TEXAS DEPARTMENT OF TRANSPORTATION

LOCAL GOVERNMENT PROJECTS

Overview of Program Requirements

Definition of "Local Government Projects"

LG Projects

- 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
- A locally-funded project managed by a local government on the State Highway System

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

Local government projects are a key component of TxDOT's mission

Work with others to provide safe and reliable transportation solutions for Texas

Local Government Projects Program

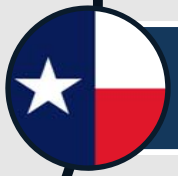
Successful execution of local government projects is a vital element of the Department achieving its goals

Local Government Program FY 2014

More than 700 active LG projects

More than 200+ LGs

- *Cities, counties, regional toll authorities, RMAs, MPOs, etc.*



23 districts have active projects

Estimated $1 billion/year in total project costs

Funding Program Types FY 2014

- Transportation Enhancement/ Alternatives
- Surface Transportation Program – Metropolitan Mobility
- Congestion, Mitigation, Air Quality
- Safe Routes to Schools, Traffic Signals
- Pass-Through Finance
- Border Colonias, County Energy Sector Roads, etc.

Local Government Projects Program

- Must comply with applicable state and federal rules based upon funding program

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 administrator*
- *The state highway department may utilize, under its supervision, the services of well-qualified and suitably equipped engineering organizations*
- *The state highway department 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

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

This includes consideration of:

- *LG previous experience in doing the proposed type of work*
- *LG capability to perform the work*
- *Need for project expedition*
- *Available TxDOT resources*
- *Cost effectiveness of available options*

Local Government Projects Program

- Projects are initiated by signing of a contract between TxDOT and LG
  - *Advance Funding Agreement for a Transportation Alternatives Program Project*
    - *Defines roles and responsibilities of each party*

Generally, TxDOT refers to all types of these agreements as "AFAs"

Sample Master AFA:

www.txdot.gov/inside-txdot/forms-publications/consultants-contractors/forms/design.html

Local Government Projects Program

- TAP is a reimbursement program
  - LG incurs cost and seeks reimbursement from TxDOT
  - TxDOT (upon approval of LG documentation) pays LG
  - TxDOT seeks reimbursement from FHWA
  - FHWA (upon approval of documentation) pays TxDOT

Local Government Projects Program

- The TAP is not a “block grant” program
- Reimbursement or lack of reimbursement by TxDOT does not affect LG’s obligation to pay vendors within 30 days

Local Government Projects Program

- 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.*

Local Government Projects Program

- Prior to beginning work, the LG and TxDOT will each designate, in writing, a Responsible Person In Charge (RPIC) who is accountable for the project

LG's RPIC must be a full-time employee of the LG

TxDOT's RPIC must be a full-time employee of TxDOT who is also a registered professional engineer

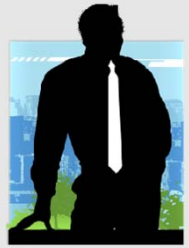
Local Government Projects Program

Each RPIC is expected to perform the following duties for his/her agency	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 or supplemental agreements
	Visit and review the project regularly
	Review financial processes, transactions and documentation
	Direct his/her project staff (agency or consultant) at all stages of the project

Local Government Projects Program

- It is also anticipated that each agency (LG and TxDOT) will 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



Local Government Projects Program

- LG is also required to have a "qualified" person actively involved in the project

