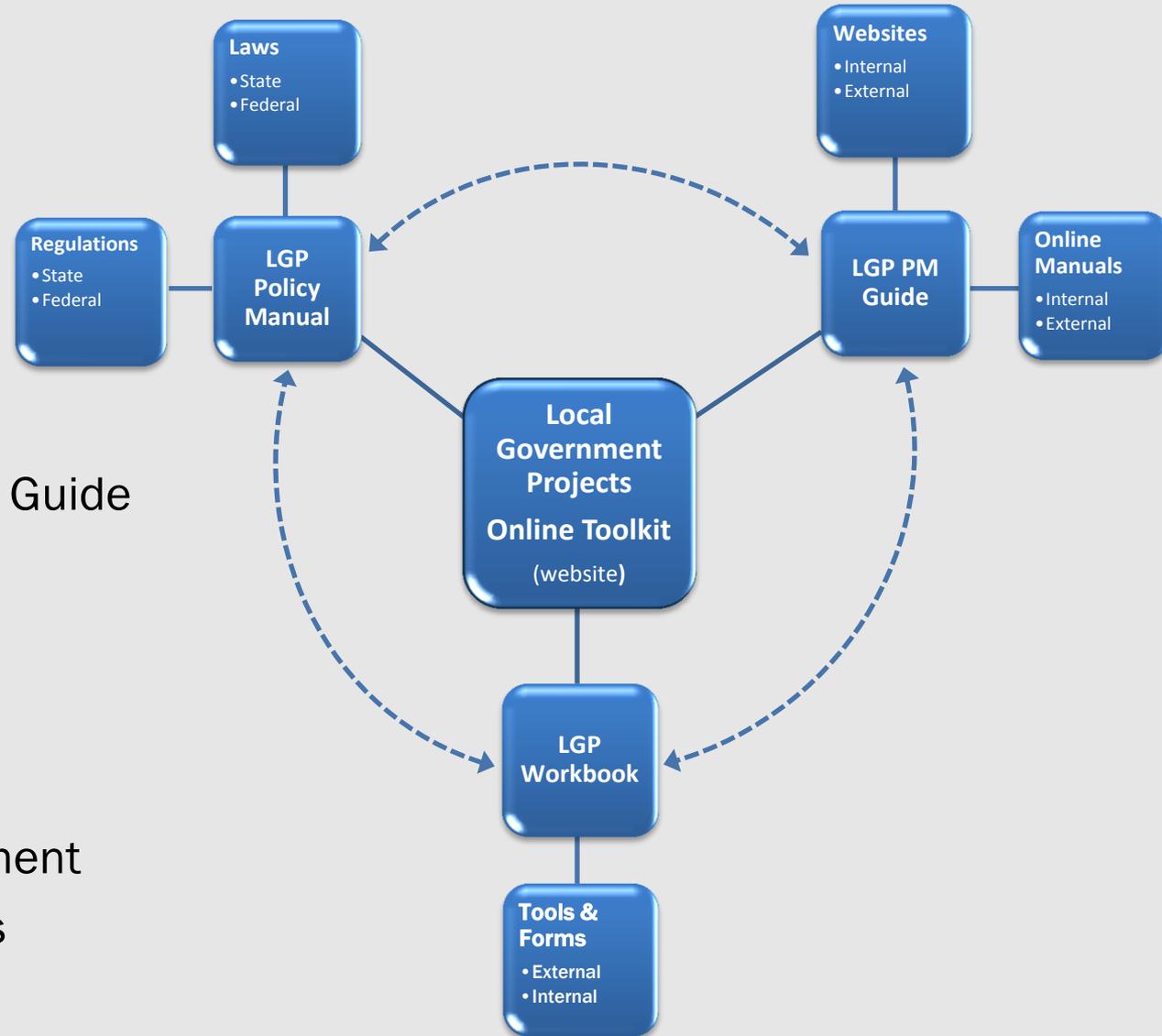
## ■ Single website

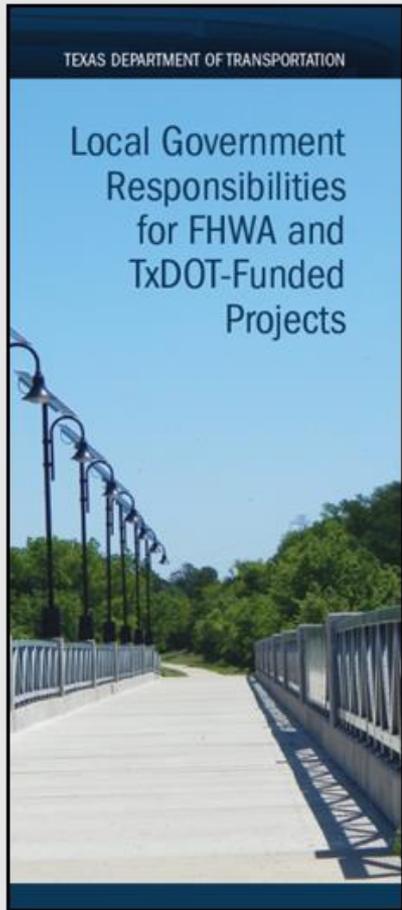
## ■ Three major documents

- 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

