



# 2021 TA Call for Projects

## Frequently Asked Questions Update 5/3/2021

Below are frequently asked questions received during TxDOT's 2021 TA Call for Projects. The Code of Federal Regulations (CFR) and Texas Administrative Code (TAC) have been cited in response to several questions using only the abbreviations CFR and TAC.

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### Project Refinements

- 1) In the detailed application, can the project sponsor change from the project sponsor identified in the preliminary application?

Answer:

Project sponsor eligibility was determined in Step 1 of the application process. To maintain consistency and process integrity, a change in project sponsor is not allowed at this stage. We encourage project sponsors to partner on applications and project development (and to document those partnerships on the detailed application). However, only one eligible entity is permitted to serve as a project sponsor and enter into the Advance Funding Agreement with TxDOT. The project sponsor will be 100% responsible for the local match and project development.

- 2) In the detailed Application, can a project sponsor make changes to the project budget?

Answer:

Yes, project sponsors can adjust the project budget from the estimated budget submitted in the preliminary application. The budget submitted for the preliminary application was intended to be a planning-level estimate, and it is anticipated that project budgets will be changed in the detailed application based on discussion with TxDOT District staff and a more detailed evaluation of the project

costs. For the detailed application, the budget must be comprehensive and consider all phases of PS&E and construction. To ensure funding is adequate to construct the project, guidance from a professional experienced in delivering the type and scale of projects similar to the proposed activity in Texas is recommended. The total amount of TA funds awarded to a project by the commission is fixed, based on the estimated budget provided in the detailed application.

- 3) Can a project sponsor make changes to the proposed project scope and/or location in the detailed application (Step 2) from what was submitted in the preliminary application (Step1)?

Answer:

It is anticipated that projects will be refined between the preliminary and detailed applications based on discussion with the district, further evaluation of site constraints, cost estimation, and local priorities. However, a project submitted in a detailed application in Step 2 should be substantially the same project that was initially submitted in a preliminary application in Step 1. Examples of acceptable project refinements could include:

- slightly extending project limits to a more logical endpoint
- truncating limits to a logical destination to avoid adverse site conditions
- rerouting a project between the original termini to a parallel route with more favorable site conditions
- splitting a project into two phases or geographic areas

Additionally, smaller projects submitted in Step 1 may be combined into a single detailed application as long as the project sponsor demonstrates in the detailed application how the project elements function as a single, complete project. Whether proposed as an independent project or as an element of a larger transportation enhancement, a proposed project must be a logical unit of work and be constructible as an independent project.

## Itemized Budget (Eligible Activities, Incidental Costs, Amenities, etc.)

- 4) Are project sponsors restricted to TxDOT's average low bid unit prices when preparing the project budget?

Project sponsors are not restricted to the TxDOT average low bid unit prices. Projects sponsors can use the average low bid unit prices as a guide, but should make adjustments for local conditions, scale of project, inflation to year of construction, etc.

- 5) Are local government costs toward preparing the detailed application package eligible for reimbursement?

Answer:

No. Any costs incurred prior to the project being selected for funding, being included in the local Transportation Improvement Program (TIP) as either a grouped or individually listed project, included in the Statewide TIP, execution of the Advance Funding Agreement, and authorization from TxDOT to proceed are not eligible for reimbursement.

- 6) Are utility relocations eligible for reimbursement?

Answer:

Only minor, incidental utility adjustments (e.g. relocation of a street light, fire hydrant, or surface drainage inlet) are eligible and may be included as part of the project. Major utility adjustments (e.g. installation of a drainage system, relocation of power lines) should be completed in advance of project construction

letting. Allow for sufficient time to conduct utility adjustments prior to letting if minor adjustments cannot be included in the construction contract for the TA project.

7) Are amenities eligible for reimbursement?

Answer:

Yes, bicycle/pedestrian-related amenities, such as drought-tolerant shade trees, street furniture (e.g., benches, trash receptacles), wayfinding signage, and decorative lighting, are eligible expenses. These items should comprise no more than 5% to 10% of the total itemized construction budget, depending on the size and context of the project.

8) Can an inflation factor line item be included in the budget?

Answer:

No, inflation to the expected year of construction should be considered in bid item cost.

9) Can a contingency line item be added to the budget?

Answer:

A contingency cost is allowable for projects with less than 60% complete PS&E. The contingency cost may range from 5% to 15% (maximum) depending on the size and complexity of the project. In order for actual costs incurred to be allowable, they must comply with cost principles and other federal and state requirements, be necessary and reasonable for proper and efficient accomplishment of the approved project, and be verifiable from the project sponsor's records. Amounts for major project scope changes, unforeseen risks, or extraordinary events are not considered contingency.

10) Is there a max cost percentage of construction for "Incidental" items?

Answer:

Incidental items, such as landscape replacement, minor drainage improvements, minor environmental mitigation, and minor utility adjustments may not exceed 30% of the project's total itemized construction budget. Bicycle/pedestrian-related amenities, such as drought-tolerant shade trees, street furniture (e.g., benches, trash receptacles), wayfinding signage, and decorative lighting, should comprise no more than 5% to 10% of the total itemized construction budget, depending on the size and context of the project. All incidental items and amenities combined may not exceed 30% of the itemized construction cost. In order to be reimbursed by federal funds, incidental items and amenities should be included in the Itemized Construction Cost Estimate in the detailed application.

11) Can a project sponsor include ineligible items in the project if they are funded by project sponsor?

A project construction budget must have a minimum of 75% of its cost items eligible for reimbursement in order to remain in competition. Ineligible items will not be funded. The project sponsor will need to demonstrate a willingness and ability to pay ineligible costs and/or demonstrate that the TA project is constructible as an independent project without the ineligible items. This percentage applies to the project construction budget.

## General Program Questions

12) Is there a maximum or minimum award amount for TA projects?