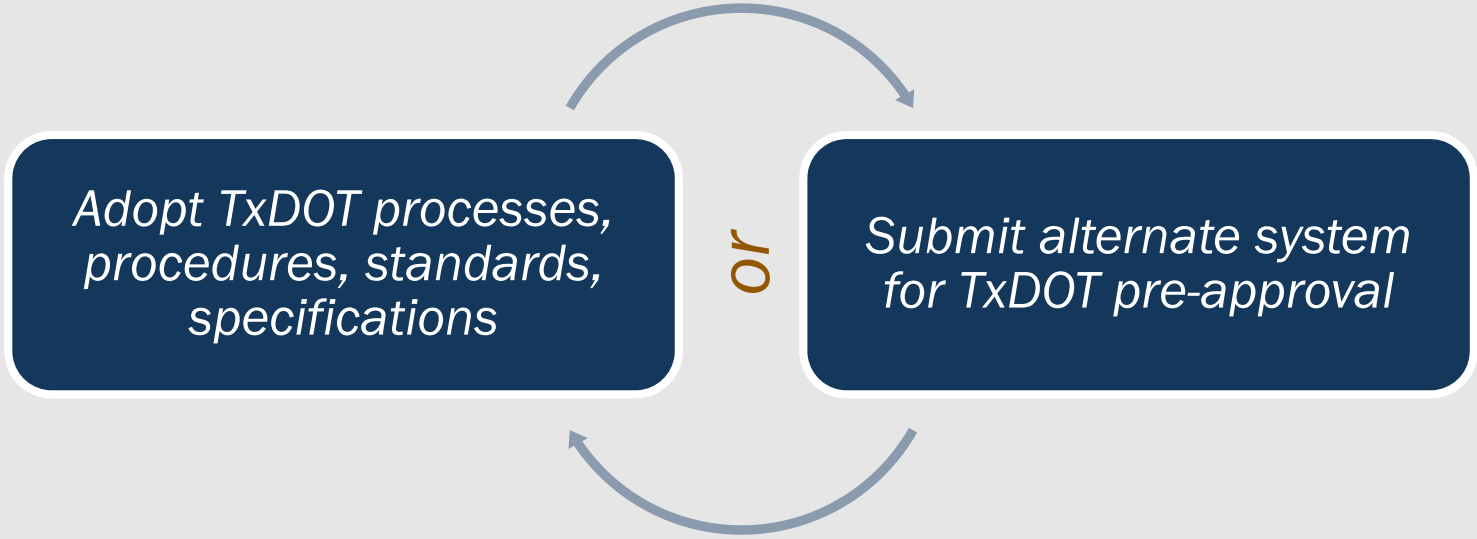
Must have completed the TxDOT Local Government Project Procedures (LGPP) training course

May be the same person as the RPIC or the Project Manager

May be an agency employee or a consultant

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 Program

- TxDOT maintains oversight responsibility during construction to ensure projects are managed, developed and constructed in accordance with approved policies, procedures, plans and specifications

- **SAFETY** – ensure project site is safe for workers, traveling public, LG and state employees!

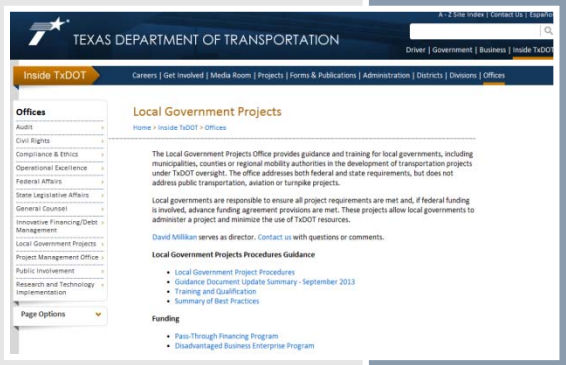
Local Government Projects Program

FHWA Resource

"Federal-Aid Essentials for Local Public Agencies" website

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

Local Government Projects Program

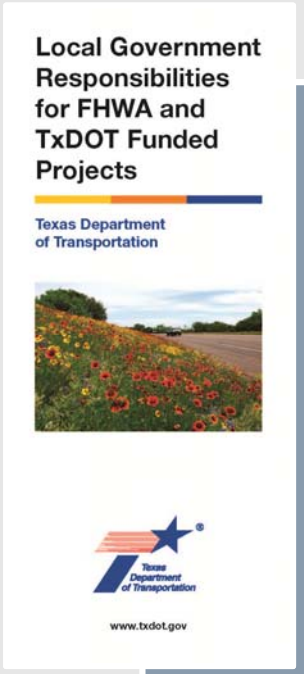


TxDOT Resources

Local Government Projects Office website

- *www.txdot.gov*
  - *Government*
    - » *Local Government Project Procedures*
    - » *www.txdot.gov/government/processes-procedures/lgpp-manual.html*
  - *Inside TxDOT*
    - » *TxDOT Structure*
    - » *Offices*
    - » *Local Government Projects*
    - » *www.txdot.gov/inside-txdot/office/local-government-projects.html*

