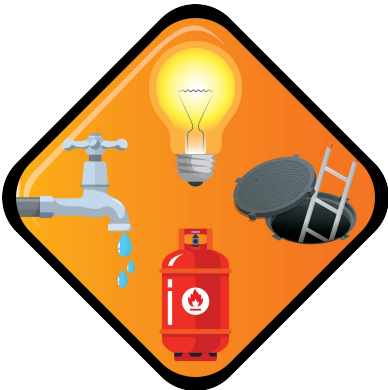


MaineDOT Local Project Administration

Manual & Resource Guide



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Local Project Administration Manual & Resource Guide

Administration & Finance



MaineDOT

Integrity - Competence - Service

Chapter 1 - Updated Spring 2022

Administration & Finance

Each year, communities repair roads, build sidewalks, make intersections safer, and improve their waterfronts through a partnership known as Local Project Administration. In this partnership, a staff member with decision-making authority manages what is known as a “locally administered project” in cooperation with MaineDOT, which provides funding, technical assistance, and oversight.

Organizations that commonly deliver locally administered projects include municipalities, transportation agencies and tribal governments, which this Manual will refer to collectively as “local agencies.” The professionals eligible to oversee them are municipal managers, engineers, public works directors, planners, community development directors, and agency administrators, all of whom must follow the policies and procedures in this Manual.

Chapter 1 offers guidance on the administrative and financial requirements for locally sponsored projects awarded federal and state transportation funding. It covers the following topics:

- Approval of local administration (page 1-1);
- Certification (page 1-2);
- Local responsibilities (page 1-2);
- MaineDOT responsibilities (page 1-3);
- Financial requirements – (pages 1-4 to 1-7);
- Record-keeping / Evaluation (page 1-8);
- Figure 1.1: Project flowchart (page 1-9);
- Figure 1.2: Project timetable (page 1-10);
- Appendix 1A: Project checklist (page 1-11); and
- Appendix 1B: Submittals to MaineDOT – *updated* (page 1-18).



➞ Resources for local agencies are available online: www.maine.gov/mdot/lpa/

1.1 Approval of Local Administration

MaineDOT is accountable for the federal and state transportation funding provided to Maine, including sub-awards to local agencies. MaineDOT, therefore, must verify that organizations are adequately staffed and suitably equipped to deliver projects, with sufficient accounting controls. If a project has federal transportation funds, the person who will serve as the project manager must be a **full-time employee** of the sponsoring local agency.

Once MaineDOT approves a grant application and awards funding, MaineDOT managers from appropriate disciplines weigh the size and structure of the sponsoring local agency against the complexity of the work to gauge the likelihood of the project succeeding if administered locally.

Requests to administer federal-aid projects should be sent to MaineDOT's Local Projects Coordinator in the format of *Letter 1*, found on page 1-19, with the following:

- Name, title and responsibilities of the full-time employee who would manage the project;
- An agency's experience in delivering projects of similar size and scope; and
- Documentation of the organization's track record of managing federal and state funds.

If MaineDOT determines that local administration is suitable for a project, MaineDOT prepares an agreement with the sponsoring local agency, as set out in section 1.5.1, "Project Agreement." If not, MaineDOT administers the project and invoices the sponsoring local agency for its matching share of the cost as work progresses.

***Note:** Projects awarded locally through state-only grant programs, such as the Municipal Partnership Initiative and Small Harbor Improvement Program, must be locally administered.*

1.2 Certification

MaineDOT grants Local Project Administration certification to individuals, meaning that the person in charge of a federally funded project must be certified. Without a certified person on staff, a local agency cannot administer a project with federal transportation money.

Certification – mandatory for federal-aid projects – has two steps:

Tier I certification is granted upon completion of a one-day training covering the basics of delivering a project. It is valid for **four years**.

Tier II certification consists of an additional review at project kickoff, during which MaineDOT and local staff go over the scope, budget, schedule and requirements. This review is held for all projects, regardless of funding source.



Certification training is *recommended* for consultants who will assist local agencies with their projects and for local officials who intend to manage projects with state grant funds, such as through the Small Harbor Improvement Program and Heads Up Pedestrian Safety Program.

1.3 Local Responsibilities

If a local agency takes on a federally funded project, a **full-time** employee with decision-making authority, MaineDOT certification, and appropriate qualifications – *set out on the next page* – must manage the project. Although consultants may assist local agencies, they cannot replace public employees as project administrators. That is a federal requirement, found in Title 23 of the U.S. Code of Federal Regulations (CFR), part 635.105, "Supervising Agency."

Projects without federal funds, such as those awarded through state grant programs, have flexibility from the full-time oversight requirement. Still, project administrators in such cases must be employees of the sponsoring municipalities who are appropriately qualified to manage such projects, as determined by MaineDOT.

MaineDOT expects every local project administrator to carry out the tasks listed below:

- ☐ Ensuring that all requirements in the project agreement with MaineDOT are met;
- ☐ Soliciting and administering contracts with consultants and contractors;
- ☐ Facilitating meetings and other public participation events;
- ☐ Overseeing the proposed schedule to ensure that a project is delivered on time;
- ☐ Reviewing the work of staff and consultants in the development of the project;
- ☐ Signing off on requests for reimbursement and other financial transactions to guard against waste, fraud and abuse;
- ☐ Staying informed about day-to-day project activities.

Note: If a certified local project administrator leaves, another full-time employee must step in. If necessary, MaineDOT may ask a local agency to stop work until an employee can be certified.

1.4 MaineDOT Responsibilities

As the agency accountable for the federal and state transportation funding that Maine receives, MaineDOT assigns state project managers and other technical staff to locally administered projects to provide oversight and to assist local agencies in delivering the work.

Activities that MaineDOT generally performs consist of the following:

- ☐ Preparing and executing state/local project agreements;
- ☐ Reviewing/approving all contracts between local agencies and other parties;
- ☐ Authorizing work at the milestones found in the flowchart on page 1-9 of this chapter;
- ☐ Reviewing/approving local invoices requesting reimbursement;
- ☐ Conducting survey work for projects on state highways;
- ☐ Reviewing design plans to be sure that projects meet federal and state requirements;
- ☐ Carrying out the National Environmental Policy Act (NEPA) review process;
- ☐ Leading the right-of-way process for projects on state highways;
- ☐ Reviewing the final plans, specifications and estimate (PS&E) package;
- ☐ Ensuring that the oversight and inspection of construction are adequate;
- ☐ Performing quality-assurance testing of concrete and pavement;
- ☐ Inspecting the completed project for compliance with federal and state requirements;
- ☐ Accepting, closing out and auditing a project.

1.5 Financial Requirements

1.5.1 State/Local Agreement

Before work eligible for federal or state funding may start, MaineDOT and the local agency administering a project must execute a state/local agreement that covers the following:

- Scope of work;
- Breakdown of federal, state and local funding, as applicable;
- Invoicing requirements;
- Responsibilities of MaineDOT and the local agency managing the project;
- MaineDOT WIN and the federal project number (if applicable);
- An agency's federal SAM Unique Entity Identifier (new in 2022);
- Catalogue of Federal Discretionary Assistance (CFDA) number, typically 20.205;
- General terms and conditions, as directed by MaineDOT's Office of Legal Services.

MaineDOT prepares agreements for federal-aid projects once the Statewide Transportation Improvement Program (STIP) is approved or modified to include them. Agreements for projects with state funds follow publication of MaineDOT's Work Plan. Once an agreement is executed, MaineDOT sends a local agency a notice to proceed with reimbursable work.

Remember: Costs incurred before MaineDOT signs an agreement and gives notice to proceed cannot be reimbursed under section 1.5.2 below.

1.5.2 Reimbursement

Local agencies usually receive funding from MaineDOT by reimbursement, at rates ranging from 50 percent on state grant projects to 80 percent or more on federally funded projects.

Local agencies must cover the remaining amounts as their matching shares. Match generally must be *cash*; in-kind work is not eligible to use as match unless a local agency first receives written approval from MaineDOT, as described in Chapter 9 of this Manual, "Force Account Work."



☒ Costs eligible for reimbursement:

- Development of project plans, specifications and contract documents;
- Environmental review and permitting;
- Survey and right-of-way;
- Utility coordination;
- Project advertisement;
- Construction work; and
- Construction documentation and inspection.

☒ Costs not reimbursable:

- Expenditures incurred *before* MaineDOT executes an agreement;
- Local administrative time that should be accounted for in an agency's overhead costs, such as for attending meetings and completing paperwork;
- Costs *not* approved by MaineDOT or the U.S. Department of Transportation;
- Pre-construction work – if an organization cancels a project *before* construction; and
- Maintenance work on a completed project.

1.5.3 Invoices

For MaineDOT to track costs accurately, invoices seeking reimbursement of MaineDOT's share of expenditures incurred on a project must be submitted regularly – preferably monthly but a minimum of every **six months**.

Any invoice that has errors or that does not comply with MaineDOT policy will be returned for corrections – with no payment made until all issues are resolved to MaineDOT's satisfaction.

Invoices must have the following information:

- ☐ Letter 4 (found on page 1-22) with service dates and the amount requested.
- ☐ A completed worksheet, from the Invoice Templates section of the LPA Documents page: www.maine.gov/mdot/lpa/lpadocuments/;
- ☐ A progress report describing work performed during the invoice period;
- ☐ Supporting documentation:
 - Copies of invoices from contracted agents, with a detailed breakdown of the costs;
 - Copies of checks issued for work performed during the service period;
 - Signed payroll register documenting hours worked for each employee with pay rates and benefits – if design work was performed by municipal staff.

1.5.4 MaineDOT Internal Costs

MaineDOT staff will charge their time to federally funded projects for the tasks in section 1.4, “MaineDOT Responsibilities.” Although the number of hours will vary, services performed by MaineDOT generally will account for 12 to 15 percent of the budget for a project – and possibly more if rights-of-way must be acquired. The estimated cost of such work should be discussed with MaineDOT at the start of a project.

The number of hours that MaineDOT charges to a project often depends on the amount of time spent assisting the sponsoring local agency and its contracted agents with meeting federal and state requirements. In general, the better job that a local agency does in meeting requirements, the fewer hours that MaineDOT staff will have to charge to the project.

(There may be exceptions, primarily for projects having only state funds. MaineDOT will cover such exceptions during kickoff for a specific project.)

When MaineDOT bills time to a project, those charges are subject to the same cost-sharing percentages as other portions of the project. The local share of MaineDOT's costs for services performed typically is reconciled upon completion of the work and deducted from the final reimbursement payment to the local agency administering a project.

1.5.5 Repayment of Funds

If a local agency withdraws from a project or otherwise fails to deliver a project to construction, MaineDOT will require the agency to refund all payments toward the project and to reimburse MaineDOT for its costs, as covered in subsection 1.5.4, "MaineDOT Internal Costs."

Additionally, MaineDOT may recover reimbursements for activities subsequently determined to be ineligible for federal or state funding, as may happen if a project is audited after completion.

If MaineDOT must recover funds, MaineDOT will send a letter specifying the amount of the repayment and the reason for it. MaineDOT will expect the local agency receiving the letter to comply or to respond within a certain time.



If a local agency fails to repay funds, after receiving a request to do so, MaineDOT may exercise its rights of set-off to recover the money. MaineDOT, for example, may withhold or reduce Local Road Assistance payments to recoup an amount owed.

1.5.6 Internal Controls

Local agencies must properly account for federal and state awards while protecting those funds against loss from unauthorized use. This section offers guidance on steps local agencies can take to improve their financial practices to guard against waste, fraud and abuse – known as "internal controls."

Segregation of duties reduces the risk of error or fraud by one person. For this reason, more than a single employee should complete and approve tasks involving payments, booking into the general ledger, and financial reconciliations. A person who initiates a purchase requisition, for example, should not also be able to approve it.

Municipalities and other local agencies should require two or more of the officials listed below to sign off on their financial transactions:

- Treasurer;
- Finance director;
- Town manager / town administrator;
- Finance Committee members;
- Select Board members.



MaineDOT recommends that local agencies receiving federal and state funds have in place written procedures for the activities set out on the next page, which should be prepared in consultation with a certified public accountant:

- ☐ Segregation of federal and state funding into separate general-ledger accounts;
- ☐ Reconciliation of general-ledger cash accounts to bank statements;
- ☐ Approval of bank reconciliations by a supervisor;
- ☐ Reconciliation of subsidiary ledgers to the general ledger;
- ☐ Posting of an auditor's adjusting entries for the previous year;
- ☐ Reconciliation of a closing trial balance to an auditor's adjusted trial balance;
- ☐ Requiring signature approvals for any adjusting general journal entries;
- ☐ Requiring employee and supervisor signatures on timesheets before payroll approval;
- ☐ Requiring additional supervisor approval for recording large payments and expenses;
- ☐ Having in place monthly and year-end financial closing procedures;
- ☐ Undertaking monthly and yearly detailed review of direct project costs and indirect costs;
- ☐ Limiting the access to an organization's electronic accounting system, if applicable.

1.6 Single Audit Requirement

A local agency that expends at least \$750,000 in federal funds in a fiscal year must have an annual single audit performed, in accordance with the regulations found in 2 CFR part 200, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards." If uncertain, an agency should check with its accountant to determine if expenditures meet the minimum reporting requirements.

A local agency should hire a certified public accountant to conduct this audit, if required, and prepare an audit report. The audit typically will look at the adequacy of an agency's internal controls that safeguard assets and ensure compliance with federal laws and regulations.



A single audit requires a Schedule of Expenditures of Federal Awards (SEFA), which:

- Summarizes all federal grants received and the expenditures associated with each one, including the Catalogue of Domestic Assistance (CFDA) number for each award; and
- Shows the expenditures for each federal grant received, regardless of size – including reimbursement payments from MaineDOT for work on federal-aid projects.

A single audit concludes with the auditor's report addressing the reliability of the financial data, adequacy of internal controls, and compliance with federal regulations. The final audit package will include the audit report as well as financial statements, Schedule of Federal Expenditures, results of previous audits, and any planned corrective actions. When completed, the single audit package is submitted electronically to the Federal Audit Clearinghouse website, with required certifications from the organization and its accountant.

1.7 Record-Keeping

A local agency must retain records for completed projects to demonstrate compliance with federal and state requirements, in case of audit. Such documentation would include, but would not be limited to, the following:

- ☐ Approvals from MaineDOT;
- ☐ Records of payments to consultants and contractors, with backup documentation;
- ☐ Copies of agreements with MaineDOT;
- ☐ Copies of contracts with consultants and contractors, including all modifications;
- ☐ Copies of reimbursement requests to MaineDOT, with all backup information;
- ☐ Records from the right-of-way process, demonstrating compliance with the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;
- ☐ Copies of certification statements for utilities, environment, and right-of-way;
- ☐ Approvals from MaineDOT at final PS&E, Project Advertise, and Project Award.
- ☐ Documentation of the bidding process, including bid tabulations and determination of the lowest responsive and responsible bidder;
- ☐ Confirmation that construction workers on a federally funded project were paid prevailing-wage rates, as required by the federal Davis-Bacon Act;
- ☐ Documentation that quantities of construction materials were measured in the field, recorded and verified against contractor invoices;
- ☐ Copies of construction contract modifications, construction field books and other records of activities used to track construction activities.

The U.S. Government requires records to be kept for **3 years** after payment of a final invoice. MaineDOT recommends that local agencies retain records for at least 5 years, since an audit may take place long after the work is completed.

1.8 Evaluation

Upon approval of the final invoice for a project, MaineDOT's project manager completes an evaluation of the local project administrator assessing which tasks were handled well and which ones could be improved. The local project administrator is given *two weeks* to offer comments and sign the form; if the deadline passes without a response, the evaluation is finalized unsigned.

When completed, signed evaluation forms are filed at MaineDOT as reference documents for use in evaluating requests for future locally administered projects.

FIGURE 1.1: PROJECT FLOWCHART

Locally Administered Project – Process Flowchart

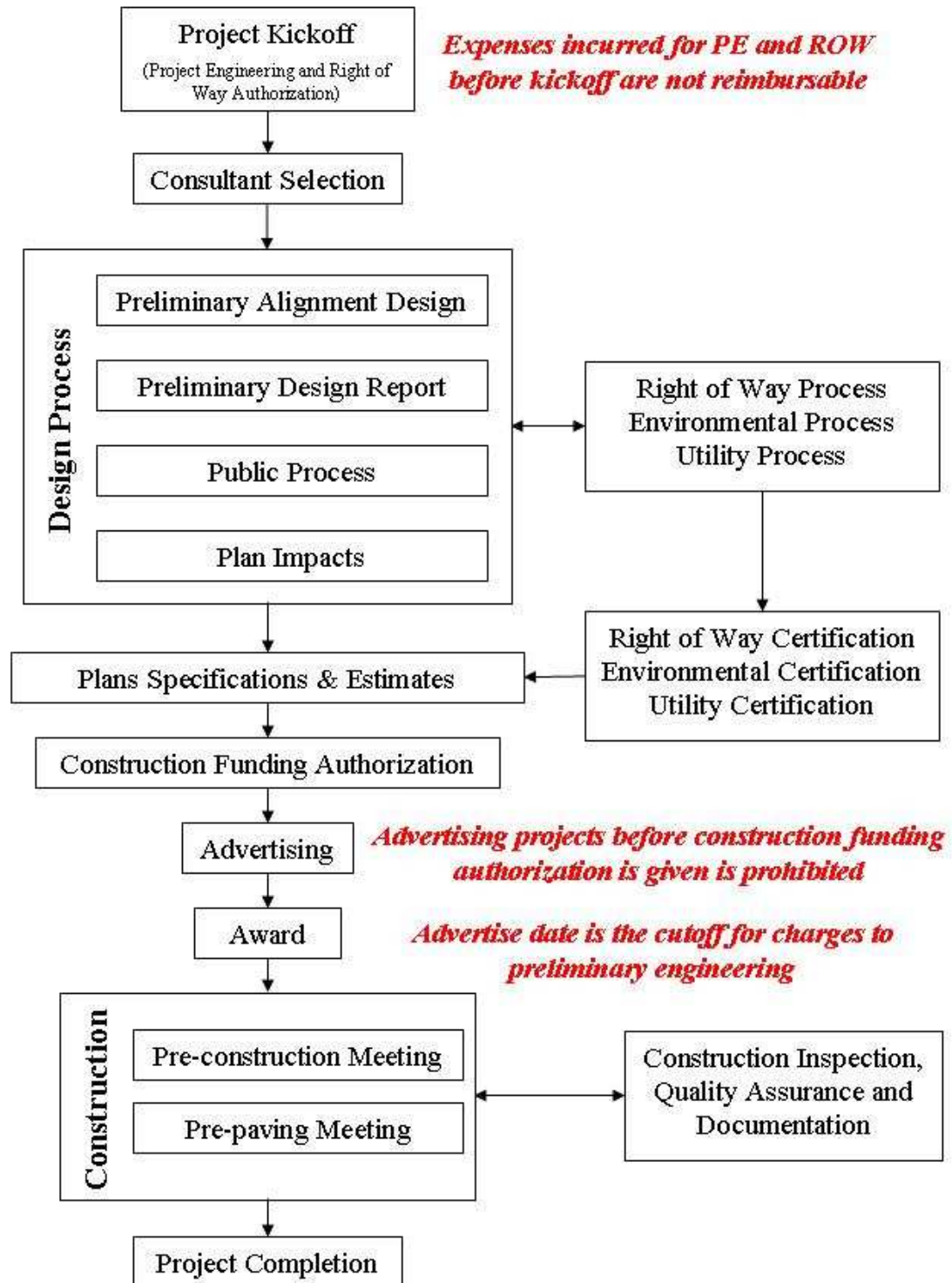


FIGURE 1.2: PROJECT TIMETABLE

TASK	DESCRIPTION	TYPICAL TIMEFRAME
Funding Award	MaineDOT or a Metropolitan Planning Organization (MPO) awards funding.	Award is made 6 to 9 months after an application is received.
Agreement	Municipality and MaineDOT sign agreement.	Agreement is executed after a project is placed in federal STIP (federal funds) or MaineDOT Work Plan (state funds).
Kickoff	Municipality and MaineDOT review budget, schedule and requirements.	Parties hold kickoff meeting once agreement is signed.
Consultant Selection	Municipality hires design consultant – if a consultant will be used.	It can take 2-3 months from kickoff to solicit proposals, score them and negotiate a contract.
Preliminary Engineering	<ul style="list-style-type: none"> ▪ Preliminary Design Report Milestone ▪ Plan Impacts Complete Milestone 	PE may take from 9 months to as many as 18 to 24 months from kickoff, depending on scope.
Environmental Review	Consists of reviews for impacts to natural and cultural resources, as mandated by the National Environmental Policy Act (NEPA)	NEPA may take from 3 months to 9 months from the milestone of Plan Impacts Complete.
Right of Way	Consists of mapping property impacts, researching titles, performing appraisals and appraisal reviews, negotiating with owners, and acquiring rights.	This may take 8-10 months from Plan Impacts Complete. No negotiating until NEPA process is completed.
Final PS&E	Municipality submits final design plans, specifications and construction cost estimate (PS&E) to MaineDOT for review, comment and acceptance.	Projects reach this stage in as few as 12 months or as many as 24 months. MaineDOT review may take 2-4 weeks.
Advertise	After receiving MaineDOT's authorization, a municipality solicits for construction bids.	A 3-week advertise period is standard, after authorization.
Contract Award	Municipality awards a contract to the lowest responsive and responsible bidder.	Municipality has 30 days after bid opening to award a contract.
Construction	This stage consists of construction, inspection of the work, and materials testing.	The duration will vary, depending on the complexity of a project.
Completion	MaineDOT, Municipality and contractor inspect the project and develop a "punch list" of items the contractor must address.	Inspection should take place before contractor completes work. MaineDOT requires notice of at least 2 weeks.
Closeout	MaineDOT reconciles costs, including local share of MaineDOT's charges if applicable. Municipality submits final invoice.	Records must be kept for at least 3 years after payment of final invoice.

Appendix 1A: Project Checklist



Checklist: Federally Funded Project

(Revised, March 2021)

Municipality: _____ Project Location: _____

MaineDOT WIN: _____ Local Administrator: _____

PROJECT KICKOFF

- ☐ **Project included in approved Statewide Transportation Improvement Program (*federal funds*).**
 - ☐ Project included in MaineDOT Work Plan (*state funds only*).
- ☐ **Project agreement executed on:** _____
- ☐ **Kickoff meeting held with MaineDOT on:** _____
- ☐ **Invoices are submitted to MaineDOT at least every 6 months using Letter 4.**

HIRING A CONSULTANT

Note: Hiring a consultant with money from MaineDOT requires a Qualifications-Based Selection, which prohibits the consideration of price in the initial ranking of consultants. This is a condensed version of the selection process. The full process is set out in Chapter 2, “Hiring Consultants.”

- ☐ **Develop Scope of Work and Independent Estimate, then send to MaineDOT for approval.**
 - ☐ *Approval Date:* _____
- ☐ **Develop a Request for Proposals (RFP), then send to MaineDOT for approval using Letter 6.**
 - ☐ RFP must request from each proposer a Technical Proposal, with no mention of price.
 - ☐ RFP must require Price Proposal to be provided in one of two ways:
 - Price Proposal may be submitted by each proposer in a separate, sealed envelope; or
 - Price Proposal may be requested only from the top-ranked consultant after scoring is done.
 - ☐ *RFP Approval Date:* _____
- ☐ **Use one of the selection methods below, based on the estimated cost of the consultant work.**
 1. **Simplified Acquisition: Contract value estimated to be \$25,000 or less.**
 - ☐ Obtain MaineDOT’s approval to use Simplified Acquisition by sending Letter 5.
 - ☐ If MaineDOT approves, request/receive proposal from a single, pre-qualified consultant.
 2. **Competitive Solicitation: Contract value estimated to be \$25,000 to \$250,000.**
 - ☐ Send approved RFP to 3-to-5 pre-qualified firms: www.maine.gov/mdot/cpo/prequal/
 - **Note:** If local procedures require an advertised RFP, that also is acceptable.
 3. **Brooks Act: Contract value estimated to be \$250,000 or greater.**
 - ☐ Advertise RFP on the websites for the local agency sponsoring a project and MaineDOT.
- ☐ **Organize an evaluation team and review/score Technical Proposals.**
 - ☐ Conduct interviews, if necessary, to determine the highest-ranked proposer.
- ☐ **Open Price Proposal only from highest-ranked firm or request Price Proposal from that firm.**

- ☐ **Negotiate scope of work, schedule, and fair and reasonable price.**
 - ☐ If negotiations with top-ranked firm succeed, draft a contract using MaineDOT template.
 - ☐ If terms cannot be reached, request a Best and Final Offer, terminate negotiations, and repeat this negotiation process with the second-ranked firm.
- ☐ **Verify that selected consultant is not debarred**, using federal website: www.sam.gov/SAM/
- ☐ **Send draft contract and price proposal to MaineDOT for review/approval using Letter 7.**
 - *Approval Date:* _____
- ☐ **Obtain completed DBE Utilization Form from selected consultant (*federal funds*).**
- ☐ **Execute a contract, after receiving approval from MaineDOT's PM.**
- ☐ **Send selected consultant notice to proceed.**

PRELIMINARY DESIGN

- ☐ **Identify utility/railroad contacts:** www.maine.gov/mdot/utilities/contactinfo/.
 - ☐ Email Utility Letter #1 and a location map to utility/railroad contacts.
- ☐ **Verify limit of existing right-of-way:**
 - ☐ Research municipal/county layout records and conduct field survey to verify information.
 - ☐ Send Property Owner Reports to property owners.
 - ☐ Upon completion of field survey, email Utility Letter #2 and survey plans to utility contacts.
- ☐ **Prepare Existing Conditions Plan** with right-of-way limits, topography, and property lines.
- ☐ **Identify and submit applications for environmental permits to appropriate agencies:**
 - ☐ Army Corp of Engineers: (207) 623-8367 or www.nae.usace.army.mil/Missions/Regulatory/
 - ☐ Department of Environmental Protection: (207) 287-7688 or www.maine.gov/dep/permits/
- ☐ **Hold advertised public informational meeting. Date:** _____
- ☐ **Prepare Preliminary Design Report – PDR (60% complete):**
 - ☐ Send design plans and completed MaineDOT PDR form to MaineDOT PM for review (Letter 8).
 - Address MaineDOT's comments, if any.
 - PDR approved by MaineDOT's PM as of: _____
 - ☐ Email Utility Letter #3, preliminary plans and schedule to utility/railroad contacts for review.
- ☐ **Upon approval of PDR, provide MaineDOT's PM with:**
 - ☐ Public process certification (Letter 10) and completed NEPA Checklist (Letter 11).
 - ☐ Request for Traffic Analysis Movement and Evaluation (TAME) review by MaineDOT.

FINAL DESIGN

- ☐ **Pavement Design:**
 - ☐ Once the PDR is approved, request Special Provision 403 (pavement) from MaineDOT's PM.
- ☐ **Send plan impacts (75-80% complete) to MaineDOT's PM for review (Letter 9):**
 - ☐ Plan impacts accepted as complete by MaineDOT's PM on: _____.
- ☐ **MaineDOT's PM sends latest cost estimate to local agency administering project.**
 - ☐ Agency acknowledges estimate and confirms in writing its commitment to the project; OR
 - ☐ Agency acknowledges estimate and requests in writing to cancel project and repay all funds.

- ☐ **Once design reaches Plan Impacts Complete, follow up with utilities:**
 - ☐ Email Utility Letter #4, 75-80% plans and schedule to utility/railroad contacts for review.
 - ☐ Prepare pole list in coordination with utilities.
 - ☐ Email Utility Letter #5 and utility special provision (#104) to utilities/railroad for review.
 - ☐ Prepare utility and railroad agreements, if necessary.
- ☐ **Prepare special provisions for the bid package.**

RIGHT OF WAY

- ☐ **Conduct title searches at Registry of Deeds to identify and confirm property ownership.**
 - ☐ Refer to section 2-4.02 of MaineDOT *Right of Way Manual*, “Title Examinations.”
 - ☐ Use either a private title lawyer or consultant listed under MaineDOT pre-qualification number 401.00, “Title Research/Abstracting.”
- ☐ **Prepare final right-of-way plans, once design reaches Plan Impacts Complete.**
 - ☐ Go by section 2-6.05 of MaineDOT *Right of Way Manual*, “Final Right of Way Mapping.”
 - ☐ Right-of-Way maps approved by MaineDOT (if state highway) on: _____.
- ☐ **Send Notice of Interest to Acquire to each property owner**, once maps are approved.
- ☐ **Contract with pre-qualified appraiser on MaineDOT Appraisal Register.**
 - ☐ Refer to pre-qualification service number 402.00, “Property Valuation and Appraisal Services.”
 - ☐ Appraisal report submitted on: _____.
- ☐ **Contract with a second appraiser to review appraisals for proper methodology and accuracy.**
 - ☐ Refer to pre-qualification service number 402.00, “Property Valuation and Appraisal Services.”
 - ☐ Appraisal review completed on: _____.
- ☐ **Issue a written Determination of Just Compensation.**
 - ☐ The review appraiser’s recommendation is the basis for a Determination of Just Compensation.
 - ☐ Determination of Just Compensation signed by highest-ranking municipal officer.
- ➔ Federal NEPA process must be completed before proceeding to the next steps.**
- ☐ **Upon completion of NEPA process, property donations made**, if applicable.
 - ☐ Donor signs form releasing agency from appraisal and obligation to pay just compensation.
- ☐ **Contract with qualified negotiator to negotiate Just Compensation with each property owner.**
 - ☐ Refer to MaineDOT pre-qualification service number 403.00, “Property Negotiations.”
- ☐ **Negotiator presents Offer of Just Compensation in writing and explains need for acquisition.**
 - ☐ Each owner given at least 28 days to consider offer, consult with others, and present information.
 - ☐ If settlement by negotiation is not feasible, agency should use eminent domain, if possible.
- ☐ **Upon conclusion/termination of negotiations:**
 - ☐ Acquiring agency prepares settlement agreement in consultation with legal counsel; and
 - ☐ Agency pays each owner the approved amount of just compensation.
 - ☐ Title transferred to MaineDOT (state highway) or to the acquiring local agency.
- ☐ **Upon acquisition of rights, acquiring agency certifies the right-of-way (Letter 14).**
- ☐ **Unsettled cases appealed to State Claims Commission (state) or Superior Court (local).**
 - ☐ Appeals process for unsettled acquisitions must be initiated within 60 days after rights acquired.

FINAL PLANS, SPECIFICATIONS AND ESTIMATE

- ☐ Email final design plans and latest schedule to utility/railroad contacts.
- ☐ Email final PS&E package to MaineDOT's PM, as follows:
 - ☐ Plans must be 100%, address previous comments, and be stamped by Engineer of Record;
 - ☐ Engineer's Estimate must have MaineDOT item numbers and match the Schedule of Items;
 - ☐ Bid book must contain the following standard items, as well as applicable special provisions:
 - Notice to Contractors;
 - Contract Agreement, Offer and Award form (2 copies);
 - Schedule of Items, with MaineDOT item numbers;
 - Davis-Bacon federal prevailing wage rates (federally funded projects);
 - Maine Department of Labor wage rates (state-funded projects of \$50,000 or more);
 - Form FHWA-1273 (federally funded projects);
 - Title VI Assurances signed by highest-ranking administrative officer (federal projects);
 - Environmental summary sheet prepared by MaineDOT (federally funded projects).
- ☐ Send the following certifications to MaineDOT with the PS&E package:
 - ☐ Environmental (Letter 12), Utility (Letter 13), and Right-of-Way, if applicable (Letter 14).
- ☐ Send construction authorization request to MaineDOT (Letter 15).
- ☐ Construction authorization obtained from MaineDOT's PM in writing on: _____

ADVERTISE AND AWARD

- ☐ Upon receiving written authorization, advertise the Notice to Contractors (3-week minimum).
- ☐ Open and publicly read aloud all bids at the designated time and place.
- ☐ Prepare bid tabulation sheet.
- ☐ Review bids for bid defects. [*Refer to section 102.11 of MaineDOT's Standard Specifications*].
- ☐ Determine the apparent successful bidder.
 - ☐ Return bid securities to everyone except the two lowest bidders.
 - ☐ Notify second bidder that bid securities will be returned upon contract award.
- ☐ Send award recommendation (Letter 16) to MaineDOT's PM with:
 - ☐ Tabulation of bids, engineer's estimate, and DBE Utilization Form (*federally funded projects*).
- ☐ Receive MaineDOT's written approval of recommended award. Approval date: _____
- ☐ Send Notice of Intent to Award to apparent successful bidder.
 - ☐ If contract exceeds \$125,000, bidder has 14 days to deliver payment and performance bonds.
 - ☐ In all cases, bidder must provide certificates of Workers Compensation, general liability and automobile insurance.
- ☐ If bidder meets conditions of award, sign contract.
 - ☐ Return bid securities to the first and second bidders.
 - ☐ Formally notify all unsuccessful bidders.
 - ☐ Send copy of signed construction contract to MaineDOT's PM.

CONSTRUCTION ADMINISTRATION

- ☐ Obtain Minimum Testing Requirements from MaineDOT's PM.
- ☐ Send award information to MaineDOT for entry into Elation payroll system.
 - ☐ MaineDOT contact is Angela Latno: (207) 624-3519 or Angela.Latno@maine.gov
 - ☐ Prime Contractor and all subcontractors must be entered into Elation System.

Pre-Construction Tasks

- ☐ Send notice of pre-construction meeting and agenda (*Letter 17*) to the following:
 - ☐ Contractor, utilities, construction resident, and MaineDOT's PM and construction manager.
- ☐ Pre-construction meeting held on: _____
- ☐ Contractor schedule received on: _____
- ☐ Quality Control (QC) Plan and Mix Designs received from Contractor on: _____
 - ☐ Contractor must submit them at least 30 days before the work is scheduled to begin.
 - ☐ Provide them to MaineDOT construction manager for review/approval.
- ☐ Contractor Traffic Control Plan submitted to MaineDOT for review.
 - ☐ *MaineDOT Approval Date:* _____.
- ☐ Contractor Soil Erosion Water Pollution Control Plan approved by construction resident.
- ☐ Subcontractor Approvals: <https://www.maine.gov/mdot/contractors/publications/>
 - ☐ Municipality must approve subcontracts before any subcontractor can start work.
 - ☐ Send copy of approved package for each subcontractor to the MaineDOT's PM.
- ☐ Pre-pave meeting held on: _____

Testing & Documentation

- ☐ Field Book created to record the following information:
 - ☐ Weather, crew & equipment, hours worked, and activities, with date and initials of inspector;
 - ☐ Field measurements taken to document materials quantities for payment to the contractor;
 - ☐ Noteworthy events (accidents, discussions with owners, disputes with contractor).
- ☐ Pit authorizations completed.
- ☐ Waste area agreements completed.
- ☐ Project bulletin board erected: <https://www.maine.gov/mdot/civilrights/sfp/>
 - ☐ Condition of signs must be noted weekly in a project field book.
- ☐ Testing file set up for each item in Minimum Testing Requirements.
- ☐ Materials Tests:
 - ☐ Aggregates must be tested at an independent, accredited laboratory.
 - Only results of failing tests reported to MaineDOT.
 - ☐ Hot-mix asphalt and concrete cores are taken to closest MaineDOT lab, in Bangor or Freeport.
- ☐ *Federal projects:* Weekly certified payrolls received electronically from all contractors.
 - ☐ Certified payrolls checked in Elation system for compliance with prevailing wage rate laws.
- ☐ *Federal projects:* Employees interviewed to verify Davis-Bacon wage rate compliance.
 - ☐ Voluntary interviews held every 90 days with 2 covered workers from the following:
 - Prime contractor, and all subcontractors on site at least 5 days during a 90-day period.

- ☐ **Federal Projects: Commercially Useful Function Form sent to MaineDOT, if applicable.**
- ☐ **Federal Projects: “Buy America” (Special Provision 105).**
 - ☐ “Buy America” certifications must be received before steel and iron products are installed.
- ☐ **Progress payments to contractor:**
 - ☐ Prepare estimate and review with contractor; or receive and check estimate from contractor.
 - ☐ Once approved, process estimate and send payment to contractor.
- ☐ **Final Quantity Book created:**
 - ☐ Book set up by item numbers;
 - ☐ Pages set up for original measurements (or computations from plan dimensions);
 - ☐ Pages set up with a total-to-date column;
 - ☐ Entries and computations initialed and dated;
 - ☐ After item is completed, compute final quantity.