Answer:

There is no maximum/minimum award amount, but program funds are limited. Over the three previous TA program calls, the average Non-urban federal funding award was around \$800,000, while the average Small Urban federal funding award was around \$1,350,000.

For smaller proposed projects, a project may be determined to be ineligible if the estimated cost to administer the funds exceeds the estimated construction costs. For larger proposed projects, while there is no maximum funding award, program funds are limited. The department may find it necessary to contact a project sponsor to split a larger project into smaller segments.

13) Does TxDOT usually receive more TA applications for non-urban projects than they have funding for?

Answer:

In the 2019 TA call for projects, TxDOT received fewer applications for non-urban area projects than anticipated future funding, resulting in a short Conditional Project List. TxDOT recently modified its TA Program rules with the intent to increase the pool of applicants from smaller communities.

14) Which population numbers should a project sponsor use to determine which funding area they are eligible for?

Answer:

All population figures used for TxDOT's 2021 TA Call for Projects should be based on the US Census Bureau's 2010 Decennial Census.

15) Existing TxDOT TA funding for FY21/22 is only available for communities of 5,000 or less population. If my project in a community of greater than 5,000 is selected for funding, our project would go on the "Conditional Project List" for future TA FY23/24 funding, correct?

Answer:

For communities, less than 5,000 (Non-urban areas), there are available funds to be awarded this year. For communities greater than 5,000 in population (Small Urban areas), the earliest we expect to have funds available would be 2023. However, some projects on a Conditional Projects List could be advanced sooner if funds become available earlier due to project underruns or potential increases in federal authorization levels.

16) How many projects will be selected as a result of TxDOT's 2021 TA Call for Projects?

Answers:

The number of project awards will depend on the eligible number and size of TA project applications received by the department. Through the 2021 Call for Projects, TxDOT intends to make about \$10.5 million in TA funds associated with FY 2021 - FY 2022 appropriations to the department for nonurban areas (population areas of 5,000 or less). Additionally, a conditional project list will be developed from this Call for Projects for future anticipated funding for nonurban and small urban areas. Projects from the conditional project list will be recommended once funding becomes available. It is anticipated that approximately \$13 million for each population area (nonurban and small urban) will be available for FY 2023 - FY 2024.

17) What resources are available to local governments to aid them in complying with federal and state requirements?

Answer:

TxDOT and FHWA have many resources available to local governments. The resources listed below are some of the most commonly used resources (accessible via the internet):

TxDOT

- TxDOT Local Government Projects website: <https://www.txdot.gov/government/programs/local-government-projects.html>
- Online Toolkit: <https://www.txdot.gov/government/processes-procedures/lgp-toolkit.html>
- Training and Qualifications: <https://www.txdot.gov/government/programs/local-government-projects/training.html>
- Forms and Publications: <https://www.txdot.gov/inside-txdot/forms-publications/publications/local-government.html>

- Local Government Standards and Special Provisions:  
<https://www.txdot.gov/business/resources/txdot-specifications/local-government.html>

#### FHWA

- FHWA website: <https://www.fhwa.dot.gov/>
- Federal-aid Essentials for Local Public Agencies: Federal-aid Essentials offers a central online library of informational videos and resources, designed specifically for local public agencies. Each video addresses a single topic-condensing the complex regulations and requirements of the Federal-aid Highway Program into easy-to-understand concepts with illustrated examples. Visit FHWA's website at: <https://www.fhwa.dot.gov/federal-aidessentials/>

## Eligible Project Sponsors and Eligible Reimbursable Activities

18) If a project is awarded, does the project sponsor need to pay for the construction of the project out of pocket and then get reimbursed? Or can the project be initially paid by the grant?

#### Answer:

Project sponsors awarded funding as part of TxDOT's TA program are reimbursed for eligible construction and design (if applicable) expenses. After the project sponsor incurs design or construction related expenses, the project sponsor will be reimbursed by TxDOT according to the Advanced Funding Agreement, signed before work begins. TxDOT's TA program is not a grant program, but a federal reimbursement program for eligible activities.

19) Can a nonprofit agency be a project sponsor?

#### Answer:

Nonprofit organizations are not eligible as direct grant sub recipients for TA funds unless they qualify through one of the eligible entity categories (e.g., where a nonprofit organization is a designated transit agency, school, or entity responsible for the administration of local transportation safety programs). Nonprofit entities are eligible to partner with any eligible entity on an eligible project; however, the eligible entity would serve as the project sponsor and be 100% responsible for the local match and project development.

20) Is the purchase of property for a bikeway or pedestrian facility eligible for reimbursement under this program?

#### Answer:

ROW acquisition is not an eligible expense for TxDOT's TA program.

21) Are traffic signals to stop traffic so bike/peds can cross a street eligible under this call for projects?

#### Answer:

Traffic signals may be eligible project components if they meet certain requirements outlined in the Manual for Uniform Traffic Control Devices. Guidelines for two newer types of pedestrian/bicycle traffic control devices are provided below.

Approval for funding through the TA program does not mean approval to install Pedestrian Hybrid Beacons (PHB) or Rectangular Rapid Flashing Beacons (RRFB) on TxDOT or local rights-of-way. Locations on and off TxDOT roads have guidelines and requirements that must be met. See below. The TxDOT RRFB/PHB memo (9/11/2018) referenced below can be found here:

<https://ftp.dot.state.tx.us/pub/txdot-info/trf/pdf/revised-guidelines.pdf>.

- **On-System (TxDOT ROW)**

- Pedestrian Hybrid Beacons:
  - The TxDOT RRFB/PHB memo (9/11/2018) conditions must be met.