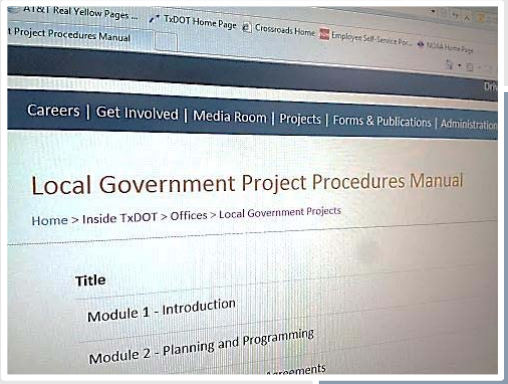
Local Government Projects Program



TxDOT Resources *(cont'd)*

- *Local Government Responsibilities for FHWA and TxDOT Funded Projects flyer*
- *Local Government Project Procedures*
- *Summary of Best Practices – Local Government Projects*
- *LGPP training*
  - *Registration available through website*

Local Government Projects Program



Current LGPP

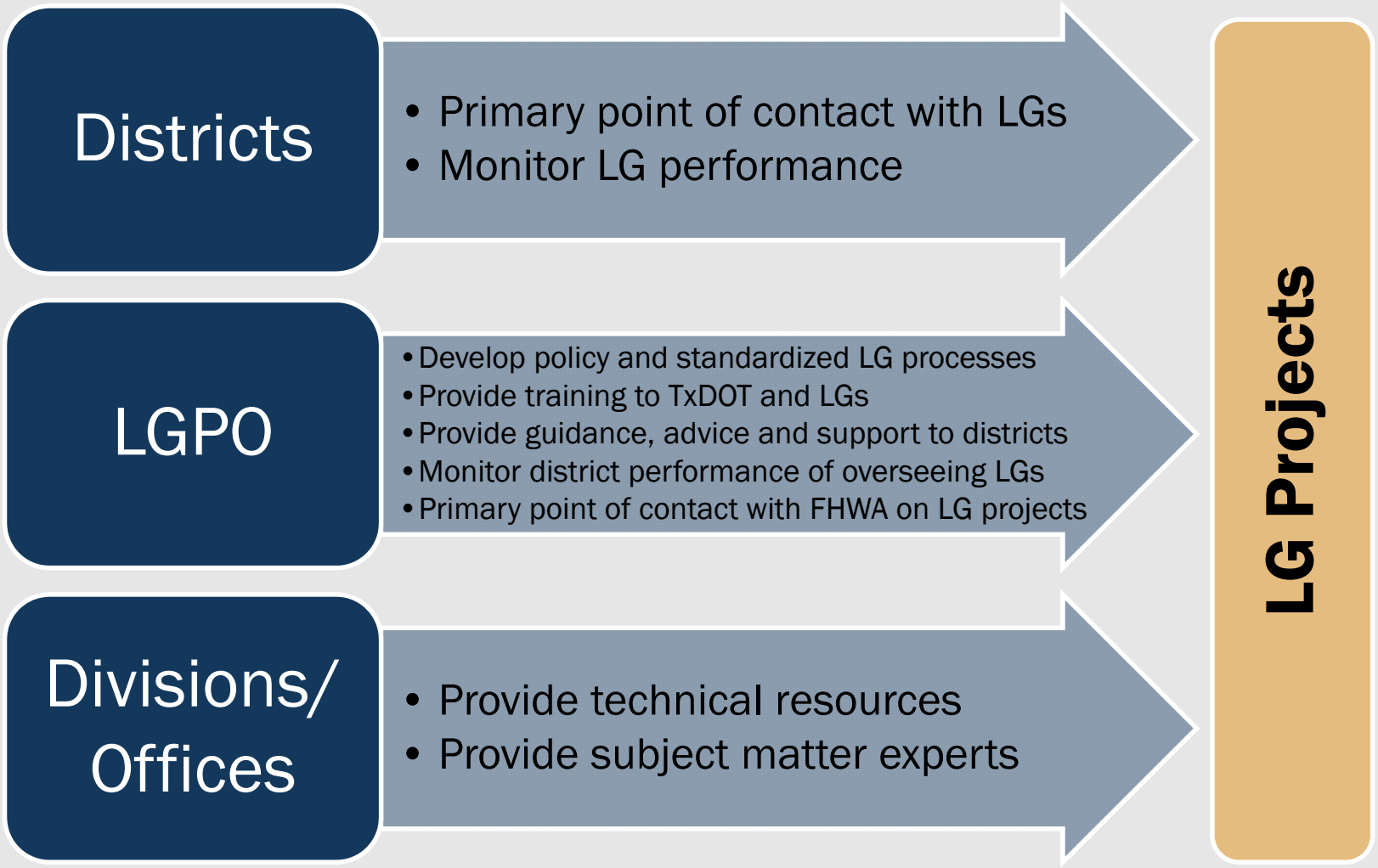
- *"Control document" approved by FHWA*
- *Written February 2009*
- *Most recent update September 2013*
- *Available online*
  - *www.txdot.gov/government/processes-procedures/lgpp-manual.html*
- *16 modules*
- *325+ pages*

