

Local Project Administration Manual & Resource Guide

Final PS&E Package



MaineDOT

Integrity - Competence - Service

2020 Update

Final PS&E Package

Before a project may be put out to bid, the local agency managing the work must provide the final plans, specifications and latest estimate (PS&E) to MaineDOT for review, along with a request for construction authorization. At this point, the construction plans and specifications must be fully developed, all permits must be in hand, and all rights-of-way must be acquired.

Chapter 7 of this Manual is set up to explain the documentation requirements at the milestone of final PS&E, just before a project is advertised for construction. It contains the following:

- Summary of the requirements (page 7-1);
- Checklist for the final PS&E package (page 7-2);
- Federal and state wage requirements – *new* (page 7-3);
- Force Account Work (page 7-4);
- Appendix 7A: Submittals to MaineDOT (page 7-6); and
- Appendix 7B: Bid package checklist (page 7-11).



7.1 Summary of PS&E Requirements

When a project reaches the final PS&E milestone, right-of-way and environmental work must be completed. If there is federal money, the U.S. Department of Transportation must have issued the appropriate document under the National Environmental Policy Act (NEPA) – in most cases what is known as a Categorical Exclusion (CE).

The certifications listed below must be submitted with the final PS&E package for a project. Templates are kept on the LPA Documents web page in the section *Letters to MaineDOT*: www.maine.gov/mdot/lpa/lpadocuments/

- Environmental certification modeled after Letter 12, found on page 7-7;
- Utility certification modeled after Letter 13, found on page 7-8; and
- Right-of-way certification modeled after Letter 14, found on page 7-9.
 - *A local agency must prepare Letter 14 only if it carried out the right-of-way process. Otherwise, MaineDOT will complete the right-of-way documentation.*

Remember: A local agency cannot advertise for construction bids without receiving written authorization. MaineDOT provides such authorization after the following steps are completed:

- MaineDOT has reviewed and signed off on the final PS&E package as complete; and
- The local agency administering the project has requested construction authorization from MaineDOT, using Letter 15, shown on page 7-10 of this chapter; and
- The U.S. Department of Transportation has obligated federal construction funding.

7.2 Checklist: Final Plans, Specifications & Estimate

Below is a summary of the steps necessary for a project to be ready to go out to bid. A complete list of items to include in a bid package is found on Appendix 7B, starting on page 7-11.)

- Final design plans (contract plans) must have the following, as applicable:**
 - Title sheet;
 - Plan views;
 - Profiles;
 - Cross-sections;
 - Typical sections;
 - Documentation of approved design exceptions; and
 - PE stamp of engineer of record.

- Engineer's Estimate finalized**, as follows:
 - Engineer's Estimate uses MaineDOT item numbers;
 - Each item in estimate is shown on the plans; and
 - Estimate of quantities matches Schedule of Items in contract book.

- Bid book contains the following standard items (www.maine.gov/lpa/lpadocuments):**
 - Notice to Contractors;
 - Contract Agreement, Offer and Award form (2 copies);
 - Schedule of Items, with MaineDOT item numbers;
 - Davis-Bacon prevailing wage rates (*federally funded projects*);
 - Maine Department of Labor wage rates (*projects >\$50,000 with any state funds*) - **NEW**;
 - Special provision 104.3.8 (Electronic Payroll), *for federally funded projects*;
 - Special provision 104 (Wage Rates), if federal and state wage rates are part of the book;
 - Special provision 104 (Utilities), if applicable;
 - Special provision 105.11 (Buy America), *for federally funded projects*;
 - Special provisions 401 and 403 (Hot Mix Asphalt), if applicable;
 - Form FHWA-1273 (*federally funded projects*);
 - Signed Title VI Assurances (*federally funded projects*); and
 - Environmental Summary Sheet from MaineDOT (*federally funded projects*).

- PS&E package approved by MaineDOT project manager:**
 - Environmental certification attached (*Letter 12*);
 - Utility certification attached (*Letter 13*);
 - Right-of-Way certification attached (*Letter 14*);
 - *Local agencies must complete this, if rights-of-way are acquired locally*
 - Traffic Analysis and Movement Evaluation (TAME) certification from MaineDOT.

- Construction authorization request sent to MaineDOT (*Letter 15*).**

- Construction authorization received in writing from the MaineDOT project manager.**
Note: If you bid a project before getting approval, you risk losing the money for the project.