- The guidelines and requirements of the 2011 Texas Manual on Uniform Traffic Control Devices (TMUTCD), Chapter 4F “Pedestrian Hybrid Beacons” must also be followed.
    - Each location must be studied per the memo, referenced above, with plans & studies submitted to their local TXDOT district for approval. Locations that do not meet the requirements listed in the memo or in the 2011 TMUTCD will not be approved.
  - Rectangular Rapid Flashing Beacons:
    - The TXDOT RRFB/PHB memo (9/11/2018) conditions must be met for RRFB installation. As part of the interim approval TxDOT-TRF must be notified of all RRFB installation locations. Email Doug Skowronek ([Doug.Skowronek@txdot.gov](mailto:Doug.Skowronek@txdot.gov)) and Rafael Riojas ([Rafael.Riojas@txdot.gov](mailto:Rafael.Riojas@txdot.gov)) a final list of locations they will be installed.
- **Off-System**
  - Pedestrian Hybrid Beacons:
    - The guidelines and requirements of the 2011 Texas Manual on Uniform Traffic Control Devices (TMUTCD), Chapter 4F “Pedestrian Hybrid Beacons” must also be followed. It contains recommendations that the designer should consider and requirements that must be followed.
  - Rectangular Rapid Flashing Beacons:
    - RRFBs are under FHWA interim approval (IA-21) and detailed rules must be followed for each installation. The requirements for IA-21 are listed on the FHWA website at the following link:  
[https://mutcd.fhwa.dot.gov/resources/interim\\_approval/ia21/index.htm](https://mutcd.fhwa.dot.gov/resources/interim_approval/ia21/index.htm)
    - As part of the interim approval TxDOT-TRF must be notified of all RRFB installation locations, even if they are not on TxDOT roads. Email Doug Skowronek ([Doug.Skowronek@txdot.gov](mailto:Doug.Skowronek@txdot.gov)) and Rafael Riojas ([Rafael.Riojas@txdot.gov](mailto:Rafael.Riojas@txdot.gov)) a final list of locations they will be installed.

## Application and Evaluation Processes

22) There is a limit of three applications. Does this limit apply to preliminary applications (Step 1) or can a project sponsor submit more than three preliminary applications and then narrow the number of applications to three for the detailed application (Step 2)?

Answer:

Project sponsors may submit applications for up to three unique projects. Only projects found eligible based on the preliminary application can be submitted for Step 2, the detailed application phase.

23) Will applications submitted during TxDOT’s 2019 TA/Safe Routes to School (SRTS) Call for Projects that were not awarded funding nor included on a 2019 Conditional Project List be considered in the FY 21-22 program without re-application?

Answer:

No, projects submitted during TxDOT’s 2019 TA/SRTS Call for Projects that were not awarded or identified for funding on a Conditional Project List must be resubmitted using the 2021 preliminary and detailed applications to be considered for funding under TxDOT’s 2021 TA Call for Projects.

24) If a previously submitted project was not selected for funding or included on a conditional project list, can the same project be resubmitted?

Answer:

Yes, projects that were unsuccessful during previous TxDOT calls for projects are welcome to be resubmitted under TxDOT’s 2021 TA Call for Projects. Project sponsors must complete the 2021 TA Call for Projects applications.

25) Is there a benefit to/preference for proposing a project in TxDOT ROW?

Answer:

Projects that are on or adjacent to the TxDOT maintained roadway network will not receive a higher rank simply because the project is on-system. TxDOT's priority with this program call is to fund quality bicycle and pedestrian projects leveraging as much TA funding as possible. However, TxDOT reserves the right to use other federal and/or state resources to implement a project submitted under this program call that is located within TxDOT right-of-way and advances the department's ADA/pedestrian safety, accessibility, and mobility goals. Refer to pg. 4 of the Program Guide for more information about this alternative funding source.

26) Does the program have a preference between project types (i.e. sidewalks, multi-use paths, etc.)?

Answer:

All project types are welcome. Review Section C of the Program Guide for information about project evaluation and selection criteria to assist in identifying competitive projects.

27) Do all project elements have to connect? For example, is making sidewalk improvements at different locations considered one project or do the improvements need to connect?

Answer:

A project that fills in gaps in a non-motorized transportation network may be eligible, as long as the detailed application demonstrates how the proposed elements contribute to a single, interconnected project. Project sponsors may be asked to split a larger project into smaller segments if each element of the project makes more sense as a standalone project.

28) Are projects crossing RR ROW less likely to be recommended for the detailed application?

Answer:

No, projects that cross RR ROW are not less likely to be recommended for Step 2 (detailed applications). However, it is important to identify project complexities early in the project development process so that these complexities can be addressed to avoid delays in project implementation if the project is awarded funding. Advanced railroad coordination is strongly recommended and may be essential for funding consideration. Obtaining railroad approval can take several months and in some instances several years. The detailed application should document coordination to date with the affected railroad regarding the proposed project.

29) Does "project readiness" mean you need to have engineering complete and PS&E documents ready to go?

Answer:

No. Project readiness is dependent on a number of factors listed in Table 3 in the Program Guide and using information provided in the Detailed Application (Step 2). Shovel-ready projects would have excellent project readiness; however, most projects are not shovel ready and are still very competitive in TxDOT's calls for projects for TA funds.

30) Does the cost estimate for the preliminary application have to be stamped by a PE?

Answer:

No. The preliminary application cost estimate does not need to be stamped by a P.E. The cost estimate in the preliminary application is intended to be a high level, general estimate. It provides TxDOT staff an idea of project scale and scope.

31) If a project is selected for funding by the Texas Transportation Commission as part of TxDOT's 2021 TA Call for Projects, when will project sponsors (with funded projects) be required to pay their local match?

Answer:

The local funding match for the preliminary engineering phase, including TxDOT's direct state cost for review of project plans and environmental documentation, would be due to TxDOT within 30 days of the local government receiving the fully executed Advance Funding Agreement (AFA). The AFA should be executed within one year after the date that the commission selected the project for funding. The remaining local match for administration and construction would be due to TxDOT 60 days prior to TxDOT's construction letting of the project.