Contract Modifications

- ☐ **Modifications to the construction contract are handled as follows:**
 - ☐ Prepare an independent cost estimate for the additional work.
 - ☐ Note the time associated with the change. (If no change, note 0 additional days.)
 - ☐ Send modification to MaineDOT construction manager for review (**Letter 18**).
- ☐ **Obtain MaineDOT’s concurrence with contract modification. Date:** _____
- ☐ **Send modification to contractor for signature.**
 - ☐ When contractor has signed, local project administrator signs and dates the modification.

Project Completion

- ☐ **Final inspection held by Municipality, MaineDOT and contractor (**Letter 19**).**
 - ☐ Inspection Date: _____.
 - ☐ Final “punch list” of items completed on: _____.
- ☐ **Final Quantity Book finalized by construction resident.**
- ☐ **Completion of Physical Work Notification sent to contractor.**
- ☐ **Federal projects: Final DBE Form completed by the contractor, signed by each DBE.**
- ☐ **Contractor sends in request for final payment and statement that all bills have been paid.**
- ☐ **Final estimate paid and retainage released to contractor.**
- ☐ **As-built plans completed and sent to MaineDOT’s PM (if applicable).**
- ☐ **Evaluation of each consultant completed and sent to MaineDOT’s PM.**
- ☐ **Final billing sent to MaineDOT’s PM (**Letter 20**).**
- ☐ **MaineDOT’s PM completes a project evaluation.**
 - ☐ Local administrator reviews, signs and returns to PM.

Note: Records must be retained for at least 3 years from completion for federally funded projects.

Appendix 1B:

Submittals to MaineDOT

- ❑ Templates in Word are posted on MaineDOT's LPA Documents web page and labeled *Letters to MaineDOT*: www.maine.gov/mdot/lpa/lpadocuments/

Letter 1: Request for Local Project Administration

NOTE: This should be put on letterhead and signed by the manager or highest ranking official

[DATE]

Michael Laberge, Local Projects Coordinator
Maine Department of Transportation
Bureau of Project Development, Multimodal Program
16 State House Station
Augusta, ME 04333-0016

Subject: Locally Administered Projects Request

MaineDOT WIN: [Number]; Description: [Brief Description]

Dear Mr. Laberge:

The Municipality of [NAME] hereby requests approval to administer a federal-aid project consisting of [DESCRIPTION]. I have enclosed information about the Municipality's qualifications, including our experience in delivering projects of comparable size and scope and our ability to manage and track federal funds.

If a person with LPA certification will manage the project, use this:

[NAME, TITLE] is the full-time employee who would serve as Local Project Administrator for this project. [NAME]'s Local Project Administration certification is valid through [DATE].

If a person without LPA certification will manage the project, use this:

[NAME, TITLE] is the full-time employee who would serve as the Local Project Administrator for this project. This person currently lacks Local Project Administration certification but would be willing to take the next training program. Please let us know when the program is offered.

If MaineDOT concludes that the Municipality is adequately staffed and suitably equipped to undertake this project, please contact me to discuss the details of the project and the requirements for local administration.

I understand that, if approved, the Municipality will be responsible for meeting all federal and state requirements for this project, as described in the latest edition of the MaineDOT Local Project Administration Manual & Resource Guide.

Sincerely,

[NAME, TITLE]

Letter 2: Project Kickoff

[DATE]

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

Subject: Project Kickoff, [Project Location, Description]
MaineDOT WIN [NUMBER]

Dear [NAME]:

The Municipality of [NAME] requests your attendance at the kickoff meeting for the above-referenced project at [Date, Time and Location].

Attached is the proposed scope of work, budget and schedule. If you need additional information, please let me know.

We understand that we cannot start work eligible for reimbursement until we take these steps:

1. Hold the kickoff meeting;
2. Execute a project agreement with MaineDOT; and
3. Receive notice to proceed from MaineDOT.

We look forward to seeing you at the meeting.

Sincerely,

Local Project Administrator

Enclosures: Project scope, budget and schedule

Letter 3: Agreement Execution

[DATE]

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

Subject: Local project agreement Execution Request
MaineDOT WIN [NAME]

Dear [NAME]:

Enclosed is one signed and dated copy of the Locally Administered Project Agreement for [project scope, WIN] in the Municipality of [NAME].

We understand that MaineDOT cannot reimburse us for project design or right-of-way costs until MaineDOT executes this Agreement and issues us a “notice to proceed.”

Please arrange for the agreement to be executed as soon as possible.

Sincerely,

Local Project Administrator

Letter 4: Invoice Submittal (Federal Project)

[DATE]

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

Subject: Request for Reimbursement, [Location, Description] Project
MaineDOT WIN [NUMBER]; Contract #: [NUMBER]

Dear [NAME]:

The Municipality of [NAME] requests reimbursement of MaineDOT's share of costs incurred for [INSERT TYPE] work on the subject project for the service period of [BEGIN DATE] to [END DATE], in accordance with the project agreement with MaineDOT.

Total costs for the period are \$[NUMBER]. MaineDOT's [NUMBER]% share is \$[NUMBER], and payment is requested within 30 days of acceptance of this invoice. Project costs during the period include a local share of [NUMBER] %, or \$[NUMBER], which is not from contributions from other federally assisted projects or programs.

I also have enclosed the items listed below to document that this invoice accurately represents work completed during the service period:

- A completed project costs worksheet with expenditures for the service period and to date;
- A progress report describing the work performed during the service period; and
- Copies of invoices received and checks issued.

By signing this invoice, I certify to the best of my knowledge and belief that the information provided herein is true, complete, and accurate, and the expenditures, disbursements, and cash receipts are for the purposes and objectives set forth in the terms and conditions of the federal funding award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729-3730 and 3801-3812.)

Sincerely,

[NAME], Local Project Administrator

Letter 5: Request for Simplified Acquisition

[DATE]

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

Subject: Simplified Acquisition Request, [Location, Description] Project
MaineDOT WIN:

Dear [NAME]:

The Municipality of [Name] is requesting approval to seek a proposal for engineering services for [project scope] from [insert company name], which is pre-qualified by MaineDOT in the service category of [insert number and type of service].

Since the cost is estimated to be \$25,000 or less – based on our Independent Estimate (enclosed) – we request approval to use Simplified Acquisition allowing us to solicit a proposal from one consultant pre-qualified by MaineDOT to perform the service. Our draft request for proposals is attached for your review.

We understand that MaineDOT cannot participate financially in contract costs exceeding \$25,000 if Simplified Acquisition is used, and that we must use a separate process to solicit additional consultant services (if required).

Please review the submitted materials and notify us if we are approved to solicit a proposal and subsequently to negotiate a contract with this firm. We understand that we cannot award a contract without your approval.

Sincerely,

[NAME], Local Project Administrator

Enclosure: Independent Estimate

Letter 6: RFP Review

[DATE]

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

Subject: RFP Review Request
MaineDOT WIN:

Dear [NAME]:

The Municipality of [Name] intends to solicit proposals for consultant engineering services for [project scope]. Attached is the request for proposals that we intend to use for this solicitation.

If estimated price is \$25,000 to \$250,000, use the following language:

Based on our Independent Estimate of the cost of the proposed services (enclosed), we understand that we may select potential consultants from a pool of 3 to 5 pre-qualified firms. We intend to send the RFP to the following consultants on the MaineDOT pre-qualification listing for [insert number and type of service]:

-
-
-

If estimated price is \$250,000 or greater, use the following language:

Based on our Independent Estimate of the cost of the proposed services (enclosed), we understand that we must use a publicly advertised solicitation in accordance with the federal Brooks Act. We intend to advertise the RFP on **[insert date]** as follows:

Please review the draft RFP and inform me as to its adequacy.

Sincerely,

[NAME], Local Project Administrator

Enclosure: Draft RFP

Letter 7: Request for Approval of Consultant Selection

[DATE]

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

Subject: Consultant Selection Approval Request
MaineDOT WIN:

Dear [NAME]:

The Municipality of [insert NAME] has selected the consultant firm of [insert NAME] for [insert scope of services] work for [insert project description]. Attached is the negotiated contract, price proposal and our Independent Estimate. We understand that we cannot award this contract without your approval.

We have verified that our selected consultant is not debarred or otherwise prohibited from working on federally funded contracts. Attached as backup is a screen shot from the federal System for Award Management (SAM) database: www.sam.gov/SAM/.

Please review these documents and inform me of your decision so that we may execute a contract. We understand that no work eligible for reimbursement may begin until we execute the contract upon MaineDOT's approval and give our selected consultant notice to proceed.

Sincerely,

[NAME], Local Project Administrator

Enclosures:

1. Draft contract
2. Independent estimate

Letter 8: Submittal of Preliminary Design Report

[DATE]

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

Subject: Preliminary Design Report (PDR) Submittal, [Project Location and Description]
MaineDOT WIN:

Dear [NAME]:

Attached for MaineDOT review is the Preliminary Design Report for [insert location and scope] in the Municipality of [insert name]. With this letter, the Municipality acknowledges the latest estimate for the project of [insert amount] and affirms its commitment to raise the required local matching funds and to move forward with the project.

If there are design exceptions:

The following design exceptions were approved by MaineDOT on [insert date] and are noted on the plans:

If there are no design exceptions:

This project will not require exceptions to controlling standards for project design.

If you would like to visit the project site, please notify me and I will make the arrangements. Please let me know if you need additional information.

Sincerely,

Local Project Administrator

Letter 9: Submittal of Design Plan Impacts

[DATE]

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

Subject: Design Plan Impacts Submittal, [Project Location and Description]
MaineDOT WIN:

Dear [NAME]:

Attached for your review and comment are the draft design plan impacts for [insert description] in the Municipality of [NAME]. With this letter, the Municipality acknowledges the latest estimate for the project of [insert amount] and affirms its commitment to raise the required local matching funds and to move forward with the project.

The plans show all impacts to utilities and abutting properties, as well as cross-sections with proposed limits of slopes and new construction. These plans meet standards specified in the MaineDOT Right of Way Manual (August 2018), Table 2-3, “Design Plan Impacts Complete,” found on page 2-6(9).

If you would like to visit the project site, please notify me and I will make the arrangements. Please let me know if you need additional information.

Sincerely,

[NAME], Local Project Administrator

Letter 10: Public Process Certification (Federal Project)

Instructions: This certification must be submitted on letterhead to MaineDOT with Letter 11 and the NEPA Documentation Checklist, found on the next two pages.

[DATE]

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

Subject: Public Process Certification, Federal Project
MaineDOT WIN:

Dear [NAME]:

The Municipality of [NAME] hereby certifies that a public process was carried out for the [LOCATION and SCOPE] project in accordance with Title 23 in the Code of Federal Regulations, Part 771.111, “Early coordination, public involvement, and project development.”

IF APPLICABLE, DESCRIBE ANY PUBLIC OPPOSITION HERE.

IF APPLICABLE, DESCRIBE ACCOMODATIONS FOR ENVIRONMENTAL JUSTICE COMMUNITIES HERE, SUCH AS:

- Virtual or in-person meeting options
- Contacts made with community groups representing those populations
- Documentation of how the public meeting was advertised
- Copies of the responses to comments received

I have attached for your information the following:

- A copy of the notification that was sent to abutters by registered mail;
- A copy of the meeting notice;
- A copy of the sign-in sheet; and
- Meeting minutes / hearing transcript.

Sincerely,

[NAME], Local Project Administrator

(Revised March 2022)

Letter 11: NEPA Documentation (Federal Project)

Instructions: This letter must be submitted on letterhead to MaineDOT with the checklist on the next page once MaineDOT approves the Preliminary Design Report.

[DATE]

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

Subject: NEPA Documentation, Federal Project
MaineDOT WIN:

Dear [NAME]:

Attached is the required NEPA documentation checklist for the [LOCATION and SCOPE] project in the Municipality of [NAME].

Also attached is Letter 10, certifying that the Municipality carried out a public process in accordance with the regulations in 23 CFR 771.111.

If you need additional information, please let me know.

Sincerely,

[NAME], Local Project Administrator

Enclosures:

- NEPA documentation checklist
- Public process certification (Letter 10)

(Revised March 2022)

Note: This checklist must be submitted with Letter 11

NEPA DOCUMENTATION CHECKLIST

Project Title & Location: _____

Federal Project #: _____ MaineDOT WIN: _____

Description of Work: _____

MaineDOT Project Manager: _____

Answer the following questions and attach supporting documentation. If there is a “yes” response, explain on a separate sheet or contact your MaineDOT Project Manager for guidance.

1.) Public Involvement: Is there substantial public opposition to proposed action? Yes ☐ No ☐
The answer should become apparent at a public meeting.

Documentation: Approved capital plan; meeting records; letters from the public; board meeting minutes; or Communication 10 (Public Process).

2.) Right-of-Way: Does action include a residential or commercial displacement or acquisition of property rights that will result in substantial abutter impacts? Yes ☐ No ☐
For help with “substantial,” contact your Project Manager at MaineDOT.

Documentation: Plan Impacts Complete for the project

3.) Endangered Species & Essential Fish Habitat:

- a. Has a qualified person surveyed the project area for streams, rivers, tidal waters, wetlands, or vernal pools identified coastal waters, wetlands, and vernal pools? Yes ☐ No ☐
- b. Any streams, rivers, tidal waters, wetlands, or vernal pools identified? Yes ☐ No ☐
- c. Is any work proposed in or adjacent to a stream, river or coastal waters? Yes ☐ No ☐
- d. Does the project require clearing trees or trimming limbs 3” or greater in diameter? Yes ☐ No ☐

Documentation: Resource delineation and plans with location of resource and work planned. If in-water work is proposed, project will be screened by the MaineDOT Environmental Office for intersection with habitat for endangered species and critical fish. Additional coordination with the Environmental Office will be required if the project is in one of these areas and includes in-water work or involves clearing.

4.) Section 4(f) or 6(f):

- a. Does project area include or abut resources protected by Section 4(f) of the Department of Transportation Act: publicly owned land, parks, recreation areas, wildlife and waterfowl refuges, or historic sites? Yes ☐ No ☐
- b. Will project require temporary or permanent rights on any protected 4(f) resource listed above? Yes ☐ No ☐

Documentation: Existing and proposed right-of-way plan, and a description of how impacts to these properties were avoided and minimized.

5.) Executive Order 12898 (Environmental Justice): Does the project affect businesses, housing agency property, community services, public transportation, or pedestrian access; or will it limit access to these services (either permanently or temporarily)? Yes ☐ No ☐

Signed by: _____
 [Name, Local Project Administrator]

Date: _____

Letter 12: Environmental Certification

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: Environmental Certification, Federal Project
MaineDOT WIN:

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 a pre-construction requirement 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. ***NOTE: If no permits were required, please briefly explain.***

Sincerely,

[NAME], Local Project Administrator

Cc: MaineDOT Environmental Office

(Revised January 2020)

Letter 13: Utility/Railroad Certification

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

[DATE]

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

Subject: Utility Certification, Federal Project, MaineDOT WIN:

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," Subpart A and Subpart 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 above entities were first informed of the project on [DATE], were involved as necessary throughout design, and received the most current 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], Local Project Administrator

Letter 14: Right-of-Way Certification

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:

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 exiting 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)

Letter 15: Construction Authorization Request

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:

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).

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], Local Project Administrator

Letter 16: Project Award Request

[DATE]

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

Subject: Request to Award Construction Contract, Federal Project
MaineDOT WIN:

Dear [NAME]:

Attached for your review are the bid tabulations, engineer's estimate and completed Contractor DBE Utilization Form for [SCOPE, LOCATION] in [NAME OF MUNICIPALITY]. [CONTRACTOR NAME] is the apparent successful bidder. We request authorization to award the project to that contractor.

In making this request, we acknowledge that we cannot send out the Notice of Intent to Award without written authorization from MaineDOT.

If you need additional information, please let me know.

Sincerely,

[NAME], Local Project Administrator

Enclosures:

1. Bid tabulations
2. Cost estimate

Letter 17: Pre-Construction / Pre-Utility Meeting

[DATE]

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

Subject: Pre-Construction / Pre-Utility Meeting
MaineDOT WIN:

Dear [NAME]:

Your attendance is requested at the pre-construction / pre-utility meeting for **[insert project scope, WIN]** in the Municipality of [NAME] on **[insert meeting date/time]**. I have attached an agenda for your convenience.

If you need additional information, please let me know.

Sincerely,

[NAME], Local Project Administrator

Cc: Jen Paul, Construction Manager, MaineDOT Multimodal Program

**AGENDA ITEMS FOR PRE-CONSTRUCTION MEETING
(Federally Funded Project)**

1. Introductions
2. Review Scope of Project
 - a. Acknowledge Amendments
 - b. Completion Date
 - c. Liquidated Damages
3. Permits Obtained (if required)
4. Construction Safety
 - a. Primary consideration during construction
 - b. Emergency contact list including 24 hour contacts
 - c. Contractor safety plan to be provided
 - d. Traffic Control Plan (TCP) must be reviewed and approved by Maine DOT
5. Schedule for the completion of work to be provided
 - a. Are there utility issues?
 - b. Update schedule as required
 - c. Daily construction activities to be recorded
 - d. Town must pay contractor first, then request reimbursement on a monthly basis
6. Labor Requirements
 - a. Davis-Bacon wage rates apply – if project has federal money
 - b. Certified payrolls with classifications to be submitted & reviewed: Elations
 - c. Payroll labor interviews
 - d. DBE participation & CUF form
7. Construction Control
 - a. Minimum Testing Requirements
 - b. Subcontract Approval (*FHWA-1273 must be inserted in all subcontracts*)
 - c. Measurement & documentation of materials used for payment purposes
 - d. Engineering oversight of activities
 - e. Manufacturer's certification for materials
 - f. Soil Erosion and Water Pollution Plan (SEWPCP)
 - g. Quality control plans, mix design submittals, pre-pave meeting
 - h. Buy America: steel/iron product certifications must be received before payment for that item, if a project has federal money
8. Communications
 - a. Requests for Information (RFIs)
 - b. Change Orders require MaineDOT review; must include detailed description of scope change, independent cost estimate & time
 - c. Notification of anticipated issues, claims or disputes

Letter 18: Contract Modification

[DATE]

Jen Paul, Construction Manager
Maine Department of Transportation
Bureau of Project Development, Multimodal Program
16 State House Station
Augusta, ME 04333-0016

Subject: Contract Modification Request
MaineDOT WIN:

Dear [NAME]:

Attached for your review is Contract Modification #[number] for **[insert project scope]** in the Municipality of [NAME]. The change will consist of **[insert description of contract modification including scope change and/or extra costs]**.

An Independent Estimate of the cost of the additional work is attached. This modification will add **[number of days]** to the original contract.

(Note: The amount of time required by the modification must be noted. If there is no change in the schedule, then state “0 days” or indicate that the modification will not change the amount of time associated with the contract.)

If you need additional information, please let me know.

Sincerely,

[NAME], Local Project Administrator

Cc: MaineDOT Project Manager

PROJECT DESCRIPTION:	
CONTRACT MOD. NO.:	
PROJECT WIN:	
MUNICIPALITY:	
DATE ISSUED:	

To: _____, you are hereby notified, the following work is to be accomplished in accordance with the provisions of your Contract. The work will not be considered authorized for payment without the required signatures. Payment will be made as described.

(By signing this Order the Contractor agrees that all issues, including time, relating to the described work are satisfactorily resolved by this Order. No other compensation will be sought or made.)

DESCRIPTION:

--

REASON:

--

COST:

--

Amount of this Order: \$

Original Contract Amount	\$
Total Cost of this Contract Modification	\$
Total Cost of all Contract Modifications Including this Mod	\$
Percentage of Contract for this Mod	%
Total Percentage of Contract including all Mods	%
Total Contract Amount Including this Mod	\$

Additional Days Added (This Mod):	New Completion Date:
-----------------------------------	----------------------

TITLE:	SIGNATURE:	DATE:
Resident or Inspector		
Contractor		
Municipality		

Letter 19: Final Inspection

[DATE]

Jen Paul, Construction Manager
Maine Department of Transportation
Bureau of Project Development, Multimodal Program
16 State House Station
Augusta, ME 04333-0016

Subject: Final Inspection, MaineDOT WIN:

Dear [NAME]:

Your attendance is requested at the Final Inspection for **[insert project scope, WIN]** in the Municipality of [NAME] on **[insert meeting date/time]**. At the time, we can also make available all documentation and testing results for the project.

If you need additional information, please let me know.

Sincerely,

[NAME], Local Project Administrator

Cc: MaineDOT Project Manager

Letter 20: Final invoice and Completion of Work (Federal Project)

INSTRUCTIONS: This must be submitted on letterhead with all requested documentation.

[DATE]

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

Subject: Final Invoice and Notification of Completion of Work
MaineDOT WIN ; Contract #

This Municipality of certifies that the contractor has completed all work on the subject project in accordance with the construction contract and approved modifications, and that:

- The Municipality has accepted the work; and
- The Municipality has measured and reconciled final quantities with the contractor, with all supporting documentation of such; and
- The Municipality has paid the contractor in full; and
- There are no outstanding claims or disputes associated with the project.

Accordingly, the Municipality submits this final invoice with supporting documentation requesting reimbursement of \$ as MaineDOT's % share of expenditures for the invoice period, . I understand that the Municipality's % share of MaineDOT's internal charges to the project will be reconciled and deducted from this final invoice.

Also attached are the Consultant Evaluation and the Contractor Evaluation for this project.

By signing this invoice, I certify to the best of my knowledge and belief that the information provided is true, complete, and accurate, and the expenditures, disbursements, and cash receipts are for the purposes and objectives set forth in the terms and conditions of the federal funding award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729-3730 and 3801-3812.)

Sincerely,

, Local Project Administrator

Enclosures: Final billing; Consultant Evaluation; Contractor Evaluation

Local Project Administration Manual & Resource Guide

Hiring Consultants

2. HIRING
CONSULTANTS



MaineDOT

Integrity - Competence - Service

Chapter 2 - Updated March 2021

Hiring Consultants

Project engineering is a complex task requiring assistance from licensed professionals. For this reason, local agencies without engineers on staff must hire consultants for design and inspection work. If a local agency intends to pay a consultant with federal or state money, the agency must use a qualifications-based selection method. Price *cannot* be a scoring factor.

Chapter 2 of this Manual is set up to guide local agencies in hiring and managing consultants with funding from MaineDOT. Listed below are the topics covered in this chapter:

- Independent Estimate (pages 2-2 and 2-3);
- Selection Methods / Pre-qualification (page 2-4);
- Table of Consultant Selection Methods (page 2-5);
- Request for Proposals / Consultant Technical Proposals (page 2-6);
- Selection Committee / Consultant Price Proposals (page 2-7);
- Negotiations / Consultant Contracts (page 2-8);
- Contract Modifications (page 2-9);
- Debarment / Consultant Evaluations / Risks to Funding (page 2-9);
- Appendix 2A: Consultant Selection Checklist – *revised* (page 2-10);
- Appendix 2B: Submittals to MaineDOT (page 2-13);
- Appendix 2C: Consultant Payment Methods (page 2-17); and
- Appendix 2D: Guidance on Consultant Expenses (page 2-20).



2.1 Scope of Work

Hiring a consultant begins with preparing a well-defined scope of work. At the start of a project, the local agency managing the project should prepare a scope of work that considers the following items, to the extent that they apply:

- ☐ A description of the project, with the location and the type of work;
- ☐ Deliverables such as preliminary design report (PDR) and a package of final plans, project specifications and an updated estimate (PS&E);
- ☐ Proposed schedule for the work;
- ☐ The number of meetings with local staff and number of public meetings to be facilitated;
- ☐ Project-specific tasks such as utility coordination, preparation of permit applications, and right-of-way mapping, as applicable;
- ☐ A list of any specialized services and expertise needed, such as geotechnical analysis.

2.2 Independent Estimate

A local agency that intends to hire a consultant using funding from MaineDOT must prepare an independent estimate of the price. The estimate will determine the selection process – as set out in section 2.4, “Selection Methods” – and will be the baseline for negotiations to reach fair and reasonable compensation.

The independent estimate, which a local agency must prepare and submit to MaineDOT’s project manager for review *before* seeking proposals, must include:

- Tasks based on the scope of work, as set out in the example worksheet on page 2-3;
- Classifications and estimated hourly wages of personnel likely to work on a project;
- The estimated number of hours of work required, by employee classification;
- Estimated overhead (indirect) rate;
- List of direct costs, such as mileage, reproduction, and sub-consultants; and
- A reasonable profit (fee), typically 8 percent to 10 percent.

Because the independent estimate will be the baseline for negotiations, it *must not be shared* with anyone submitting a proposal. During contract negotiations later in the process, the proposed price may vary by up to **15 percent** from the estimate for services estimated to cost less than \$100,000, and by up to **10 percent** for services estimated to exceed \$100,000.

An estimate worksheet is found in the Consultants section of the LPA Documents web page: www.maine.gov/mdot/lpa/lpadocuments/

Although the estimate must be prepared by the local agency managing a project, MaineDOT may offer guidance. Additionally, there often are local resources to help with this task, such as:

- An experienced public works director or road commissioner;
- An engineer not involved in the project at hand; and
- Retired technical professionals in a community.

Note: A consultant who assists a local agency with preparing its independent estimate cannot participate in the subsequent request for proposals (RFP) process.

2.3 Consultant Work on Grant Applications

Local agencies may hire consultants to assist with grant applications, but application-related costs are **not** reimbursable. If MaineDOT approves an application and awards a project, the local agency sponsoring the project must use a separate process to hire a design consultant, as set out in section 2.4 “Selection Methods.”

A consultant who helped with an application may compete for the design contract, but the consultant cannot receive additional points in the scoring process for having worked on the application. If a local agency ultimately selects for design work a consultant who also worked on its application, after using the appropriate process, the work must be covered by a new contract.

INDEPENDENT ESTIMATE WORKSHEET

(Example)

Project Title/Location:

MaineDOT WIN:

Service Area or Phase of Work:

Date:

Revised:

Prepared By:

	Project Manager	Project Engineer	Project Engineer	Designer	CADD Technician	Traffic Engineer	Other	Other	Admin Support	TOTAL
#	Task Descriptions	Hours	Hours	Hours	Hours	Hours	Hours	Hours	Hours	Hours
1	Survey									0.00
2	Alignment & Profile									0.00
3	Utility Coordination									0.00
4	PDR Submittal									0.00
5	Public Meeting									0.00
6	Misc. Meetings with Staff									0.00
7	Environmental Permits									0.00
8	Plan Impacts Submittal									0.00
9	Engineer's Estimate									0.00
10	Final Design									0.00
11	Final PS&E Submittal									0.00
12	Bidding Support									0.00
13	Construction Inspection									0.00
	TOTAL HOURS	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
	HOURLY RATE	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	
	LABOR TOTAL	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00

DIRECT EXPENSES	\$
Mileage	
Printing (External Use)	
Sub-consultants	
Other	
Other	

TOTAL DIRECT EXPENSES = \$0.00

Overhead	0.00 %	\$0.00
Profit/Fee	0.00 %	\$0.00
Subtotal:		\$0.00
Direct Expenses:		\$0.00
<u>TOTAL ESTIMATED PRICE</u>		<u>\$0.00</u>

2.4 Selection Methods

Local agencies must use one of the methods below to procure services for projects with federal or state funding. For step-by-step guidance, refer to the checklist in Appendix 2A, on page 2-10.

- ❑ **Simplified Acquisition.** If the estimated cost of consultant work is **\$25,000 or less**, a local agency may seek a proposal from one consultant pre-qualified in an appropriate category, as set out in section 2.5 below. The agency must request and receive approval from MaineDOT using Letter 5, “Simplified Acquisition Request,” found on page 2-14.
 - *Agencies using Simplified Acquisition cannot be reimbursed for consultant costs exceeding \$25,000, and they must use a separate selection process for other services.*
- ❑ **Competitive Solicitation.** If the estimated cost of consultant work is **\$250,000 or less**, a local agency has the option of using an advertised request for proposals (RFP) or sending its RFP directly to at least three pre-qualified firms. The RFP must request from each proposer a technical proposal and – as an option – a separate, sealed price proposal.
- ❑ **Brooks Act.** If the estimated cost of consultant work is **greater than \$250,000**, which falls under the federal Brooks Act, a local agency must use an advertised RFP. The RFP must allow for open competition and must be advertised on the websites for both the local agency administering the project and the MaineDOT Contract Procurement Office. After scoring technical proposals and doing interviews, if necessary, the local agency must: a) open the sealed price proposal from the highest-ranked firm or request a price proposal from that firm; and b) negotiate the scope of work, schedule and price.

➡ Price and geographic preference cannot be scoring factors in the initial evaluation or ranking of any prospective consultant.

2.5 Pre-qualification

If the estimated value of a contract is less than \$250,000, and a local agency does not plan to use a public RFP, the agency must seek proposals from pre-qualified consultants. Such firms are listed by service number on MaineDOT’s website: www.maine.gov/mdot/cpo/prequal/#prequal4

Examples of service numbers used on locally administered projects include the following:

- 103.60 – Planning-Feasibility Studies;
- 202.10 – Reconstruction/Rehabilitation Highway Design;
- 206.20 – Minor Marine Facilities Design (*Small Harbor Improvement Program*);
- 209.10 – Pedestrian/Bicycle Facilities Design;
- 402.00 – Property Valuation and Appraisal Services (*right-of-way work*);
- 403.00 – Property Negotiations/Ownership Information Services (*right-of-way work*);
- 601.00 – Highway Inspection, Construction Management, and Support Services;
- 603.10 – Marine Facilities Inspection (*Small Harbor Improvement Program*);
- 608.00 – Materials Testing/Inspection.

TABLE OF CONSULTANT SELECTION METHODS

ESTIMATED CONTRACT VALUE:	≤\$25,000	>\$25,000 to ≤\$250,000	>\$250,000
• Develop a Scope of Work.	✓	✓	✓
• Generate an Independent Estimate.	✓	✓	✓
• Select the most qualified consultant from a list of pre-qualified firms: www.maine.gov/mdot/cpo/prequal/	✓		
• Request a price proposal from the most qualified consultant.	✓		
• Develop Scoring Criteria.		✓	✓
• Develop a request for proposals (RFP) for review by MaineDOT Project Manager.		✓	✓
• Send RFP to 3-5 pre-qualified firms, seeking technical and <u>sealed</u> price proposals.		✓	
• Advertise finalized RFP, requesting technical and <u>sealed</u> price proposals.			✓
• Organize an evaluation team to review RFP technical submittals.		✓	✓
• Review technical proposals - and revise Independent Estimate, if necessary.	✓	✓	✓
• Open sealed price proposal from the top-ranked consultant.		✓	✓
• Negotiate scope of work, schedule, and a fair and reasonable price.	✓	✓	✓
• If negotiations break down, request Best and Final Offer.		✓	✓
• Verify that selected consultant is not debarred, via screen print from www.sam.gov	✓	✓	✓
• Obtain MaineDOT Project Manager's approval of draft contract before it is executed.	✓	✓	✓
• Execute contract with consultant.	✓	✓	✓
• Issue written Notice to Proceed to consultant.	✓	✓	✓
• Obtain MaineDOT Project Manager's prior written approval of contract modifications.	✓	✓	✓
• Evaluate consultant upon completion of contract and provide copy to MaineDOT.	✓	✓	✓

2.6 Request for Proposals

A local agency that intends to hire a consultant with funding from MaineDOT must prepare a request for proposals (RFP) that either is sent directly to pre-qualified firms or advertised for open competition, as set out in section 2.4, “Selection Methods.”

In most cases, the local agency managing a project will request from each consultant a **technical proposal** and a separate, sealed **price proposal** that must remain unopened. Once the technical evaluations are completed, the sealed envelope from the highest-ranked proposer may be opened. *If MaineDOT learns that a local agency has considered price before selecting the highest-ranked proposer, MaineDOT will reject the process and require the agency to start over.*

A local agency must answer only questions submitted in writing during the question-and-answer period stated in the RFP. Answers must be posted with the RFP so that all proposers have the same information. Proposals must be kept in a secure place until the submittal deadline.

➔ A template RFP is found here, under Consultants: www.maine.gov/mdot/lpa/lpadocuments/

An RFP must include the following information:

- ☐ Scope of work with location map;
- ☐ Requirement for a technical proposal and separate, sealed price proposal;
- ☐ Contact person responsible for answering questions and receiving proposals;
- ☐ Deliverables;
- ☐ Scoring criteria and relative weights;
- ☐ Deadlines for questions and for proposals;
- ☐ Payment method; and
- ☐ **Salary cap.** Pay rates on contracts funded by MaineDOT are capped at **\$62 per hour** for project managers and quality-control engineers, and **\$50 per hour** for other personnel.

2.7 Consultant Technical Proposals

In all cases, a local agency must request from each prospective consultant a technical proposal providing information that will be used to evaluate the qualifications of responsive firms.

Technical proposals should include the following information, at a minimum:

- ☐ Résumés of personnel to be assigned to the project, including descriptions of similar projects they have worked on;
- ☐ A proposed schedule;
- ☐ Consultant firm’s experience delivering projects on schedule and on budget;
- ☐ A firm’s experience with projects having state and federal transportation funds;
- ☐ Contact information for professional references from similar, completed projects; and
- ☐ List of sub-consultants and the work they will perform.

2.8 Selection Committee

A local agency must form a committee to review consultant technical proposals and conduct interviews, if necessary, to rank proposers. The committee must include the LPA certified official overseeing a project and at least two other local representatives, but not MaineDOT.

In reviewing technical proposals, the selection committee should consider using evaluation factors such as the following, which must be listed on the scoring sheet for the project:

- ☐ Qualifications and experience of consultant staff;
- ☐ Ability to start and complete work on schedule; and
- ☐ Performance on comparable projects, based on reference checks.

Remember: Price cannot be a factor in the initial evaluation or ranking of any consultant.

2.9 Consultant Price Proposals

Under a qualifications-based selection, a local agency may receive price proposals in two ways:

- ☐ Request separate, sealed price proposals from everyone up front, but open the price proposal only from the highest-ranked firm once scoring is completed; or
- ☐ Request a price proposal from the top-ranked firm once scoring is completed and give that firm at least five days to respond. *This method should be used for electronic submittals.*

Price proposals must provide the following information:

- ☐ **Direct Labor** (without overhead and profit) for each employee on a project, within the limits set out in subsection 2.9.1 on the next page, “Consultant Salary Limit.”
- ☐ **Number of hours** required to perform the service, by task and by employee.
- ☐ **Overhead**, which covers rent, utilities, benefits, insurances and other costs not specific to a project, as supported by an audited overhead report approved by MaineDOT.
 - ***Note:** Use commercial rates for smaller firms without audited overhead reports, as set out in Appendix 2C, “Payment Methods.”*
- ☐ **Direct costs** (not factored into a firm’s overhead rate), such as the following:
 - Mileage at the State of Maine’s maximum rate, found online: <https://www.maine.gov/osc/travel/mileage-other-info>;
 - Sub-consultants, at actual cost;
 - Project-specific reproduction and other miscellaneous costs; and
 - Travel-related meals and lodging at rates set by the General Services Administration. Refer to Appendix 2D, “Guidance on Consultant Expenses,” starting on page 2-20.

***Note:** Consultants are prohibited from marking up direct costs.*
- ☐ **Profit** (fee), typically 8-to-10 percent depending on the scope of work and level of risk. The maximum allowed is 15 percent, but this requires written justification and approval.

2.9.1 Consultant Salary Limit

Salary rates on consultant contracts funded by MaineDOT are capped at **\$62 per hour** for a project manager or a quality-control engineer, and **\$50 per hour** for all other personnel. Local agencies must obtain waivers in advance to be reimbursed for salary costs exceeding the limits.

➔ A waiver form is found in the “Consultants” section of the LPA Documents web page: www.maine.gov/mdot/lpa/lpadocuments/

2.10 Negotiations

After scoring consultant technical proposals, a local agency will open the price proposal from the highest-ranked firm and negotiate the scope of work, schedule and price. The proposed price may vary by up to **15 percent** from a local agency’s independent estimate for contracts below \$100,000 and by up to **10 percent** from the independent estimate for contracts above \$100,000.

Remember: Price proposals from all other proposers must stay *sealed* throughout the process. If MaineDOT learns that a local agency has considered the prices offered by consultants other than the highest-ranked firm, MaineDOT may nullify the selection process.