Local Government Projects Program

Summary of Best Practices – LGP

- *Provides guidance*
- *Released in September 2012*
- *Minor updates in January and September 2013*
- *Available on CD or online*
  - *ftp.dot.state.tx.us/pub/txdot-info/lgp/summary-best-practices.zip*
- *Includes checklists and sample forms*

Local Government Projects Program



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)*

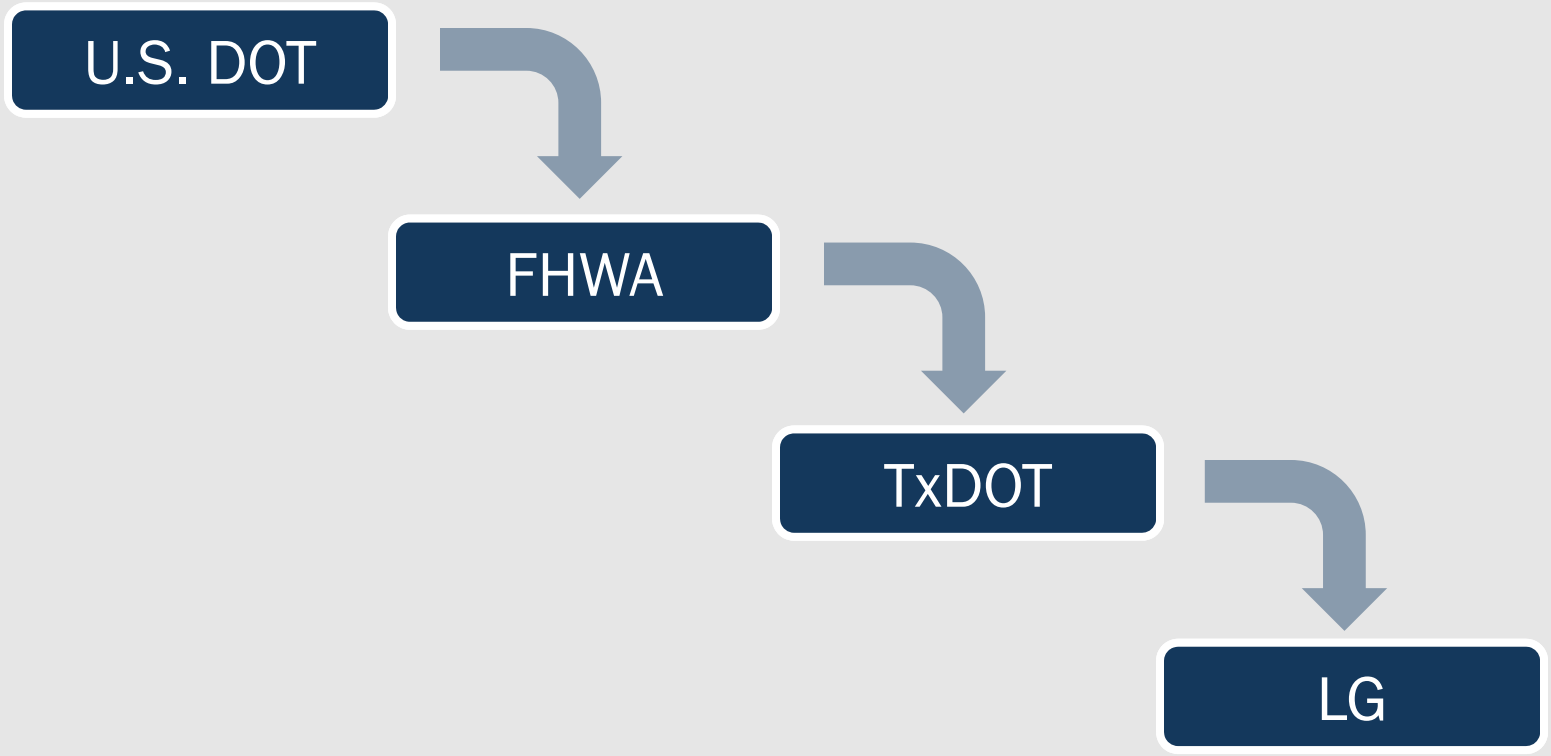