If the project sponsor is responsible for developing preliminary engineering documents for federal participation and/or a local letting is authorized, the local government would remit the local match for TxDOT's direct state costs at the beginning of each phase of work. The project sponsor would then pay its contractors up front and be reimbursed for 80% of the eligible construction costs, plus any local match adjustment.

If TxDOT implements a project on behalf of the project sponsor, then the project sponsor would be responsible for paying its entire local match for each phase of work prior to initiation of that phase.

- 32) Are local government costs toward preparing the detailed application package eligible for reimbursement?

Answer:

No. Any costs incurred prior to the project being selected for funding, being identified in the local Transportation Improvement Program (TIP) and Statewide TIP (if individually listed), execution of the Advance Funding Agreement, federal authorization of the project, and authorization from TxDOT to proceed are not eligible for reimbursement.

- 33) If a proposed project includes a project sponsor overmatch (project sponsor proposes to contribute a cash match greater than 20% of the total construction cost), does this make a project more competitive?

Answer:

The presence of a project sponsor overmatch is not an evaluation criterion. However, an overmatch is an indication of strong local/community support which is an evaluation criterion.

- 34) Is a resolution from the project sponsor required for the detailed application?

Answer:

Yes. As part of Step 2, a resolution of support from the project sponsor will be a required as an attachment to the detailed application. It will be important for project sponsors to begin thinking about the steps required to get the resolution developed and signed before the June 14, 2021 detailed application deadline.

- 35) If we are proposing a project within the TxDOT ROW, should we have a letter of support from the district office?

Answer:

Yes. Projects that include state maintained right-of-way or have a direct effect on an existing state-maintained roadway must have a recent letter of consent, addressed to the project sponsor, and signed by the current TxDOT District Engineer (DE); this consent cannot be delegated down. The DE letter should be included as an attachment in the detailed application (Step 2). Project sponsors can begin coordinating with TxDOT District staff at the District Review meeting following Step 1.

- 36) What type of right-of-way (ROW) / property ownership documentation is required?

Answer:

Project sponsors will be requested to attach ROW ownership documentation which may include ROW maps and/or deed records to the detailed application. If ROW acquisition is necessary for the project but has not been completed at the time of the detailed application submittal, please include a

commitment letter by the current property owner indicating the property owner's willingness to transfer property in accordance with federal law.

- 37) All proposals must provide documentary evidence of the project sponsor's property rights by title of ownership, lease, or easement for all property within the project limits. – Can we use plats for this?

Answer:

Yes, plats may be used if they clearly show property ownership in relation to the proposed project's right-of-way.

- 38) The detailed application requires documentation of the project sponsor's ROW interest. A project sponsor may not have filed a plat or deed in the county real estate records for the street in question. What evidence could be provided in this situation?

Answer:

Project Sponsors can request assistance from the county clerk to search for the recorded plat. If nothing is found, the project sponsor should obtain a surveyor's written opinion on the existence and general description of a prescriptive easement based on recovered boundary evidence.

## Conditional Project List (CPL)

- 39) If your project is selected on a conditional project list, what are the chances of the project being awarded funded?

Answer:

If a project is selected for a conditional project list, TxDOT PTN intends to recommend the project for funding to the Texas Transportation Commission as soon as funding is available. All the projects that were identified for the Conditional Projects Lists during TxDOT's 2019 TA/SRTS Call for Projects have been awarded funding.

- 40) If we have a TA project on the 2019 conditional project list and submit another project during the 2021 TA Call for Projects, will the 2019 project count against the 2021 project application?

Answer:

No, identification on a conditional project list will not affect project scoring under TxDOT's 2021 TA Call for Projects. However, past project sponsor performance on previous TxDOT-administered projects may be considered as part of Project Readiness criteria during project evaluation.

## MPOs, TMAs, and Jurisdictional Questions

- 41) If a TA project was not awarded funding following an MPO Call for Projects, can the project sponsor submit the project to TxDOT?

Answer:

Yes. The same project already submitted to the MPO's Call for Projects can be submitted to TxDOT's Call for Projects as long as the project is not submitted to MPO and TxDOT calls for projects concurrently. The project sponsor must fill out TxDOT's TA applications.

- 42) Will a project be eligible for TxDOT's 2021 TA program if it is in a population area that will be designated as a Transportation Management Area (TMA) in the next Decennial Census?

Answer:

Yes. TxDOT's 2021 TA funding eligibility is based on the TMA boundaries and population sizes established by the 2010 Decennial Census.

43) Can a portion of a project be submitted to TxDOT and another portion submitted to an MPO's Call for Projects?

Answer:

Yes. If a project sponsor can create independent projects with logical termini and maintain independent utility, then the project sponsor may submit one project to TxDOT and the other to the MPO.

44) If part of our jurisdiction is in a TMA and part is outside, are we eligible to submit a project located in our jurisdiction but outside of the TMA boundary?

Answer:

Yes, TA funding eligibility is determined by project location. If the project is located outside of the TMA, it is eligible for TxDOT's TA program.

45) Does the local government have to outright own ROW or can an Interlocal Agreement be reached for indefinite use, for example railroad ROW?

Answer:

The project sponsor does not have to own the ROW for the project but must have consent from the ROW owner. Proposed improvements may be located on state-maintained roadway ROW ("on-system") or on property owned by the project sponsor or a third party ("off-system"). Projects may be constructed on private property if the proper easement is obtained and the easement allows public access. Projects that include state maintained ROW or have a direct effect on an existing state-maintained roadway must have a recent letter of consent, addressed to the project sponsor, and signed by the current TxDOT District Engineer of the TxDOT district in which the project is located. This consent cannot be delegated.