7.3 Federal Davis-Bacon Wages

The federal Davis-Bacon Act requires construction workers on federally funded projects to be paid prevailing regional wage rates, as determined by the U.S. Department of Labor. If a project has no federal money, Davis-Bacon wage rates don't apply.

The contract book for a federally funded project must include a Davis-Bacon wage decision based on county and type of work, which may be highway, heavy or building. This document, commonly called a "general decision," will list work classifications and wage rates that the prime contractor and all subcontractors must follow. A Davis-Bacon wage decision must be part of the bid documents for a federally funded project; otherwise, the project cannot be advertised.

To obtain a Davis-Bacon wage decision, go to: <https://beta.sam.gov/search?index=wd>

7.4 State of Maine Wages

If a contracted public works project with an estimated cost of \$50,000 or more has state funds, construction workers on the project must be paid at least the prevailing minimum wage and benefit rates set by the Maine Department of Labor for the county and type of construction. This applies to state-funded projects led by municipalities, including those awarded through the Small Harbor Improvement Program (SHIP) and the Municipal Partnership Initiative (MPI).

Similarly, if a contracted project estimated to cost \$50,000 or more has federal and state funds, both federal and state wage rates must be in the contract book. The contractor must pay the higher of the two wage rates for each worker classification. In such cases, special provision 104, "Wage Rates," must be part of the contract books.

State wage determinations are available from the Maine Department of Labor:
www.maine.gov/labor/labor_stats/publications/wagerateconst/prevailingwage/index.shtml

This new requirement resulted from a change in Maine law that took effect September 19, 2019. The definition of "public works" in the law – Title 26 MRSA, Chapter 15, Section 1304 – was amended to cover projects funded in whole or in part by state funds. Before, only those projects contracted directly by the State of Maine were included in the definition of public works.

Questions should be directed as follows:

Richard W. Stephens
Maine Department of Labor
Wage and Hour Division
Phone: (207) 623-7906
Email: Richard.W.Stephens@maine.gov

➡ For forms and guidance, check with the Maine Department of Labor:
www.maine.gov/labor/labor_stats/publications/wagerateconst/index.html

7.5 Force Account Work

7.5.1 Federally Funded Projects

“Force account” refers to the direct performance of highway and highway-related construction work by a state, local or tribal public agency, a railroad, or a public utility company by use of labor, equipment, materials, and supplies furnished by the agency and used under its direct control [23 CFR part 635.203(c)].

Federal-aid highway construction projects generally must be awarded based on the lowest responsive, responsible bidder [23 U.S.C. 112] unless MaineDOT can demonstrate to the satisfaction of the Federal Highway Administration (FHWA) that some other method is more cost-effective or that an emergency exists. Cost-effective is defined as the efficient use of labor, equipment, materials, and supplies to assure the lowest overall cost [23 CFR part 635.203(e)].

MaineDOT has established a self-certifying process in agreement with FHWA to meet the requirements for a finding of cost effectiveness as described in 23 CFR part 635.204(c). Construction work proposed by a public agency on a federal-aid project meeting these requirements is considered to be cost effective.

Upon receiving a request from a local agency to perform construction using the Force Account method, the MaineDOT Project Manager must complete a **Finding in the Public Interest Form** and attach all required supporting documentation. The corresponding MaineDOT Program Manager must provide review/approval sign-off.

When the Force Account method is used, it must be justified by a cost-effectiveness determination that shows a significant savings over estimated contract prices. The requestor shall document this savings by providing Force Account costs on a **Force Account Estimate Worksheet** that must be submitted with the Finding in the Public Interest Form. This should be compared with the detailed cost estimate of work by the competitive bid method of construction. The estimates for both shall be all inclusive so a fair and equal comparison can be made.

The force-account estimate must include all costs associated with the work and not just the work that will be billed to the project. These costs include labor, overhead, equipment, materials, and supplies. MaineDOT will provide a standard overhead figure to be used with these estimates – currently 110 percent. *Local public agencies either shall provide their audited overhead reports or use the standard overhead figure of 110 percent of labor costs.* Additionally:

- If a local agency has no set rates for its equipment, it may use current Blue Book rates.
- The local agency must obtain all required clearances and permits, as applicable.
- Project activity should only proceed when:
 - a. All documentation justifying the Force Account construction method is complete;
 - b. Plans are complete and approved by the MaineDOT project manager; and
 - c. Obligation authority and funding are cleared by the project manager.
- Project expenditures should follow established MaineDOT guidelines.