U.S. Code

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

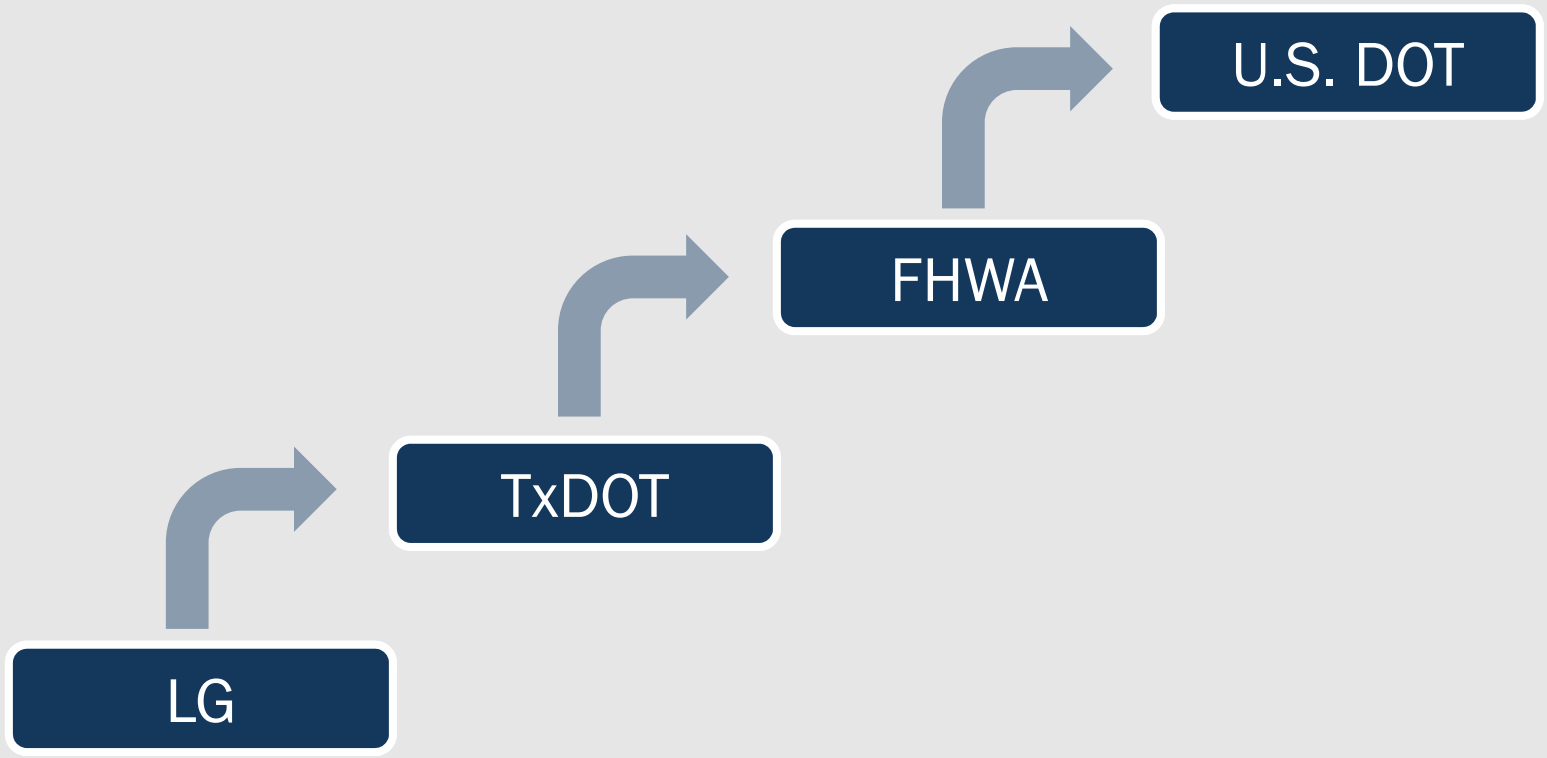
Code of Federal Regulations

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

Project Authority and Funding



Project Accountability



Pre-Design Activities

- Provide copies of AFA to all parties
- If preliminary engineering is to be an eligible cost, TxDOT must have an executed FPAA from FHWA
- LG must have authorization from TxDOT