A railroad agreement may be necessary for projects that cross a railroad. Coordination with a railroad is required for all projects that are within 50 feet of railroad right-of-way (including grade-separated crossings) and/or all projects that begin or end within 500 feet from an at-grade highway-rail crossing to ensure traffic control and construction do not interfere with an active crossing. Obtaining railroad approval can take several months and in some instances several years. More information will be provided in the Detailed Application instructions.

46) If a project is in a City which is under 5,000 in population. Can the County be the local sponsor for non-urban TA funds?

Answer:

Yes, TA funding categories are determined by project location. Funding eligibility will be based on the population of the geographic area surrounding the project location. Whether the project is located in a city, town, village, Census designated place, or is completely rural in nature will determine the funding category (nonurban or small urban) for that project.

## **Transportation Development Credits (TDC) or Economically Disadvantaged Counties Program (EDCP)**

47) Which projects are eligible under provisions of the Economically Disadvantaged County Program (EDCP)?

Answer:

If a project submitted to TxDOT's TA Call for Projects is located in a community of 50,001 or greater in population and in a county that has been certified by the commission as an economically disadvantaged county, the detailed application package may include a request for an EDCP adjustment to the minimum local funding match requirement. To be eligible for consideration under the Economically Disadvantaged Counties Program, the infrastructure improvements must be located within public roadway right-of-way (ROW), either on-system (state-maintained) or off-system (locally maintained), or be immediately adjacent to roadway ROW.

For current EDC program guidance visit TxDOT's website at: <http://www.txdot.gov/inside-txdot/division/transportation-planning/disadvantaged-county.html>. Also, refer to p. 10 of the Program Guide.

48) Which projects are eligible under provisions of the Transportation Development Credits (TDCs)?

Answer:

- Project must be located in a population area of 50,000 or less located outside of a designated TMA, and
- Project is located in an economically disadvantaged county certified by commission at the time TxDOT's 2021 TA Call for Projects opens, or
- Project is located in a city, Census designated place (CDP), or rural area that meets all of the following criteria:
  - Below state average per capita taxable property value
  - Below state average per capita income, and
  - Above state average unemployment

To determine eligibility please refer to Appendix B in the 2021 TA Call for Projects program guide, which lists communities that are eligible or access an interactive web map at: <https://txdot.maps.arcgis.com/apps/webappviewer/index.html?id=01fa15525e9e4be68a43c06dc06ce2e6>. For rural projects located outside jurisdictional boundaries or census designated places not identified on the map, contact TxDOT-PTN (BikePed@txdot.gov) for guidance.

49) If a project sponsor believes itself to qualify for a TDC or EDCP reduction, should the project sponsor fill-in the detailed application budget assuming that reduction will be received?

Answer:

Eligibility for TDCs and EDCP will be determined based on information provided in the Preliminary Application. Eligibility for a local match reduction will be conveyed to eligible project sponsors at the end of Step 1, around mid-April 2021. During Step 2, when the project sponsor enters the itemized budget in the 2021 TA detailed application, automated fields and formulas will indicate the impact of any eligible match reduction.

50) If a proposed project location extends across the county boundary between two counties where varying EDC reductions are present, how does TxDOT adjust the EDCP percentage reduction for the project budget?

Answer:

If a project extends into two counties and one county has an EDC reduction and one does not, then TxDOT will prorate the reduction percentage according to the proportion of the project located in the EDCP eligible county.

If a project extends into two counties and each county has a different EDC reduction percentage, then TxDOT will prorate each reduction percentage according to the proportion of the project located in each county.

*NOTE: These are rare situations and will be handled on a case-by-case basis. If a project sponsor believes this situation applies, please notify TxDOT-PTN at BikePed@txdot.gov for assistance in accommodating these reductions on the submitted detailed application.*

51) If my community is eligible for TDCs, is there a limit to the amount of credit or is it automatically no cash match?

Answer:

TDCs allow for 100% federal TA funds to be applied to the project in lieu of a local match, so eligible projects will require no cash match.

52) If my community is eligible for TDCs and intends to use TDCs for local match, will this affect my project's chances of being awarded funding?

Use of TDCs will not impact project score. However, if a project sponsor chooses to provide an overmatch (more than 20% local match) it may be considered as an indication of strong local/community support which is an evaluation criterion. A project sponsor can also demonstrate good public support and score well on this part of the project evaluation without providing a local match of greater than 20%. Other key aspects that will be reviewed are evidence of outreach events and public meetings, demonstrating collaborative efforts with community partners that support the project, and providing letters of support for the project.

## Procurement/Hiring consultants

53) Do federal requirements apply to preliminary phases of project development?

### Answer:

Federal and state requirements apply to any costs incurred that will be reimbursed with federal funds. Additionally, all project property acquired (including easements and donations) after 1971 must have been acquired in accordance with the federal Uniform Relocation Assistance and Real Property Acquisition Act (Uniform Act). Furthermore, design must comply with federal and state standards; local design specifications may be approved on a case-by-case basis.

54) When hiring a consultant, when is a local government required to meet Federal Procurement Requirements?

### Answer:

Federal Procurement Requirements must be followed when the Local Government is reimbursed with federal dollars, or when a local government is authorized to local letting for construction. When procuring professional services, the local government must submit federal compliant procurement procedures to TxDOT for review and approval or adopt TxDOT's procurement process. In addition, contracts between the local government and consultants must include applicable federal requirements, and be submitted to TxDOT for review and approval, prior to execution. Federal Procurement Requirements apply regardless of whether the project is let for construction by TxDOT or by the local government.

The Federal Highway Administration's federal-aid essentials for local public agencies video library includes a video entitled Hiring a Consultant using Competitive Negotiation Procedures that provides an overview of the hiring process. Here is the video link: <https://www.fhwa.dot.gov/federal-aidessentials/catmod.cfm?id=7>.