The Force Account method may be used in the following circumstances: A) Emergency Repair Work; B) Railroad or Utility Work; C) When there is Lack of Bids or Unreasonable Bids; or D) Work by a Public Agency. The eligibility and documentation requirements for the latter types of projects are indicated in the YES sections of Part D of the Finding in the Public Interest Form.

A) Emergency Repair Work

Necessary to protect public health and safety, or a major element or segment of a highway or roadway has failed, and competitive bidding is impossible or impractical. Competitive bidding may be precluded because immediate action is necessary to minimize the damage, to protect remaining facilities, or to restore essential travel as provided in 23CFR 635.204(b).

B) Railroad or Utility Work

The inherent nature of the operation makes it cost-effective to perform minor adjustments of railroad and utility facilities (as determined by the railroad or utility) by the Force Account construction method, while the majority of work is performed by competitive bid. See 23CFR 635.205(b).

C) Lack of Bids/Unreasonable bids or Work by a Public Agency

1. It can be demonstrated that it is cost-effective to do the work by the Force Account method and the scope of work is within the approved Force Account criteria, or that there is a lack of bids or the bids received are unreasonable. The Force Account value must be in the range of 15% less than estimated competitive bid method of construction. *If the cost savings is less than 10%, concurrence must be obtained from the appropriate MaineDOT Bureau Director and the FHWA.*
2. It is cost-effective to perform work that is incidental to the main purpose of the project by the Force Account construction method. The majority of work is still accomplished by competitive bidding.
3. Appropriate documentation shall be provided to substantiate the reason for work done by MaineDOT or municipal forces.
4. Force Account activity shall not be considered for routine maintenance work.

7.5.2 State-Funded Projects

Requests to use “in-kind” work on projects with no federal money, typically funded through grant programs such as the Small Harbor Improvement Program, must have the approval of the manager of MaineDOT’s Multimodal Program.

Requests to use “in-kind work during construction should be documented in the initial application for a project. In making a request, a city, town or other local agency must explain why it wants to forego competitive bidding and must document the following:

1. Estimated number of hours of work, with labor rates; and
2. Estimated quantities and prices for materials to be used on a project.

Appendix 7A: Submittals to MaineDOT

- ❑ Electronic templates are kept in the “Letters to MaineDOT” section of MaineDOT’s LPA Documents web page: www.maine.gov/mdot/lpa/lpadocuments/



Instructions: This must be submitted on letterhead to MaineDOT with the final PS&E package.

[DATE]

[NAME], Project Manager
Maine Department of Transportation
Bureau of Project Development, Multimodal Program
16 State House Station
Augusta, ME 04333-0016

Subject: Environmental Certification
MaineDOT WIN [NUMBER]

Dear [NAME]:

If permits were required, use this paragraph:

The Municipality of [NAME] hereby certifies that it has obtained all environmental permits and approvals for the subject project, satisfying one of the pre-construction requirements in the executed project agreement with MaineDOT. Attached are copies of the permits, which are required for MaineDOT to complete the Environmental Summary Sheet for the contract package.

If NO permits were required, use this paragraph:

The Municipality of [NAME] hereby certifies that no environmental permits were needed for the subject project. This certification satisfies one of the pre-construction requirements in the executed project agreement with MaineDOT.

Sincerely,

[NAME], Municipal Project Administrator

Cc: MaineDOT Environmental Office

NOTE: *Please attach approved permits, if applicable*

(Revised January 2020)

INSTRUCTIONS: This must be submitted on letterhead to MaineDOT with the final PS&E package.

[Date]

[NAME], Project Manager
Maine Department of Transportation
Bureau of Project Development, Multimodal Program
16 Sate House Station
Augusta, ME 04333-0016

Subject: Utility Certification, Federal Project
MaineDOT WIN [NUMBER]

Dear [NAME]:

The Municipality of [NAME] hereby certifies that all utility and railroad work necessitated by the subject project has been identified and coordinated with the respective parties. All arrangements have been made for utility work to be undertaken and completed as required for proper coordination with the construction schedule, in accordance with Title 23 in the Code of Federal Regulations, Part 645, "Utilities," subparts A and B.

Based on 23 CFR 635.309(b), the Municipality further certifies either that all railroad work has been completed or that all arrangements have been made for such work to be undertaken and completed as required for proper coordination with the construction schedule, in accordance with 23 CFR 140 Subpart I and 23 CFR 646 Subpart B.