If an agency cannot reach terms with a firm after requesting a Best and Final Offer, the agency should end negotiations. At that point, the agency should open the price proposal from its second-ranked firm and negotiate. The process should continue until a contract is negotiated. A local agency cannot go back to a previous consultant after terminating negotiations.

2.11 Consultant Contracts

After successfully negotiating the scope of work, schedule and price, a local agency must prepare a contract with its selected consultant. MaineDOT project managers must approve all contracts and any subsequent modifications **before** they are executed. (*See section 2.12 on the next page.*)

Federally funded contracts must contain the items below, at a minimum. Local agencies are encouraged to use a template in the “Consultants” section of the LPA Documents web page: www.maine.gov/mdot/lpa/lpadocuments/

- ☐ Scope of work, with deliverables and milestones;
- ☐ Start and end dates;
- ☐ Maximum amount payable under the contract;
- ☐ Cost breakdown listing personnel by task and hourly rate, proposed hours, overhead, profit and direct costs;
- ☐ DBE Utilization Plan (*federally funded projects*);
- ☐ Indemnification and insurance requirements;
- ☐ Administrative, contractual or legal remedies for breach of contract;
- ☐ Assurances that a consultant is not debarred (*see section 2.13, on the next page*);
- ☐ Signed Title VI Assurances; and
- ☐ FHWA-1273, Required Contract Provisions for Federal-Aid Contracts.



2.12 Contract Modifications

The local agency managing a project must prepare a contract modification covering any change in scope, time or dollar amount. Contract modifications must be sent to MaineDOT's project manager for review and approval before they are executed, and they must be signed by all parties before any associated tasks are performed.

Note: Work covered by a contract modification that is performed without MaineDOT's approval or before the modification is executed shall be *ineligible* for reimbursement from MaineDOT.

2.13 Debarment

Local agencies must verify that consultants are not debarred, which prohibits them from working on government contracts. Verification must be sent to MaineDOT's project manager through a screen print from the website for the System for Award Management: www.sam.gov/SAM/

2.14 Consultant Evaluations

MaineDOT and the Federal Government require local agencies to evaluate consultants once their contracts are completed. MaineDOT's standard Consultant Evaluation Form may be used if references to MaineDOT are removed. It is stored in the "Consultants" section of MaineDOT's LPA Documents web page: www.maine.gov/mdot/lpa/lpadocuments/

Upon completing a project, a local agency must send MaineDOT a copy of its completed Consultant Evaluation Form for every firm with which it contracted on the project. *MaineDOT may withhold final reimbursement until this evaluation is completed.*

2.15 Risks to Funding

In signing agreements with MaineDOT, local agencies become legally bound to meet all of the requirements that come with the federal and state funding for their projects. Listed below are activities that could make consultant costs ineligible for reimbursement:

- ☐ Selecting a consultant based on the lowest price offered for the service.
- ☐ Reviewing prices from all consultants responding to an RFP, not just the top-ranked firm.
- ☐ Starting work before a consultant contract is executed and notice to proceed is sent out.
Work before the execution date would not qualify for reimbursement.
- ☐ Performing work beyond the original scope without a contract modification in place.
Work outside of the original scope would not qualify for reimbursement.
- ☐ Working past the contract expiration date without a modification in place.
Work performed past the expiration date would not qualify for reimbursement.
- ☐ Exceeding the maximum value of a contract without a modification in place.
Reimbursement would be capped at the original contract amount.

Appendix 2A: Consultant Selection Checklist

Section updated, March 2021



Checklist: Consultant Selection

(Updated, March 2021)

1. **Simplified Acquisition: Services estimated to cost no more than \$25,000.**

- ☐ Send draft Scope of Work and Independent Estimate to MaineDOT Project Manager (PM).
- ☐ Obtain MaineDOT PM's approval to use Simplified Acquisition (**Letter 5**).
- ☐ Request/receive proposal from a single, pre-qualified consultant.
- ☐ Negotiate Scope of Work, schedule and price, based on Independent Estimate.
- ☐ Verify that consultant is not debarred using the following federal website: www.sam.gov/SAM/
- ☐ Obtain consultant's completed Disadvantaged Business Enterprise (DBE) form (*federal funds*).
- ☐ Obtain MaineDOT PM's approval of consultant proposal and unsigned contract (**Letter 7**).
- ☐ Execute a contract with selected consultant after receiving MaineDOT's approval.
- ☐ Send consultant Notice to Proceed.

Note: If Simplified Acquisition is used, any other services must be procured using a separate process.

2. **Competitive Solicitation: Services estimated to cost \$25,000 to \$250,000:**

- ☐ Send the draft Scope of Work and Independent Estimate to MaineDOT PM for review/approval.
- ☐ Prepare draft request for technical proposals (RFP) using one of the templates on MaineDOT's LPA Documents web page: <https://www.maine.gov/mdot/lpa/lpadocuments/>.
 - Send draft RFP to MaineDOT PM for review/approval (**Letter 6**).
- ☐ Send approved RFP to 3-to-5 pre-qualified firms: www.maine.gov/mdot/cpo/prequal/
- ☐ Price proposals may be obtained in one of the following ways:
 - a. Consultants may provide sealed price proposals with their RFP submittals. The envelope only from the top-ranked firm would be opened after the scoring is done.
 - b. The top-ranked firm may submit a price proposal after the scoring is finished, as follows:
 - Always use this process if proposals are being submitted by email.
 - State in the RFP that a price proposal will be requested after the scoring is completed.
 - Give the proposer five days to submit a price proposal.
- ☐ Form a committee to score technical proposals and rank firms.
- ☐ After scoring technical proposals, review the price proposal from highest-ranked firm and negotiate the scope of work, schedule and price.
 - If negotiations with highest-ranked firm are successful, prepare a contract and send it to MaineDOT PM for approval.
 - If terms cannot be reached with highest-ranked firm, request a Best and Final Offer, terminate negotiations, and repeat this negotiation process with the second-ranked firm.
- ☐ Once terms are reached, verify that consultant is not debarred using www.sam.gov/SAM/

- ☐ If a project has federal funds, obtain completed DBE form from selected consultant.
- ☐ Send unsigned contract and price proposal to MaineDOT for approval (**Letter 7**).
- ☐ Execute a contract, after receiving approval from MaineDOT PM.
- ☐ Send regret letters to the proposers not chosen, along with their unopened price proposals.
- ☐ Send selected consultant Notice to Proceed.

3. **Brooks Act: Services estimated to cost greater than \$250,000:**

- ☐ Send the draft Scope of Work and Independent Estimate to MaineDOT PM for review/approval.
- ☐ Prepare draft request for technical proposals (RFP) using one of the templates on MaineDOT's LPA Documents web page: <https://www.maine.gov/mdot/lpa/lpadocuments/>.
 - Send draft RFP to MaineDOT PM for review/approval (**Letter 6**).
- ☐ Advertise the approved RFP on the websites for the local agency sponsoring a project and MaineDOT's Contract Procurement Office.
- ☐ Price proposals may be obtained in one of the following ways:
 - a. Consultants may provide sealed price proposals with their RFP submittals. The envelope only from the top-ranked firm would be opened after the scoring is done.
 - b. The top-ranked firm may submit a price proposal after the scoring is finished, as follows:
 - Always use this process if proposals are being submitted by email.
 - State in the RFP that a price proposal will be requested after the scoring is completed.
 - Give the proposer five days to submit a price proposal.
- ☐ Form a committee to score technical proposals and rank firms.
- ☐ After scoring technical proposals, review the price proposal from highest-ranked firm and negotiate the scope of work, schedule and price.
 - If negotiations with highest-ranked firm are successful, prepare a contract and send it to MaineDOT PM for approval.
 - If terms cannot be reached with highest-ranked firm, request a Best and Final Offer, terminate negotiations, and repeat this negotiation process with the second-ranked firm.
- ☐ Once terms are reached, verify that consultant is not debarred using www.sam.gov/SAM/
- ☐ If a project has federal funds, obtain completed DBE form from selected consultant.
- ☐ Send unsigned contract and price proposal to MaineDOT for approval (**Letter 7**).
- ☐ Execute a contract, after receiving approval from MaineDOT PM.
- ☐ Send regret letters to the proposers not chosen, along with their unopened price proposals.
- ☐ Send selected consultant Notice to Proceed.

Appendix 2B:

Submittals to MaineDOT



[Date]

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

Subject: Simplified Acquisition Request
MaineDOT WIN [Number]

Dear [Name]:

The Municipality of [Name] is requesting approval to seek a proposal for engineering services for [project scope] from [insert company name], which is pre-qualified by MaineDOT in the service category of [insert number and type of service]:

Since the cost is estimated to be \$25,000 or less – based on our Independent Estimate (enclosed) – we request approval to use Simplified Acquisition, allowing us to solicit a proposal from one consultant pre-qualified by MaineDOT to perform the service. Our draft request for proposals is attached for your review.

We understand that MaineDOT cannot participate financially in contract costs exceeding \$25,000, since Simplified Acquisition will be used, and that we must use a separate process to solicit additional consultant services (if required).

Please review the submitted materials and notify us if we are approved to solicit a proposal and subsequently to negotiate a contract with this firm. We understand that we cannot award a contract without your approval.

Sincerely,

[Name], Local Project Administrator

Enclosures:

1. Request for Proposals
2. Independent Estimate

[Date]

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

Subject: Request for RFP Review
MaineDOT WIN [Number]

Dear [Name]:

The Municipality of [Name] intends to solicit proposals for consultant engineering services for [project scope]. Attached is the request for proposals that we intend to use for this solicitation.

If estimated price is \$25,000 to \$250,000, use the following language:

Based on our Independent Estimate of the cost of the proposed services (enclosed), we understand that we may select potential consultants from a pool of 3 to 5 pre-qualified firms. We intend to send the RFP to the following consultants on the MaineDOT pre-qualification listing for [insert number and type of service]:

-
-
-

If estimated price is \$250,000 or greater, use the following language:

Based on our Independent Estimate of the cost of the proposed services (enclosed), we understand that we must use a publicly advertised solicitation in accordance with the federal Brooks Act. We intend to advertise the RFP on [date] as follows:

Please review the draft RFP and inform me as to its adequacy.

Sincerely,

[Name], Local Project Administrator

Enclosure: Draft RFP

[Date]

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

Subject: Consultant Selection Approval Request
MaineDOT WIN [Number]

Dear [Name]:

The Municipality of [Name] has selected [name of consultant firm] for engineering services for [project scope]. Attached is the negotiated contract, price proposal and our Independent Estimate. We understand that we cannot execute this contract without your approval.

We have verified that our selected consultant is not debarred. Attached is a screen shot from the federal System for Award Management (SAM) database: www.sam.gov/SAM/.

Please review these documents and respond at your earliest convenience so that we may execute a contract. We understand that no work eligible for reimbursement may begin until we execute the contract upon MaineDOT's approval and give our selected consultant notice to proceed.

Sincerely,

[Name], Local Project Administrator

Enclosures:

1. Draft contract
2. Independent Estimate

Appendix 2C:

Payment Methods



PAYMENT METHODS

❑ BURDENED HOURLY RATE

Adjustable Burdened Hourly Rate:

This payment method consists of direct labor, overhead and profit that may be adjusted during a contract. Overhead and direct labor rates must be supportable, and direct labor rates must be at or below the cap for projects funded by MaineDOT. (See subsection 2.10.1, page 2-9). Direct expenses must be listed separately on an invoice and billed without markup. This payment method is recommended for longer contracts, generally greater than one year in duration.

Fixed Burdened Hourly Rate:

This is a fixed rate consisting of direct labor, overhead and profit that cannot be adjusted during the term of a contract. Overhead and direct labor rates must be supportable, and director labor rates must be within the cap for projects funded by MaineDOT (covered in subsection 2.10.1, page 2-9). Direct expenses must be listed separately on an invoice and billed without markup. Use of this fixed payment method is recommended for shorter contracts, generally up to one year in duration.

When to use a Burdened Hourly Rate:

Use of a Burdened Hourly Rate payment method is suitable when the effort per unit of work is well defined, but the number of hours required is uncertain. A consultant working under this type of contract must keep a record of the work completed.

Under this payment method, a consultant must submit an audited overhead report to the MaineDOT Office of Audit annually for review and approval. The contract must include a maximum amount payable that cannot be exceeded unless adjusted by a contract modification.

❑ COST PLUS FIXED FEE

Under Cost Plus Fixed Fee, a consultant is reimbursed for actual, supportable costs: direct labor (within the salary cap for projects funded by MaineDOT), overhead, and direct expenses that must be listed separately on an invoice. (Direct expenses must be billed without markup.)

In addition, the consultant is paid an agreed upon fixed fee (profit), which should be reasonable and range from 8 percent to 10 percent. Once negotiated, this fee is fixed and does not change.

When to use Cost Plus Fixed Fee:

This payment method is suitable when the scope of work is well-defined, but the effort required to complete the work cannot be estimated precisely.

Under this payment method, the consultant must submit an annual audited overhead report to the MaineDOT Office of Audit for review and approval. The contract must include a maximum amount payable that cannot be exceeded unless adjusted by a contract modification.

❑ **COMMERCIAL RATE**

Commercial Rate is a fair and reasonable rate consisting of direct labor, overhead (indirect), and profit. This rate remains fixed for the duration of a contract. The local agency must show that the commercial rate is fair and reasonable by comparing that rate against the rates of at least two other firms of similar size that perform similar work.

Direct labor rates must be supportable and within the salary cap for projects funded by MaineDOT. Direct expenses must be listed separately on an invoice and billed without markup. An audited overhead report is not required for this payment method unless the contract value is greater than \$250,000.

When to use Commercial Rate:

Use Commercial Rate when a consultant either is a new or is a small firm without an audited overhead report. This rate often is established by using a market-rate comparison.

❑ **LUMP SUM**

Lump sum is a payment method in which the price includes all direct labor, overhead and profit. Direct expenses either may be included in the lump sum amount or may be billed separately without markup.

The amount of a Lump Sum contract is fixed; therefore, it is not subject to adjustment because of cost changes that a consultant might encounter when perform the work. For this reason, local agencies must scrutinize requests from consultants to increase the dollar values of these types of contracts.

When to use Lump Sum:

A Lump Sum payment method may be used when the scope of work is clear and well defined, and the total cost can be estimated accurately.

END OF APPENDIX 2C

Appendix 2D:

Guidance on Consultant Expenses

Note: This information also is available in the “Doing Business” section of the website for MaineDOT’s Contract Procurement Office: <https://www.maine.gov/mdot/cpo/>

Guidance on Consultant Expenses

Contracts between local agencies and consultants that use funding from MaineDOT are subject to the policies of MaineDOT and the State of Maine regarding limits on salary, overhead and project-specific expenses. Prime consultants and their subconsultants must comply with these limits unless MaineDOT grants waivers in writing before work begins.

This section provides guidance on project-specific direct expenses not included in a consultant's overhead rate. Such expenses must be billed without markup, with mileage and per diem rates following the guidance set out below.

Remember: Consultants cannot mark up subconsultant costs and other direct expenses. MaineDOT will deduct any such markup from a local agency's request for reimbursement. MaineDOT also will disqualify for reimbursement any costs exceeding the allowable expenses set out in this section.

For additional information, refer to the following documents:

- MaineDOT Consultant General Conditions: <https://www.maine.gov/mdot/cpo/>
- Maine State Administrative and Accounting Manual: <https://www.maine.gov/osc/travel/>

Lodging

Any consultant overnight stay that will be charged to a project must receive approval from the local administrator in charge of the project, in consultation with MaineDOT's project manager. Lodging may be approved if round-trip travel to a site other than a consultant's standard work location exceeds 150 miles.

Receipts must accompany any request for reimbursement, which cannot exceed rates from the U.S. General Services Administration: <https://www.gsa.gov/travel/plan-book/per-diem-rates>.

Meals

A consultant may bill for travel-related meals only if such meals accompany an approved overnight stay, as described in the "Lodging" section above. In such cases, meal costs cannot exceed rates established by the U.S. General Services Administration, which are online: <https://www.gsa.gov/travel/plan-book/per-diem-rates>

If a consultant's policy is to reimburse its employees at the GSA per diem (daily) rate, the consultant will not have to submit receipts. If a consultant's policy is to reimburse employees for the actual cost of meals, the consultant will have to submit receipts; the consultant will be reimbursed for the actual amount paid up to the GSA per diem rate.

Note: If a local agency is billed at rates that exceed the amounts described above – and the agency does not flag and reject such costs – MaineDOT will deduct the difference between the allowable rate and the actual rate paid from any subsequent invoice for reimbursement.

Mileage

Mileage reimbursement is limited to the maximum rate allowed by the State of Maine. The current mileage rate is found on the website for the Office of State Controller:

<https://www.maine.gov/osc/travel/mileage-other-info>

If a consultant bills for mileage at the higher federal rate – and a local agency does not flag and reject that cost – MaineDOT will deduct the difference between the federal and state rates from any subsequent invoice submitted to MaineDOT for reimbursement.

Printing

The cost of reproducing design plans for submittal to a local agency or MaineDOT may be charged to a project at the actual cost. Any printing cost incurred for the consultant's internal use will be considered an overhead expense that is ineligible for reimbursement as a direct expense.

Tolls

Highway toll charges must be accompanied by copies of receipts or other proof of payment, such as an E-ZPass statement.

Vehicle Rentals

A consultant may be reimbursed for a vehicle rental for project-related travel if doing so would be cost-effective. Use of a rental vehicle would require the approval of the local administrator in charge of a project, in consultation with the MaineDOT project manager.

The consultant would have to meet the following conditions:

- The cost of the rental and fuel would be less than the mileage reimbursement; and
- The consultant would have to provide a receipt.

Note: If a local agency invoices MaineDOT for a vehicle rental cost incurred by a consultant without documented approval from the local project administrator, MaineDOT may deny reimbursement of that cost.

END OF APPENDIX 2D

Local Project Administration Manual & Resource Guide

Project Design



3. PROJECT
DESIGN



MaineDOT

Integrity - Competence - Service

Chapter 3 - Updated Spring 2022

Project Design

Successful projects start with practical designs that reflect sound engineering judgment. Well-developed construction plans and specifications enable contractors to understand what they must build and how the work should be done, minimizing change orders. Most local agencies will hire engineering consultants. In larger communities, such as Bangor, Lewiston and Portland, municipal engineers often perform this work.

Chapter 3 is set up to guide communities and consultants in meeting MaineDOT's expectations for design work on locally administered projects. It covers the following topics:

- Design Requirements (page 3-1);
- Format of Design Plans (page 3-2);
- Public Involvement – *revised* (page 3-2);
- Preliminary Design Report and Plan Impacts Complete (page 3-4);
- Americans with Disabilities Act (page 3-5);
- Traffic Analysis and Management Evaluation – TAME (page 3-5);
- Design Exceptions (page 3-6);
- Design Checks (page 3-7);
- Appendix 3A: Design Submittal Guidance (page 3-8); and
- Appendix 3B: Electronic Exchange of CADD data – *updated* (page 3-14).



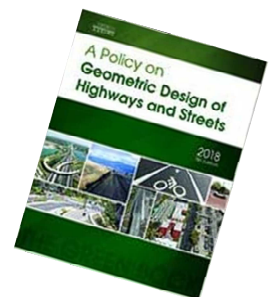
MaineDOT design guidance is online: www.maine.gov/mdot/engineering/practices-procedures/

3.1 Design Requirements

Design work must be supervised by a Maine licensed professional engineer. If a highway, bridge or bicycle/pedestrian project uses federal or state money, the design must reflect applicable sections of MaineDOT's latest *Engineering Practices and Procedures*, *Standard Specifications*, and *Standard Details*.

Additionally, MaineDOT encourages the use of standard references, such as:

- AASHTO: A Policy on Geometric Design of Highways and Streets;
- AASHTO: Guide for the Planning, Design, and Operation of Pedestrian Facilities;
- AASHTO: Guide for the Development of Bicycle Facilities;
- AASHTO: LRFD Bridge Design Specifications;
- Federal Manual on Uniform Traffic Control Devices (MUTCD).



3.2 Format of Design Plans

Projects on the state highway system must be designed whenever possible using MicroStation, by Bentley Systems. If MaineDOT will perform right-of-way work on a project, electronic design files prepared with other software must be converted to MicroStation so that staff in the MaineDOT Property Office can open them in MicroStation without translation or loss of accuracy.

Organizations using other design software should contract with professionals who have experience converting files successfully to MicroStation. ***MaineDOT will send back for corrections all electronic design files not meeting its requirements, set out in the policy referenced below.***

- Refer to MaineDOT’s Policy on Electronic Exchange of CADD Data, found in Appendix 3B and online: www.maine.gov/mdot/caddsupport/docs/ElectronicExchangeofCADD2020.pdf.

Additionally, the following U.S. customary scales are recommended for projects on state highways:

- Plan View: 1 inch = 25 feet
- Profiles: 1 inch = 25 feet
- Cross Sections: 1 inch = 5 feet
- Typical Sections: 1 inch = 4 feet

3.3 Public Involvement

Once preliminary plans are developed, the local agency sponsoring a project must give people a chance to weigh in on the proposed design. The agency should determine an appropriate level of public involvement based on a project’s scope and impacts. Simply repaving a road, for example, will require less public outreach than rebuilding a road or developing a new sidewalk or multi-use pathway, which may require stand-alone public hearings.

Live and virtual meetings are common ways to inform the public about a project. The agency managing a project should notify abutters by registered mail and publicize public informational events using its standard notification procedures, including by electronic means.



Multiple events may be needed for complicated or controversial projects so that all stakeholders have an opportunity to influence decision-making. In some areas, for instance, a local agency may have to conduct outreach to populations with limited ability to read, speak, write or understand English, also known as Limited English Proficiency. (*Refer to section 3.3.1 on the next page.*)

Abutting businesses must be notified of meetings and given an opportunity to provide comments.

A summary of the public process must be part of the Preliminary Design Report (PDR), covered in section 3.4. A local agency also must provide MaineDOT with LPA Letter 10 (revised in 2022) certifying that it provided for public participation.

- Templates in Word may be downloaded from the “Public Participation” section of MaineDOT’s LPA Documents web page: www.maine.gov/mdot/lpa/lpadocuments/

3.3.1 Public Involvement and Traditionally Underserved Populations

Local agencies planning transportation projects must strive to ensure full and fair participation in decision-making by all potentially affected populations. Reaching out to communities that may be underserved by conventional outreach methods – such as minority, low-income and Limited English Proficiency groups – helps to ensure that all customers and stakeholders have opportunities to influence transportation decision-making.

To ensure full and fair participation, local project sponsors should consider the following questions:

- Has an organization considered the composition of the affected area to determine whether there are minority populations, low-income populations, Tribes, or other protected groups?
- Has an organization gathered feedback from and involved minority and/or low-income populations in early planning stages?
- Has an organization sought to overcome linguistic, cultural, institutional, geographic, and other barriers to meaningful participation?
- Have non-traditional methods of outreach been considered?
- Has an organization worked with affected populations to determine how to deliver the benefits from a project while mitigating potential adverse impacts?

To maximize the effectiveness of efforts to engage underserved people, MaineDOT encourages local agencies to consider using the following tools, especially for large or controversial projects that may affect minority or low-income neighborhoods:

- Plan public meetings well in advance, using diverse print and electronic media.
- Determine what non-English languages and other cultural characteristics could inhibit public participation, and offer appropriate accommodations to reduce any barrier effect.
- Accept verbal and written comments in languages other than English, if necessary.
- Hold meetings and conduct outreach in affected neighborhoods, if appropriate, using community activity centers as meeting locations and venues for informal outreach.
- Hold meetings at convenient times and at locations that are accessible and welcoming to all, including those with disabilities. (This includes providing appropriate room set-up and, when requested, alternate formats of handouts.)
- Make available alternative methods for two-way flow of information and input between a local agency and people who are not likely to attend meetings.
- Use various illustration and visualization techniques to convey and project information, including, but not limited to, charts, graphs, photos, maps and the Internet.
- Reach out to agency staff and community leaders with expertise in contacting and connecting with underserved people, to obtain advice and information about best practices and effective techniques.

3.4 Preliminary Design Report

Early in project development, a designer prepares preliminary plans (roughly 60 percent complete), identifies initial impacts, and prepares a preliminary cost estimate. The primary product at this point is a Preliminary Design Report (PDR), which must be submitted to a MaineDOT project manager for review using a standard form kept in the “Design” section of the LPA Documents web page:

www.maine.gov/mdot/lpa/lpadocuments/

At a minimum, a PDR should provide the following information:

- Project location, with a map;
- Design criteria;
- A description of existing conditions, including traffic volumes;
- Typical sections with pavement structure for travel lanes, shoulders and drives/entrances;
- Proposed exceptions to controlling design standards;
- Identification of environmental, utility and right-of-way impacts;
- Compliance with Americans with Disabilities Act and MaineDOT Complete Streets Policy;
- Results of meetings and other public involvement activities; and
- A preliminary estimate of the construction cost, using MaineDOT bid item numbers.

3.5 Plan Impacts Complete

Once MaineDOT approves a PDR, a project moves to final design. The primary milestone at this point is Plan Impacts Complete, when MaineDOT signs off on the highway, traffic, drainage and environmental designs for a project, as applicable, and right-of-way needs have been determined. At Plan Impacts Complete, design should be approximately 80 percent complete.

Draft plan impacts must be sent to a designated MaineDOT project manager for review as .pdf files. A project reaches Plan Impacts Complete when design plans show these details, as applicable:

- Plan views with cut/fill lines;
- Cross-sections every 50 feet showing proposed limits of slopes and new construction;
- Beginning and end of project stations;
- Bearings on the baseline;
- Locations and limits of driveways and entrances to be constructed;
- Type of surface treatment on drives and entrances;
- Locations of curbing, sidewalks and islands, including their geometrics;
- Drainage scheme showing under-drain, basins, culverts, ditches and outlet locations;
- Calculated drainage flows;
- Clearing limits and individual trees/shrubs to be removed, regardless of size;
- Locations of structures to be installed, such as retaining walls;
- Locations of all signal poles, special street lighting, conduits and junction boxes;
- Existing utilities on plans and cross sections with proposed new locations; and
- Proposed guardrail.

3.6 Americans with Disabilities Act

The Americans with Disabilities Act of 1990 (ADA) prohibits discrimination against people with disabilities in all aspects of life. In the context of locally administered projects, the law often requires highway improvements to address ADA deficiencies. ADA requirements are covered in greater detail in **Chapter 10** of this Manual, “Civil Rights & the ADA.”

Under the ADA, many types of highway projects must improve access to existing pedestrian facilities to the *maximum extent feasible*. This applies to new construction, reconstruction, rehabilitation, and “pavement alteration” treatments such as overlay, mill-and-fill, in-place recycling and micro-surfacing.



Within the limits of such projects, ADA-compliant curb ramps must be built where barriers restrict access to sidewalks and other pedestrian facilities, *within the standards below*. MaineDOT requires installation of detectable warning fields and, where warranted, upgrades to pedestrian signals.

- ☐ **New sidewalks** should be at least 5 feet wide, excluding curb, with cross-slopes of 2 percent.
- ☐ **Curb ramps:**
 - Running slope cannot exceed 1:12, or 8.3 percent;
 - Cross-slope cannot exceed 1:50, or 2 percent;
 - Ramps must be a minimum 5 feet clear width;
 - Slopes of flared sides cannot exceed 10 percent;
 - The bottoms of ramps must be flush with the street;
 - Detectable warnings must be placed at mid-block crossings and at traffic-controlled intersections. They should be the full width of ramps and at least 2 feet deep.

Curb ramps and sidewalks should be built to MaineDOT Standard Details 801(11-26). If curb ramps cannot be fully compliant with the ADA, they must comply to the maximum extent feasible, with deficiencies explained and documented on MaineDOT’s **ADA Technical Infeasibility Form**. Links to the form, Standard Details and other ADA guidance can be found at the website cited below.

ADA resources are available online: www.maine.gov/mdot/civilrights/ada/resources-engineers/

3.7 Traffic Analysis and Management Evaluation (TAME)

MaineDOT uses Traffic Analysis Management and Evaluation (TAME) to address potential traffic delays from construction. After completing a PDR, a local agency must submit to MaineDOT’s project manager a TAME Request Form, which can be downloaded using the link below.

After review, MaineDOT will issue a required TAME certification for a project and may prepare a special provision (Section 105, Limitation of Operations) restricting lane closures. Municipalities with projects on roads with average daily traffic volumes greater than 10,000 or heavy seasonal traffic should expect MaineDOT to place some restrictions on lane closures.

➡ TAME guidance is available online: www.maine.gov/mdot/engineering/practices-procedures/

3.8 Design Exceptions

Designers and engineers face tradeoffs. An appropriate design balances cost, safety, mobility, social and environmental impacts, and the needs of a variety of users. When it isn't practical to meet standard design criteria, an appropriate solution may be to use a design value outside the standard range – if the designer has analyzed potential impacts to safety and operations.

A design exception is a documented decision to design an element of the transportation system to criteria outside of established guidelines. For projects along state highways, exceptions to the criteria in the matrix below must be highlighted on the design plans, with a memo describing the controlling values and the nature of each proposed exception.

The design exception form is kept in the “Design” section of the LPA Documents web page: www.maine.gov/mdot/lpa/lpadocuments/

Requests for design exceptions on locally administered projects must be sent initially to the manager of the MaineDOT Multimodal Program. From there, a design exception request may be elevated to the MaineDOT Engineering Council, as warranted and shown below.

Highway Corridor Priority	Applicable Controlling Criteria	Approval Level
1, 2 (NHS)	CS, CZ, DS, HC, LW, MG, SC, SSD, SR, SW, VC	MaineDOT Engineering Council *
3, 4, 5	CS, CZ, DS, HC, LW, MG, SC, SSD, SR, SW, VC	MaineDOT Program Manager **

- CS Cross Slope
- CZ Clear Zone
- DS Design Speed
- HC Horizontal Curve Radius
- LW Lane Width
- MG Maximum Grade
- SC Structural Capacity
- SR Superelevation Rate
- SSD Stopping Sight Distance
- SW Shoulder Width
- VC Vertical Clearance

** Design exceptions on preservation projects shall be approved at the Program level. Design exceptions on rehabilitation projects can be approved at the Program level, with consideration given to submitting such exceptions to the Engineering Council on complex projects.*

*** Design exceptions on complex projects should be submitted to the Engineering Council.*

3.9 Design Checks

MaineDOT requires consultants and municipal engineers working on locally administered projects to perform and document quality-control (QC) design checks at the milestones below:

- ☐ At submittal of the Preliminary Design Report (PDR);
- ☐ At submittal of Design Plan Impacts; and
- ☐ At submittal of final plans, specifications & estimate (PS&E).

The QC process will consist of reviewing all calculations, design assumptions, contract provisions, plan set, cost estimates and all other relevant documents. The design reviewer must be a qualified individual other than the originator of the documents.

The design-review process should cover the following tasks:

- ☐ Summarizing the design-check process, including tools used.
- ☐ Reviewing the calculations for each design element.
- ☐ Assuring that the design meets all applicable MaineDOT standards, policies and practices.
- ☐ Documenting the checks performed through initials of the reviewer, the date on which a review was performed, and comments by a reviewer.
- ☐ Checking for compliance with legal and regulatory requirements, such as the Americans with Disabilities Act (ADA) and Manual on Uniform Traffic Control Devices (MUTCD).
- ☐ Reviewing the cost estimate, including quantity and unit price analysis with comparison to established budget and project scope.
- ☐ Analyzing the proposed design for potential construction and maintenance issues.



MaineDOT will verify the design checks through its quality-assurance reviews of project plans at the milestones PDR, Plan Impacts Complete (PIC) and final PS&E. MaineDOT staff won't review plan submittals that lack evidence of design checks until they receive such documentation.

NOTE: *If a community intends to hire an engineering consultant, quality control must be a scope of work item in a consultant's technical proposal and contract.*

Appendix 3A:

Design Submittal Guidance

- ☐ Electronic documents are available online:
www.maine.gov/mdot/engineering/highway/

DESIGN SUBMITTAL FORM

Project Name: _____ WIN: _____

PRELIMINARY DESIGN REPORT (PDR)

SUBMITTALS

- Completed draft Preliminary Design Report, using MaineDOT Highway PDR Form
- PDR-level cost estimate, including calculations and MaineDOT item numbers
- Pavement design
- Design exceptions approved by MaineDOT
- Half-size set of plans (.pdf format), including:
 - Preliminary typical sections
 - Plan views
 - Profiles
 - Cross-sections (include critical drive sections)
 - Preliminary drainage scheme
 - Under-drain, basins, culverts, ditches, and outlet locations
 - Guardrail and retaining wall locations

TYPICAL SECTION

HMA Depth	
Base Type	
Base Depth	
Sub-base Type	
Sub-base Depth	
Curb Type	
Loam Depth	

COMMENTS:

TRAFFIC

❖ Turning Movements

<i>Location</i>	<i>Signal (Y/N)</i>	<i>Design Vehicle</i>	<i>Encroachment (Y/N)</i>

COMMENTS:

❖ **Turning Lanes**

<i>Location</i>	<i>Design Speed</i>	<i>Lane Width</i>	<i>Taper Length</i>	<i>Storage Length</i>

COMMENTS:❖ **Other Auxiliary Lanes**

<i>Location</i>	<i>Design Speed</i>	<i>Shift Width</i>	<i>Taper Length Out</i>	<i>Shift Length</i>	<i>Taper Length In</i>

COMMENTS:

ADA

Indicate existing or new pedestrian facilities. The ADA section in the PDR should be completed.

	<i>Sidewalks (Y/N)</i>	<i>Ramps (Y/N)</i>	<i>Crosswalks (Y/N)</i>	<i>Ped Signals (Y/N)</i>
<i>Existing Facility</i>				
<i>Proposed Facility</i>				

COMMENTS:

CLEAR ZONE

List the required clear zone.

COMMENTS:

GUARDRAIL

Identify where guardrail is warranted and what the hazard is.

<i>Location</i>	<i>Obstacle within Clear Zone (Y/N)</i>	<i>Embankment steeper than 3H:1V (Y/N)</i>

COMMENTS:

DRAINAGE

Provide drainage scheme as indicated in Submittals section above.

COMMENTS:

DRIVES AND ENTRANCES

List critical drive locations and whether design exceptions will be needed.

<i>Location</i>	<i>Existing Grade</i>	<i>Proposed Grade</i>	<i>Design Exception (Y/N)</i>

COMMENTS:

RETAINING WALLS

Provide locations as indicated in Submittals section above.

COMMENTS:

PLAN IMPACTS COMPLETE (PIC)

SUBMITTALS

- Pavement design (if not submitted at PDR)
- Approved design exceptions (if not submitted at PDR)
- Retaining wall design approved by geotechnical engineer
- Guardrail length of need worksheets (if applicable)
- Half-size set of plans (.pdf format) including:
 - Typical sections
 - Plan views
 - Profiles
 - Cross-sections
 - Final drainage design

TYPICAL SECTION

COMMENTS:

GUARDRAIL

Identify where guardrail is warranted and what the hazard is. Provide length of need worksheets.

<i>Location</i>	<i>Obstacle within Clear Zone (Y/N)</i>	<i>Embankment steeper than 3H:1V (Y/N)</i>

COMMENTS:

DRAINAGE

Provide Final Drainage Design as indicated in the Submittals section above.

COMMENTS:

DRIVES AND ENTRANCES

List critical drive locations and Design Exception Approval date if applicable.

<i>Location</i>	<i>Existing Grade</i>	<i>Proposed Grade</i>	<i>Design Exception Date</i>

COMMENTS:

RETAINING WALLS

Provide design as indicated in Submittals section above.

COMMENTS:

FINAL PLANS, SPECIFICATIONS, & ESTIMATE (PS&E)**SUBMITTALS**

- Half-size set of plans (.pdf format) including:
 - Title sheet
 - Typical sections
 - General notes
 - Plan views
 - Profiles
 - Cross-sections
 - Earthwork summary, if applicable
 - All supplemental sheets (Drainage, Geometric, Grading, Striping, etc.)
- Updated engineer's estimate (including calculations) with MaineDOT item numbers
- Special provisions

Appendix 3B:

Electronic Exchange of CADD Data

Updated December 2020

MaineDOT Policy on Electronic Exchange of CADD Data

General

This document is intended as guidance to municipalities and design consultants about MaineDOT's specification for electronic data as it relates to engineering design deliverables. Municipalities and consultants working on locally administered projects that will require submittal of electronic files to MaineDOT for use in right-of-way mapping and other tasks must adhere to the standards set forth in this document. This specification also requires organizations to accept and use pertinent electronic input data as provided by MaineDOT.