For additional guidance on Procurement, Management, and Administration of Engineering and Design Related Services - Questions and Answers visit:

[https://www.fhwa.dot.gov/programadmin/172qa\\_01.cfm](https://www.fhwa.dot.gov/programadmin/172qa_01.cfm)

55) If the project sponsor is not seeking reimbursement for design and environmental documentation, then does the project sponsor need to follow federal rules?

### Answer:

If the project sponsor does not intend to seek reimbursement for design and environmental documentation, the project sponsor does not need to comply with Federal Procurement Requirements. Project sponsors must still follow other state requirements for project development. The project sponsor will still need to follow state and federal rules if overseeing letting and construction of the project.

56) Does TxDOT need to preapprove the engineering contract itself?

Answer:

If the project includes federal funding for preliminary engineering, then TxDOT must review and approve the project sponsor's procurement documents to ensure that state and federal requirements are met.

- 57) Since preliminary engineering is considered a reimbursable cost for projects in communities of 50,000 or less in population, will the grant sponsor procure all engineering services or will TxDOT be responsible for PS&E procurement?

Answer:

Professional services procurement must follow state and federal requirements if PE will be federally reimbursable. Whether TxDOT District or the Project Sponsor procures that works will be a collaborative decision between TxDOT and the Project Sponsor.

- 58) Can the project sponsor hire a consultant to help with its application?

Answer:

Yes. Project sponsors should be aware that any work done prior to the state's letter of authority is not reimbursable with TA funds.

- 59) If an engineering firm completed the project application and project receives an award, is that engineering firm eligible to complete preliminary engineering and/or environmental documentation the work?

Answer:

There is nothing in the Local Government program or FHWA guidance that would preclude them from participating. However, the LG and the engineering firm may want to review the Texas Engineering Code (Section 663.4 - Conflicts of Interests) and apply the code on the specifics of the project activities.

LGs need to insure however that while a consultant can aid in preparation of the application and still be eligible to prepare the PS&E etc., no consultant involved in preparing any relevant procurement documents is eligible to be considered for that procurement [2 CFR 200.319(b)].

- 60) If the City has a contract inspector, are those allowable/reimbursable expenses? Would an on-staff inspector be a reimbursable expense?

Answer:

Both a contracted inspector and a LG employee inspector conducting construction inspections are eligible for reimbursement under the program.

- 61) Can project administration of the construction phase be contracted out? Can project administration for construction be procured at the same time as PS&E?

Answer:

Yes, administration of the project during construction can be contracted out and can be procured at the same time as the contract for development of the plans, specification & estimate (PS&E) and environmental documentation. The local government would need to ensure that the PS&E procurement document includes construction phase administration in the contract's scope of work. If the local government is seeking federal reimbursement then the procurement process must meet federal procurement requirements. If a local government is not seeking federal reimbursement for construction administration then the local government needs to follow state and local government procurement rules. If a local government contracts administration of construction, the local government will still need to designate a Responsible Person In Charge (RPIC) who is a full time employee of the local government and remains engaged in the project, maintains familiarity with day-to-day project operations, makes or participate in decisions about change orders, reviews financial processes, transactions and documentation, and directs project staff (agency or consultant) at all stages of the project. The local government's RPIC will be TxDOT's main point of contact for the project.

62) Once the project sponsor incurs federally reimbursable costs, how long will it take for project sponsors to receive reimbursement from TxDOT?

Answer:

Following district review and acceptance of a complete invoice, TxDOT is required to provide reimbursement to the project sponsor within 30 days.

63) Can you clarify the requirements for turning in documents 20 weeks prior to letting? Is that for 60% PS&E? the Quality Assurance plan??

Answer:

The 20-week timeframe is specific to the Plans, Specifications & Estimate. Most likely you're submitting 30% schematics, then 60%, then 90%. That 90% is typically submitted 20 weeks before letting. It may take less time, but that's the general guidance we provide. That's a discussion you can have with your TxDOT Project Manager. They will look at their workload and provide a timeframe. The Quality Assurance plan can be submitted towards the end of the PS&E development. We encourage Local Governments to adopt TxDOT's Quality Assurance plan for these projects.

## Project Design and Environmental Documentation

64) Can a project that is just Design & Environmental be competitive?

Answer:

Project applications submitted to TxDOT's 2021 TA Call for Projects must include a request for construction funding. During project evaluation, TxDOT may identify potential constructability concerns (e.g. drainage issues, limited ROW, substantially inadequate budget, etc.). In this situation, TxDOT may recommend a project be phased and advanced for preliminary engineering (i.e., PS&E and environmental documentation) only. If a project is awarded preliminary engineering funding only, the project must be resubmitted in a future call for projects to be considered for construction funding.

65) For the reimbursement of preliminary engineering, are all applicants reimbursed or only those that are awarded the grant? Would preliminary engineering to prepare the application be eligible for reimbursement?

Answer:

See Section D of the Program Guide. For TxDOT's 2021 TA program call, the department's TA funds are available for:

- Project construction
- Preliminary engineering and design, including preparation of construction plans, specification, and estimates (PS&E), and associated survey work for projects in communities of 50,000 in population or less
- Environmental documentation for projects in communities of 50,000 in population or less

Any project costs incurred prior to selection by the commission, execution of a local agreement, and authorization from the department to proceed will not be eligible for reimbursement. Costs to prepare the applications are not eligible for reimbursement.

66) Must trails/sidewalks meet any AASHTO standards such as lighting and/or call boxes?