Listed below are utilities/railroads having facilities within the project limits:

Utility/Railroad

Impacted facilities? (yes/no)

All of the entities listed above were first informed of the project on [DATE], were involved as necessary throughout design, and received the latest plans on [DATE]. Furthermore, the above entities have been informed of the proposed advertising date: [DATE]. There are no direct payments anticipated to utilities/railroads as a part of this project.

The primary utility/railroad contacts involved in the coordination of this project are as follows:

Utility/Railroad

Contact Name

Telephone #

Sincerely,

[NAME], Municipal Project Administrator

INSTRUCTIONS: If a local agency acquired rights or otherwise carried out the right-of-way process, this letter must be signed by the agency's highest-ranking administrative officer and submitted to MaineDOT with the final PS&E package.

[Date]

[NAME], Project Manager
Maine Department of Transportation
Bureau of Project Development, Multimodal Program
16 State House Station
Augusta, ME 04333-0016

Subject: Right-of-Way Certification, Federal Project
MaineDOT WIN [NUMBER]

Dear [NAME]:

If right-of-way was acquired, use this statement:

The Municipality of [NAME] hereby certifies that:

1. The Municipality has acquired all rights-of-way necessary for construction and maintenance of [DESCRIPTION AND LOCATION], and the Municipality has legal and physical possession of those rights;
2. The acquisition was performed in accordance with Title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, "Uniform Real Property Acquisition Policy"; and
3. No acquisition required compliance with Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, "Uniform Relocation Assistance."

If NO right of way was required, delete the text above and use this statement:

The Municipality of [NAME] hereby certifies that no right-of-way acquisition was necessary for construction and maintenance of the subject project. All work will occur within the right-of-way, as documented in the final design plans stamped by the Engineer of Record.

All information about the right-of-way process can be made available upon request. If you need additional information, please let me know.

Sincerely,

Highest-ranking administrative officer

(Revised February 2020)

INSTRUCTIONS: This must be submitted on letterhead with the final PS&E package.

[Date]

[NAME], Project Manager
Maine Department of Transportation
Bureau of Project Development, Multimodal Program
16 State House Station
Augusta, ME 04333-0016

Subject: Construction Authorization Request, Federal Project
MaineDOT WIN [NUMBER]

Dear [NAME]:

Attached for your review, comment and approval are the final plans, specifications and estimate (PS&E) for [insert project scope] in the Municipality of [NAME].

Also attached are the following certifications:

- Letter 12 (environment);
- Letter 13 (utilities); and
- Letter 14 (right of way, if applicable).

The Municipality hopes to advertise for construction services on [insert date], but we understand that we cannot put the project out to bid without MaineDOT's written approval.

We further acknowledge that construction authorization will be contingent upon:

1. The Municipality addressing to MaineDOT's satisfaction any final comments on the PS&E package; and
2. MaineDOT obtaining authorization for the construction stage of the project from the Federal Highway Administration.

Sincerely,

[NAME], Municipal Project Administrator

Enclosure: Draft PS&E package

Appendix 7B: Bid Package Checklist

Updated May 2020



FINAL PLANS & BID DOCUMENTS

Note: This checklist was updated in May 2020 for federally funded bid packages. This packet lists the standard items; project-specific special provisions may be obtained from the LPA Documents website, highlighted below, or from the MaineDOT Project Manager assigned to a specific project.

Final Design Plans

1. Title page is signed and stamped by the Engineer of Record.
2. Schedule of items matches the final engineer's estimate.
3. All pay items on the plans also are on the schedule of items and engineer's estimate.

Bid Documents

Standard inserts are found under "Bid Documents" on the following web page:
www.maine.gov/mdot/lpa/lpadocuments/

1. Bidding Instructions
 - The latest inserts from MaineDOT must be at the front of the bid book. The instructions will be labeled Federal or State, depending upon funding source.
2. Notice to Contractors, includes:
 - Stamp of Engineer of Record
 - Bid opening date and time (*pay attention to holidays*)
 - Project WIN, description, location, and outline of work
 - Basis of award
 - Disadvantaged Business Enterprise requirements (*federally funded projects*)
 - Statement that MaineDOT Standard Specifications shall apply
 - Bid bond amount (5% of bid, typically)
 - Cost of copies of bid book and plan sets
 - Projects less than \$125,000 require no contract performance surety bond or contract payment surety bond. Bonds are required for projects exceeding \$125,000.
 - Reference to MaineDOT Standard Specifications, March 2020 Edition.
 - For projects greater than \$300,000, a bidder must complete a highway, bridge or project specific pre-qualification through MaineDOT to be awarded the contract.
 - For projects less than \$300,000: "Bids will be accepted from all bidders. The lowest responsive bidder must demonstrate successful completion of projects of similar size and scope to be considered for the award of this contract."