MaineDOT uses MicroStation as its drafting software and Bentley InRoads as its roadway design application, both products of Bentley Systems. Graphical data shall be provided to MaineDOT in MicroStation drawing files (.DGN). Roadway design data must be submitted in a format that can be imported directly into InRoads without translation or loss of accuracy.

Electronic Deliverables to MaineDOT

CADD files submitted to MaineDOT must meet MaineDOT's standards, found on MaineDOT's CADD Support Web Page: <https://www1.maine.gov/mdot/caddsupport/>.
No translation of graphical or roadway design information by MaineDOT shall be required.

MicroStation drawing files must meet MaineDOT's conventions for Working Units, Global Origin, Level Structure and Naming, File Names, File Content and Referencing, Line Styles, Line Weights, Fonts, Cells, and Color Tables. Roadway design data must be provided in InRoads model files (.dtm, .rwk, .alg, .itl, .ird, .xin), and/or LandXML format. MaineDOT's Standard InRoads Featuring Naming Convention must be used for all roadway design data files.

Either a municipality or its contracted consultant is solely responsible for any translation and verification required to convert non-MicroStation graphics files to the current MaineDOT MicroStation design file format, and roadway design files to the MaineDOT InRoads format or LandXML. MaineDOT reserves the right to reject any file transmitted that does not conform to these standards.

It is recommended that consultants install MaineDOT's MicroStation configuration as an alternative to their own. MaineDOT's MicroStation resources – including seed files, cell libraries, line styles, fonts, macros, color table, settings manager files, and menus – are available from the CADD support web page referenced above, along with instructions for setting up MaineDOT's configuration on an existing MicroStation installation. Provisions are available to switch easily between other configurations and the MaineDOT configuration.

The schedule of electronic file submissions will be determined on a project-by-project basis. Files may be submitted via MaineDOT's FTP site (<ftp.mainedot.smartfile.com>) contained in a .ZIP file, or written to portable data storage devices as individual files.

Upon MaineDOT's approval and acceptance of the final signed and stamped plans, consultants must provide to MaineDOT the final electronic versions of all MicroStation files, roadway design files, and associated resource files on a portable data storage device. Consultants must provide copies of final plan sheets in Adobe PDF format at MaineDOT's discretion. The PDF files will serve as the electronic, read-only record plans for the project, and they must match all aspects of the final hardcopy signed and stamped plans. *These electronic delivery items **DO NOT** replace any hardcopy delivery items.*

A Project Journal File must accompany all electronic files submitted to MaineDOT, both those written to a portable data storage device, and those transmitted via MaineDOT's FTP site. This document must contain the town name, state work identification number (WIN), date, and a list of the files being transmitted with a brief description of each file.

Portable data storage devices used to transmit electronic files to MaineDOT must, at a minimum, be labeled with the town name, state WIN, and date. If more than one device is required to transmit the files, the label must also include the device number and total devices of the set transmitted, (ex: Drive 1 of 2).

MaineDOT Furnished Services and Information

MaineDOT will provide copies of the latest files used to configure, customize, and utilize MicroStation and InRoads in its own project development process to consultants through the MaineDOT CADD Support web page: <https://www.maine.gov/mdot/caddsupport/>

MaineDOT will provide access to Engineering Applications Group personnel for information and answers to questions on MaineDOT CADD standards, MicroStation and InRoads setup, configuration, customization, and documentation. Contact information is available on the CADD Support web page.

MaineDOT's Survey Section will determine the horizontal and vertical datum to be used for each project. Files exchanged between MaineDOT and the consultant will reflect these data.

MaineDOT will provide separate drawings for existing topographic information, text, contours, and a Digital Terrain Model (DTM) of existing surfaces in MicroStation DGN format.

Consultants using InRoads software can request the original MaineDOT InRoads Survey model.

A variety of standard reports created during the processing of survey data for input into InRoads are also available to consultants from MaineDOT. Examples of these reports can be found on the InRoads portion of the MaineDOT CADD Support web site. ***Consultants are responsible for translating this data into other formats required for use in their design software.***

Local Project Administration Manual & Resource Guide

Environmental Review



4. ENVIRONMENTAL
REVIEW



MaineDOT

Integrity - Competence - Service

Chapter 4 - Updated Spring 2022

Environmental Review

Before moving ahead, transportation projects must be assessed for their potential impacts to natural and cultural resources, such as wildlife habitats and historic places. These required environmental reviews stem from a series of landmark laws – primarily the National Environmental Policy Act of 1969.

Chapter 4 provides a summary of environmental requirements, a breakdown of state and local responsibilities, and sample submittals to MaineDOT. It contains the following:

- Environmental requirements – *updated* (pages 4-1 to 4-7);
- Environmental review checklist (page 4-2);
- State and local responsibilities (page 4-3);
- Appendix 4A: Submittals to MaineDOT – *updated* (page 4-8).



4.1 National Environmental Policy Act (NEPA)

The National Environmental Policy Act (NEPA) is a landmark environmental law requiring federal agencies to assess a variety of potential environmental impacts. MaineDOT completes the NEPA process for projects with federal transportation funding in accordance with a Programmatic Agreement between MaineDOT and the Federal Highway Administration (FHWA).

Projects with no significant environmental impacts to natural or cultural resources are considered “Categorically Excluded,” according to Title 23 in the Code of Federal Regulations, part 771.117. Most MaineDOT and locally administered projects meet the Categorical Exclusion criteria.

NEPA review is required on projects with a federal action (funding/permits), as follows:

- MaineDOT completes the NEPA process if a project has federal transportation funding or requires an approval from the U.S. Department of Transportation. The local agency managing a project must provide information addressed in Letter 10 and Letter 11, found on pages 4-9 through 4-11.
- A city, town or other local agency must complete the environmental review process when there is no federal transportation money, typically through federal permitting.
- All work on Section 106 (historic properties), Section 7 (endangered species), Section 4(f) (public parks, et. al.,) public involvement, contaminated materials review, and the level of federal permit must be finished before the NEPA process can be completed.
- The NEPA finding must be reviewed if a project is not constructed within **five years** of the original NEPA completion date. Additionally, a re-evaluation may be needed if a project changes in scope or requires new federal approvals after the NEPA process is complete.

ENVIRONMENTAL REVIEW CHECKLIST

National Environmental Policy Act (federally funded projects)

- ☐ When a project is kicked off, review the NEPA checklist (page 4-11) and gather economic and demographic information for the project area from sources that include the MaineDOT MapViewer tool: <https://www.maine.gov/mdot/mapviewer/>
- ☐ Upon completing the Preliminary Design Report (PDR), provide MaineDOT with the public process certification (**Letter 10**) and completed NEPA checklist (**Letter 11**), found on pages 4-9 through 4-11 of this section.

Environmental Permits

- ☐ **Contact appropriate state and federal agencies for permit requirements and approvals.**
 - Maine Department of Environmental Protection: <https://www.maine.gov/dep/permits/>
 - Augusta (Central Maine): (207) 287-7688
 - Bangor (Eastern Maine): (207) 941-4570 • (888) 769-1137
 - Portland (Southern Maine): (207) 822-6300 • (888) 769-1036
 - Presque Isle (Northern Maine): (207) 764-0477 • (888) 769-1053
 - U.S. Army Corp of Engineers, Maine Project Office, Augusta: (207) 623-8367 or <https://www.nae.usace.army.mil/Missions/Regulatory/>
- ☐ **Contact appropriate state agencies for their comments and concerns about the project.**
 - Maine Department of Inland Fisheries and Wildlife:
 - Fisheries Division for timing approval, freshwater fisheries and fisheries passage issues: (207) 287-8000
 - Wildlife Division for rare, threatened and endangered species: (207) 287-8000
 - Maine Department of Marine Resources, Wetlands and Permit Section
 - Sea-run fisheries, coastal resources and fish passage issues: <https://www.maine.gov/dmr/science-research/searun/index.html>
- ☐ **Complete appropriate state and federal permit applications**

Environmental Certification

- ☐ Send an environmental certification in the format of Letter 12 and copies of all permits obtained for your project to the MaineDOT project manager. An example is found on page 4-12 of this section.
 - The certification and documentation must be part of the final Plans, Specifications and Estimate (PS&E) package.
 - MaineDOT must receive this paperwork before giving authorization to advertise a project for construction.

State and Local Responsibilities

TASK	RESPONSIBILITY
National Environmental Policy Act (NEPA)	Federal funds: MaineDOT
	State funds: Local Agency through federal permit
Section 106 of the Historic Preservation Act	Federal funds: MaineDOT
	State funds: Local Agency through federal permit
Section 4(f) of the Department of Transportation Act	Federal funds: MaineDOT
	No U.S. DOT funds: 4(f) does not apply
Endangered Species Act (a.k.a. Section 7)	Federal funds: MaineDOT
	State funds: Local Agency through federal permit
Contaminated Materials	MaineDOT with assistance from Local Agency
Environmental Permits	Local Agency
Dredge Materials	Local Agency
Natural Resource (wetlands, streams, fisheries, etc.)	Local Agency
Mitigation	Local Agency
Stormwater Permits (Ch500, ESC law, MPDES)	Local Agency

MaineDOT Environmental Office contact:

Danielle Tetreau, Environmental Team Leader	207-592-2358 (Danielle.Tetreau@maine.gov)
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NEPA review takes **3 to 6 months** from finalization of the Preliminary Design Report and a local agency's submittal to MaineDOT of Letter 10, Letter 11, and the NEPA Documentation Checklist, found on pages 4-9 through 4-11 of this chapter.

MaineDOT's Environmental Office encourages the agency administering a project to consult with the assigned MaineDOT project manager and environmental team leader early – **ideally at kickoff**.

Remember: Right-of-way negotiations with property owners cannot begin until NEPA is complete.

4.2 Section 106 of the National Historic Preservation Act

Section 106, found in federal regulation 36 CFR Part 800, “Protection of Historic Properties,” covers properties of historic and archeological significance. If a project has federal money, MaineDOT typically surveys buildings at least 45 years old in a project area for historic significance and potential adverse impacts. Section 106 commonly affects buildings, culverts, bridges, monuments, and cemeteries – especially those within historic districts.

Responsibility for Section 106 review is as follows:

- **MaineDOT** handles Section 106 review and coordination with the Maine Historic Preservation Commission on projects with federal money. The local project administrator must provide MaineDOT with design plans showing impacts, which are necessary for MaineDOT to make final determinations of effect.
- If a project is limited to state funds, the administering **local agency** must take care of Section 106 coordination if the project needs a federal permit. In such cases, the local project administrator should contact the Maine Historic Preservation Commission: <https://www.maine.gov/mhpc/programs/project-review>



4.3 Section 7 of the Endangered Species Act of 1973

Section 7 of the Endangered Species Act directs federal agencies to use their authorities both to conserve threatened and endangered species and to ensure that their actions don't jeopardize listed species or harm critical habitat. In Maine, the law most commonly affects projects in waters for Atlantic salmon and in habitat for Canada lynx, the northern long-eared bat and the rusty-patched bumble bee. In such cases, MaineDOT may have to place restrictions on projects with in-water work or tree clearing to protect listed species.

- If a project has federal money, **MaineDOT** will complete Section 7 review. MaineDOT will need design plans and the scope of work, construction timing and techniques, and proposed timeframe from the local agency administering the project.
- If a project has only state money or has federal funding other than from the U.S. Department of Transportation, then the U.S. Army Corps of Engineers (ACOE) or other federal action agency is responsible for consultation under Section 7. In such a case, the **local agency** administering a project must coordinate Section 7 review with the ACOE or other federal action agency. This coordination is usually performed during the permit application process.

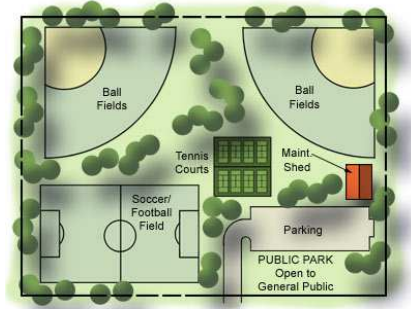


Threatened and endangered species are listed in [50 CFR §17.11](#) and [50 CFR §17.12](#).

4.4 Section 4(f) of the USDOT Act of 1966

Section 4(f) affects projects with federal transportation funding. It applies to public parks, recreation areas, wildlife refuges and historic properties. (Requirements can be found in federal regulation 23 CFR Part 774.) Under the law, an agency must consider potential impacts if federal transportation money is used, as follows:

- **MaineDOT** completes the Section 4(f) process for projects with federal transportation funding. As part of the process, the local agency administering a project must provide design plans showing proposed right-of-way impacts.
- Section 106 reviews (historic preservation) must be concluded before Section 4(f) documentation is approved by the U.S. Department of Transportation. The right-of-way impacts from a project must be provided as part of the review process.



4.5 Section 6(f) of the Land & Water Conservation Fund Act

Section 6(f) of the Land & Water Conservation Fund Act (LAWCON) protects lands purchased or developed with LAWCON funds for public outdoor recreation purposes from being converted to non-recreational uses. The program covers publicly owned parks, recreation areas, wildlife or waterfowl refuges, and any significant historical or archeological site.

In Maine, the Department of Agriculture, Conservation and Forestry (DACF) oversees the program to assist in preserving and developing outdoor recreation resources, as follows:

- For projects funded by the FHWA, **MaineDOT** completes Section 6(f) review and coordination with DACF. The local agency administering a project must provide MaineDOT with design plans showing proposed right-of-way impacts.
- Agencies undertaking projects with federal funds should avoid making permanent acquisitions that would convert land covered by Section 6(f) to a non-recreational use.
- If such a conversion is unavoidable, MaineDOT will consult with DACF to determine remediation measures and will notify the FHWA of such.

4.6 Environmental Justice – Executive Order 12898

Presidential Executive Order 12898, issued in 1994, directs federal agencies to achieve Environmental Justice (EJ) by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies and activities on minority and low-income populations.

Similar to Civil Rights, EJ means that agencies undertaking projects with federal funds must offer minority and low-income populations – and the organizations representing those groups within a community – opportunities to provide public comments.

- **MaineDOT** completes the EJ review and documents compliance with the executive order for projects funded by the U.S. Department of Transportation. MaineDOT evaluates the population demographics and economics at the census block level through the Environmental Protection Agency’s mapping tool, known as EJScreen.
- If a project intersects with a census block where more than 15 percent of the population consists of people of color or people living at or below the federal poverty guidelines, further review of the scope and potential effects is required.
- The **local agency** managing a project must conduct the public process for the project. If a project may have high or adverse effects to EJ populations, the agency managing the project must document efforts to inform those populations about the project.

4.7 Maine Natural Resources Protection Act

In Maine, the Natural Resources Protection Act (NRPA) is the primary state environmental law that applies to transportation projects. The law covers natural resources such as great ponds, coastal and freshwater wetlands, significant wildlife habitats, fragile mountain areas, and rivers, streams and brooks. The Maine Department of Environmental Protection (DEP) administers the NRPA in municipalities and other organized areas.

The law commonly affects projects with activities in, on or over the protected natural resources listed above – or activities adjacent to certain types of protected natural resources. The NRPA defines an “activity” as:

- dredging, bulldozing, removing or displacing sand, soil, vegetation or other materials;
- draining or dewatering; and
- filling, or any construction, repair or alteration of a permanent structure.

The **local agency** administering a project is responsible for complying with the NRPA. The local project administrator, or the consultant designing a project, must contact the DEP to determine whether a NRPA permit will be needed. *Note that Permit-by-Rule 11, for state transportation facilities, is not allowed for use by municipalities on locally administered projects.*

For additional NRPA information, visit:

The DEP’s NRPA page: www.maine.gov/dep/land/nrpa/index.html

The DEP’s MapViewer tool, found at:

maine.maps.arcgis.com/apps/webappviewer/index.html?id=60d544dbbc8f412cbdf638e62e0b010e

4.8 Environmental Permits

The **local agency** administering a project must obtain all permits and follow federal and state laws and regulations, including Maine’s Natural Resources Protection Act (Section 4.7) and the federal Clean Water Act. Before advertising for construction bids, the local project administrator must provide MaineDOT’s project manager with copies of approved permits and a signed environmental certification modeled after Letter 12, found on page 4-12 of this section.

4.9 Contaminated Materials and Substances

MaineDOT is tasked with assessing whether there may be soil or groundwater contamination from petroleum or other hazardous materials in a project area. The **local agency** administering a project, in turn, must provide MaineDOT with design plans showing proposed areas of excavation. Additional site investigation may be warranted, based on the information provided. If so, MaineDOT will provide the local agency with guidance on next steps.



If the initial assessment or additional site investigation finds that a contractor is likely to encounter contamination, MaineDOT either will prepare a general note or negotiate, with the DEP, a special provision to be included in the project contract book. Those documents either will advise the contractor to use caution when excavating or will provide specific guidance for handling and disposing of affected soil and/or groundwater.

4.10 Stormwater Permits

Maine's stormwater management law provides standards for projects that disturb at least **1 acre**. Stormwater permits are the responsibility of the **local agency** administering a project – including erosion and sedimentation control requirements and DEP Chapter 500 Stormwater Management Rules. Either the local project administrator or an agency's engineering consultant should contact the DEP to determine the required permits. (*Contacts are shown on page 4-2 of this section.*)

Once permits are obtained, the local project administrator must provide MaineDOT's project manager with copies as part of the environmental certification. (Refer to Letter 12, page 4-12.)

4.11 Dredge Materials

Maine's solid waste management regulations define dredge materials as sand, silt, mud, gravel, rock, or other natural substance removed from beneath any body of water, based on the classification of the water quality of the waterbody. The regulations typically apply to stream/river crossings and harbor improvement projects, which can require dredging. Under the regulations, some dredge materials must be handled as special waste.

Beneficial Use Permits required by state law and associated regulations – Title 38 M.R.S.A. §1301-1319, Maine DEP Chapter 418 – are the responsibility of the **local agency** administering a project. The local project administrator must provide the MaineDOT project manager with an environmental certification and copies of approved permits. (Refer to Letter 12, page 4-12.)

Remember: Letter 12 and copies of all permits must be submitted to the project manager at MaineDOT before your project may be advertised for construction.

Appendix 4A:

Submittals to MaineDOT

- ❑ Electronic documents are found in the “Environmental Review” section of MaineDOT’s LPA web page: <https://www.maine.gov/mdot/lpa/lpadocuments/>

Instructions: This certification must be submitted on letterhead to MaineDOT with Letter 11 and the NEPA Documentation Checklist, found on the next two pages.

[DATE]

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

Subject: Public Process Certification, Federal Project
MaineDOT WIN:

Dear [NAME]:

The Municipality of [NAME] hereby certifies that a public process was carried out for the [LOCATION and SCOPE] project in accordance with Title 23 in the Code of Federal Regulations, Part 771.111, “Early coordination, public involvement, and project development.”

IF APPLICABLE, DESCRIBE ANY PUBLIC OPPOSITION HERE.

IF APPLICABLE, DESCRIBE ACCOMODATIONS FOR ENVIRONMENTAL JUSTICE COMMUNITIES HERE. EXAMPLES INCLUDE:

- Virtual or in person meeting options
- Document how the public meeting is advertised
- Contact community groups representing those populations
- Document responses to comments received

I have attached for your information the following:

- A copy of the notification that was sent to abutters by registered mail;
- A copy of the meeting notice;
- A copy of the sign-in sheet; and
- Meeting minutes / hearing transcript.

Sincerely,

[NAME], Local Project Administrator

Instructions: *This letter must be submitted on letterhead to MaineDOT with the checklist on the next page once MaineDOT approves the Preliminary Design Report.*

[DATE]

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

Subject: NEPA Documentation, Federal Project
MaineDOT WIN:

Dear [NAME]:

Attached is the required NEPA documentation checklist for the [LOCATION and SCOPE] project in the Municipality of [NAME].

Also attached is Letter 10, certifying that the Municipality carried out a public process in accordance with the regulations in 23 CFR 771.111.

If you need additional information, please let me know.

Sincerely,

[NAME], Local Project Administrator

Enclosures:

- NEPA documentation checklist
- Public process certification (Letter 10)

NEPA DOCUMENTATION CHECKLIST

Project Title & Location: _____

Federal Project #: _____ MaineDOT WIN: _____

Description of Work: _____

MaineDOT Project Manager: _____

Answer the following questions and attach supporting documentation. If there is a “yes” response, explain on a separate sheet or contact your MaineDOT Project Manager for guidance.

1.) Public Involvement: Is there substantial public opposition to proposed action? Yes ☐ No ☐
The answer should become apparent at a public meeting.

Documentation: Approved capital plan; meeting records; letters from the public; board meeting minutes; or Communication 10 (Public Process).

2.) Right-of-Way: Does action include a residential or commercial displacement or acquisition of property rights that will result in substantial abutter impacts? Yes ☐ No ☐
For help with “substantial,” contact your Project Manager at MaineDOT.

Documentation: Plan Impacts Complete for the project

3.) Endangered Species & Essential Fish Habitat:

- a. Has a qualified person surveyed the project area for streams, rivers, tidal waters, wetlands, or vernal pools identified coastal waters, wetlands, and vernal pools? Yes ☐ No ☐
- b. Any streams, rivers, tidal waters, wetlands, or vernal pools identified? Yes ☐ No ☐
- c. Is any work proposed in or adjacent to a stream, river or coastal waters? Yes ☐ No ☐
- d. Does the project require clearing trees or trimming limbs 3” or greater in diameter? Yes ☐ No ☐

Documentation: Resource delineation and plans with location of resource and work planned. If in-water work is proposed, project will be screened by the MaineDOT Environmental Office for intersection with habitat for endangered species and critical fish. Additional coordination with the Environmental Office will be required if the project is in one of these areas and includes in-water work or involves clearing.

4.) Section 4(f) or 6(f):

- a. Does project area include or abut resources protected by Section 4(f) of the Department of Transportation Act: publicly owned land, parks, recreation areas, wildlife and waterfowl refuges, or historic sites? Yes ☐ No ☐
- b. Will project require temporary or permanent rights on any protected 4(f) resource listed above? Yes ☐ No ☐

Documentation: Existing and proposed right-of-way plan, and a description of how impacts to these properties were avoided and minimized.

5.) Executive Order 12898 (Environmental Justice): Does the project affect businesses, housing agency property, community services, public transportation, or pedestrian access; or will it limit access to these services (either permanently or temporarily)? Yes ☐ No ☐

Signed by: _____
[Name, Local Project Administrator]

Date: _____

Instructions: This must be submitted on letterhead to MaineDOT with the final plans, specifications and estimate (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,

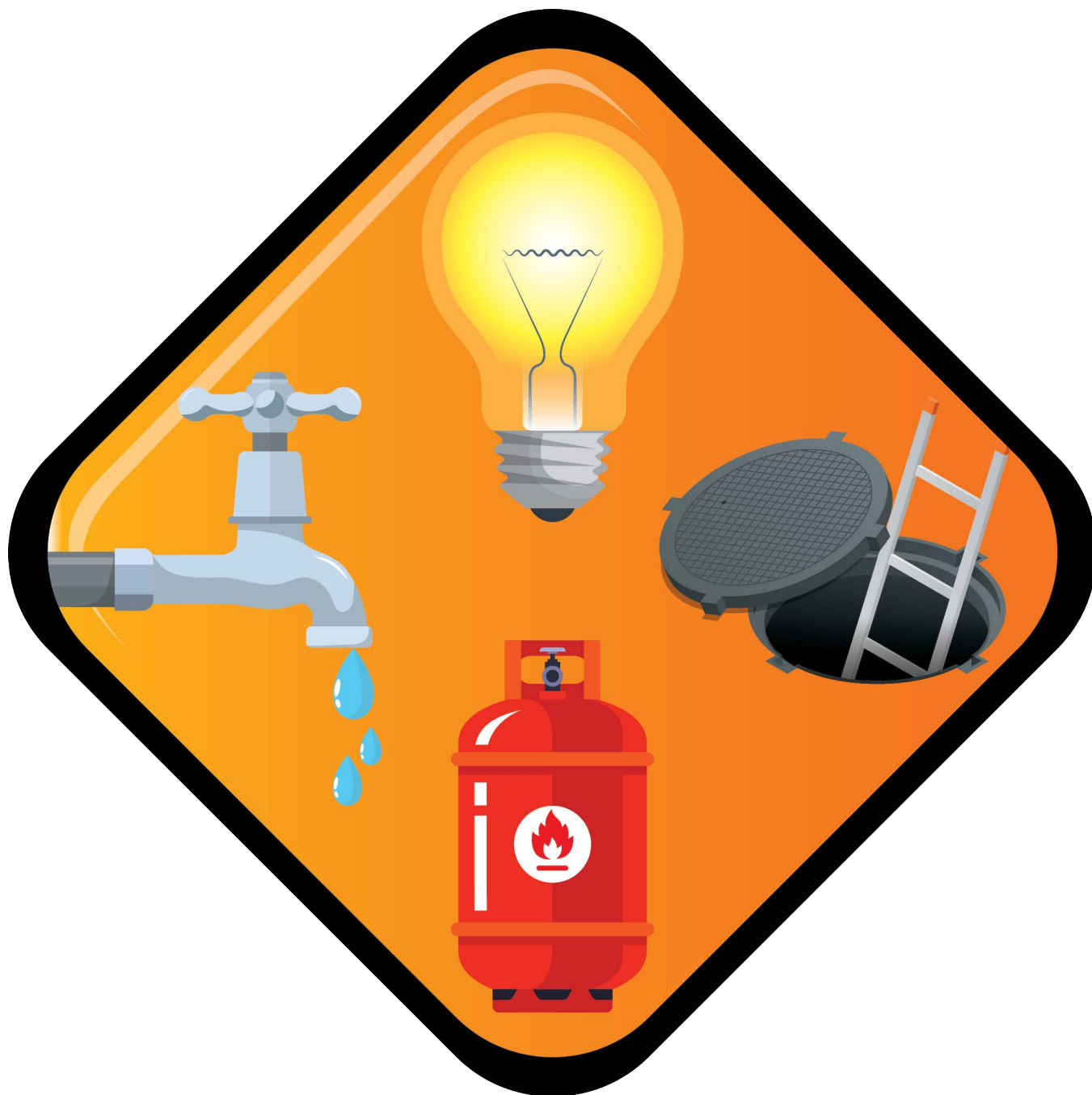
[NAME], Local Project Administrator

Cc: MaineDOT Environmental Office

NOTE: Please attach permits, if applicable

Local Project Administration Manual & Resource Guide

Utility Coordination



MaineDOT

Integrity - Competence - Service

Chapter 5 - Updated in 2020

Utility Coordination

Locally administered projects must be coordinated with the owners of utility and railroad facilities that may conflict with them. Such facilities consist primarily of utility poles, overhead wires, underground cables and pipes, and rail lines. Local agencies must identify these facilities and contact the owners early, preferably before design work begins.

Chapter 5 of this Manual covers the policies and procedures governing coordination with utilities and railroads on locally administered projects. It covers the following topics:

- Checklist for utility and railroad coordination (page 5-2);
- Utility relocation costs (page 5-3);
- Accommodating aerial utilities (page 5-3);
- MaineDOT Utility Accommodation Rules (page 5-4);
- Railroad coordination (page 5-4);
- Utility agreements (page 5-5);
- Utility special provision / Utility and railroad certification (page 5-6);
- Appendix 5A: Utility letters and certification (page 5-7).



MaineDOT has a Utility Coordination web page: www.maine.gov/mdot/utilities/utilcoord/

5.1 Summary of Utility and Railroad Coordination

MaineDOT requires coordination with utilities and railroads on locally administered projects, regardless of funding type. Utilities and railroads often need extensive lead time to schedule work and obtain materials to move poles, lines and other equipment.

As design work begins, a local agency should consider these questions:

- What utility or railroad facilities exist in the right of way?
- How much room is there for clearing?
- Is the project abutting another project? What was done there?
- Can relocations be reduced and still meet the project need?
- What are the concerns of the utilities?



Early and continuing coordination are vital to keeping a project on track. The earlier that utilities and railroads are contacted, the greater the likelihood that coordination work will go smoothly and keep a project on track.

5.2 Checklist for Utility and Railroad Coordination

The agency administering a project must exchange information with utility and railroad companies having facilities within the limits of the project. Such coordination work begins at kickoff and continues through construction.

Below are the standard steps, typically performed by a utility coordinator who is either an employee of the agency managing a project or a consultant. Electronic versions of the standard utility letters referenced below are available online: www.maine.gov/mdot/utilities/utilcoord/

1. At kickoff:

- ☐ Identify utility and railroad contacts: www.maine.gov/mdot/utilities/contactinfo/
- ☐ Email **Utility Letter 1** and a location map to utility/railroad contacts.

2. Upon completion of survey:

- ☐ Email **Utility Letter 2** and topographical survey plans to utility/railroad contacts.
- ☐ Arrange for additional survey identified from responses to Letter 2 (if necessary).
- ☐ Work with utilities to arrange for test pits (if necessary) to locate underground facilities.

3. At preliminary design report (PDR) milestone:

- ☐ Email **Utility Letter 3**, preliminary plans and schedule to utility/railroad contacts.

4. When design reaches 75-80% plans complete:

- ☐ Email **Utility Letter 4**, 75-80% plans and schedule to utility/railroad contacts for review.
- ☐ Hold utility pre-coordination meeting on site to review impacts, relocations and schedules.

5. At Plan Impacts Complete (PIC) milestone:

- ☐ Work with right-of-way mapper to accommodate utility impacts resulting from the design.
- ☐ Prepare pole list in coordination with utilities.
- ☐ Send **Utility Letter 5** and special provision section 104, “Utilities,” to contacts for review.
- ☐ Prepare utility and railroad agreements, if necessary.

6. At Final Plans, Specifications and Estimate (PS&E) milestone:

- ☐ Email final design plans and latest project schedule to utility/railroad contacts
- ☐ Finalize special provision section 104, “Utilities,” for inclusion in the bid documents
- ☐ Submit utility certification to MaineDOT project manager.

7. After contract award: Pre-construction meeting

- ☐ Notify contacts of the preconstruction conference (**Utility Letter 6**).
- ☐ After meeting, distribute minutes to utility/railroad contacts (**Utility Letter 7**).

8. During construction:

- ☐ During construction, the contractor has primary responsibility for coordinating utility work.
- ☐ If a utility is unresponsive, the construction resident should try to resolve the issue.
- ☐ If the resident is unsuccessful, an issue should be elevated to the MaineDOT project manager and(if necessary), the MaineDOT staff utility coordinator assigned to a region.

5.3 Utility Relocation Costs

The State of Maine and local governments cannot reimburse utility companies for moving poles, underground lines and other equipment already within a highway right-of-way when transportation improvements require such relocations. The utilities must cover the cost of moving their facilities.

There is legal precedent. The Maine Supreme Judicial Court has ruled that revenue from taxes and fees on fuel, vehicle licenses and registrations cannot be used to pay for utility relocations. Since the money available to MaineDOT and municipalities for utility reimbursement would come primarily from these sources, it would be unconstitutional for a public agency to use such funding for utility facility relocations.

➡ See *First National Bank of Boston, et al., v. Maine Turnpike Authority, et al.*, 153 Me. 131.

5.4 Accommodating Aerial Utilities

MaineDOT will accommodate overhead utilities already within in a highway right-of-way if a project's design will require poles to be moved. This policy applies to locally administered projects, as well. A public agency may acquire rights-of-way, for design purposes, to enable utilities to set their poles consistent with the design and to carry out adequate tree trimming for immediate needs – in some cases up to 8 feet beyond the outermost conductor.

Consider these guidelines when deciding whether to acquire rights specifically for trimming needs:

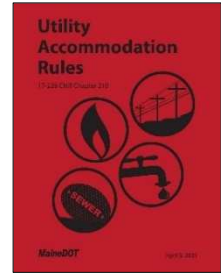
- ☐ Trimming needs should be accommodated only where an agency must acquire rights for highway purposes that are necessary for a project;
- ☐ Trimming needs should *not* be accommodated if doing so will affect wetlands or other natural resources that could trigger mitigation;
- ☐ Trimming needs should *not* be accommodated if doing so will cause impacts to historic properties, properties subject to section 4(f) or 6(f) requirements, or properties not subject to MaineDOT's authority of eminent domain;
- ☐ Trimming needs should *not* be accommodated if doing so could create severance issues;
- ☐ Accommodating trimming needs is *not* required when the existing right-of-way width will accommodate the project improvements and new utility poles, and the only reason to acquire more right-of-way would be to achieve the maximum 8-foot offset.



Maine law prohibits local governments and the State from acquiring rights for the sole benefit of utilities, as covered in section 5.3 above, “Utility Relocation Costs.” These include aerial and guying rights, which must be obtained by the utilities if clearance for trimming and guying cannot be accommodated within the right-of-way acquisitions required for highway design purposes.

5.5 MaineDOT Utility Accommodation Rules

MaineDOT's Utility Accommodation Rules address utilities within the limits of the state highway system. They establish procedures and requirements for location, installation, maintenance, adjustment, and relocation of poles, lines and other utility facilities.



MaineDOT developed the rules to protect public safety and to safeguard the integrity and capacity of public roads, while allowing for placement of utilities serving the public good. On the state system, the rules supersede less stringent standards from the Maine Public Utilities Commission. They apply to projects with funding from MaineDOT, including locally administered projects on the state system. The rules were updated most recently in April 2021.

➡ The full Utility Accommodation Rules are online: <https://www.maine.gov/mdot/utilities/>

5.6 Railroad Coordination

At times, a highway improvement may affect an active rail line. When that happens, the agency administering a project must coordinate the work with any railroad using the line.

Railroad coordination follows the same process as utility coordination, set out in the checklist on page 5-2 of this chapter. When design work begins, the agency administering a project sends Utility Letter 1 to any railroad that may run trains in the vicinity of a project.

If a railroad concludes that a project may affect its operations, the agency administering the project must prepare an agreement calling for the railroad to provide specially trained flaggers. During construction, the railroad flaggers will be tasked with ensuring that the rails are not “fouled” by construction equipment, materials or personnel before a train passes by.



If trains are likely to pass by, the administering agency also must develop a specification for the contract book called a Protection of Railroad Traffic and Signals. A PRTS provides information about the number of trains passing by per day, the speeds of those trains, insurance requirements, the estimated number of worker-days when flagging services will be needed, and the pay rates for railroad flaggers.

In preparing a PRTS, a project's utility coordinator and designer will estimate the number of worker-days when flaggers must be on site, based on planned construction activities. Flaggers may be paid for out of the budget for a project, up to the estimated number of worker-days in the PRTS; the contractor typically must pay for any worker-days beyond the estimated number.

Examples of a PRTS and other documents are posted in the “Utility/Railroad Coordination” section of the LPA Documents web page: <https://www.maine.gov/mdot/lpa/lpadocuments/>

5.7 Utility Agreements

Occasionally, underground utilities within the limits of a construction project may need to be adjusted, moved or replaced. In such cases, the utility owners may choose to have the general contractor perform the work as part of the project.

If a private or quasi-municipal utility intends to have the general contractor perform work on its behalf, the utility and the agency administering the project should enter into a utility agreement. The agreement should lay out the responsibilities of each party and cover the means of payment, since the utility would be responsible for the cost of work by the contractor.

On the other hand, a utility agreement would NOT be needed if a utility plans to use an independent contractor or one of its own crews. In such a case, the utility would pay for the work outside of the project.



Remember: Utility work included in the contract for a federally funded project is subject to the provisions of that contract, including **Buy America** requirements for steel and iron.

There are two primary types of agreements governing interaction with utilities, as set out below.

- ☐ **Accounts Receivable**, whereby a utility's required adjustment, relocation, or reconstruction work is advertised as part of a larger construction contract. Once the work is done, the sponsoring local agency invoices the utility for the cost. This type of agreement usually occurs with underground utilities.
- ☐ **Accounts Payable**, which may be required as set out in the following examples:
 - A payable agreement may be needed when a municipality acquires rights associated with power transmission lines. The electric utility owning those lines would be compensated for the rights taken and for any cost associated with relocating or adjusting the lines.
 - A payable agreement also may be necessary for railroad work. A railroad agreement could be as simple as one item, for flagging services, or cover multiple items when a project calls for a railroad crossing improvement. The railroad would be paid for the services performed.