Answer:

The need for lighting and call boxes is context dependent and should be considered where appropriate to enhance visibility and user safety. All bicycle/pedestrian infrastructure design must comply with the Americans with Disabilities Act (ADA) and meet or exceed the minimum design requirements identified in the latest edition of TxDOT's *Roadway Design Manual*. Pedestrian facilities must conform to the *Public Right of Way Accessibility Guidelines* (latest edition) as published by the US Access Board or the

2010 ADA Standards and Texas Accessibility Standards, as applicable. Additionally, proposed bicycle facilities should be consistent with the latest [TxDOT's Bicycle Accommodation Design Guidance](#). All design criteria for on-road and off-road bicycle facilities must comply with the *Guide for the Development of Bicycle Facilities* (latest edition) as published by the American Association of State Highway and Transportation Officials (AASHTO). See Section I of the Program Guide for more information. In addition, further design guidelines will be provided in the Detailed Application instructions, which will be posted on TxDOT's TA funding webpage in April 2021.

67) If our sidewalk is connecting to a sidewalk along school property do we need to make sure that sidewalk is brought up standards?

Answer:

There is no requirement to upgrade sidewalks that your project connects to. However, the project may be more effective, overall, if improvements are made to the connecting facility, such as improvements to comply with the American's with Disabilities Act (ADA). Note that sidewalks within school property for internal circulation only would not be eligible for TxDOT's TA funds. Publicly accessible sidewalks along school property that serve the greater pedestrian or bicycle transportation network would be eligible.

68) Does public involvement have to take place before the detailed application is submitted?

Answer:

The project sponsor should demonstrate public awareness and support for the project in the detailed application. Additionally, any required public outreach can occur during the environmental phase of the project development process. See page 24 of the 2021 TA/SRTS Program Guide for more information. In 2017, the Texas State Legislature created a new public meeting requirement that states a public hearing must be held for a project that "substantially changes the layout or function of a connecting roadway or existing facility" (43 TAC §25.55). The addition of bicycle lanes is considered a substantial change under this legislation. Therefore, projects that include the addition of new bike lanes will require a public hearing. Public hearings held specifically to meet this requirement may be held any time during project development. Please refer to the Environmental Handbook for Public Involvement, Section 6, for information about the public hearing process. <http://ftp.dot.state.tx.us/pub/txdot-info/env/toolkit/760-01-gui.pdf>

69) Does construction of a shared use path trigger the public hearing requirement (43 TAC §25.55)?

Answer:

Shared-use paths and wide shoulders are not considered "bicycle lanes" for purposes of this requirement. Also, none of the following situations regarding bicycle lanes are treated as "substantially changing the layout or function of a connecting roadway or an existing facility or facilities:"

- striping bicycle lanes when the pre-existing roadway already accommodated bicycles.
- striping one or more non-continuous bicycle lanes approaching or through intersections, driveways, or other conflict areas; or
- striping bicycle lanes not along, but across a roadway at an intersection to allow the continuation of planned or existing bicycle lanes on crossing local streets or other bicycle facilities.

70) How wide should a shared-use path be?

Answer:

TxDOT recommends shared use paths be 11 to 12 ft. wide, depending on context, and anticipated future usage. The minimum width of a shared use path is 10 ft. to meet the TxDOT- adopted AASHTO Guide for the Development of Bicycle Facilities criteria.

71) Will the cost of a project impact project score? Should a project sponsor reduce width or use less expensive surfacing in order to reduce costs and increase project competitiveness?

Answer:

The cost of a project will not impact the score. TxDOT wants to use federal dollars to fund high quality projects that provide adequate levels of service with low maintenance costs over the life of the facility. Project sponsors may be asked to reduce the limits of a good project to meet any funding constraints. If a project sponsor feels that project costs are too high, add an explanation and exhibit in Attachment A or B that shows possible phasing of the project.

- 72) If there is a problematic railroad crossing along my project's route can the pedestrian and/or bicycle facility end at the railroad right of way and then start back up on the other side of the railroad crossing and ROW?

Answer:

No, for pedestrian and bicyclist safety and ADA compliance it is important to carry a pedestrian and/or bicycle facility through the railroad crossing creating a safe ADA compliant crossing. Otherwise the project may lead pedestrians and bicyclists to a potentially unsafe crossing which is especially problematic for disabled users of the facility.

- 73) Is the project sponsor responsible for environmental mitigation/remediation? Should this cost be included into the estimated construction cost budget?

Answer:

It depends. Reimbursement of extensive remediation costs associated with mitigating environmental issues won't be eligible under the 2021 TA Program Call. However, incidental (minor) environmental mitigation/remediation may be an eligible activity and must be documented in the itemized budget in the detailed application.

## Local Support

- 74) Does public involvement have to take place before the detailed application is submitted?

Answer:

The project sponsor should demonstrate public awareness and support for the project in the detailed application. Additionally, required public outreach can occur during the environmental phase of the project development process. See page 24 of the 2021 TA Program Guide for more information.

- 75) Do project sponsors need to hold a public hearing before the application deadline if the project will result in substantial changes to the layout or function of the roadway, such as a road diet or adding a new bike lane?

Answer:

Due to the nature of road diets and the potential impact to the traveling public, it is strongly advised to conduct public outreach and provide documentation of public support in the detailed application.

In 2017, the Texas State Legislature created a new public meeting requirement that states a public hearing must be held for a project that "substantially changes the layout or function of a connecting roadway or existing facility" (43 TAC §2.107(b)(3)(C)). The addition of bicycle lanes are considered a substantial change under this legislation. Therefore, projects that include the addition of new bike lanes will require a public hearing. Public hearings held specifically to meet this requirement may be held any time during project development. Please refer to the Environmental Handbook for Public Involvement, pages 14-17, for information about the public hearing process. <http://ftp.dot.state.tx.us/pub/txdot-info/env/toolkit/760-01-gui.pdf> A public hearing to comply with this state requirement may occur after the project is awarded funding. See p. 24 of the Program Guide for more information.

- 76) Can a project sponsor submit a letter of support in lieu of a resolution by the governing body?