3. Special Provision 102.7.3, Acknowledgement of Bid Amendments
4. Schedule of Items, using MaineDOT item numbers
5. Contract Agreement, Offer and Award form: two copies
 - Make sure the document cites the March 2020 edition of the Standard Specifications
 - Review section A, “The Work,” for correct WIN, location and scope of work
 - Review section B, “Time,” to be sure completion date matches Special Provision 107
 - Review section F, “Offer,” to be sure the paragraph labeled “Fourth” references Disadvantaged Business Enterprise (DBE) requirements (*federally funded projects*)
6. Forms labeled “Sample” – one copy each:
 - Contract Agreement, Offer and Award
 - Contract Performance Bond
 - Contract Payment Bond (Surety Company Form)
7. Davis-Bacon prevailing wage rates (*federally funded projects*)
 - Check online for latest General Decision by county and type of work:
<https://beta.sam.gov/search?index=wd>
8. Prevailing state wage rates established by the Maine Department of Labor – **NEW**
 - Rates are online:
maine.gov/labor/labor_stats/publications/wagerateconst/prevailingwage/index.shtml
 - *State rates apply to contracts of \$50,000 or more containing state funds. If a project has federal and state funds, federal and state rates must be part of the bid documents.*
9. Special Provision (SP) Section 104.3.8, Wage Rates
 - *This applies if both federal and state wage rates are included in the bid documents.*
10. SP Section 104, Utilities
11. SP Section 104.3.8, Electronic Payroll Submission (*federally funded projects*)
12. SP Section 105.11, Buy America (federally funded projects)
13. SP Section 105, General Scope of Work: Limitations of Operations (*if applicable*)
14. SP Section 105, Over Limit Movement Permits (*if applicable, based on nature of work*)
15. SP Section 107, Prosecution and Progress: Scheduling of Work
 - *Ensure completion date matches date in Contract Agreement, Offer & Award.*
16. SP Section 108, Asphalt Escalator (*use if estimate calls for more than 500 tons of HMA*)
 - *Obtain from MaineDOT’s Project Manager, if applicable.*

17. SP Section 401, Hot Mix Asphalt Pavement
 18. SP Section 403, Hot Mix Asphalt Pavement
 - *Note: Obtain from MaineDOT*
 19. SP Section 502, Structural Concrete (if there is concrete work)
 20. SP Section 608, Detectable Warnings (*for sidewalks*)
 - *Note: Not part of this packet; download from the LPA Documents website*
 21. SP Section 609, Structural Concrete: Concrete Slipform Curb (*if applicable*)
 - *Note: Not part of this packet; obtain from MaineDOT Project Manager*
 22. SP Section 634 Highway Lighting (*if highway lighting is part of the contract*)
 - *Note: Not part of this packet; obtain from MaineDOT Project Manager*
 23. SP Section 643, Traffic Signals (*if traffic signals are part of the contract*)
 - *Note: Not part of this packet; obtain from MaineDOT Project Manager*
 24. SP Section 652, Maintenance of Traffic
 25. SP Section 656, Temporary Soil Erosion and Water Pollution Control
 - *MaineDOT's Environmental Office will prepare this document, if necessary*
 26. Supplemental Specification: Corrections, Additions & Revisions to Standard Specifications
 - Latest version is online: <https://www.maine.gov/mdot/contractors/publications/>
 27. MaineDOT Standard Detail updates
 - Latest version is online: <https://www.maine.gov/mdot/contractors/publications/>
 28. Special Provision, Projects Funded by the Transportation Alternatives Program (TAP) – Appendix A to Division 100
 - This applies to bicycle/pedestrian projects with federal TAP funding
 29. Appendix A to Division 100: Section 1 – Bidding Provisions (*federally funded projects*)
 - This is FHWA Form 1273 and must be inserted into bid books for federal-aid projects
 30. Signed Title VI Assurances from local sponsor of project (*federally funded projects*).
 - Must be signed by highest-ranking municipal officer and include Appendices A and E
 31. Environmental Summary Sheet
 - The MaineDOT Environmental Office prepares this document on federal projects
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