A local agency needing a utility or railroad agreement on a locally administered project must develop the document to ensure that all federal and state requirements are met. Such an agreement should be prepared in consultation with legal counsel or, if appropriate, with assistance from the Maine Municipal Association: www.memun.org.

➡ Guidance is available online: www.maine.gov/mdot/utilities/utilcoord/

5.8 Utility Special Provision

A special provision labeled “Section 104 Utilities” must be developed and placed in the bid book for a project to ensure that the contractor and utility companies can coordinate the work during construction. The standard special provision should provide the following information:

- Identify utility, with contact information;
- Outline type of work;
- Time needed to complete work;
- Sequence of work;
- Any special considerations.

A fillable utility special provision is online: www.maine.gov/mdot/utilities/utilcoord/

5.9 Utility/Railroad Certification

Before a locally administered project may be put out to bid, the municipality or other local agency managing the project must certify that all required utility/railroad work has been identified and that arrangements have been made to complete this work. This is required by federal regulation 23 CFR, section 635.309: “Authorization.” *An example of this certification is found on page 5-17 of this chapter.*

MaineDOT project managers *cannot* authorize local agencies to advertise for construction bids without signed utility certifications. Most of the time, a utility certification is submitted with the final plans, specifications and estimate for a project (PS&E), covered in Chapter 7 of this Manual, “Final PS&E Package.”

A fillable certification letter is available online: www.maine.gov/mdot/utilities/utilcoord/

Appendix 5A:

Utility Letters and Certification

- ☐ Electronic letters in Word are available on the MaineDOT Utilities page:
www.maine.gov/mdot/utilities/utilcoord/



IMMEDIATE RESPONSE REQUESTED

Date

RE: Identification of Utility Facilities

Town/City: _____
Project WIN: _____
Location: _____

To whom it may concern OR Dear Sir/Madam:

The Municipality of _____ is planning _____.

Beginning... or Project Details... _____

Enclosed you will find a location map to further assist you in locating the proposed project.

Please complete and return the brief questionnaire attached to this letter. The information provided here will allow our project designers to recognize the presence of existing facilities or plans to install additional facilities within the next five years. Your responses will enable us to better coordinate our work with you throughout this project.

PLEASE NOTE, THAT IF YOU ARE THE POLE OWNER, OR HAVE MAINTENANCE RESPONSIBILITIES ON A JOINT POLE AGREEMENT, PLEASE IDENTIFY ALL OF THE ATTACHING ENTITIES. THIS INFORMATION IS CRITICAL IN IDENTIFYING ANY UTILITIES WHICH MAY NOT HAVE BEEN IDENTIFIED AS PART OF THIS INITIAL PROCESS.

The Work Identification Number (WIN) assigned to this project is _____ and should be used on any future correspondence regarding this project.

This project is scheduled for design OR construction OR Advertise for the summer of “__”. If you have any questions or concerns, please feel free to contact me at (XXX) XXX-XXXX, or by email at _____. Thank you for your cooperation.

Sincerely,

Utility Coordinator

Enclosures: Questionnaire Response Form
Project Location Map OR Project Alignment Map

IMMEDIATE RESPONSE REQUESTED

RE: _____

Date

Town/City: _____

Project WIN: _____

Location: _____

Utility Coordinator: _____ – Coordinator

Street

Town, ZIP

Cell: XXX-XXXX

Fax: XXX-XXXX

E-Mail: coordinator email

Please complete the following short questionnaire and fax, email or send via mail. The following may be filled out electronically in Microsoft Word by using the “TAB” key.

Utility:

Date Form Submitted:

1. Does the utility you represent presently have facilities within the project limits?

☐ Yes ☐ No

2. What type of facilities do you have in the project area?

☐ Underground

☐ Aboveground

3. Pole Owner:

Attachments:

4. Do you plan on installing any facilities within the project limits in the next 5 years?

☐ Yes ☐ No

5. Contact person for project coordination:

Name:

Address:

Tel:

Cell:

Fax No:

E-mail:

5. Contact person for construction:

Name:

Address:

Tel:

Fax No:

E-mail:

7. Comments

{Date}

{Utility Company Address}

RE: Review of Survey Plans, **{Town}**, **{Location}**, **{MaineDOT WIN}**

Dear **{Addressee}**:

Enclosed please find a set of survey plans for the above referenced project being developed by _____ on behalf of the Municipality of _____.

Please review the locations of your existing facilities as shown on these plans and complete the brief questionnaire attached to this letter. Identification of any incorrectly located or omitted facilities now will enable us to make the appropriate corrections before substantial design has occurred. I ask that you return the attached questionnaire along with any additional comments you may have within two weeks.

This project is scheduled to be advertised on _____. If you have any questions or concerns, please feel free to contact me at **{Phone Number and Email}**. Thank you for your cooperation.

Sincerely,

Utility Coordinator

Enclosures: Survey Plans
 Survey Plan Questionnaire

{Town}
{MaineDOT WIN}
{Date}
{Utility Name}
{Consultant or Town LAP contact, with contact information including Fax, email, telephone, and mailing address}

Survey Plan Questionnaire

{Utility Name}

Please complete the following short questionnaire and Fax, e-mail or send via mail. The following may be filled out electronically in Microsoft Word by using the "TAB" key.

QUESTION	RESPONSE
1. Are all of your facilities within the project limits on the survey plans?	<input type="checkbox"/> Yes <input type="checkbox"/> No
2. Are your facilities shown correctly on the survey plans?	<input type="checkbox"/> Yes <input type="checkbox"/> No
3. Do your facilities or portions thereof require unique considerations?	<input type="checkbox"/> Yes <input type="checkbox"/> No
4. Are you considering upgrading or replacing any of your facilities?	<input type="checkbox"/> Yes <input type="checkbox"/> No
5. Do you feel that an on-site review of the project is required?	<input type="checkbox"/> Yes <input type="checkbox"/> No
5. Will you be forwarding additional information from your records?	<input type="checkbox"/> Yes <input type="checkbox"/> No
RESPONSE BY:	
DATE:	
TELEPHONE:	
EMAIL:	
(USE THIS SPACE FOR ANY CLARIFICATION OR ADDITIONAL INFORMATION)	

{Date}

{Utility Company Address}

Subject: Review of Preliminary Plans, **{Town}**, **{Location}**, **{MaineDOT WIN}**

Dear **{Addressee}**:

Attached you will find preliminary design plans and right-of-way maps for the subject project. At your earliest convenience, **please review these plans to establish the following:**

- ☐ What potential conflicts exist between the proposed design and your existing facilities?
- ☐ Is additional data gathering (such as test pits) required?
- ☐ Aerial Utilities: Please develop a list of preliminary proposed pole locations in compliance with the applicable safety standards and the MaineDOT's Utility Accommodation Rules, 17-229 CMR Chapter 210.
- ☐ Underground Utilities: Please develop preliminary proposed underground plant relocation plans for any required relocations or proposed installations in accordance with applicable standards and the MaineDOT's Utility Accommodation Rules, 17-229 CMR Chapter 210.
- ☐ If your facilities are located on property which is either owned by your company or for which you have an easement, you may be entitled to reimbursement in accordance with Federal Aid Policy Guide, Title 23, Code of Federal Regulations, Chapter I, Subchapter G, Part 645, Subpart A. Please contact this office prior to preparing any plans or estimates.

Please note: These plans are for Utility purposes only, to assist in planning utility relocations required as part the Project, and are not intended for public distribution. Although, not confidential, discretion is requested by the Department in sharing this information with the public. It is recognized, that utilities may need to acquire rights beyond those shown on the attached plans, if so, please contact this office so that the Department can provide proper notification of the project to the public prior to the utility obtaining additional rights.

The Municipality intends to advertise this project on **{Date}**. If you have any further questions, please contact me at **{Phone Number and Email}**. Thank you for your cooperation.

Sincerely,

Utility Coordinator

Enclosure: Preliminary Plans & Right-of-Way Maps

{Date}

{Utility Company Address}

RE: Pre-coordination Meeting & Review of Construction Plans, {Town}, {Location},
{MaineDOT WIN}

Dear {Addressee}:

Enclosed please find one copy of final construction plans for the above listed project. These plans are only intended for information and planning purposes at this time. No actual relocation of facilities should be made because of these plans.

Please review your proposed pole and/or proposed underground plant locations on the Department's plans. If changes are necessary, they should be communicated to us prior to the Pre-coordination Meeting. **The Pre-coordination Meeting has been scheduled for {Date, Time and Place of Pre-coordination Meeting}. It is requested that you be prepared to assign working days to your required utility work at this meeting.**

This project is scheduled for advertising {Date}. If you have any questions or concerns, please feel free to contact me at {Phone Number and Email}. Thank you for your cooperation.

Sincerely,

Utility Coordinator

Enclosure: Construction & R/W Plans

{Date}

{Utility Company Address}

RE: Draft Special Provisions, **{Town}**, **{Location}**, **{MaineDOT WIN}**

Dear **{Addressee}**:

I intend to include the enclosed Special Provisions in the contract documents for the subject project. It includes scheduling and descriptive information regarding work to be done by your organization.

If the text does not accurately reflect your intentions, please contact this office immediately at **{Phone Number and Email}**. Thank you again for your cooperation.

Sincerely,

Utility Coordinator

Enclosure: Proposed Utility Special Provisions

{Date}

{Utility Company Address}

RE: Pre-construction Meeting, **{Town}**, **{Location}**, **{PIN}**

Dear **{Addressee}**:

A pre-construction utility meeting for the subject project has been arranged for **{Date, Time and Place of Pre-construction Meeting}**. The purpose of this meeting is to discuss the coordination of work between the contractor and the utilities and any additional considerations or concerns that may exist. Your attendance at this meeting is critical to the success of the project and greatly appreciated.

If you need more information, please contact me at **{Phone Number and Email}**.

Sincerely,

Local Project Administrator

{Date}

{Utility Company Address}

RE: Pre-construction Meeting Minutes, **{Town}**, **{Location}**, **{PIN}**

Dear **{Addressee}**:

This is my understanding of the issues discussed and the conclusions reached at the pre-construction utility meeting held on **{Date, Time and Place of Pre-construction Meeting}**. It is understood that the dates and times agreed upon and summarized herein assume reasonable weather conditions and freedom from emergencies.

The following representatives were present:

<u>Name</u>	<u>Company</u>	<u>Telephone #</u>
--------------------	-----------------------	---------------------------

{Attendance List}

{Meeting Summary}

I have attempted to summarize our meeting as accurately as possible. If you feel that any of the items discussed herein are misrepresented in any way, please contact me within ten working days. In the absence of any corrections or clarifications, it will be understood that these minutes accurately summarize our discussions. Thank you for your participation and continued efforts in making this a successful project.

Sincerely,

Local Project Administrator

INSTRUCTIONS: *This must be submitted on letterhead with the 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: Utility Certification, Federal Project
MaineDOT WIN:

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:

<u>Utility/Railroad</u>	<u>Impacted facilities? (yes/no)</u>
--------------------------------	---

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:

<u>Utility/Railroad</u>	<u>Contact Name</u>	<u>Telephone #</u>
--------------------------------	----------------------------	---------------------------

Sincerely,

Local Project Administrator

Local Project Administration Manual & Resource Guide

Right of Way



MaineDOT

Integrity - Competence - Service

Chapter 6 - Updated in 2020

Right of Way

During design, the local agency administering a project must determine if land or easements must be acquired to carry out the work. If so, the agency must be careful to protect each property owner's constitutional right to receive just compensation, based on an appraisal of the fair market value of the land or rights-in-land necessary to move forward with the project.

Chapter 6 of this Manual explains the right-of-way process and covers the following:

- MaineDOT and local right-of-way responsibilities (pages 6-2 and 6-3);
- Protections for property owners / Donations of property (page 6-4);
- Determining right-of-way limits / Identifying right-of-way impacts (page 6-5);
- Title investigation (page 6-6);
- Right-of-way mapping (page 6-7);
- Appraisal (page 6-8);
- Appraisal review / Determination of just compensation (page 6-9);
- Negotiation (page 6-10);
- Acquisition (page 6-11);
- Owner appeals / Right-of-way certification (page 6-12);
- Confidentiality / Retention of records / Relocation (page 6-13);
- Appendix 6A: Right-of-way checklist (page 6-14); and
- Appendix 6B: Sample forms (page 6-17).



The right-of-way process involves the acquisition of what is known as real property, which covers the interest, benefits and rights inherent in real estate ownership. Rights-of-way acquired for transportation projects may include one, some or all of the types of rights identified below:

- **Fee ownership** is full acquisition covering all right, title and interest in a property.
- **Permanent easements** are acquired in perpetuity for a specific use, such as for drainage or placement of an embankment. Owners, however, retain title to their properties.
- **Temporary construction rights** cover contractor activities and expire upon completion.

➡ Important things to remember:

- If a project has federal funding, the right-of-way process must meet the requirements set out in 49 CFR part 24, “Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs,” and the MaineDOT *Right of Way Manual*.
- Compensation negotiations **cannot** begin until: a.) the National Environmental Policy Act (NEPA) process is completed; and b.) the acquiring agency has issued a Determination of Just Compensation.

6.1 MaineDOT Right-of-Way Responsibilities

MaineDOT generally will acquire the land and rights-in-land required for projects on the state highway system, even if other work is locally administered. If MaineDOT will acquire rights, the senior property officer in the MaineDOT Multimodal Program will lead the right-of-way process.

If the State of Maine will acquire rights for a project, **MaineDOT** usually will take the lead on the following tasks, as shown in Table 6-1, “State & Local Responsibilities,” on the next page:

- Field survey;
- Title research;
- Right-of-way mapping;
- Property appraisals and appraisal reviews;
- Negotiations with property owners;
- Acquisition/condemnation; and
- Right-of-way certification.

MaineDOT right-of-way work on a federal-aid project comes out of the budget for that project. That’s why it is important to identify right-of-way needs by project kickoff. MaineDOT recommends budgeting **\$5,000 per abutting property** to cover the activities listed above.

6.2 Local Right-of-Way Responsibilities

If a project is located off the state transportation system, the local agency administering the project must carry out the right-of-way process. If that is the case, the local agency will be responsible for right-of-way plans, title examinations, appraisals / appraisal reviews, negotiations, and acquisition – all of which are reimbursable at the same rate as other project activities.

The right-of-way process for projects funded by MaineDOT must follow federal and state requirements, as well as the procedures in this section and the MaineDOT ***Right of Way Manual***. MaineDOT recommends that local agencies contract with experienced professionals pre-qualified in the categories listed below: www.maine.gov/mdot/cpo/prequal/.

- 301.20, Property Surveys;
- 401.00, Title Research / Abstracting;
- 402.00, Property Valuation and Appraisal Services; and
- 403.00, Property Negotiations / Ownership Information Services.

Additionally, a local agency should consult with legal counsel and obtain approval from its governing body before acquiring rights-of-way. In such cases, the Maine Municipal Association may be an additional resource: www.memun.org.

Before putting a project out to bid, an acquiring local agency must certify that it obtained the rights to construct a project as designed, in conformance with federal and state requirements. This certification must be submitted with the final Plans, Specifications & Estimate (PS&E) package. (For an example, refer to **Letter 14**, on page 6-24 of this chapter.)

Table 6-1: State & Local Responsibilities

Note: The tasks below will apply whether rights are permanent or temporary.

TASK	RESPONSIBILITY
<input type="checkbox"/> Verification of Existing Right of Way	State Highway: MaineDOT
	Off State System: Local Agency
<input type="checkbox"/> Field Survey	State Highway: MaineDOT
	Off State System: Local Agency
<input type="checkbox"/> Property Owner Reports	State Highway: MaineDOT
	Off State System: Local Agency
<input type="checkbox"/> Preliminary Right of Way Plans ▪ Created at design stage Plan Impacts Complete	State Highway: MaineDOT or consultant with MaineDOT approval.
	Off State System: Local Agency
<input type="checkbox"/> Title Examinations	State Highway: MaineDOT
	Off State System: Local Agency
<input type="checkbox"/> Final Right of Way Mapping ▪ Maps show affected areas and types of rights	State Highway System: MaineDOT or consultant with MaineDOT approval
	Off State System: Local Agency
<input type="checkbox"/> Review/Verification of Right of Way Maps	State Highway: MaineDOT
	Off State System: Local Agency
<input type="checkbox"/> Notice of Interest to Acquire ▪ Sent to property owners	State Highway: MaineDOT
	Off State System: Local Agency
<input type="checkbox"/> Property Appraisals & Appraisal Review	State Highway: MaineDOT
	Off State System: Local Agency
<input type="checkbox"/> Negotiations [after NEPA completed] ▪ Owner has at least 28 days to consider an offer	State Highway: MaineDOT
	Off State System: Local Agency
<input type="checkbox"/> Acquisition of Rights / Condemnation	State Highway: MaineDOT
	Off State System: Local Agency
<input type="checkbox"/> Right of Way Certification	State Highway: MaineDOT
	Off State System: Local Agency

6.3 Protections for Property Owners

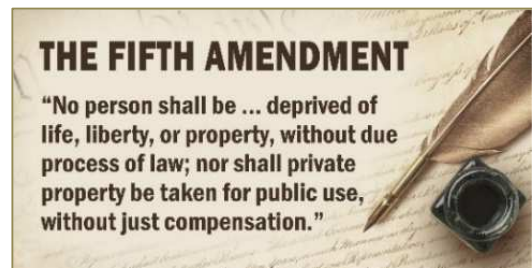
Ownership of private property is protected by the constitutions of Maine and the United States. When a public agency must acquire private property for a project, that agency must demonstrate public exigency, pay just compensation, and afford each owner due process of law.

The primary safeguard is the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (as amended). This landmark law applies when there is federal funding in a project – *even if right-of-way is acquired with other funds*. It serves to ensure that owners affected by property acquisition for public projects are treated fairly and are not disproportionately harmed. Maine, through state law, has extended the provisions of the Uniform Act to state-funded projects.

➡ Violating the Uniform Act will jeopardize the federal funding for a project.

Below are the **key protections**:

- ❖ A property owner must receive just compensation of at least the appraised fair market value of the rights to be acquired and any property impacts eligible for compensation.
- ❖ An owner or representative must be afforded an opportunity to accompany an appraiser during a property inspection.
- ❖ An acquiring agency must negotiate in good faith; **coercion is illegal**.
- ❖ An acquiring agency must provide a written offer of just compensation and reasonable notice before acquiring rights. MaineDOT affords an owner at least **28 days** in which to consider an offer and to present relevant information.
- ❖ An acquiring agency must pay the greater of the approved amount of just compensation or a negotiated settlement amount before an owner must surrender possession of property.



6.4 Donations of Property

Occasionally, someone may offer to donate property. If that is the case, a public agency may accept a donation once the National Environmental Policy Act (NEPA) process is completed, as long as the parties follow the steps set out below:

- An acquiring agency must avoid coercing an owner into donating property;
- The agency must notify the property owner in writing that the owner has the right to have an appraisal performed and to receive just compensation for the property; and
- A donor must sign a standard form releasing the agency from its obligation to perform an appraisal and to pay just compensation.

➡ The “Donation and Release of Agency Obligation” form is kept in the right-of-way section of the LPA Documents page: www.maine.gov/mdot/lpa/lpadocuments/.

6.5 Determining Right-of-Way Limits

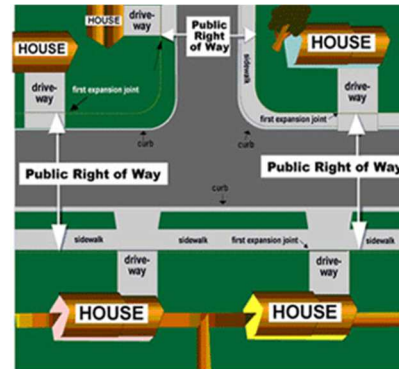
One of the first tasks in laying out a project is to identify the location and limits of the right-of-way. An original layout filed with a county or municipality can serve as a starting point, since it typically establishes the width and center of a road. In using such a record, be aware that the actual alignment may have shifted away from the center of the original layout over time.

If a project is on a state, state-aid or formerly state-aid highway, MaineDOT may have records showing the right-of-way limits. Contact the Records and Research Unit of MaineDOT's Property Office at (207) 624-3154 or (207) 624-3460.

Tax maps may provide initial ownership information, but they cannot be used exclusively to determine property boundaries.

After the initial research, a local agency should arrange for a field survey that, when coupled with the recorded layout data, will document the right-of-way limit for design purposes as part of an Existing Conditions Plan.

➡ **Remember:** Field staff cannot enter private property without the owner's permission.



6.5.1 Property Owner Report

During field work, an acquiring agency should send abutters a Property Owner Report form (POR). The POR seeks to verify locations of property markers, wells/septic systems, and buried utilities. The form also asks for owner contact information. If an agency receives no response within a reasonable period, the agency should follow up to obtain the necessary information.

➡ The POR template is kept in the right-of-way section of the LPA Documents web page: www.maine.gov/mdot/lpa/lpadocuments/.

6.6 Identifying Right-of-Way Impacts

Research and field data form the baseline for design plans that show the existing right of way, proposed new construction, property boundaries, and utility locations. In laying out the project, those plans identify the potential property impacts, enabling a local agency to visualize how much additional land or rights-in-land may be necessary to carry out a project.

There are two primary types of **permanent rights**:

- **Fee simple absolute**, where an agency acquires interest in all or a portion of a parcel; and
- **Permanent easement**, where the owner retains title, but an agency obtains the right to use all or part of a parcel for a specific purpose, such as for drainage or the placement of a slope.

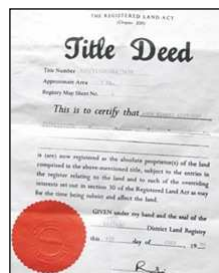
An acquiring agency also must consider the need for **temporary construction rights**, which are short-term easements allowing a contractor to grade, loam, seed, place fill, clear trees and brush, and integrate driveways into the construction. Such rights expire at the end of a project.

6.7 Title Investigation

Public agencies identify the legal owners of property affected by a project through title work performed at a county registry of deeds. Once the design plans have enough detail to identify all of the acquisitions that will be required, a researcher examines each deed in a parcel's chain of title and then prepares an **abstract of title** with information about property boundaries, owner names and addresses, and encumbrances such as mortgages and liens.

The chain of title for a parcel should contain the following information:

- Grantor;
- Grantee;
- Type of deed;
- Date of record;
- The reference book and page; and
- The acreage conveyed.



Title work is covered in the **Right of Way Manual**, section 2-4, "Title Investigation and Certification." The manual is available online: www.maine.gov/mdot/rowmanual/.

MaineDOT performs title work for projects on state highways. In other cases, it will fall to the **local agency** managing a project to carry out title examinations using either its legal staff or a private title firm. A local agency should consult with its legal counsel before moving forward.

Title examinations must follow the standards of the Maine State Bar Association, and the work should be either performed or certified by a lawyer with appropriate qualifications. As the table below shows, permanent acquisitions will require the chain of title to be traced back 40 years, while most easements and temporary rights require research into the last acquisition or current owner.

TITLE SEARCH REQUIREMENTS

TYPE OF ACQUISITION	LENGTH OF SEARCH
Fee (all right, title and interest)	Full 40-year title examination
Wrought portion (prescriptive easement) - major acquisition	Full 40-year title examination
Wrought portion (prescriptive easement) – acquisition substantially same as existing area of occupation and use	Title activity since date of last acquisition/transfer
Drainage easement	Since last acquisition/transfer
Permanent easement	Since last acquisition/transfer
Slope easement	Since last acquisition/transfer
Temporary rights	Current deed only

6.8 Right-of-Way Mapping

Right-of-way plans depict the land and rights-in-land that must be acquired to construct a project. They serve as visual tools that help appraisers and negotiators to do their jobs. Right-of-way plans must be prepared separately from the design plans for a project and be **stamped** by a professional land surveyor.

MaineDOT typically will take care of right-of-way plans for projects on state highways. If rights will be held locally, the **local agency** managing a project should work with a consultant with experience preparing right-of-way plans to MaineDOT standards. As a suggested starting point, MaineDOT has a list of consultants pre-qualified under service number 301.20, Property Surveys: www.maine.gov/mdot/cpo/prequal/.

Right-of-way plans must be developed in accordance with section 2-6 of the **Right of Way Manual**, "Right of Way Plans." The manual is available online: www.maine.gov/mdot/rowmanual/.

Mapping the right-of-way begins at Plan Impacts Complete, covered in Chapter 3 of this Manual, "Project Design." **Preliminary** right-of-way plans, also known as maps, include the following:

- Existing right-of-way limit;
- Property features, including buildings;
- Utility locations; and
- Apparent property boundaries.

Once title work is completed, **final** right-of-way plans add the following details to the baseline:

- New right-of-way limits, including slope and clearing limits;
- Construction limits and items;
- Permanent and temporary rights;
- Calculated areas of acquisition for each type of acquisition (fee, easement);
- Updated parcel setups;
- Acquisition stations and offsets;
- Condemnation distances, including baseline and boundary lines;
- Easement limits and property lines tied into the baseline;
- Inside distance calculations;
- Total areas of property ownership calculated from available property information; and
- Plan title block with MaineDOT file number – *if MaineDOT will be making acquisitions.*

MaineDOT's Property Office must review draft right-of-way plans for projects on state highways. Plans are treated as incomplete until verified as meeting MaineDOT's mapping standards and legal requirements.

6.9 Appraisal

The amount of just compensation owed to a property owner is based on an acquiring agency's appraisal of the fair market value of the rights to be acquired and compensable property impacts, such as a change in the slope of a parcel. To use a legal term, the appraisal estimates the “damages” that must be paid for the taking and impacts.

A real estate appraiser licensed by the State of Maine must perform the valuation tasks necessary to determine just compensation. The appraiser must have experience with projects employing the power of eminent domain, must understand the federal Uniform Act and appraisal standards, and must have completed appraisal assignments with comparable complexity.

MaineDOT keeps an Appraisal Register of professionals meeting minimum qualifications for appraisal assignments. Contract appraisers are listed under service number **402.00**, Property Valuation and Appraisal Services, on the following web page: www.maine.gov/mdot/cpo/prequal/.

➡ Before performing appraisals, an agency must send each owner a **Notice of Interest to Acquire**. An example is found in Appendix 6B, “Right-of-Way Forms,” on page 6-18 of this chapter.

6.9.1 Tasks of the Appraiser

An acquiring agency and its appraiser should review a project's design plans and right-of-way maps to understand the impacts and to determine the appraisal scope of work. Additionally, the appraiser must have the following information for each parcel:

- Owner's name, address and phone number;
- Title information, with current ownership and recent sales;
- Description of the property rights to be appraised; and
- Right-of-way plan sheet showing property lines and taking.



This section does not cover the appraisal criteria for projects requiring the use of eminent domain, but an appraiser on a federal-aid project generally will perform the following tasks:

- Inspecting each property with a focus on the areas of impact – after providing the owner with an opportunity to accompany the appraiser during that inspection;
- Collecting and analyzing market data from recent comparable sales;
- Using appropriate methods and techniques to prepare a credible estimate of value; and
- Developing an appraisal report.

Appraisals must be consistent with MaineDOT valuation specifications and the Uniform Standards of Professional Appraisal Practice. For more information, refer to the following references:

- ➡ Chapter 4 of MaineDOT's *Right of Way Manual*, “Property Valuation” – www.maine.gov/mdot/rowmanual/docs/2018/Chapter_4_Property_Valuation.pdf
- ➡ The regulations found in 49 CFR part 24.103, “Criteria for appraisals.”

6.10 Appraisal Review

An acquiring agency must have its appraisals formally reviewed by a second appraiser to establish the fair market value of the land and rights-in-land to be acquired. Such review work is a federal requirement, set out in 49 CFR part 24.104, “Review of appraisals.”

The reviewing appraiser should be chosen from the professionals listed under MaineDOT service number **402.00**, Property Valuation and Appraisal Services: www.maine.gov/mdot/cpo/prequal/.

It is the reviewing appraiser’s role to check the original appraiser’s computations, methods and techniques. Typically, the reviewer either will **recommend** or **not accept** the original appraiser’s opinion of value.

If a reviewer does not accept a valuation, the original appraiser may be asked to make corrections or provide additional information. The reviewing appraiser’s recommendation forms the basis for an official Determination of Just Compensation, covered in section 6.11 below.

➡ Refer to section 4-5 of the *Right of Way Manual*, “Appraisal Review” – www.maine.gov/mdot/rowmanual/docs/2018/Chapter_4_Property_Valuation.pdf

6.11 Determination of Just Compensation

Once a reviewing appraiser has recommended the amount of just compensation for each acquisition, an agency’s highest-ranking administrative officer must sign a Determination of Just Compensation. In many communities, that administrator must receive authorization from a governing body such as a council, select board or town meeting.

A Determination of Just Compensation should include two statements, at a minimum:

- The acquiring agency has reviewed the recommended amounts of just compensation for the rights to be acquired; and
- The acquiring agency agrees that those recommended amounts represent just compensation for the rights to be acquired.



The amount of just compensation depends on the type and scale of the rights to be taken, as well as the extent of a project’s impacts. Here are examples:

Whole acquisition. If an entire property is taken, the owner is offered its fair market value.

Partial taking. If only part of a parcel is acquired – and the value of the remaining property is unchanged, less the value of the part taken – the owner is paid for the part taken.

Severance damage. When a parcel sustains “severance damage,” an owner is paid for the reduction in value to the remaining property as a result of the taking.

Uneconomic remnant. If a partial acquisition leaves an “uneconomic remnant” that is determined to be of no value or use to the owner, the acquiring agency must offer to buy it.

Temporary construction easement. An owner is compensated for the right to enter a property during construction. Upon completion, interest in the property reverts to the owner.

6.12 Negotiation

An acquiring agency may negotiate with property owners or their legal representatives after:

- The National Environmental Policy Act (NEPA) process has been completed; and
- The acquiring agency has issued a Determination of Just Compensation, after receiving authorization from its governing body, if necessary.

The negotiator for an acquiring agency must present each owner or legal representative with a written offer for the full amount believed to be just compensation. This should be done in person, when possible. The offer must summarize the basis for that offer, including:

- Statement of the amount offered as just compensation; and
- Description and location of the land or rights-in-land to be acquired.

When meeting with a property owner or representative, the negotiator uses the design plans and right-of-way maps to explain the project and the need for acquisition. Although the Determination of Just Compensation is the starting point, an offer should not be a “take it or leave it” alternative; a negotiator must strive to reach an amicable settlement in the public interest. Above all else, a negotiation must be **free from coercive action** to pressure an owner into accepting an offer.

The standard offer letter and other forms may be downloaded from the right-of-way section of the LPA Documents web page: www.maine.gov/mdot/lpa/lpadocuments/

6.12.1 Selection of Negotiator

The right-of-way negotiator may be either a staff member with the appropriate qualifications or a pre-qualified consultant listed under MaineDOT service number **403.00**, Property Negotiations / Ownership Information Services: www.maine.gov/mdot/cpo/prequal/.

At a minimum, a negotiator must have the following skills:

- The ability to understand and explain the valuation presented in an appraisal report; and
- The ability to read design plans and right-of-way maps.

6.12.2 Notification Period

An acquiring agency must give each owner or legal representative reasonable time to consider an offer and to present information believed to be relevant to determining the value of the rights to be acquired. MaineDOT provides notice of *at least 28 days* from when it presents an offer to when it condemns the rights for a project. Local agencies should afford a similar notification period.

Owner reactions will vary. Some owners may settle quickly, while others may object to the offer and even to the acquisition itself. After receiving an offer of just compensation, an owner may need time to consult with relatives or legal advisors.

A negotiator should document any counteroffer in a log, since it may bring to light information that could affect the amount of just compensation owed. If presented with new information, the acquiring agency should consider it and respond appropriately.

6.13 Acquisition

6.13.1 Acquisition by a Local Agency

When a local agency and an owner negotiate successfully, the standard Owner Offer - Assent Form may be the starting point for a settlement agreement. (An example is found in Appendix 6B of this section, on page 6-21.) In using the form, an agency should consult with legal counsel to make sure that it complies with federal, state and local requirements. Settlements, in some communities, may require approval from the governing body.

- **Note:** Settlement amounts exceeding the official Determination of Just Compensation must receive approval from MaineDOT to be eligible for federal financial participation.

After signing a settlement agreement, an owner must receive payment of the negotiated amount and a statement of just compensation. By law, an acquiring agency cannot take possession of land or rights-in-land until it pays the agreed-upon amount. Again, legal counsel should be consulted.

State law: Refer to Title 23 in the Maine Revised Statutes, Chapter 34, “Acquisition of Property for Highway Purposes”: <http://legislature.maine.gov/statutes/23/title23ch304sec0.html>

If a local agency reaches an impasse with a property owner over the amount of just compensation owed, the agency generally has three options:

- Use eminent domain to condemn the necessary rights;
- Continue trying to reach a reasonable settlement; or
- Incur the expense and delay of redesigning the project.



Although Maine gives local governments the power of eminent domain, some communities either restrict or prohibit its use. In some cases, the only practical option is to persist in negotiating a settlement that satisfies the owner and serves the public interest. That is why communities should address difficult right-of-way cases with feedback from the public and advice from legal counsel.

If a municipality acquires rights by eminent domain, a condemnation order usually must be filed with the appropriate local official, such as a municipal clerk, that provides a description of the property or interest therein to be taken, including:

- Property location;
- Ownership of the property; and
- The amount of damages determined to be just compensation.

A municipality generally must serve the owner with a copy of the condemnation order and a check for the damages awarded. Title in most cases will pass to the municipality once the transfer is recorded at the registry of deeds and the owner receives payment. Again, legal counsel should be consulted.

- **Remember:** An owner cannot be made to surrender possession of land or rights-in-land until a public agency pays either a negotiated price or an approved amount of just compensation.

6.13.2 Acquisition by MaineDOT

When MaineDOT is the acquiring agency, MaineDOT prepares a settlement agreement upon successful completion of a negotiation. By signing the agreement, an owner affirms acceptance of the settlement and releases the State of Maine from any further claim or legal cause of action.

If a negotiation with an owner or legal representative reaches an impasse, MaineDOT generally condemns the necessary rights after the 28-day notification by filing a Notice of Layout and Taking at the corresponding county registry of deeds. At that point, MaineDOT provides the owner with a copy of the notice, a statement of just compensation, and a check for the approved amount and prorated taxes. MaineDOT takes possession of the rights upon making the payment.

Negotiations based on fair market value may continue, during construction, for up to 60 days after the date of taking. That is when MaineDOT refers unsettled parcels to the State Claims Commission, as required by law. For more about the appeals process, refer to section 6.14 below, “Owner Appeals.”

6.14 Owner Appeals

Property owners who are dissatisfied with just compensation awards in eminent domain takings have avenues of appeal that must be made within 60 days of condemnation, as set out below.

MaineDOT acquisitions. MaineDOT refers unsettled parcels to the State Claims Commission, an independent, impartial board consisting of two qualified appraisers, two attorneys-at-law, and a county commissioner. The commission may approve, partially approve, or disapprove a property owner’s compensation claim.

Local acquisitions. An owner may appeal a local eminent domain proceeding to the Superior Court in the county where the property lies.



6.15 Right-of-Way Certification

Before a project may be put out to bid, the acquiring agency must issue a right-of-way certification stating either that:

- All necessary rights were acquired in conformance with the federal Uniform Act; or
- No rights-of-way were required.

MaineDOT will issue the right-of-way certification when the State of Maine acquires rights.

A **local agency** must prepare the certification when rights-of-way are acquired locally or when no rights are required. This certification should be modeled after Letter 14, found on page 6-24, and signed by the highest-ranking administrative officer.

The certification must be submitted to MaineDOT with the final Plans, Specifications and Estimate (PS&E) for a project. MaineDOT will not give a local agency authorization to advertise for construction bids unless this certification is part of the PS&E package.

➡ Letter 14, the standard right-of-way certification, is available in the right-of-way section of the LPA Documents web page: www.maine.gov/mdot/lpa/lpadocuments/.

6.16 Confidentiality

Project and parcel records relating to appraisals and settled negotiations must remain confidential and closed to public inspection for **nine months** after the completion of a project. Records from cases appealed either to Superior Court or to the State Claims Commission will become open to public inspection once an official award has been made in those cases.

During the confidentiality period, access to parcel and project files should be restricted to officials of the local acquiring agency, MaineDOT, the State Auditor or the Federal Highway Administration (FHWA). Confidential records should be kept in a safe area, and an acquiring agency should ensure that only those persons qualified to access such files can view them.