Answer:

An adopted resolution from the project sponsor's governing board is a required attachment to the detailed application as stated in the detailed application instructions. Additionally, p. 14 of the Program Guide, states: "An application package that fails to include items required in the instructions for the preliminary and detailed application will be considered incomplete and may not be considered for funding." An example resolution supporting the detailed application is available on our funding webpage here: <https://www.txdot.gov/inside-txdot/division/public-transportation/bicycle-pedestrian.html>.

- 77) If the project sponsor is an ISD and the City will be maintaining the project once complete, should the City also pass a resolution concerning long-term maintenance?

Answer:

If an entity other than the project sponsor will be responsible for maintaining the project after construction, attach a letter from the responsible party committing to long-term maintenance. If the project is awarded funding, the project sponsor and agency responsible for maintenance may want to enter into an agreement formalizing respective responsibilities.

- 78) Should letters of support be sent directly to TxDOT from the senders or attached under the Public Outreach attachment through the online application? Who should the letters be addressed to?

Answer:

Letters of support must be attached to the detailed application, so all supporting documentation is compiled in one consolidated electronic file. This ensures that the letters will be taken into consideration during project evaluation. Letters of support should be addressed to the project sponsor.

- 79) If a proposed project includes a project sponsor overmatch (project sponsor proposes to contribute a cash match greater than 20% of the total construction cost), does this make a project more competitive?

Answer:

The presence of a project sponsor overmatch is not an evaluation criterion. However, an overmatch is an indication of strong local/community support which is an evaluation criterion.

## Project Letting and Construction

- 80) Is there a standard amount or percentage TxDOT charges for TxDOT administration costs to the applicant?

Answer:

For TxDOT's TA Program, the detailed application will automatically calculate an estimated amount for TxDOT's oversight of project development and construction (known as "direct state costs" or an administrative fee). For purposes of TxDOT's TA Program, direct state costs are calculated at 15% of the total construction cost. The direct state costs are reimbursable with federal funds at the same rate as the rest of the project, including any eligible local match reduction.

- 81) It was stated that projects have a 3-year letting window or TxDOT risks losing funds. When does the 3-year clock start? Is it when funds are awarded?

Answer:

The 3-year clock is dependent on when the funds are authorized to the State. TxDOT PTN programs projects based on project complexity, the proposed project timeline in the detailed application, and project readiness, as well as coordination between the local government and the district. To ensure that TA funds are utilized in a timely manner, simpler projects are programmed to let sooner, while more challenging ones are programmed to let later. It is critical that projects are advanced as expeditiously as possible once awarded, so that TxDOT can manage TA funding allocations and ensure that statewide TA funds do not lapse.

82) When would a project have to be let for construction?

Answer:

Projects should be let within three years after a project is awarded funds by the Texas Transportation Commission. Actual let dates will be based on project complexity, the proposed project timeline in the detailed application, project readiness, coordination between the local government and the district, and statewide federal obligation requirements. TxDOT's executive director may eliminate a project or a portion of a project from participation in the TA program if a construction contract has not been awarded or construction has not been initiated within three years after the date that the commission selected the project. See also response to question 60, above.

83) How will it be determined if a project is state let or local let?

Answer:

This will be determined on a case by case basis in coordination between the local government and the project's district office. Authorization for a local letting is a district decision. The local government would be required to request a local letting through the district office and complete a Risk Assessment evaluation. TxDOT makes the final decision on whether a local letting would be authorized. If you are interested in a state or local letting, you are encouraged to discuss this matter with your District TA Coordinator during the district review meeting of the preliminary application.

84) If a project sponsor has limited financial and staff resources to oversee a project, will TxDOT take on project administration directly or will the applicant need to create a budget and procure services as part of the award?

Answer:

The decision as to who will let a project (TxDOT or the local project sponsor) will be determined through coordination between the TxDOT District Office who will manage the project and the local project sponsor. Some small local entities procure a consultant to assist with project management and oversight for a locally let project. If a project sponsor is interested in TxDOT administering a project, then the project sponsor should discuss this request with the District during the review meeting after completing the preliminary application.

## Resources and Training

85) What resources are available to local governments to aid them in complying with federal and state requirements?

Answer:

TxDOT and FHWA have many resources available to local governments. The resources listed below are some of the most commonly used resources (accessible via the internet):

### TxDOT

- TxDOT Local Government Projects website: <https://www.txdot.gov/government/programs/local-government-projects.html>
- TxDOT Local Government Projects Online Toolkit: <https://www.txdot.gov/government/processes-procedures/lgp-toolkit.html>
- Training and Qualifications: <https://www.txdot.gov/government/programs/local-government-projects/training.html>
- Forms and Publications: <https://www.txdot.gov/inside-txdot/forms-publications/publications/local-government.html>
- Local Government Standard Specifications and Special Provisions: <https://www.txdot.gov/business/resources/txdot-specifications/local-government.html>

### FHWA

- FHWA website: <https://www.fhwa.dot.gov/>
- Federal-aid Essentials for Local Public Agencies: Federal-aid Essentials offers a central online library of informational videos and resources, designed specifically for local public agencies. Each video addresses a single topic-condensing the complex regulations and requirements of the Federal-aid Highway Program into easy-to-understand concepts with illustrated examples. Visit FHWA's website at: <https://www.fhwa.dot.gov/federal-aidessentials/>

86) What training is required to become a “qualified person” if our project is awarded funding? Can you provide additional information regarding how and when a project sponsor should register for a training?

Answer:

If awarded funding, the project sponsor must have a “qualified person” actively involved in the project. A person becomes “qualified” by successfully completing the training discussed below. Further information is included in the following link to the TxDOTs Local Government Project Procedures Training and Qualification – LGP101 page. Towards the bottom of the training page are links to a description of the training, training calendar, registration form, etc. <https://www.txdot.gov/government/programs/local-government-projects/training.html>