Pre-Design Activities

- Consultant selection for surveying, engineering, architectural services must be “qualifications-based” and competitive
- Must use TxDOT selection process or submit alternative selection process to TxDOT for preapproval
- Professional services contract includes provisions for participation by DBEs (if federal funding) or HUBs (if state funding and no federal funding)
- TxDOT must review and approve all professional services contracts prior to execution by LG

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
- Primary TxDOT contact is through district

Design Phase

- Design concept conference
- 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)

Design Phase

- Conduct Value Engineering Study for projects with estimated project cost of $50M ($40M for bridge project)
- Include all federal and state required items in project documents
- Submit plans to TDLR and QAP for review and approval
- Submit documents to TxDOT for review 20 weeks prior to scheduled letting date

Right of Way and Utility Phase

- If ROW acquisition and utility relocation are to be eligible costs, TxDOT must have an executed Federal Project Authorization and Agreement (FPAA) from FHWA
- Acquire all ROW in conformance with TxDOT's Real Estate Acquisition Guide for Local Public Agencies and Uniform Act
- Survey must comply with TxDOT Survey Manual and ROW Manual
- Relocate all utilities in conformance with TxDOT's Right of Way Division Utility Manual

Right of Way and Utility Phase

- There may be reasons to proceed with project letting even if ROW acquisition and utility relocation are incomplete
- If so, 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

Construction Letting Phase

- LG proposed procurement procedure (contract letting/bidding) must be preapproved by TxDOT
- Prequalification/qualification
  - For projects on the State Highway System (with or without state or federal funds)
    - bidders must be prequalified by TxDOT
  - For projects off the State Highway System that do not include state funds (may include federal or local funds)
    - may require or not require potential bidders to be prequalified by TxDOT
  - Any prequalification or qualification criteria in addition to TxDOT's must be approved by TxDOT before becoming part of the bid documents

Construction Letting Phase

- Prequalification/qualification
  - Any criteria must clearly relate to determination of whether or not the bidder is “responsible”
  - A “responsible” bidder is
    - physically organized and equipped with the financial wherewithal to undertake and complete the contract
  - A post-bid qualification process may only include
    - objective criteria defined within the bid documents
    - not a consideration in determination of the lowest bid
  - A prequalification or qualification process should not be used to limit competition or discourage the submission of a bid by an otherwise responsible contractor

Construction Letting Phase

- Advertising
  - TxDOT must receive FPAA for construction from FHWA prior to issuance of LOA
  - LG must receive LOA from TxDOT prior to commencement of advertising
  - “Official notice” (printed newspaper advertisement) must be for at least 21 days prior to opening of bids
  - Advertise in accordance with applicable Texas Local Government Code or Transportation Code requirements
  - LG encouraged to also post on Electronic State Business Daily

Construction Letting Phase

- Bid opening and tabulation
  - All responsive bids received by posted time must be opened publicly and bids read aloud
  - TxDOT employee should be in attendance
- LG must prepare bid analysis and submit to TxDOT
  - Low bid excessive or unbalanced?
  - Must include comparison to independently prepared engineer's estimate
  - Review DBE participation plan
  - Contract award recommended to lowest responsive and responsible bidder
  - Submit letter recommending award to TxDOT
- TxDOT review and concur to award in writing
- LG may not execute contract prior to TxDOT's written concurrence

Construction Phase

- LG responsibilities
  - Provide written Notice to Proceed
  - Lead pre-construction meeting
  - Approve subcontractors and subcontract agreements
  - Provide construction administration and daily project inspection to document that all project requirements are being met
  - Make timely payments to contractor for work satisfactorily completed

Construction Phase

- LG responsibilities
  - 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)

Construction Phase

- TxDOT responsibilities
  - Maintain oversight responsibility during construction 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

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 within 30 days of project completion
    - Including as-built plans and certification from professional engineer that project has been constructed in substantial conformance to plans and specifications

Close-Out Phase

- TxDOT responsibilities
  - Review required elements of project for compliance
  - Perform audit of project records and documentation, returning to LG after performance of audit
  - Issue final audit report to LG when project records are returned
  - Final billing statement to be paid within 10 days of completion of district's audit
  - **FHWA, State Auditor's Office and others still have right to audit the project records and documentation**

Contact Information

Local District

- Online
  www.txdot.gov/inside-txdot/district.html

Local Govt. Projects Office

- Online
  www.txdot.gov/inside-txdot/office/local-government-projects.html
- Email
  www.txdot.gov/contact-us/form.html?id=lgp-or-email
- Phone
  David M.Y. Millikan, P.E. – Director
  (512) 416-2122