Agencies should take additional care to ensure that information subject to privacy laws is protected from disclosure. Such information may include owner income, assets and tax information.

6.17 Retention of Records

As with other phases of a project, agencies must keep all records relating to the right-of-way process. Below are examples of documents that must be retained for at least **three years** after the Federal Government has paid the final voucher for a project:

- Property ownership information, including title reports;
- Appraisal reports;
- Statement of determination of fair market value;
- Offer letters to property owners;
- Negotiation logs;
- Correspondence with property owners; and
- Settlement agreements.

➡ For more information, refer to Title 2 in the Code of Federal Regulations (CFR), part 200.333, “Retention requirements for records.”

6.18 Relocation

Occasionally, a transportation project will require a public agency to acquire homes and businesses. In doing so, an acquiring agency must relocate displaced households and re-establish businesses in new locations.

Relocation is not covered in this LPA Manual because locally administered projects in Maine rarely cause displacements. Public agencies most commonly face the need for relocation on large-scale improvements that call for new highway alignments.

➡ Relocation is covered in Chapter 6 of the MaineDOT *Right of Way Manual*, available online: www.maine.gov/mdot/rowmanual/docs/2018/Chapter_6_Relocation.pdf

Appendix 6A: Right-of-Way Checklist



CHECKLIST: RIGHT-OF-WAY PROCESS

1. Limits of existing right of way initially verified from:

- ☐ County layout records;
- ☐ Municipal layout book;
- ☐ Plans from previously completed MaineDOT projects.
 - Contact the MaineDOT Property Office: (207) 624-3460.

2. Field survey work performed.

- ☐ Property Owner Reports completed as part of survey work.

3. Existing Conditions Plan created.

- ☐ Shows limits of existing right-of-way, topography, buildings, utilities and other information gathered from recorded layout data, field survey work, and Property Owner Reports.
 - Property lines are plotted from deed, property owner information and existing plans, as correlated to property markers located in the field.

4. Title examinations performed at county registry of deeds.

- ☐ Refer to section 2-4 of the *Right of Way Manual*, “Title Investigation and Certification.”
- ☐ Once all impacts are identified, Abstract of Title is prepared for each affected property.
 - A local agency should use either its legal staff or a private title company.

5. Right-of-way plans prepared, at design milestone Plans Impact Complete.

- ☐ For guidance, refer to section 2-6 of the *Right of Way Manual*, “Right of Way Plans.”
- ☐ A local agency may use a consultant pre-qualified under MaineDOT service number 301.20, Property Surveys: www.maine.gov/mdot/cpo/prequal/.
- ☐ Right-of-way plans show existing and proposed new right-of-way limits.
 - New rights to be acquired are shown, with areas calculated (MaineDOT Standards).
 - Ownership information based on completed abstracts of title.
- ☐ Right-of-way maps reviewed by MaineDOT Property Office (if state highway).
 - Maps approved by MaineDOT Property Office (if state highway) on: _____.

6. Notice of Interest to Acquire sent to the owner of each impacted parcel.

7. Appraisals performed.

- ☐ For guidance, refer to Chapter 4 of the *Right of Way Manual*, “Property Valuation.”
- ☐ Acquiring agency must hire appraiser on the MaineDOT Appraisal Register to determine the fair market value of the rights to be acquired and any compensable impacts.
 - Contract appraisers are listed online under MaineDOT service number 402.00, Property Valuation and Appraisal Services: www.maine.gov/mdot/cpo/prequal/.
- ☐ Appraiser must contact each property owner and offer an opportunity for the owner or a representative to accompany the appraiser during an inspection of a property.
- ☐ Appraisals completed on _____.
- ☐ Appraisal report submitted on: _____.

8. Formal appraisal review performed.

- ☐ For guidance, refer to section 4.5 of the *Right of Way Manual*, “Appraisal Review.”
- ☐ Acquiring agency hires second appraiser to review methodology and accuracy of appraisals.
- ☐ Appraisers pre-qualified under MaineDOT service number 402.00, Property Valuation and Appraisal Services, are listed online: www.maine.gov/mdot/cpo/prequal/.
- ☐ Reviewer either must recommend or not accept each appraisal.
 - If appraisal is not accepted, reviewer may request corrections or additional information.
- ☐ Appraisal reviews completed on: _____.

9. Determination of Just Compensation made.

- ☐ Must be based on the reviewing appraiser’s recommendations of just compensation.
- ☐ Must be signed by acquiring agency’s highest-ranking administrative officer.
 - May require authorization from local agency’s governing body.

➔ The federal NEPA process must be completed before proceeding further.

- ☐ NEPA Complete Date: _____.

10. Upon completion of NEPA process, property donations may be accepted, if applicable.

- ☐ Each donor is informed in writing of the right to an appraisal and just compensation.
- ☐ Each donor signs form acknowledging this right and releasing agency from its obligation.

12. Negotiator retained to negotiate just compensation with each property owner.

- ☐ Negotiators pre-qualified under MaineDOT service number 403.00, Property Negotiations / Ownership Information Services, are listed online: www.maine.gov/mdot/cpo/prequal/

13. Negotiations initiated:

- ☐ For guidance, refer to Chapter 5 of the *Right of Way Manual*, “Acquisition.”
- ☐ Negotiator presents offer of just compensation in writing to each owner.
- ☐ Negotiator gives each owner a minimum of 28 days to consider the offer and respond.
 - After 28 days, negotiator notes if Negotiations Completed or Negotiations at Impasse.
- ☐ If negotiations are successful, acquiring agency prepares a settlement agreement and, upon execution of the document, pays the negotiated price.
- ☐ If negotiations are unsuccessful, rights should be acquired by Eminent Domain, if possible.
 - This may require approval of a local governing body, in consultation with legal counsel.

14. Upon acquisition:

- ☐ The agency sends each owner a check for the settled amount or – in unsettled cases – the agency’s determined amount of just compensation.
- ☐ Transfer of title is recorded at the appropriate county registry of deeds.

15. Acquiring agency certifies the right-of-way (Letter 14).

16. Unsettled parcels go to State Claims Commission (state) or Superior Court (local).

- Just compensation awards must be appealed within 60 days of condemnation date.

Appendix 6B:

Right-of-Way Forms

- ❑ Copies of these and other documents are available on MaineDOT's LPA web page in the section labeled Right of Way: www.maine.gov/mdot/lpa/lpadocuments/

NOTICE OF INTEREST TO ACQUIRE

Date:

Project#:

WIN:

Parcel:

Route #:

Town:

Dear Property Owner(s):

The Municipality of [**Name here**] is currently working on plans for a transportation improvement project located at [**project location**]. This letter informs you of the proposed project and your involvement as a property owner. The plans indicate the Municipality will acquire a portion of your property and/or rights in land as part of this project.

A legal representative of the Municipality will contact you soon regarding the project and its impact on your property. You are entitled to due process and just compensation, as the legal representative will explain.

If you have questions pertaining to the procedures you can contact me at this office by telephone, <ENTER PHONE NUMBER HERE>. Our intention is to have you understand what is being done and why it is being done, with the least amount of inconvenience to you as an involved property owner.

Thank you for taking your time to understand our procedures.

Sincerely,

<HERE SIGNATURE HERE>

Local Project Administrator

OFFER LETTER

Re: WIN:
Town:
Parcel No.:
Item No.:

(Property Owner)
(Address)
City, State Zip

Dear Property Owner:

Today, as the Municipality's legal representative, I have explained to you the proposed construction and the effect it will have on your property. I have attempted to answer any questions you had. I have also explained the methods used in preparing our appraisal and the basis for our determination of just compensation for the land and rights to be acquired.

I have made you an offer in the amount of \$_____, which represents the just compensation as determined by a qualified appraiser and approved by a review appraiser.

The land and/or rights to be acquired from you for this project are as follows:

Valuation Type	Count	Area	Unit
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

The following is a statement by the Municipality regarding the parcel or parcels of land above referenced:

- A. The highest and best use of the property at the date of taking:
_____.
- B. The fair market value of the real property taken as of the date of taking:
_____.
- C. Offering price: \$_____.

I have explained your recourse if the Municipality's offer is not acceptable.

Please be advised that if you have a mortgage, the mortgage company holds a recorded interest in your property. Under Maine law, your mortgage company may receive a copy of the condemnation documents and may be named on your just compensation check. If your mortgage company is named on your compensation check, your lender must endorse the check before you can cash it.

Your mortgage document quite likely contains a provision that addresses eminent domain takings. If your lender is named on your check, you should review this language in your mortgage carefully and deal with your lender directly. The holders of tax liens or other recorded encumbrances on your property may also appear on your check. Again, the lender's endorsement will be required and you will need to deal with them directly.

Under certain conditions the Municipality can reimburse eligible property owners for reasonable cost associated with resetting a property pin on the new right of way line by a Licensed Professional Land Surveyor. If necessary, I will explain the eligibility criteria and application process.

Very truly yours,

By: _____

OWNER OFFER-ASSENT FORM

Property Owner(s):

WIN: _____

Municipality: _____

Parcel/Item No.: _____

BACKGROUND

1. It has been determined that public exigency requires the construction or reconstruction by altering, widening, changing the grade of and/or changing the drainage of a portion of State Highway “_____” in the Municipality of _____, County of _____ and State of Maine through a Locally Administered Federal-aid Project identified by the WIN referenced above (the “Project”).

2. In connection with the Project, the necessary real property rights (the “Property Rights”) to be acquired have been assigned value, surveyed, and identified on a plan known as Right of Way Map, State Highway “_____”, Project No. _____, on file at _____.

3. The Property Rights in and to a certain parcel of land identified on the Right of Way Map as Parcel No. _____, owned by the above identified Property Owner(s) (the “Property Owner(s)”) in said _____, are required for construction of the Project.

4. The Municipality intends to acquire the Property Rights by filing a Notice of Layout and Taking (the “Taking”) in the _____ County Registry of Deed on or about _____. At the Municipality’s discretion, and with the Property Owner(s)’ consent, the Property Rights may be transferred through the execution of a deed or other transactional instrument.

6. The Municipality has determined just compensation for acquisition of the Property Rights to be \$_____ (the “Payment”), and this amount will be paid to the Property Owner(s) upon filing of the Taking.

6. The Property Owner(s) does/do hereby acknowledge that _____, Right of Way Agent representing the Municipality, met with or wrote to the Property Owner(s) and explained the Property Rights to be acquired, the just compensation Payment, and all construction impacts, changes of location, grade, drainage and slopes as they apply to the Property Owner(s)' land.

AGREEMENT

1. The Property owner(s) accept the Payment as just compensation for all Property Rights taken in connection with the Project.

2. The Property Owner(s) release the Municipality from any further claims of just compensation arising from the Property Rights taken in connection with the Project; however, if any changes in design or construction occur after the date of this settlement and negatively impact the Property Owner's land in an unanticipated manner, the Property Owner(s) must have the right to request that this settlement be rescinded.

In witness of the above, the parties have executed this Agreement on the date herein indicated.

Dated: _____

Property Owner(s):

Printed name: _____

Printed name: _____

Donation and Release of Agency Obligation

WIN: _____

PCL/ITEM NO: _____

OWNER(S): _____

(I),(We) acknowledge that we have been informed of the right to receive just compensation based upon an approved appraisal. Notwithstanding, we wish to donate the right of way (land and/or rights therein) and release the Municipality of _____ from its obligation to provide an appraisal and offer of just compensation for the real estate needed for the above referenced project. This donation to the Municipality of _____ is made without coercive action of any nature.

DATED:

WITNESS

SIGNATURE OF OWNER(S)

Printed name: _____

Printed name: _____

Title: _____

Title: _____

Printed name: _____

Title: _____

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:

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, as amended, "Uniform Relocation Assistance."

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

The Municipality of [NAME] certifies with this letter that no right-of-way acquisition was necessary for construction and maintenance of the subject project. All work will occur within the existing 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)

Local Project Administration Manual & Resource Guide

Final PS&E Package



7. FINAL PS&E



MaineDOT

Integrity - Competence - Service

Chapter 7 - Updated Spring 2021

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:

- Checklist for the final PS&E package (page 7-2);
- Federal and state wage requirements – *revised* (page 7-3);
- Appendix 7A: Submittals to MaineDOT (page 7-4); and
- Appendix 7B: Bid package checklist (page 7-9).



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 Letters to MaineDOT section: www.maine.gov/mdot/lpa/lpadocuments/

- ☐ Environmental certification modeled after Letter 12, found on page 7-5;
- ☐ Utility certification modeled after Letter 13, found on page 7-6; and
- ☐ Right-of-way certification modeled after Letter 14, found on page 7-7.
 - *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 7-8 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 in **Appendix 7B**, starting on page 7-9.)*

- ☐ **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 (2 copies);
 - ☐ Schedule of Items, with MaineDOT item numbers;
 - ☐ Davis-Bacon wage determination - *federally funded projects*;
 - State wage rates – *state-only construction contracts totaling $\geq \$50,000$* ;
 - ☐ Special provision 104 (Utilities), if the work will require coordination with utilities;
 - ☐ Special provision 104.3.8 (Electronic Payroll) - *federally funded projects*;
 - ☐ Special provision 105.11 (Buy America) - *federally funded projects*;
 - ☐ Special provisions 401 and 403 (Hot Mix Asphalt), if there is any paving work;
 - ☐ 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 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 at least the prevailing regional minimum wage rates determined by the U.S. Department of Labor. If a project has no federal money, Davis-Bacon rates don't apply.

The contract book for a federally funded project must include a Davis-Bacon wage determination by county and type of work – highway, heavy or building. This “General Decision” will list work classifications and wage rates that the prime contractor and all subcontractors must follow.

Note: If a project is advertised, and new Davis-Bacon wage rates are issued 10 calendar days or more before the bid opening, the revised rates apply to the work. Also, if the Davis-Bacon rate for any classification is lower than Maine's minimum wage, the contractor by state law must pay the state minimum wage.

Davis-Bacon wage rates are online: <https://sam.gov/content/wage-determinations>

7.4 State of Maine Wages

If a contracted public works project with an estimated total construction cost of \$50,000 or more has any amount of state funds, prevailing minimum wage rates set by the Maine Department of Labor (DOL) must be published in the contract book in compliance with state law: Title 26 MRSA, Chapter 15. This requirement applies to state-funded projects delivered by municipalities, including those awarded through the Small Harbor Improvement Program (SHIP) and the Municipal Partnership Initiative (MPI).

The DOL typically updates prevailing wage rates each January. Wage rates for a specific project are based on the contract execution date, meaning that the rates for the calendar year in which a contract is signed will apply to the project. If the new wage rates for a given year are delayed, a local agency must use the previous year's rates as a placeholder until the new rates are issued, at which point the agency must apply those new rates.

Note: If a project has both federal and state funds, only the federal Davis-Bacon wage decision must be put in the contract book. This is a change in practice, effective in June 2022.

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

Questions about state wage-rate requirements should be directed as follows:

Richard W. Stephens, Prevailing Wage Examiner
Maine Department of Labor
Wage and Hour Division

Phone: (207) 623-7906

Email: Richard.W.Stephens@maine.gov

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, Spring 2021



FINAL PLANS & BID DOCUMENTS

Note: This checklist contains the standard items. Project-specific special provisions may be obtained from the LPA Documents web page, highlighted below, or from the MaineDOT Project Manager assigned to a 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 Performance Bond
 - Contract Payment Bond
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 (*if applicable*)
 - Rates are online:
maine.gov/labor/labor_stats/publications/wagerateconst/prevailingwage/index.shtml
 - *State rates apply to contracts of \$50,000 or more with state funds. If a project has federal and state funds, only the federal Davis-Bacon wage rates must be in the book.*
9. Special Provision (SP) Section 101, Contract Interpretation (revised Spring 2021).
10. Special Provision (SP) Section 104.3.8, Wage Rates
 - *This applies if both federal and state wage rates are included in the bid documents.*
11. SP Section 104, Utilities
12. SP Section 104.3.8, Electronic Payroll Submission (*federally funded projects*)
13. SP Section 105.11, Buy America (*federally funded projects*)
14. SP Section 105, General Scope of Work: Limitations of Operations (*if applicable*)
15. SP Section 105, Over Limit Movement Permits (*if applicable, based on nature of work*)
16. SP Section 107, Prosecution and Progress: Scheduling of Work
 - *Ensure completion date matches date in Contract Agreement, Offer & Award.*
17. SP Section 108, Asphalt Escalator (*use if estimate calls for more than 500 tons of HMA*)
 - *Obtain from MaineDOT’s Project Manager, if applicable.*

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

Local Project Administration Manual & Resource Guide

Advertise & Award



8. ADVERTISE
& AWARD



MaineDOT

Integrity - Competence - Service

Chapter 8 - Updated in 2020

Advertise & Award

Construction contractors on locally administered projects must be hired through competitive bidding. Municipalities and other local agencies by law must use a low-bid process, and they cannot favor bidders by region or negotiate with the low bidder before awarding a contract.

When design, permitting and right-of-way are completed, the local agency administering a project may advertise for construction bids after MaineDOT has signed off on the final plans, specifications and estimate package (PS&E) and issued written construction authorization.

Chapter 8 provides guidance on the requirements for advertising for competitive bids, opening and reviewing bids, and awarding a construction contract. It contains the following:

- A summary of the bid process (pages 8-1 to 8-5);
- A checklist (page 8-6);
- Bid award flowchart (page 8-7);
- Sample award request (page 8-8); and
- Sample Notice of Intent to Award (page 8-9).



Caution: If you advertise a federally funded project without MaineDOT's written authorization, you will forfeit ALL of the federal money for the project.

8.1 Bidding Guidance

Except for Force Account work – covered in Chapter 9 – projects with federal and state funding require competitive solicitation. Sections 102 and 103 of MaineDOT's *Standard Specifications* govern the process: www.maine.gov/mdot/contractors/publications/standardspec/

General procedures include the following:

- ☐ A local agency must issue a Notice to Contractors with a project description, deadline for sealed bids, time and location of bid opening, bidding requirements, and basis of award.
- ☐ Projects may be advertised on municipal websites, and MaineDOT will post advertised locally administered projects on its website: www.maine.gov/mdot/contractors/
- ☐ A newspaper advertisement may be used, but this method is not mandatory.
- ☐ The bidding period must be at least **3 weeks**, but it can be longer if an agency so chooses.
- ☐ The agency administering a project may hold a **pre-bid meeting** enabling contractors to view the project and submit questions, but this is not a requirement.

- ☐ **Questions** must be submitted in writing to the contact listed in the Notice to Contractors, at least 48 hours before bid opening.
 - The person answering should repeat the question and provide the same answer to all bidders in writing through amendments or at the pre-bid conference.
 - Amendments should be posted online, if that is how a project is advertised.
- ☐ During the bidding period, the MaineDOT project manager must sign off on any bid amendments that change the approved plans or specifications.
- ☐ The Notice to Contractors must specify the **date and time** of the bid opening. If that changes, bidders must be notified through addenda and an announcement made before the originally scheduled date and time.

8.2 Bidder Pre-qualification

Bidders must demonstrate the ability to complete certain types of projects successfully, a requirement that must be included in the Notice to Contractors for a project, as follows:

- ☐ If the estimated construction cost is **greater than \$300,000**, a bidder must have completed a pre-qualification through MaineDOT to be awarded the contract:
www.maine.gov/mdot/contractors/prequal/
- ☐ If the estimated construction cost is **less than \$300,000**, a bidder must demonstrate successful completion of projects of similar size and scope to be awarded the contract.

Note: The pre-qualification process must verify that a contractor is not debarred, prohibiting the contractor from being awarded government contracts.

8.3 Bid Guaranty

Each bidder on a project must provide a bid guaranty for **5 percent** of the bid amount, which must be stated in the Notice to Contractors. Failure to submit a bid guaranty generally causes the rejection of a bid.

A bid guaranty, payable to the agency administering a project, must be one of the following:

- A bid bond issued by an insurer licensed by the State of Maine; or
- A cashier's check; or
- A certified check; or
- U.S. Postal Service money order.

A bid guaranty serves to ensure that the low bidder will honor its bid and enter into a contract. The amount of the guaranty is forfeited if a bidder refuses to enter into a contract.

➡ Refer to the *Standard Specifications*, Section 102.6, "Bid Guaranty."

8.4 Bid Opening

Sealed bids received in accordance with the advertised Notice to Contractors are publicly opened and announced at the time and place specified in the notice or a subsequent bid amendment. Usually, only the total amount of each bid is read.

Unless a local agency intends to reject all bids, the agency must award a contract to the lowest responsive and responsible bidder for the bid amount, as set out below:

- ☐ A bid is responsive if it meets the requirements of the Notice to Contractors and project specifications.
- ☐ A bidder is responsible if the company has the financial and technical capacity to carry out the work and fulfill the terms of the contract satisfactorily.

Negotiating price, after opening bids and before awarding a contract, is **prohibited**. Doing so will cause an agency to forfeit the federal and state money for a project. An agency may only negotiate with the successful bidder, if necessary, after formally awarding a contract.



If the agency overseeing a project deems the lowest responsive bid to be unacceptably high, after consulting with MaineDOT's project manager, the agency must reject **ALL** bids. The work may be re-advertised after the scope of work is adjusted, in cooperation with MaineDOT.

8.5 Bid Analysis

After the bids are opened, either the local project administrator or a qualified designee, such as a consultant, must review them for errors and discrepancies. This analysis should cover the following items:

- ☐ Checking the multiplication of unit price and quantity, as well as the total sum of items. In case of discrepancies, unit prices govern.
- ☐ Reviewing unit prices for mathematical or material unbalancing that casts doubt on a bidder's ability to perform the work for the bid price.
- ➔ Refer to the *Standard Specifications*, Section 103.1.2, "Unbalanced Bids."
- ☐ Checking numerical and written unit prices. If they differ, go by the *written* unit price.
- ☐ Reviewing the base bid and bid alternates to ensure that the apparent low bidder meets the requirements of the bid documents.

If the bid analysis finds defects in a bid proposal, the reviewing agency may deem them either **curable** or **non-curable**, as set out in sections 8.6 and 8.7, on the next page.

- ➔ Refer to the *Standard Specifications*, Section 102.11, "Bid Responsiveness."

8.6 Non-curable Bid Defects

Defects are “non-curable” – meaning that a bidder cannot correct them – if they cast doubt on the total bid amount or a bidder’s ability to complete the contract work satisfactorily, as set out in MaineDOT’s *Standard Specifications*, Section 102.11.1, “Non-curable Bid Defects.”

A local agency must **reject** a bid containing any of the following **non-curable** defects:

- ☐ The bid and bid guaranty are not delivered to the precise location and by the precise time specified in the Notice to Contractors or an applicable bid amendment;
- ☐ The bid is not signed by a duly authorized representative of the bidder;
- ☐ The unit price and bid amount for any item are missing;
- ☐ A lump sum price (if applicable) either is missing or illegible;
- ☐ A bid guaranty specified in the bid documents is not submitted with the bid;
- ☐ A bid contains conditional or alternate bidding language, such as the right to accept or reject an award of the contract;
- ☐ A bidder submits more than one bid for the same contract;
- ☐ A bidder and a related entity each submit a bid for the same contract;
- ☐ A bidder is debarred or otherwise disqualified from bidding on government contracts;
- ☐ The agency advertising a project finds substantial evidence of collusion by a bidder;
- ☐ A bidder fails to comply with any provision stating that non-compliance will result in rejection of a bid.

8.7 Curable Bid Defects

Not all discrepancies will disqualify a bid proposal. A local agency may give a bidder the opportunity to correct **curable** defects within a certain amount of time, when:

- ☐ The total sum of the items is missing from the Schedule of Items, but each item has a unit price and bid amount;
- ☐ Prices or signatures on the bid or bid guaranty are not in ink;
- ☐ A bidder signs only one of the two Contract Agreement, Offer & Award forms;
- ☐ The bid is not submitted on forms provided by the local agency in charge of the project or on identical copies thereof;
- ☐ A bidder fails to acknowledge receipt and consideration of bid amendments;
- ☐ A defect doesn’t raise a significant question about the total bid amount or the bidder’s ability to complete the work.

8.8 Contract Award

Unless the bid documents specify otherwise, the local agency administering a project must deliver a Notice of Intent to Award to the apparent low bidder within **30 days** of bid opening.

Before awarding a contract, a local agency must ensure that the apparent low bidder meets all conditions in the bid documents and MaineDOT's *Standard Specifications*. Examples of such conditions include, but are not limited to, delivering bonds, providing insurance certificates, fulfilling pre-qualification requirements, and documenting that the prime contractor will perform at least **30 percent** of the value of the contract with its own forces.

➡ Refer to the *Standard Specifications*, Section 103, "Award and Contracting."

The local administrator must send the MaineDOT project manager a letter or email with the recommended bid award. The document should contain a bid tabulation with the engineer's estimate and all bids with unit prices. MaineDOT's approval is required before the contract may be awarded. (*Refer to example Letter 16, on page 8-8.*)

A contract generally must be executed within **14 days** after the low bidder has met the conditions of award. MaineDOT's project manager must receive copies of the award notice and contract.

8.9 Insurance Requirements

The successful bidder on a locally administered project must provide signed, valid and enforceable certificates of insurance as a condition of award. The contractor must procure all insurance from a company licensed or approved by the State of Maine to do business in Maine.

Unless the MaineDOT project manager specifies otherwise, the minimum requirements set out below apply to the prime contractor and all subcontractors on projects funded by MaineDOT:

- ☐ Workers' compensation;
- ☐ Commercial general liability of \$1 million per occurrence and \$2 million in aggregate;
- ☐ Automobile liability of \$1 million per occurrence.

➡ Refer to the *Standard Specifications*, Section 110, "Indemnification, Bonding and Insurance."

8.10 Rejection of Lowest Successful Bid

If the apparent low bidder fails to fulfill the award conditions within the timeframe in the bid documents, the bidder forfeits the award. If this happens, the local agency managing a project has two options, which should be considered in consultation with MaineDOT's project manager:

- ☐ Award the contract to the responsible bidder with the next lowest responsive bid; or
- ☐ Reject all bids and re-advertise the project.

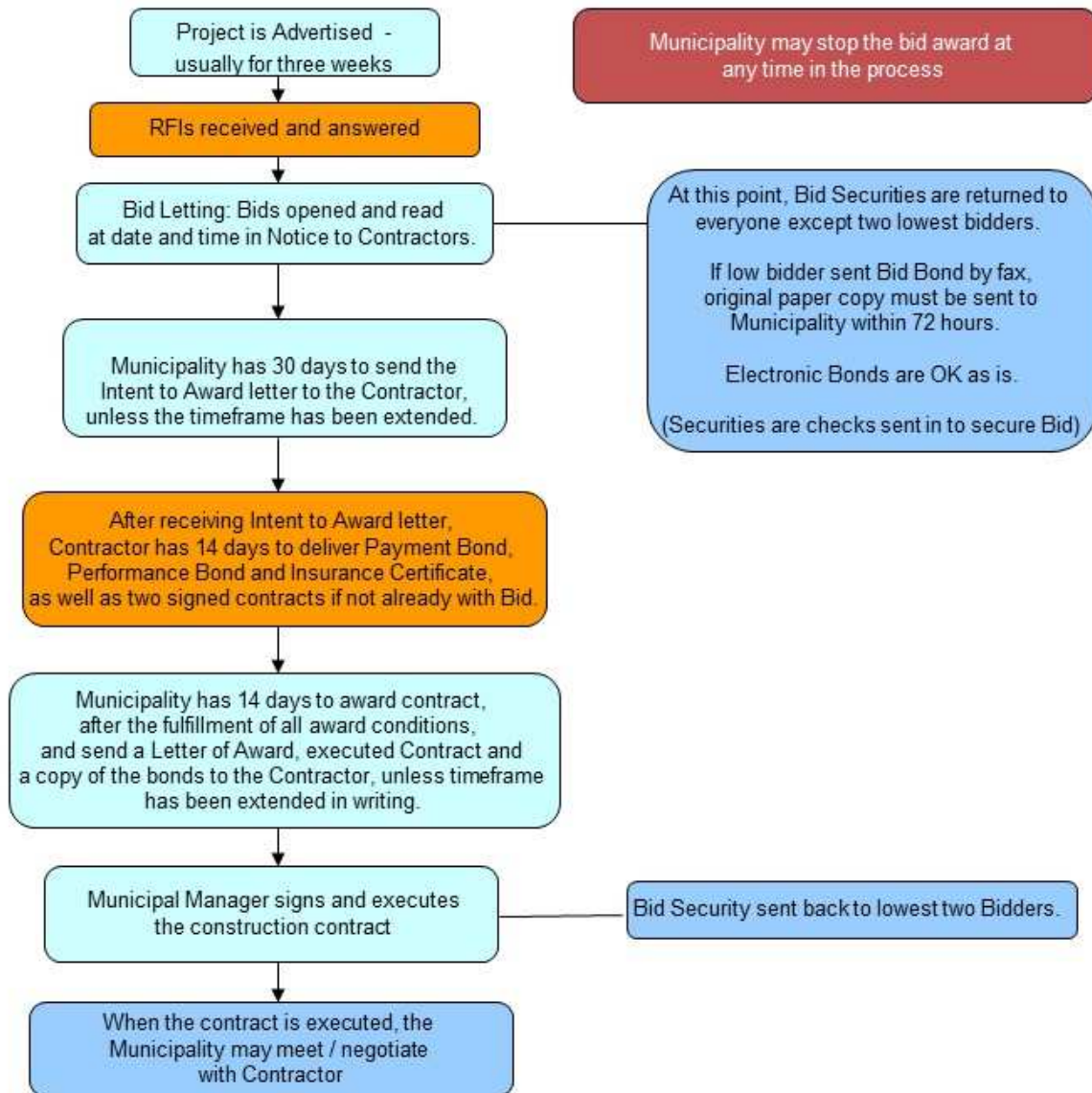
➡ Refer to the *Standard Specifications*, Section 103.6, "Failure to Fulfill Award Conditions."

8.11 Checklist: Advertise & Award

- ☐ **Receive authorization to advertise from MaineDOT project manager.**
- ☐ **Advertise the Notice to Contractors** (3-week minimum period).
 - Notice should be posted to municipal website and MaineDOT website.
 - A newspaper advertisement may be used, but this is not mandatory.
 - Date and location of the bid opening must be in the notice.
 - Basis of award must be clearly defined, so low bidder is apparent after bids are opened.
- ☐ **Determine contractor qualifications:**
 - For contracts of \$300,000 or more, low bidder must be pre-qualified by MaineDOT.
 - For contracts of less than \$300,000, low bidder must demonstrate successful completion of projects with a comparable size and scope.
- ☐ **Bidders must submit written questions using the Request for Information (RFI) form.**
 - The same answer must be distributed to all bidders in writing, with the question repeated.
- ☐ **Issue addendum, if documents are modified or if answering a Request for Information.**
 - If there is not enough time for bidders to make changes, delay the opening.
- ☐ **Open and publicly read aloud all bids at the designated time.**
 - Prepare bid tabulation sheet.
 - Check submitted bids for tabulation errors.
 - Determine the lowest responsive bid.
- ☐ **Review all bids for bid defects**
 - Go by MaineDOT's *Standard Specifications*, Section 102.11, "Bid Responsiveness."
- ☐ **Determine the apparent successful bidder.**
 - Return bid securities to everyone except the two lowest bidders.
 - Notify the second bidder that securities will be held until contract execution.
- ☐ **Send award recommendation to MaineDOT project manager (Letter 16).**
 - Tabulation of bids;
 - Engineer's estimate; and
 - Completed Contractor DBE Utilization Form (federally funded projects).
- ☐ **Receive MaineDOT approval in writing of recommended award.**
- ☐ **Send Notice of Intent to Award** to apparent successful bidder.
 - Bidder must provide certificates of Workers Compensation, liability and auto insurance.
 - If contract is \geq \$125,000, bidder has 14 days to deliver performance and payment bonds.
 - Refer to MaineDOT's *Standard Specifications*, Section 110, "Indemnification, Insurance and Bonding."
- ☐ **Sign contract.**
 - Notify all unsuccessful bidders of such.
- ☐ **Send copy of signed contract to MaineDOT project manager.**
 - Return bid securities to first and second bidders.

Bid Award Process

Section 103, MaineDOT Standard Specifications



Note:

An electronic version of this letter is found under the category “Construction” on the MaineDOT Local Project Administration website: <https://www.maine.gov/mdot/lpa/lpadocuments/>

[DATE]

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

Subject: Request to Award Construction Contract, Federal Project
MaineDOT WIN:

Dear [NAME]:

Attached for your review are the bid tabulations, engineer’s estimate and completed Contractor DBE Utilization Form for [SCOPE, LOCATION] in the Municipality of [NAME].
[CONTRACTOR NAME] is the apparent successful bidder. We request authorization to award the project to that contractor.

In making this request, we acknowledge that we cannot send out the Notice of Intent to Award without written authorization from MaineDOT.

If you need additional information, please let me know.

Sincerely,

[NAME], Municipal Project Administrator

Enclosures:

1. Bid tabulations
2. Cost estimate

Note:

An electronic version of this letter under the category “Construction” on the MaineDOT Local Project Administration website: <https://www.maine.gov/mdot/lpa/lpadocuments/>

[DATE]

[Firm name]

[Firm address]

Subject: NOTICE OF INTENT TO AWARD

Project: [Insert project location]

WIN: [Insert WIN]

Description: [Insert description]

Your company is the apparent successful bidder for the subject project. Upon receipt of your properly executed certificate of insurance, payment bond [use if contract >\$125,000], performance bond [use if contract >\$125,000], two signed Contract, Agreement, Offer, & Award Forms, a copy of this letter and projected payment schedule, we will sign the agreement, and you will have a written contract.

We will sign both originals provided with your submission and send one original agreement to you via certified mail. We will be in contact with you concerning a notice to proceed with the work.

Contract Amount: _____

If you have any questions on contract procedures, please feel free to contact me at [phone].

If federal money, include this statement:

Note that the prime contractor and subcontractors on Federal contracts must have accounts set up with Elation Systems for payroll processing. If you do not have an account, please register for one, at your earliest convenience, using the information in Special Provision, Section 104.

Sincerely,

MUNICIPALITY OF [INSERT NAME]

By _____
[Name, Title]
Municipal Project Administrator

Local Project Administration Manual & Resource Guide

Force Account Work



9. AGENCY FORCE
ACCOUNT WORK



MaineDOT

Integrity - Competence - Service

Chapter 9 - Updated in 2017

Force Account Work

Most of the time, construction work on federally funded projects is done by contractors hired through competitive bidding. Occasionally, however, a larger municipality or other agency may consider it advantageous to build a project with its own personnel using a “force account” process. If so, the municipality or agency managing a project must justify why using force-account labor would serve the public interest. A written request, which should be submitted to the MaineDOT project manager for a particular project, must include:

- A description of the nature of the work;
- A detailed description of how the work is to be done;
- A cost breakdown for materials, equipment, labor and overhead;
- An explanation of why doing the work by force account would be more cost-effective than competitive bidding.



MaineDOT may review force-account requests in consultation with the Federal Highway Administration. Generally, a municipality or other local agency must demonstrate that its personnel can perform the work to the standard to which a private contractor would be held. The agency also must show, among other things, that:

- Its employees can perform the work in the range of **15 percent less** than the official cost estimate for competitive bidding – based on estimated quantities and prices for materials, labor and equipment;
- Agency personnel have successfully completed other projects of similar size and scope;
- The agency has the personnel and equipment to do the work to the same standard of quality that is required for a competitively bid contract;
- The agency can meet labor-compliance requirements and other federal mandates in Form FHWA-1273, “Required Contract Provisions for Federal-aid Construction Projects”; and
- Authorizing an agency to perform work by force account will not hinder MaineDOT’s ability to achieve its overall Disadvantaged Business Enterprise (DBE) performance goal.

State Projects

Requests to use “in-kind” work on projects with no federal money must have the approval of the manager of MaineDOT’s Multimodal Program. In making a request, a city, town or other agency must explain why it wants to forego competitive bidding and must document the following:

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

Federal Guidance – Force Account Labor

“Force Account” refers to the direct performance of highway and highway-related construction work by a public agency (State, local, or Tribal), 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)].

In general, federal-aid highway construction projects must be awarded based on the lowest responsive, responsible bidder [23 U.S.C. 112] unless the state transportation agency can demonstrate to the satisfaction of the Federal Highway Administration (FHWA) that some other method is more cost-effective or that an emergency exists. In this case, “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)].

In accordance with the stewardship/oversight agreement between MaineDOT and the Maine Division of the FHWA, MaineDOT has established a self-certifying process 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.

The purpose of this document is to provide an overview for using the **Force Account Construction Method – Finding in the Public Interest Form (hereafter “the Form.”)** The MaineDOT Project Manager is responsible for preparing and submitting the form and attaching all required supporting documentation. The corresponding MaineDOT Program Manager (or in MaineDOT M&O Regions, the Region Manager) must provide review/approval sign-off. All Force Account requests shall be maintained at a central secure repository site, available for review, including by FHWA.

When the force account construction 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 the attached **‘Force Account Estimate Worksheet’** that must be submitted with the 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 public agency estimate for the force account construction method must include all costs associated with the work and not just the work that will be billed to the project. These costs include non-reimbursable costs that are inherent to the work including labor, overhead, equipment, materials, and supplies. MaineDOT will provide a standard overhead figure to be used with these estimates – it currently is 110%. *Municipalities and other local public agencies either shall provide their audited overhead reports or use the standard overhead figure of **110% of labor costs**.*

- If the public agency has no set rates for its equipment, it may use current Blue Book rates.
- The public agency obtains 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 project manager.
 - c. Obligation authority and funding are cleared by the project manager.
- Project expenditures should follow established MaineDOT guidelines

The Force Account method of construction 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 attached 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 extent of 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.

MAINE DEPARTMENT OF TRANSPORTATION FORCE ACCOUNT METHOD – FINDING IN THE PUBLIC INTEREST	WIN : Cost:	
Today's Date:	Planned Project Begin	
Location:		
The term “force account construction method” refers to construction work a public agency performs on federally funded projects using its own forces. Specifically, it means the direct performance of highway construction work by the Department, local entity, county, railroad, public utility company, or other agency by use of labor, equipment, materials, and supplies furnished by the agency and used under its contract terms (23 CFR part 635.203(c)).		
Scope of Work:		
I <input type="checkbox"/> do / <input type="checkbox"/> do not recommend that _____ be allowed to construct the work by the force account construction method. The work <input type="checkbox"/> does / <input type="checkbox"/> does not meet one of the following conditions justifying performance of the work by the force account construction method.		
Check type of work below that applies (one only):		
<input type="checkbox"/> A. Emergency Repair Work	Y	N
1. Work meets definition in 23 CFR 668.103	<input type="checkbox"/>	<input type="checkbox"/>
2. Materials meet requirements or waiver issued	<input type="checkbox"/>	<input type="checkbox"/>
3. Attach backup documentation	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> B. Railroad or Utility Work		
1. Work Scope meets Definition of “Adjustment” per Subpart B	<input type="checkbox"/>	<input type="checkbox"/>
2. Organization is qualified to perform work	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> C. Lack of Bids or Unreasonable Bids		
1. Is there lack of bids or unreasonable bids?	<input type="checkbox"/>	<input type="checkbox"/>
2. Is Force Account method more cost effective than bidding, as defined in 23 CFR 635.203(e)?	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> D. Work by Public Agency (Municipal Forces)	Y	N
Documentation		

1. Does scope meet definition of “construction” (23 USC, 101)?	<input type="checkbox"/>	<input type="checkbox"/>	
2. Is the project located within the highway right of way?	<input type="checkbox"/>	<input type="checkbox"/>	
3. Does agency have cost estimates for materials, labor and equipment, including overhead rates and indirect costs?	<input type="checkbox"/>	<input type="checkbox"/>	
4. Does agency have experience, resources and ability to perform the work to same quality as private contractor?	<input type="checkbox"/>	<input type="checkbox"/>	
5. Does agency have ability to comply with appropriate design, construction, and materials quality standards?	<input type="checkbox"/>	<input type="checkbox"/>	
6. Does agency own (or currently lease) most equipment needed to perform the work?	<input type="checkbox"/>	<input type="checkbox"/>	
7. Were Force Account and competitive bid cost estimates based on the same project completion timeline?	<input type="checkbox"/>	<input type="checkbox"/>	
8. Has it been determined that proposed work cannot be competitively bid with other Federal-aid projects?	<input type="checkbox"/>	<input type="checkbox"/>	
9. Has it been determined that no materials will be purchased sole-source in excess of \$5,000?	<input type="checkbox"/>	<input type="checkbox"/>	
10. Are there assurances that force-account work will not hinder the State’s ability to meet its DBE utilization goal?	<input type="checkbox"/>	<input type="checkbox"/>	
11. Are there assurances that the organization will comply with FHWA-1273?	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/> E. Additional Project Information			
1. Public Agency paying part of cost?	<input type="checkbox"/>	<input type="checkbox"/>	
2. Agreement provided if work done by other(non-state forces)	<input type="checkbox"/>	<input type="checkbox"/>	
3. Is any portion of work being subcontracted?	<input type="checkbox"/>	<input type="checkbox"/>	
4. Will agency perform all labor besides specialty work? (paving)	<input type="checkbox"/>	<input type="checkbox"/>	
5. Is more than 50% of the work sub-contracted?	<input type="checkbox"/>	<input type="checkbox"/>	
6. Is this a full FHWA oversight project?	<input type="checkbox"/>	<input type="checkbox"/>	
I hereby certify that _____ provided all the necessary documentation relating to Items A through E above in support of the request to administer and/or perform the work on the above referenced project by the force account construction method.			
<p>NOTE: Documentation that shall further support Items A through E should be retained as part of the project files.</p> <p>Approvals:</p> <p>MaineDOT Program Manager:</p> <p>FHWA Division Administrator:</p>			

Local Project Administration Manual & Resource Guide

Civil Rights, DBE & ADA



MaineDOT

Integrity - Competence - Service

Chapter 10 - Updated June 2022

Civil Rights, DBE & ADA

Municipalities and other organizations managing federally funded transportation projects (collectively referred to as “local public agencies”) must comply with a variety of federal civil rights laws, rules, regulations and presidential executive orders designed to prevent and eliminate discrimination.

Chapter 10 provides an overview of Title VI of the Civil Rights Act of 1964, the Disadvantaged Business Enterprise Program (DBE), the Americans with Disabilities Act (ADA), and other civil rights and non-discrimination requirements that local public agencies may encounter as they develop federal-aid projects. The topics listed below will be covered.

- Title VI of the Civil Rights Act of 1964 – *revised* (page 10-1);
- Limited English Proficiency – *revised* (page 10-3);
- Disadvantaged Business Enterprise Program (page 10-4);
- Equal Employment Opportunity (page 10-5);
- Americans with Disabilities Act (page 10-5);
- Appendix 10A: ADA Guidance (page 10-7):
 - Minimum ADA Requirements for Pedestrian Facilities (page 10-8); and
 - MaineDOT ADA Compliance Policy (page 10-11).



MaineDOT offers additional Civil Rights guidance online: www.maine.gov/mdot/civilrights/

10.1 Title VI of the Civil Rights Act of 1964

Title VI of the Civil Rights Act of 1964 prohibits discrimination based on race, color or national origin in any program or activity receiving federal funding. The requirements are found in Title 49 of the Code of Federal Regulations (CFR), Part 21.

Local public agencies receiving funding from the Federal Highway Administration (FHWA), Federal Transit Administration (FTA), and Federal Aviation Administration (FAA) must have policies and procedures in place to address Title VI requirements, including the designation of a Title VI coordinator responsible for compliance.

Local public agencies also must have on file Title VI Assurances signed by the highest-ranking administrative officer stating that the agency will do the following:

- Include in all solicitations for bids the statement that bidders will receive fair opportunity;
- Add clauses related to non-discrimination in every contract; and
- Provide evidence that the agency is complying with the requirements.

❑ 10.1.1 Title VI Compliance

Municipalities and other local public agencies comply with Title VI by ensuring full and fair participation in the transportation decision-making process by all potentially affected groups. Actions that local public agencies can take to meet Title VI requirements include the following:

- Planning public meetings well in advance of a project and publicizing them in diverse media, flyers and online.
- Ensuring that public notices state that a meeting will use accessible-format materials.
- Determining what non-English languages and other cultural characteristics could inhibit public participation if not accommodated – and offering appropriate accommodations.
- Accepting verbal and written comments in languages other than English.
- Holding meetings and conducting outreach in the affected neighborhoods themselves, using community activity centers as meeting locations and venues for informal outreach.
- Using varied meeting times, sizes and locations to accommodate the schedules, transportation and child-care limitations for community members.
- Holding meetings at convenient times and at locations accessible and welcoming to all, including persons with disabilities.
- Making available alternative methods for two-way flow of information and comments between a local public agency and people unlikely to attend meetings.
- Using various illustration and visualization techniques to convey information, such as charts, graphs, photos, maps and websites.
- Reaching out to others with expertise in contacting and connecting with underserved people in order to obtain advice about best practices and effective techniques.

❑ 10.1.2 Title VI Reviews

Each year, MaineDOT selects three to five local public agencies for Title VI reviews based on its assessment of the risk of non-compliance. Reviews may be held in-person or by teleconference. MaineDOT selects local public agencies for such reviews based one or more of the following:

- MaineDOT is aware of or has received complaints about an agency;
- MaineDOT has identified agencies with Title VI issues or concerns;
- An agency has submitted either problematic responses to a Title VI questionnaire or incomplete Title VI documentation;
- An agency receives a large amount of federal funding, relative to other such agencies;
- An agency is new to the federal-aid process, receives a large amount of funding from MaineDOT, and requires Title VI training.

MaineDOT typically will notify a local public agency of a Title VI review through a letter that has the information and documentation needed for the review.

MaineDOT follows a standard checklist to ensure that all documents are submitted and that a local public agency's responses are given proper consideration. As part of a review, MaineDOT will look at an agency's public participation activities, including its notification and outreach procedures. A reviewer will examine if and how any diverse populations were identified and how these populations were notified.

Based on the information gathered, MaineDOT will prepare a Report of Findings documenting any deficiencies. If there are none, the report may provide recommendations for strengthening an agency's Title VI program.

➡ Additional Title VI information is online: www.maine.gov/mdot/civilrights/title-vi/

10.2 Limited English Proficiency

Organizations administering federally funded projects must take reasonable steps to ensure that people with limited English proficiency (LEP) have meaningful access to the programs, services and information those organizations provide.

People with a primary language other than English and with limited ability to read, speak, write or understand English can be considered LEP. Local public agencies may need to provide materials in other languages or arrange for translation services at meetings to assist LEP individuals.



LEP requirements originate from Presidential Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency," which contained two major initiatives:

- The first initiative is designed to improve enforcement and implementation of Title VI, which prohibits discrimination based on national origin by, among other things, failing to provide meaningful access to LEP individuals.
- The second initiative requires the Federal Government and agencies receiving federal funds – including MaineDOT and local projects sponsors – to provide materials in other languages or to translate at meetings when LEP individuals are present.

Local public agencies must provide meeting announcements and outreach materials in languages understood by affected LEP populations, if necessary. If so requested, an agency must provide spoken and sign-language interpreters, as well as alternately formatted materials, at no cost.

A 2020 analysis by MaineDOT identified five primary populations in Maine of LEP persons:

- **French.** There are approximately 7,100 French-speaking LEP persons in Maine, with the largest numbers in greater Portland, the Lewiston/Auburn area, and the St. John Valley region of northern Maine.

- **Spanish or Spanish Creole.** There are an estimated 2,500 Spanish or Spanish Creole LEP persons in Maine, primarily in Cumberland, York and Washington counties – and with a substantial number in Portland.
- **Chinese.** There are approximately 1,500 Chinese-speaking LEP persons in Maine, with the largest numbers in Cumberland, Penobscot and Kennebec counties.
- **Arabic.** There are an estimated 1,200 Arabic LEP persons in Maine, primarily in Cumberland and York counties.
- **African Languages.** There are approximately 1,200 LEP persons in Maine under the classification “Amharic, Somali or other Afro-Asiatic languages.” The re-settlement communities of Lewiston/Auburn and greater Portland have substantial numbers of Somali people who speak African languages, with other African language speakers living throughout Maine.

10.3 Disadvantaged Business Enterprises (DBE)

The federal Disadvantaged Business Enterprise Program (DBE) assists women and minority small-business owners in promoting their services in the contracting community. MaineDOT sets an overall goal for DBE participation in transportation project to be achieved through race/gender neutral means, as follows:

- The annual goal for FHWA funded projects – through Sept. 30, 2024 – is **1.97 percent**.
- The annual goal for FTA funded projects – through Sept. 30, 2022 – is **0.94 percent**.

MaineDOT encourages local public agencies, consultants and contractors on federally funded projects to give certified DBE companies equal opportunity. Although Maine typically doesn’t mandate DBE participation on individual projects, MaineDOT has the option to implement project-specific goals if it becomes apparent that Maine’s overall DBE target won’t be met.

❑ 10.3.1: DBE Use on Federal-aid Contracts

If a federally funded project will require consultant services, the request for proposals (RFP) must state that DBE companies are encouraged to submit proposals. The RFP also must require non-DBE consultants to ensure that DBEs have opportunity to participate in any contract.

On federally funded construction projects, the contract books must list Maine’s DBE goal, based on funding source, and include a statement that non-DBE contractors are encouraged to seek certified DBE companies as subcontractors.

The prime consultant and contractor on a federal project must fill out a DBE Utilization Form. Completed forms must be kept in the project files, along with subcontracts with DBE firms, for review during site visits by state and federal personnel. Utilization forms are found on MaineDOT’s website: <https://www.maine.gov/mdot/civilrights/dbe/>

DBE is governed by the regulations found in Title 49 of the Code of Federal Regulations, Part 26: <https://www.ecfr.gov/current/title-49/subtitle-A/part-26>

10.4 Equal Employment Opportunity (EEO)

Equal Employment Opportunity (EEO) works to ensure that sub-recipients of federal funds, contractors and sub-contractors comply with federal laws and regulations that prohibit government contractors from discriminating in employment. EEO also requires that the recipients of federal funds and their contracted agents understand their contractual obligations and undertake affirmative action to ensure equal employment opportunity in their workforces.

Local public agencies are required to include EEO provisions in their federal-aid construction contracts. These provisions are contained in Form FHWA-1273, “Required Contract Provisions for Federal-aid Construction Contracts,” which must be incorporated into the contract book for every federal-aid project. (*For more information, see Chapter 7, “Final PS&E Package.”*)

Form FHWA-1273 can be found at the link below under “Bid Package Documents”:
www.maine.gov/mdot/lpa/lpadocuments/

10.5 Americans with Disabilities Act (ADA)

Title II of the Americans with Disabilities Act (ADA) requires state and local government entities to provide accessible services to persons with disabilities. (Refer to 28 CFR part 35, “Nondiscrimination on the basis of disability in state and local government services.”)

In transportation, the law serves to ensure that pedestrians with disabilities have an equal opportunity to use the public right-of-way. Examples of accessible services include the use of curb ramps, rest stops for wheelchairs, accessible building facilities, and devices such as readers that help people with visual impairments to access public information.

Under the ADA, transportation improvements covering new, reconstructed or otherwise “altered” facilities must address ADA deficiencies to the *maximum extent feasible*, regardless of cost or type of funding. An alteration is defined as a change to a public right-of-way that affects – or could affect – access, circulation or use.

These definitions may change how local public agencies upgrade accessibility to pedestrian facilities. They apply to ALL government agencies regardless of funding. Any of the following scopes of work could be defined as an alternation:

- New construction;
- Road rehabilitation;
- Road reconstruction;
- Mill-and-fill / mill and overlay;
- Addition of new layer of asphalt (light capital paving);
- Cape seals
- Hot-in-place recycling; and
- Microsurfacing / thin-lift overlay.

Under the ADA, a variety of roadway alterations must address public access to existing pedestrian facilities to the **maximum extent feasible**. Where sidewalks or other pedestrian facilities are present, a local public agency must accommodate ADA compliance for curb ramp width, slope and detectable warnings when undertaking the treatments listed above; this may also require pedestrian signal upgrades.

For guidance and additional information, refer to the following federal and MaineDOT resources:

- ADA Resources for Engineers, Inspectors and Contractors:
<https://www.maine.gov/mdot/civilrights/ada/resources-engineers/>
- Americans with Disabilities Act Title II Regulations:
https://www.ada.gov/regs2010/titleII_2010/titleII_2010_regulations.htm
- [42 USC §12101 et. seq.](#), “Americans with Disabilities Act of 1990”;
- [49 CFR Part 27](#), “Nondiscrimination on the Basis of Disability in Programs of Activities Receiving Federal Financial Assistance”;
- [49 CFR Part 37](#), “Transportation Services for Individuals with Disabilities”;
- [49 CFR Part 38](#), “Americans with Disabilities Act (ADA) Accessibility Specifications for Transportation Services”;
- [Section 504 of the Rehabilitation Act of 1973](#) (42 USC §126), which prohibits discrimination on the basis of disability in federally assisted programs; and
- Older Americans Act of 1965, as amended, prohibiting discrimination on the basis of age in programs and activities receiving federal financial assistance.

➡ ADA guidance for local public agencies also is available from MaineDOT’s Civil Rights Office:
<https://www.maine.gov/mdot/civilrights/ada/local-agency/>

Appendix 10A:

ADA Guidance

ADA resources for local public agencies are found on MaineDOT's Civil Rights Office website:
www.maine.gov/mdot/civilrights/ada/resources-engineers/



Maine Department of Transportation

Highway Program

Design Guidance

Title: Minimum ADA Requirements for Pedestrian Facilities

Issue Date: November 1, 2017

Discipline: General Engineering

Revised Date: August 2, 2021

Originator: Highway Program

Approved By: Bradford Foley, P.E.

Background:

The MaineDOT updated ADA Title II Transition Plan specifies what ADA standards MaineDOT has adopted. The MaineDOT ADA Compliance Policy specifies what improvements will be required, based on project scope. This document is intended to provide guidance on what makes each individual element of a pedestrian facility ADA compliant. It should be the basis for determining if an existing pedestrian facility is ADA compliant and for designing and constructing new or improved pedestrian facilities.

Guidance:

Existing Pedestrian Facilities

If an existing pedestrian facility meets the requirements listed in Table 1 it is considered an ADA compliant facility. Such facilities do not need to be improved if it is beyond the planned scope of work to do so. Consideration should be given to the overall system of pedestrian facilities on the project to make sure there are no non-ADA safety issues that need to be addressed. Examples of such non-ADA safety issues include cross walk locations, refuge areas, and visibility.

New or Reconstructed Pedestrian Facilities

New pedestrian facilities, or existing facilities that must be reconstructed, shall be designed and built to meet the minimum requirements listed in Table 1.

More detailed guidance for the design of pedestrian curb ramps can be found in the [Standard Details](#).

Exceptions

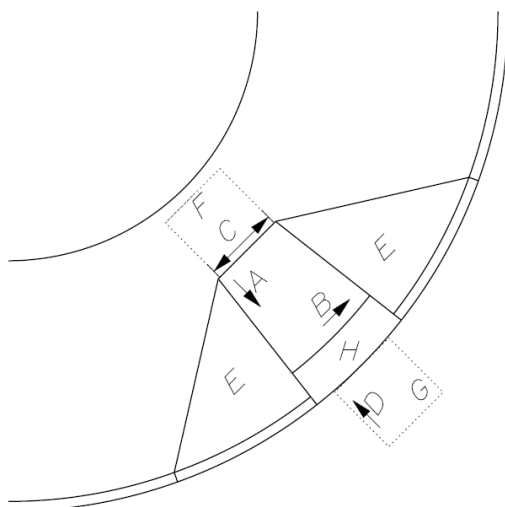
The ADA Compliance Policy allows exceptions to be made when it is “technically infeasible” or “physically impractical” to meet all current ADA requirements. In some cases, there may be physical constraints that are beyond project scope to modify or remove that make it infeasible to meet ADA requirements. Examples of these constraints include, but are not limited to, underground and overhead utility structures, bridge structures, building entrances at back of sidewalk, retaining walls, and established landscaping such as large trees. In such cases, the facility must be upgraded to the maximum extent possible. Technical infeasibility or physical impracticality may not be determined solely based on cost.

The ADA Compliance Policy requires that locations where full compliance with current ADA standards is not feasible be documented according to the following established procedure:

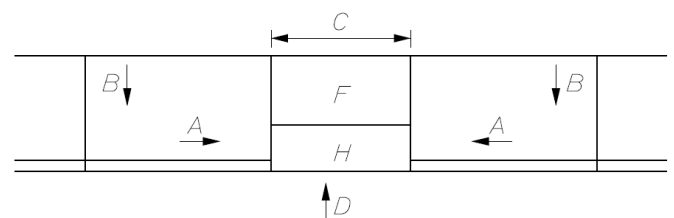
- If an element does not meet the minimum requirements for pedestrian facilities listed in Table 1, include discussion in the ADA compliance section of the Preliminary Design Report and submit an [ADA Technical Infeasibility Form](#) for review to the appropriate Program Manager or Region Manager and the Title II ADA Coordinator. Approval may be granted at the Program or Region level or forwarded to the Engineering Council for further review.

		Minimum Requirements for Pedestrian Facilities
		SIDEWALKS
Cross Slope		Max. 2% (1:50)
Clear Width		5 feet, excluding curb (standard) 4 feet, excluding curb (minimum) <i>3 feet, excluding curb, may be acceptable if waived by the Chief Engineer. Widths less than 5 feet require a 5 foot by 5 foot passing space every 200 feet.</i>
		CURB RAMPS
Running Slope	A	Max. 8.33% (1:12)
Cross Slope	B	Max. 2% (1:50) <i>Ramp cross slope at street crossings without stop or signal control may match roadway profile.</i>
Clear Width	C	Min. 4' – 8" <i>Provide 5'-8" clear width when feasible. Existing ramp width may remain 4 feet.</i>
Counter Slope	D	Max. 5% (1:20) <i>Adjacent surface must be flush with the ramp.</i>
Flared Sides	E	Max. 10% (1:10)
Turning Space	F	4 feet by 4 feet <i>Maximum slope of 2% in any direction. May include Detectable Warnings.</i>
Clear Space	G	4 feet by 4 feet <i>Located at the bottom of the ramp outside active travel lanes.</i>
Detectable Warnings	H	<i>Required at traffic-controlled intersections and mid-block crossings. Extend the full width of curb opening except for a 4" maximum border.</i>

Table 1. Minimum Requirements for Pedestrian Facilities



Perpendicular Ramp



Parallel Ramp

MaineDOT ADA Compliance Policy for Construction and Maintenance

- Revised August 11, 2016 -

❑ Overview

MaineDOT is responsible for implementing the requirements of Section 504 of the Rehabilitation Act and Title II of the Americans with Disabilities Act (ADA), and all applicable enforcement regulations, on its transportation facilities. This policy identifies actions necessary to comply with ADA requirements as work is performed on the highway and bridge system.

***NOTE:** This policy applies to locally administered projects with federal or state funding. MaineDOT will expect municipalities and their design consultants to abide by the requirements.*

❑ General

Newly constructed, reconstructed, or rehabilitated pedestrian facilities will fully meet current ADA accessibility standards. MaineDOT will maintain its design guides and Standard Details to ensure that all elements of current ADA compliance are incorporated into roadway improvements as required by this policy.

❑ Alterations and Maintenance

When walkways or other right-of-way elements intended to assist pedestrians are altered as part of a roadway improvement, those walkways and elements must be upgraded to meet current ADA standards. While many maintenance activities are not considered alterations and do not trigger requirements to perform ADA upgrades, most other work, including surface paving treatments and traffic signal replacements, do cause ADA improvements to be made. Table 1 below provides the minimum ADA upgrades required for a variety of work scopes.

❑ Consideration beyond minimum requirements

In determining the extent to which ADA improvements must be performed within the limits of work, designers should consider the accessibility of existing pedestrian facilities in context with local pedestrian use and needs.

- Areas of heavy pedestrian use or the presence of hospitals, retirement centers, veterans facilities, schools, libraries and government buildings would give compelling reason to consider more extensive upgrades, particularly if there are barriers along the adjacent sidewalk. In these areas, municipalities and other local agencies should seek guidance about the extent of ADA improvements from MaineDOT project managers, in consultation with the Multimodal Program Manager and Office of Civil Rights.
- If multiple ADA modifications are being made to meet the minimum requirements, designers should consider upgrading all pedestrian facilities within the project limits rather than leaving a patchwork of compliant and non-compliant ADA elements.
- The extent of work for traditional improvement scopes should not be altered solely to avoid the requirements of this policy.

❑ Crosswalks and curb ramps

Any paving work affecting an existing crosswalk is considered an alteration that requires accessibility review and upgrades.

- When a crosswalk is altered, curb ramps must be installed or brought to current ADA standards where the crosswalk connects to a sidewalk or other pedestrian walkway.
- When a crosswalk is altered at an intersection, upgrades will be made at all corners, even if outside the project limits.
- Curb ramp upgrades will be made as required at driveway/crosswalk crossings when paving activities impact crossings.
- Current standards will be met for all required and applicable curb ramp elements including slopes, width, cross slope, landing area and detectable warnings.

❑ Pedestrian signal systems

When the accessibility of an existing pedestrian signal system is impacted by an alteration, such as improper button height or slopes at pedestrian poles, the pedestrian signal system must be upgraded to meet current ADA standards. The replacement of traffic signals and the relocation of pedestrian poles are also actions that require upgrade of the entire pedestrian signal system.

❑ Exceptions

Technically infeasible situations

If it is technically infeasible or physically impractical to meet all current ADA standards, the standards will be met to the maximum extent possible. Locations where full compliance is not feasible must be documented. If the non-compliant element cannot be improved enough to remove barriers, the municipality managing a locally administered project must consult with the MaineDOT Multimodal Program, which may contact the MaineDOT Civil Rights Office to determine the appropriate course of action.

Federal “Safe Harbor” provision

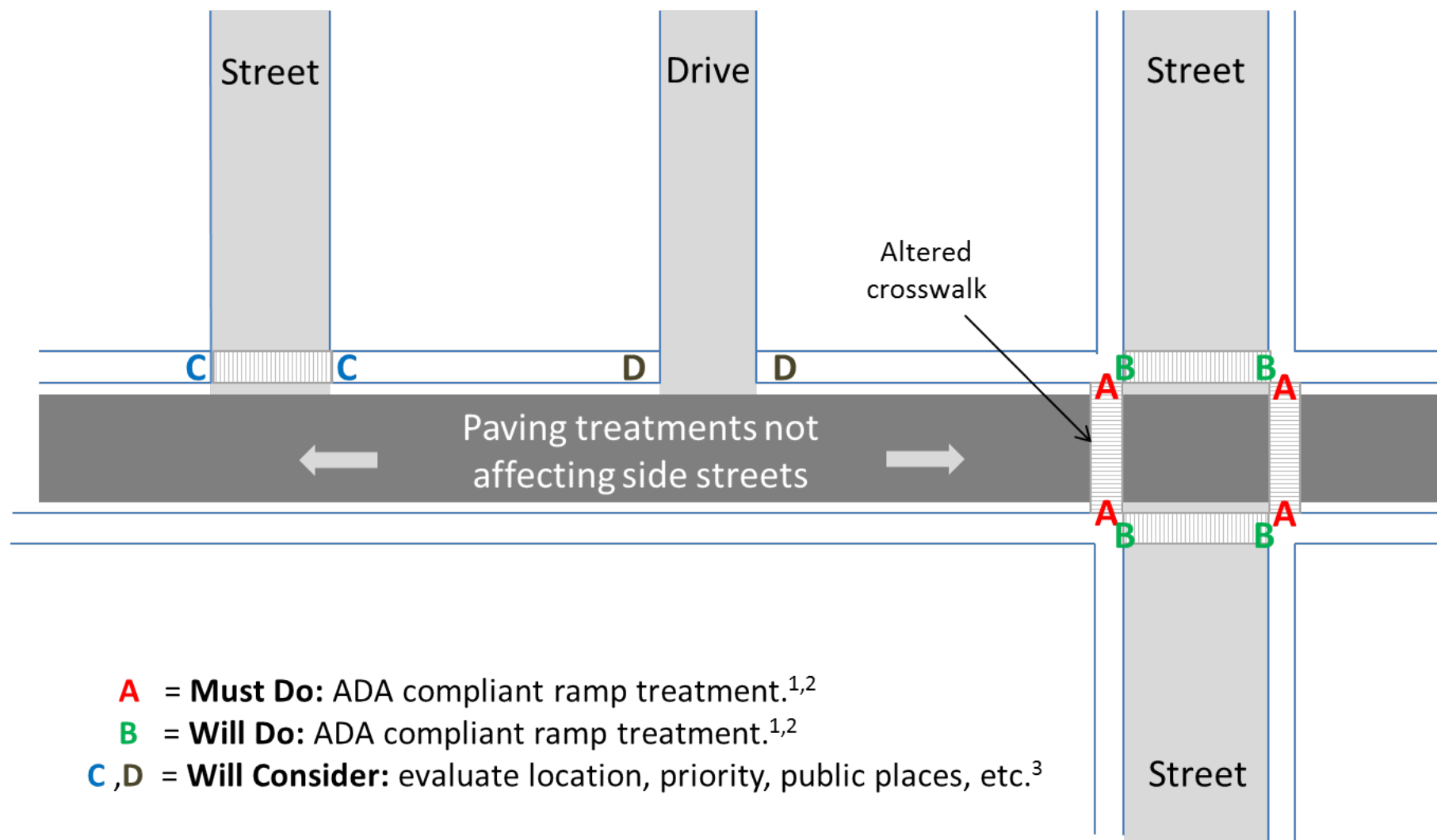
By federal regulation, existing accessibility elements constructed or altered before March 15, 2012 that comply with 1991 ADA Accessibility Guidelines do not have to be modified to comply with the 2010 standards. If this exception is utilized and detectable warnings are not present, detectable warnings will be added at locations determined appropriate as described in the Alterations and Maintenance section above.

❑ Responsibilities

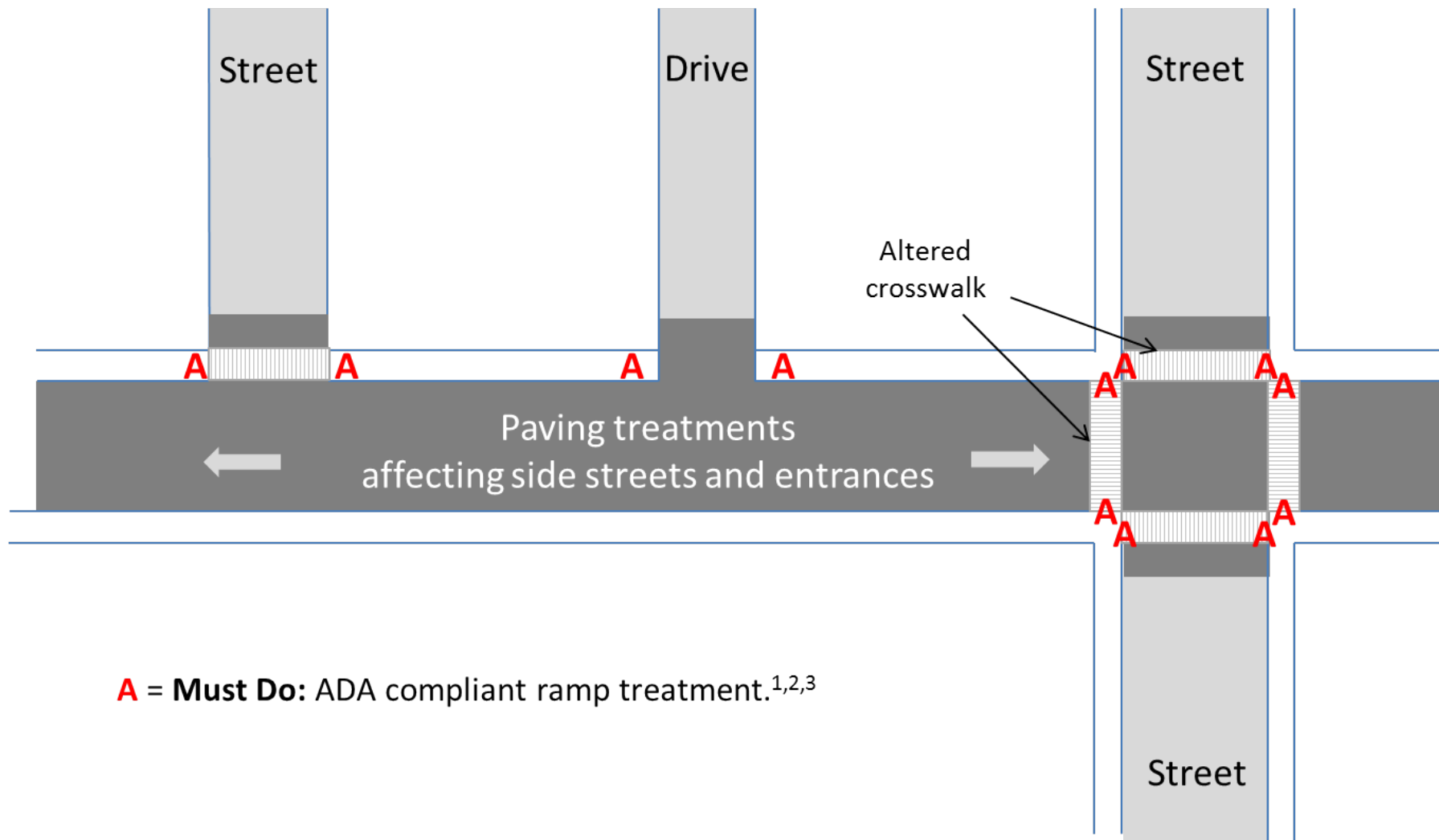
For locally administered capital improvements, the municipality managing a project, in consultation with its contracted design consultant if applicable, is responsible for reviewing existing pedestrian and accessibility elements within the limits of a project and determining what ADA improvements must be made in accordance with this policy.

TABLE 1: REQUIRED ADA ELEMENTS BY SCOPE OF WORK

TYPE OF WORK	ADA IMPROVEMENTS NEEDED?	MINIMUM IMPROVEMENTS
<ul style="list-style-type: none"> ▪ New Construction ▪ Reconstruction ▪ Rehabilitation 	YES	Pedestrian facilities must be constructed or upgraded to meet current ADA requirements within the project limits.
Paving Treatments: <ul style="list-style-type: none"> ▪ Mill and fill / Overlay ▪ Micro-surfacing ▪ Hot or Cold In-Place Recycling ▪ PMRAP ▪ Ultra-Thin Bonded Wearing Course ▪ Light Capital Paving 	YES	<ul style="list-style-type: none"> - Upgrade curb ramps where treatment crosses or impacts existing pedestrian elements or routes within project limits. - If a crosswalk is altered at an intersection, all corners must be upgraded even if outside project limits. - Upgrade pedestrian signals to current ADA standard if the improvement affects the accessibility of the system.
Signal: New location that warrants pedestrian facilities	YES	Install or upgrade intersection pedestrian facilities to meet current ADA standards, including curb ramps and pedestrian signal systems.
Signal Replace in Kind	YES	Upgrade intersection pedestrian facilities to meet current ADA standards, including curb ramps and pedestrian signal systems.
Signal: Modification involving excavation or right-of-way that warrants pedestrian facilities.	YES	Upgrade intersection pedestrian facilities to meet current ADA standards, including curb ramps and pedestrian signal systems.
Lighting	NO	
Striping	NO	
Maintenance Activities: Chip Seals, Crack Filling and Sealing, Dowel Bar Retrofit, Fog Seals, Joint Crack Seals, Joint Repair, Pavement Patching, Scrub Sealing, Slurry Seals, Spot High-Friction Treatments, Surface Sealing.	NO	Note: Some combinations of these may require ADA upgrades.



1. Current ADA standards must be met unless existing ramps meet 1991 ADA Standards or 1991 UFAS.
2. Truncated domes will be installed at all modified ramps at roadway intersections, but not at drive crossings.
3. Consideration should be given to remove all physical barriers within the project limits along the roadway being improved and the adjacent sidewalks. Project guidance is available through the Highway Program Manager and the Director of the Civil Rights Office.



A = Must Do: ADA compliant ramp treatment.^{1,2,3}

1. Current ADA standards must be met unless existing ramps meet 1991 ADA Standards or 1991 UFAS.
2. Truncated domes will be installed at all modified ramps at roadway intersections , but not at drive crossings.
3. Consideration should be given to remove all physical barriers within the project limits along the roadway being improved and the adjacent sidewalks. Project guidance available through the Highway Program Manager or the Director of the Civil Rights Office.

Local Project Administration Manual & Resource Guide

Construction Administration



MaineDOT

Integrity - Competence - Service

Chapter 11 - Updated Spring 2022

Construction Administration

Construction generally follows a contract award to the successful bidder. Once the job begins, the agency administering the project must document and inspect the work. Most of the time, this is a full-time responsibility.

Chapter 11 of this Manual provides guidance on the topics listed below:

- Oversight responsibilities (see below);
- Pre-construction meeting (page 11-2);
- Contractor payrolls – *updated* (page 11-3);
- Contract modifications (page 11-4);
- Construction documentation (page 11-5);
- Materials testing – *updated* (page 11-7);
- Buy America (page 11-8);
- Project bulletin board / Commercially Useful Function (page 11-9);
- Final inspection / Final payment to contractor / Closeout (page 11-10);
- As-built plans (page 11-11);
- Appendix 11A: Administrative checklist (page 11-12);
- Appendix 11B: Submittals to MaineDOT (page 11-15); and
- Appendix 11C: Sample field book entries (page 11-22).



11.1 Oversight Responsibilities

A local agency must assign either an employee with appropriate technical qualifications or a consultant with pre-qualification from MaineDOT to document and inspect the construction. This “project resident” protects a local agency’s interests by enforcing the design plans and specifications, logging the daily activities on a job site, checking contractor payrolls, and verifying the quantities of materials placed on a project.

- Additionally, a local agency must arrange for a paving inspector and concrete technician with required certifications to be on site for work involving hot-mix asphalt and concrete. Refer to Section 11.6, “Materials Testing,” on page 11-7.

A project resident who is likely to be assigned to jobs with funding from MaineDOT must take Documentation Training annually, if offered. If this training isn’t offered, either the standard LPA Training or Construction Training is an acceptable substitute. Contact Mike Laberge, MaineDOT’s local projects coordinator: Michael.Laberge@maine.gov.

If the resident will be a consultant, a local agency must go by the hiring procedures in Chapter 2, “Hiring Consultants,” and seek proposals from firms pre-qualified for construction management work under MaineDOT service number 601.00: www.maine.gov/mdot/cpo/prequal/.

The project resident (or approved inspector) on a MaineDOT funded job must be on site for major activities such as excavation, paving, drainage work, and concrete placement. Most often, this will require a **full-time** commitment to make sure the following tasks are performed:

- ☐ Inspecting the work, documenting quantities, and checking lines and grades.
- ☐ Checking payrolls for compliance with wage requirements, as covered in Section 11.3, “Contactor Payrolls.”
- ☐ Coordinating contract modifications. **MaineDOT** must concur with modifications **before** they are signed, as covered in Section 11.4, “Contract Modifications.”
- ☐ Maintaining a daily log and other field records, as discussed in Section 11.5, “Construction Documentation.”
- ☐ Arranging for testing of aggregates, pavement and concrete – and rejecting failing materials.
- ☐ Monitoring the contractor’s traffic control plan to ensure safe travel in the work zone.
- ☐ Making sure the work complies with environmental commitments and permit requirements, including erosion-control provisions.
- ☐ Approving contractor payments for satisfactory work, based on verification of quantities.
- ☐ Checking labor compliance, including project bulletin board setup. A diagram is online: <https://www.maine.gov/mdot/civilrights/sfp/>



11.2 Pre-construction Meeting

The primary event before work begins is the pre-construction meeting, typically involving the contractor, local project administrator, project resident, utility representatives, and MaineDOT personnel. (*Refer to Letter 17, on page 11-16, for a sample invitation and agenda.*)

A pre-construction meeting should be held at least **one week** before the scheduled start of work. It should cover the requirements of the prime contractor, coordinate the schedule, and establish the frequency of progress meetings. Refer to MaineDOT’s *Standard Specifications*, section 104.4.2, “Preconstruction Conference.”

The local project administrator should prepare an agenda and invite the participants. Afterward, minutes should be sent to meeting participants and other parties, including public-safety agencies if a project calls for lane closures or detours.

- ☛ If a project will require multiple utility relocations, a separate **pre-utility meeting** may be held at the discretion of the local project administrator.
- ☛ A stand-alone **pre-pave meeting** must be held *before* paving work starts. This mandatory meeting typically involves the local administrator, paving contractor, project resident, and appropriate MaineDOT personnel.

11.3 Contractor Payrolls

□ 11.3.1: Elation System

The prime contractor and all subcontractors on federal projects must submit their payrolls electronically in the Elation system to verify Davis-Bacon Act compliance. Electronic payrolls also may be used for state wages if both federal and state rates are required.

Upon awarding a contract, the agency managing a project should email the information listed below to MaineDOT's Contracts Section, which will set up a project in the Elation system:

- Work Identification Number (WIN);
- Name and email of the project resident;
- Name and address of the prime contractor;
- Amount of the contract award;
- Dates of advertise, bid opening and award;
- Construction start date;
- Contract completion date stipulated in the contract;
- Subcontractor information, with the service provided and subcontract amount;
- County in which the work will take place;
- Wage Rate General Decision and modification numbers, such as ME100011-Mod-0.

MaineDOT Contact:
Angela Latno: 207-624-3519
angela.latno@maine.gov

An Elation user's manual is online: <https://www.maine.gov/mdot/contractors/publications/>

□ 11.3.2: Payroll Verification

The project resident must make sure that contractors on a federally funded project comply with the Davis-Bacon wage decision. Typical responsibilities consist of the following:

- Checking contractor payrolls for completeness, accuracy, and compliance issues; and
- Ensuring that the duties performed and hours put in by workers covered by Davis-Bacon are consistent with what contractors are reporting in the Elation system.

At the start of a project, the resident must check for missing classifications and rates. If the federal wage decision is incomplete, the **prime contractor** must request missing classifications and rates through the Elation system using Standard Form 1444. Requests must be coordinated with MaineDOT's Civil Rights Office: 207-624-3066 or sherry.tompkins@maine.gov

□ 11.3.3: Payroll Interviews

Every 90 days, the resident must interview **two covered workers** from the prime contractor and all subcontractors on site for at least **five days** during that 90-day period. Interviews must be voluntary, confidential and in-person. Standard Form 1445, "Labor Standards Interview," is kept in the online Elation payroll system.

The project resident will compare information from the interviews against a contractor's certified payroll report for a given period. The resident must address any discrepancies.

❑ 11.3.4: State Payrolls

Contractors on projects without federal funds, such as through the Small Harbor Improvement Program and Municipal Partnership Initiative, must submit certified payrolls verifying that they are paying at least the Maine Department of Labor’s prevailing wage rates. Each submittal must include a signed “Statement of Compliance” that the payrolls are correct and complete.

- ➡ A standard Certified Payroll Form from the Maine Department of Labor must be used: www.maine.gov/labor/labor_stats/publications/wagerateconst/

11.4 Contract Modifications

Occasionally, the local agency managing a project and its contractor will need to change the terms of the construction contract, which requires a contract modification.

A contract modification, also called a change order, must be drafted by the project resident or local administrator – NOT the contractor. If a local agency expects MaineDOT to participate in a modification, MaineDOT’s construction manager must concur with the change before any associated work begins. Otherwise, MaineDOT may deny reimbursement for work covered by a modification.

A draft contract modification must be sent to MaineDOT for review using Letter 18, found on page 11-18 of this chapter, with two pieces of information:

- An independent cost estimate for the additional work; and
- A statement addressing the associated contract time. If there is no change, write **0 days**.

A contract modification form may be downloaded from the MaineDOT website:
www.maine.gov/mdot/lpa/docs/lpadocs/2018/ContractMod2018.doc

A contract modification generally is necessary for any of the following:

- A change in the specifications;
- A substitution of materials;
- A change in the testing requirements;
- A changes or extra work within the scope of the contract;
- A design change beyond the scope of the contract;
- Adding payment or credit for incentives/disincentives to the contract terms; and
- An increase or decrease of 25 percent or more in any major item, defined as 10 percent or more of the contract amount.
- A change in the completion date or a time extension not covered elsewhere.

11.5 Construction Documentation

Keeping accurate, detailed records is vital to overseeing and inspecting a project. This section provides basic guidance on preparing field records. Covered on the next two pages are the typical documents, with an explanation of how to fill them out.

➞ For detailed information on construction documentation, refer to two online publications:

- MaineDOT Record Keeping Manual: www.maine.gov/mdot/contractors/support/
- MaineDOT Construction Manual: www.maine.gov/mdot/contractors/publications/

❏ 11.5.1: Project Diary

A project resident must keep a field book or electronic report with a daily accounting of the work performed by the general contractor and subcontractors. This document, commonly called a project diary, should log the following, at a minimum:

- ☐ Weather, since rain or cold could affect the work;
- ☐ Pay items worked on each day, by project stationing;
- ☐ The number of workers on site, with their job classifications, to be checked against contractor payrolls;
- ☐ Major pieces of equipment on site such as excavators, loaders, compactors, bulldozers, graders, pavers, and rollers;
- ☐ Field measurements by pay item number, with quantities of materials, to be checked against contractor requests for payment;
- ☐ Grade checks for items such as subgrade, top of gravel (fine-grading), ditches, and backslopes to ensure that the work meets the plans and specifications for the project;
- ☐ Drainage measurements by stationing for items such as catch basins and pipes, with computations from outlet to inlet;
- ☐ Source and disposition of excavation, borrow, gravel and pavement grindings; and
- ☐ Noteworthy events, such as:
 - Traffic accidents, which also require an accident report or near-miss form;
 - Contractor adherence to the traffic control and erosion control plans;
 - Directives given to the contractor by the project resident;
 - Discussions with property owners and other abutters; and
 - Disputes with the contractor or issues with quality that could lead to a claim.



Refer to Appendix 11C, starting on page 11-22, to find sample field book entries.

❑ 11.5.2: Drainage Book

A stand-alone drainage book may be needed for complex, urban projects with a multitude of catch basins and pipes. Such supplemental documentation should be used at the discretion of the project resident.

Each run of pipe and catch basin should have a separate page in the drainage book. The book should note items such as length of pipe installed, catch basins installed, gravel used for traffic maintenance, undercutting and bedding material used, ledge removed (if applicable), and riprap at pipe inlets or outlets.

❑ 11.5.3: Final Quantity Book

All bid items in the contract and all work orders involving additional payment must be entered in a final quantity book. This book maintains a reference trail leading from the final pay quantity for an item to the original documentation, such as notes of inspection and acceptance, measurements, or calculations made in a daily report. Entries must be signed and dated.

The final quantity book should have one item per page, as follows:

- ☐ Item number description and quantity should be at the top of the page;
- ☐ The final quantity should be entered at the bottom and so labeled;
- ☐ Pages should be set up for original measurements or computations;
- ☐ Pages set up with a total-to-date column;
- ☐ Entries and computations initialed and dated;
- ☐ Calculation of the final quantity, after an item is completed.

11.5.4: Testing File

Before construction, MaineDOT establishes mandatory Minimum Testing Requirements for aggregates, pavement, concrete and other materials. These requirements establish the frequencies and types of materials tests to be performed.

The project resident should set up a testing file containing all test reports and other data that document the quality of materials installed on a project. The file should be set up by material and based on the Minimum Testing Requirements, which should be kept at the front of the testing file and used as a guide.

In the testing file, the resident or a designated inspector should explain the resolution of a failing test result. The resident should note, for example, whether a failing material was removed and replaced. Results of failing tests should be shared with the MaineDOT construction manager, who can assist with resolving an issue.

At MaineDOT, a testing file typically is bound by a black pressboard binder with a white label marked, "Testing File," with location and WIN. Tabs are used to identify and separate the items.

11.6 Materials Testing

Materials placed on projects with federal and state funds must meet MaineDOT's specifications. Proper testing of items such as gravel, pavement and concrete will help to ensure their performance and durability. After accepting the final PS&E package for a project, MaineDOT will prepare Minimum Testing Requirements listing the type and frequency of required tests.

Before construction, the project resident may request a meeting with MaineDOT personnel – including the construction manager and the quality-assurance engineer – to go over the testing requirements. Possible topics include the timing of tests, testing procedures and documentation.

Each test result must be logged into a testing file, as covered in subsection 11.5.4, “Testing File.” A local agency should notify the construction manager in MaineDOT's Multimodal Program if there is a failing test. In such a case, MaineDOT may help to resolve the issue.

❑ 11.6.1: Aggregates

A local agency must use an **independent, accredited laboratory** to test all aggregates incorporated into a project, such as gravels, underdrain sand, crushed stone and granular borrow. A certified inspector must obtain samples and conduct any required on-site tests for compaction and other properties, as set out in the Minimum Testing Requirements.

***Note:** The agency overseeing a project cannot use the same testing laboratory as the one doing the contractor's quality-control work. This should be covered at the pre-construction meeting.*

Refer to pre-qualification service number 804.00, Laboratory Materials Testing and Exploration: www.maine.gov/mdot/cpo/prequal/#prequal4

❑ 11.6.2: Pavement

A paving inspector certified by the Northeast Transportation Technician Certification Program (NTTCP) must be on site for paving work. The inspector will perform tasks such as checking that the pavement mix is placed at the proper temperature (275 to 325 degrees F) and preparing core samples for laboratory testing.



Pavement core samples with ID tags filled out must be taken to a **MaineDOT testing lab**, either in Freeport or Bangor, where MaineDOT staff will perform the required tests. Testing of pavements must be covered in detail at the pre-pave meeting for a project.

❑ 11.6.3: Concrete

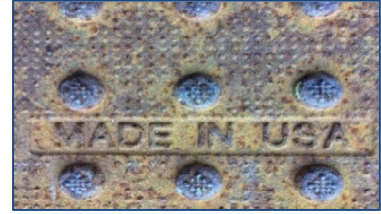
A technician certified by the American Concrete Institute (ACI) must be on site for concrete placements to test mix properties such as air content, temperature, and water/cement ratio. The technician will document the mixtures and prepare the sample cylinders that will be used to measure compressive strength and permeability at a testing lab.

Cylinders with ID tags must be taken to the closest **MaineDOT testing lab**, either in Freeport or Bangor. They should be kept in an on-site cure box for one day before being taken to the lab.

11.7 Buy America

Steel and iron products permanently incorporated into federally funded projects must be produced in the United States. Failing to comply with the Buy America Act of 1982 – known as “Buy America” – will jeopardize federal funding.

Under Buy America, covered in 23 CFR part 635.410, the manufacturing processes for steel and iron products, including the application of coatings, must occur domestically. Raw materials, however, may be sourced from outside of the United States.



Buy America on Federal Highway Administration projects commonly covers the following:

- Steel guardrail, steel piles, steel culverts, and structural and reinforcing steel;
- Structural plates and steel supports for highway signs, luminaries and signals;
- Cast iron frames and grates; and
- The application to steel products of coatings such as epoxy, zinc (galvanized) and paint.

Buy America is covered in section 105.11 of MaineDOT's *Standard Specifications*:
www.maine.gov/mdot/contractors/publications/standardspec/docs/2014/div100.pdf

❑ 11.7.1: Certifications

The prime contractor must provide mill certifications for steel and iron products, along with manufacturer certifications for product coatings. The contractor also must certify that all products subject to Buy America comply with the law. The project resident must verify these certifications before the contractor may install permanent products subject to Buy America.

❑ 11.7.2: Other Work on Federal Contracts

Buy America applies to all work under federally funded contracts – including work performed without federal money. If utility work paid for with local funds is added to a federal contract, for example, Buy America generally will apply to that work.

❑ 11.7.3: Exceptions

MaineDOT expects steel and iron products installed on federal-aid projects to comply with Buy America. If a local agency during design believes that Buy America cannot be met – or if a contractor contends that certain steel or iron items subject to Buy America cannot be acquired – the MaineDOT project manager should be contacted immediately.

MaineDOT may determine that a minimal amount of foreign steel and iron is allowed. The total cost of such foreign steel and iron incorporated into a federal project cannot exceed \$2,500 or 0.1 percent of the total contract amount, whichever is greater, in accordance with MaineDOT's *Standard Specifications* and federal regulations.

➡ **Bottom line:** Federally funded projects are expected to comply with Buy America.

❑ 11.7.4: Buy America and Federal Transit Administration Projects

Buy America also applies to mass transit projects with funding from the Federal Transit Administration (FTA), which has requirements for contracts and purchases greater than \$150,000 covering:

- Iron, steel and manufactured products used in construction projects; and
- Mass transit vehicles, commonly called rolling stock.

As with FHWA projects, the FTA requires a contractor certification. If a project will have steel, iron or manufactured products covered by Buy America, each bidder must complete and submit an appropriate Buy America certification. Similarly, requests for waivers from Buy America must be submitted to the FTA, through MaineDOT, for consideration.

Note: FTA rules are found primarily in 49 CFR part 661, “Buy America Requirements.” Additionally, the FTA website has general guidance: <https://www.transit.dot.gov/buyamerica>

11.8 Project Bulletin Board

The prime contractor by law must display a series of posters on a bulletin board informing employees of their rights. The board must be installed by the first day of construction and stay in place until completion.

The bulletin board must be set up where it will be accessible to employees and the public all the time, such as outside the field office used by the contractor or project resident. It must be sealed or otherwise protected from bad weather and remain readable for the duration of a project.



A checklist, diagram and poster packet are online: www.maine.gov/mdot/civilrights/sfp/

11.9 Commercially Useful Function

The project resident on a federal-aid project must verify that a Disadvantaged Business Enterprise (DBE) firm hired to work on the project is performing the services listed in its subcontract with its own equipment and workers. This is the “Commercially Useful Function” (CUF) of the DBE company.

The resident must verify that the employees on site are listed on the DBE company’s payrolls and not on the payroll of a different company, such as the prime contractor. The resident must perform a CUF review when:

- A DBE firm initially shows up and during the peak period of the DBE’s work; and
- A DBE firm on the job site is not listed on the prime contractor’s DBE Utilization Form.

Commercially Useful Function Form is available from the MaineDOT Civil Rights Office: <https://www.maine.gov/mdot/civilrights/dbe/>

11.10 Final Inspection

Upon finishing a project, the prime contractor sends the local agency administering the project written notification that the work is considered complete. At this point, the local administrator sets up a walk-through involving the project resident, contractor, and MaineDOT's project manager and construction manager. (Use Letter 19, on page 11-20.)

Meeting at the job site, the parties inspect the project for incomplete or unsatisfactory work. Afterward, they develop a "punch list" of items that must be addressed before the local agency will accept the project as complete.

Once a final inspection determines that the contractor has addressed all punch-list items, the local agency managing a project notifies the contractor in writing that physical work is complete and in compliance with the contract.

Completion of Physical Work Notification form is found in the Construction Field Documents section of MaineDOT's LPA Documents page: <https://www.maine.gov/mdot/lpa/lpadocuments/>

11.11 Final Payment to Contractor

After sending the prime contractor a Completion of Physical Work Notification, a local agency may make final payment to that contractor under the following conditions:

- ☐ There are no claims or disagreements with quantities;
- ☐ There are no liquidated damages against the contractor;
- ☐ There is no remaining work to be done in the field; and
- ☐ The contractor has submitted the final documents listed below, as applicable:
 - Request for final payment, with statement that all bills have been paid;
 - Agreement with final quantities;
 - Buy America certifications (federal projects);
 - Materials certifications (all projects); and
 - Quality-control certification under Standard Specification 106.4.3, "Testing."

11.12 Closeout

Once a local agency has made final payment to its contractor, the local project administrator should request from MaineDOT's project manager an accounting of MaineDOT's internal charges to a project, as described in Chapter 1 of this Manual, "Administration & Finance."

Upon receiving the documentation, the local administrator should calculate the matching share of those charges and send MaineDOT's project manager a final invoice formatted after Letter 20. (An example of this letter is found on page 11-21).

The local share of MaineDOT's charges will be deducted from the final reimbursement payment to the local agency managing a project. Upon making final payment, MaineDOT will terminate the local agency agreement signed at project kickoff and then close out the project.

11.13 As-Built Plans

As-built plans are the original design plans that have been revised in the field to document a project as constructed. They are used as a reference for future design and maintenance efforts.



“As-builts” for projects on state highways must be sent to the MaineDOT project manager as .pdf files within **90 days** of completion. Ideally, they should be submitted with the final invoice for a locally administered project.

As-builts are a full-sized set of construction plans marked up either electronically or by hand with a red medium felt-tip marker or a blue/black medium ballpoint pen. They may include alignment modifications, substitutions of materials, and additions or deletions of items.

On each revised sheet, the reviser should write in the lower right corner “Revised As-Built” and initial; on unchanged plan sheets, the reviser should write “As-Built” and initial. Upon completion of all changes, the reviser should sign and date the title sheet of the marked-up plans.

As-built plans should note changes to the following:

- ☐ Project length, showing revised beginning and end stations;
- ☐ Plan index;
- ☐ Typical cross-sections;
- ☐ Construction centerline as constructed;
- ☐ Geometrics;
- ☐ Superelevation showing revised cross-sections;
- ☐ Drainage, on plan sheets and Drainage Summary;
- ☐ Tree removals;
- ☐ Guardrail;
- ☐ Centerline profile grades;
- ☐ Entrance dimensions and their surface treatment;
- ☐ Fence locations;
- ☐ Utility locations, including conduit, foundations, junction boxes, lighting, signs;
- ☐ Structure elevations;
- ☐ Pile locations or type;
- ☐ Structural steel or precast members; and
- ☐ Structural details.

Appendix 11A: Administrative Checklist

(Updated in 2020)



CHECKLIST: CONSTRUCTION ADMINISTRATION

- ☐ Obtain Minimum Testing Requirements from MaineDOT's project manager (PM).
- ☐ Send award information to MaineDOT to enter project in the Elation payroll system.
 - ☐ MaineDOT contact is Angela Latno: (207) 624-3519 or Angela.Latno@maine.gov
 - ☐ Prime contractor and all subcontractors must be set in in the Elation system.

Pre-Construction Tasks

- ☐ Send notice of pre-construction meeting and agenda (Letter 17) to the following:
 - ☐ Contractor;
 - ☐ Utilities;
 - ☐ Construction resident;
 - ☐ MaineDOT's PM and construction manager.
- ☐ **Note:** A separate *pre-pave meeting* must be held before any paving work may take place.
- ☐ Pre-construction meeting held on: _____
 - ☐ Pre-pave meeting held on: _____
- ☐ Contractor schedule received on: _____
- ☐ Quality Control (QC) Plan and Mix Designs received from Contractor on: _____
 - ☐ Contractor must submit them at least 30 days before the work is scheduled to begin.
- ☐ Contractor Traffic Control Plan submitted to MaineDOT for review.
 - ☐ *MaineDOT Approval Date:* _____.
- ☐ Contractor Soil Erosion Water Pollution Control Plan approved by project resident.

Testing & Documentation

- ☐ Field Book created to record the following information:
 - ☐ Weather, crew & equipment, hours worked, and contractor activities;
 - ☐ Field measurements to document materials quantities for payment to the contractor;
 - ☐ Noteworthy events (accidents, discussions with owners, disputes with contractor).
- ☐ Pit authorizations completed.
- ☐ Waste area agreements completed.
- ☐ Project bulletin board erected: <https://www.maine.gov/mdot/civilrights/sfp/>
 - ☐ Condition of signs must be noted weekly in a project field book.
- ☐ Testing file set up for each item in Minimum Testing Requirements.
 - Check with MaineDOT to learn if Hot Mix Asphalt / Portland Cement Concrete plant has been inspected recently or needs to be inspected: Kevin.cummings@maine.gov
- ☐ Materials Tests:
 - ☐ Aggregates must be tested at an independent, accredited laboratory.
 - ☐ Hot-mix asphalt and concrete are tested at one of MaineDOT's labs, in Bangor or Freeport.
- ☐ Subcontractor Approvals: <https://www.maine.gov/mdot/contractors/publications/>
 - ☐ Send copies of approved subcontractor packages to MaineDOT's PM.
 - PM will arrange for the subcontractor to be added to the Elation system.

- ☐ **Federal projects: Weekly certified payrolls received electronically from all contractors.**
 - ☐ Certified payroll checked in Elation system for compliance with minimum wage rates.
- ☐ **Federal projects: Employees interviewed to verify Davis-Bacon wage rate compliance.**
 - ☐ Voluntary interviews held every 90 days with 2 covered workers from the following:
 - Prime contractor;
 - All subcontractors on site 5 or more days during a 90-day period.
- ☐ **Federal Projects: Commercially Useful Function Form sent to MaineDOT, if applicable.**
- ☐ **Federal Projects: “Buy America” (Special Provision 105).**
 - ☐ “Buy America” certifications must be received before steel and iron products are installed.
- ☐ **Progress payments to contractor:**
 - ☐ Prepare estimate and review with contractor, or receive and check estimate from contractor.
 - ☐ Once approved, process estimate and send payment to contractor.
- ☐ **Final Quantity Book created:**
 - ☐ Book set up by item numbers;
 - ☐ Pages set up for original measurements (or computations from plan dimensions);
 - ☐ Pages set up with a total-to-date column;
 - ☐ Entries and computations initialed and dated;
 - ☐ After item is completed, compute final quantity.

Contract Modifications

- ☐ **Modifications to the construction contract are handled as follows:**
 - ☐ Prepare an independent cost estimate for the additional work.
 - ☐ Note the time associated with the change. (*If no change, note 0 additional days.*)
 - ☐ Send modification to MaineDOT construction manager for review (**Letter 18**).
- ☐ **Obtain MaineDOT’s written concurrence with contract modification, by email.**
- ☐ **Send modification to contractor for signature.**
 - ☐ When contractor has signed, local project administrator signs and dates the modification.
 - ☐ Send copy of the executed modification to the contractor, with a copy to MaineDOT.

Completion

- ☐ **Final inspection performed by Municipality, MaineDOT and contractor (**Letter 19**).**
 - ☐ Inspection Date: _____.
 - ☐ Final “punch list” of items completed on: _____.
- ☐ **Final Quantity Book finalized by project resident.**
- ☐ **Completion of Physical Work Notification sent to contractor.**
- ☐ **Federal projects: Final DBE Form completed by the contractor, signed by each DBE.**
 - ☐ MaineDOT’s PM will forward to MaineDOT’s Civil Rights Office.
- ☐ **Contractor sends in request for final payment and statement that all bills have been paid.**
- ☐ **Final estimate paid and retainage released to contractor.**
- ☐ **As-built plans completed and sent to MaineDOT’s PM within 90 days (if applicable).**

Appendix 11B:

Submittals to MaineDOT

- ☐ To obtain electronic documents, go to the section labeled “Letters to MaineDOT” on the LPA Documents web page: <https://www.maine.gov/mdot/lpa/lpadocuments/>

[Date]

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

Subject: Pre-Construction Meeting
MaineDOT WIN_____

Dear _____:

Your attendance is requested at the pre-construction meeting for **[insert project scope]** in the Municipality of _____ on **[insert meeting date/time]**. I have attached an agenda for your convenience.

If you need additional information, please let me know.

Sincerely,

Local Project Administrator

Cc: [Insert Name], Construction Manager, MaineDOT Multimodal Program

**AGENDA ITEMS FOR PRE-CONSTRUCTION MEETING
(Federally Funded Project)**

1. Introductions
2. Review Scope of Project
 - a. Acknowledge Amendments
 - b. Completion Date
 - c. Liquidated Damages
3. Permits Obtained (if required)
4. Construction Safety
 - a. Primary consideration during construction
 - b. Emergency contact list including 24 hour contacts
 - c. Contractor safety plan to be provided
 - d. Traffic Control Plan (TCP) must be reviewed and approved by Maine DOT
5. Schedule for the completion of work to be provided
 - a. Are there utility issues?
 - b. Update schedule as required
 - c. Daily construction activities to be recorded
 - d. Town must pay contractor first, then request reimbursement on a monthly basis
6. Labor Requirements
 - a. Davis-Bacon wage rates apply – if project has federal money
 - b. Certified payrolls with classifications to be submitted & reviewed: Elations
 - c. Payroll labor interviews
 - d. DBE participation & CUF form
7. Construction Control
 - a. Minimum Testing Requirements
 - b. Subcontract Approval (*FHWA-1273 must be inserted in all subcontracts*)
 - c. Measurement & documentation of materials used for payment purposes
 - d. Engineering oversight of activities
 - e. Manufacturer's certification for materials
 - f. Soil Erosion and Water Pollution Plan (SEWPCP)
 - g. Quality control plans, mix design submittals, pre-pave meeting
 - h. Buy America: steel/iron product certifications must be received before payment for that item, if a project has federal money
8. Submittals
 - a. Requests for Information (RFIs)
 - b. Change Orders require MaineDOT review; must include detailed description of scope change, independent cost estimate & time
 - c. Notification of anticipated issues, claims or disputes

[Date]

Jen Paul, Construction Manager
Maine Department of Transportation
Bureau of Project Development, Multimodal Program
16 State House Station
Augusta, ME 04333-0016

Subject: Contract Modification Request
MaineDOT WIN_____

Dear _____:

Attached for your review is Contract Modification #_____ for **[insert project scope]** in the Municipality of _____. The change will consist of **[insert description of contract modification including scope change and/or extra costs]**.

An independent estimate of the cost of the additional work is attached. This modification will add **[number of days]** to the original contract.

(Instructions: The amount of time required by the modification must be noted. If there is no change in the schedule, then state “0 days” or indicate that the modification will not change the amount of time associated with the contract.)

If you need additional information, please let me know.

Sincerely,

Local Project Administrator

Cc: MaineDOT Project Manager

PROJECT DESCRIPTION:	
CONTRACT MOD. NO.:	
PROJECT WIN:	
MUNICIPALITY:	
DATE ISSUED:	

To: _____, you are hereby notified, the following work is to be accomplished in accordance with the provisions of your Contract. The work will not be considered authorized for payment without the required signatures. Payment will be made as described.

(By signing this Order, the Contractor agrees that all issues, including time, relating to the described work are satisfactorily resolved by this Order. No other compensation will be sought or made.)

DESCRIPTION:

--

REASON:

--

COST:

--

Amount of this Order: \$

Original Contract Amount	\$
Total Cost of this Contract Modification	\$
Total Cost of all Contract Modifications Including this Mod	\$
Percentage of Contract for this Mod	%
Total Percentage of Contract including all Mods	%
Total Contract Amount Including this Mod	\$

Additional Days Added (This Mod):	New Completion Date:
-----------------------------------	----------------------

TITLE:	SIGNATURE:	DATE:
Resident or Inspector		
Contractor		
Municipality		

[Date]

Jen Paul, Construction Manager
Maine Department of Transportation
Bureau of Project Development, Multimodal Program
16 State House Station
Augusta, ME 04333-0016

Subject: Final Inspection, MaineDOT WIN_____

Dear _____:

Your attendance is requested at the Final Inspection for **[insert project scope]** in the Municipality of _____ on **[insert date/time]**. At the time, we can make available all documentation and testing required for the project.

If you need additional information, please let me know.

Sincerely,

Local Project Administrator

Cc: MaineDOT Project Manager

INSTRUCTIONS: *This must be submitted on letterhead with all requested documentation.*

[Date]

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

Subject: Final Invoice and Notification of Completion of Work

MaineDOT WIN _____; Contract # _____

This Municipality of _____ certifies that the contractor has completed all work on the project in accordance with the construction contract and approved modifications, and that:

- The Municipality has accepted the work;
- The Municipality has measured and reconciled final quantities with the contractor, with all supporting documentation of such;
- The Municipality has paid all contracted parties in full; and
- There are no outstanding claims or disputes associated with the project.

Accordingly, the Municipality submits this final invoice with supporting documentation requesting reimbursement of \$_____ as MaineDOT's _____% share of expenditures for the invoice period, _____. I understand that the Municipality's _____% share of MaineDOT's internal charges to the project will be reconciled and deducted from this final invoice.

Also attached are the Consultant Evaluation and the Contractor Evaluation for the project.

By signing this invoice, I certify to the best of my knowledge and belief that the information provided is true, complete, and accurate, and the expenditures, disbursements, and cash receipts are for the purposes and objectives set forth in the terms and conditions of the federal funding award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729-3730 and 3801-3812.)

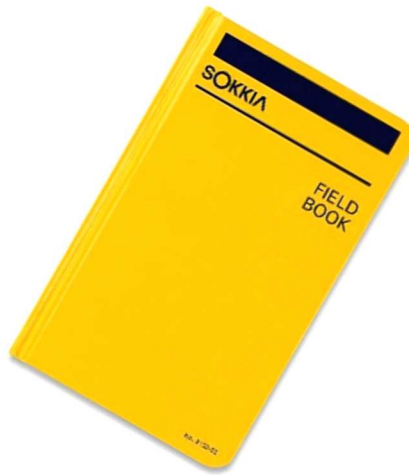
Sincerely,

_____, Local Project Administrator

Enclosure: Final billing

Appendix 11C:

Sample Field Book Entries



DATE	DAY	WEATHER
MDOT:		
CONTRACTOR		
SUB CONTRACTOR		
PERSONNEL		
EQUIPMENT		
WORKING HOURS		
PROJECT ACTIVITIES:		
ITEM NUMBER, LOCATION & LIABLE CONTR/SUB		
SOURCE AND DISPOSITION OF ANY EXCAVATION		
SOURCE AND DISPOSITION OF GRAVEL AND BORROW		
NON-ROUTINE ACTIVITIES		
A: CONTRACTORS' NON ADHERANCE TO CONTRACT SPEC'S: MTCD'S & SEWPC		
B: MDOT DIRECTIVES GIVEN TO CONTRACTOR IE: C/O RELOCATIONS, CHANGES IN DESIGN, UNDERCUTTING & REWORK.		
C: CONTRACTOR IS INADEQUETLY STAFFING THE JOB FOR THE TYPE OF WORK		
D: ANYTHING RELATED TO POTENTIAL CONTRACTOR CLAIMS		
E: ANY DISCUSSIONS WITH TOWN OFFICIALS, UTILITIES, DEVELOPERS AND ABUTTERS		
G: TRAFFIC ACCIDENTS & OTHER HAZARDS		
ENTERED BY : NAME & DATE		

6/12/2002	FRIDAY	SUNNY 80'S
MDOT:	BILL BITTERMAN, RESIDENT	
	BILLY BOB BENNET, INSPECTOR	
M&H:	6:00AM TO 5:00 PM	
	1 SUPT	1 COMPRESSOR
	5 WORKERS	2 TRUCKS
	2 LARGE EXC.	1 5 TON VIB ROLLER
	1 APE	1 CHAMPION GRADER
	1 D6 DOZER	
HASTINGS	TREE REMOVAL SERVICES	
ITEMS	652.361 AND 656.75	
MTCD AND SEWPC	INSPECTED AND ACCEPTED FOR THE WEEK	
ITEM 201.23	SINGLE TREE	
	HASTINGS CUT AND REMOVED SINGLE TREE AT THE	
	THE CORNER OF PINE STREET AND RT 4	
ITEM 603.159	12" OPT III CULV PIPE	
	INSTALLED 12" OPT I CULV PIPE AT STA 12+56 RT	
ITEM 604.097	6' B1-C CATCH BASIN	
	INSTALLED AT STA 12+56 RT	
ITEM 631.2	STUMP CHIPPER	
	HASTINGS USED STUMP CHIPPER TO GRIND 2 STUMPS	
M&H	MULCHED ALL DISTURBED AREAS	
	COMPLAINT FROM BILL SIMPSON , PROJ SUPT ABOUT DELAYS	
	FROM UTILITIES NOT SHOWN ON PLANS AS WELL AS SLOW	
	PRODUCTION. HE THEY WILL KEEP RECORDS FOR POSSIBLE	
	CLAIM. HE HAS ALSO REQUESTED INFORMATION ON	
	ALTERNATE WORK AT THE OTHER END OF THE PROJECT	
	STA 42+50 TO 45+75	
	ENTERED BY : BILL BITTERMAN 6-12-02	

6/16/02	MONDAY	FAIR 60'S
MDOT:	BILL BITTERMAN, RESIDENT BILLY BOB BENNETT, INSPECTOR	
M&H:	6:00AM TO 5:00 PM 1 SUPT 5 WORKERS 2 LARGE EXC. 1 APE	1 COMPRESSOR 2 TRUCKS 1 5 TON VIB ROLLER 1 CHAMPION GRADER
ITEM 304.10	STA 3+00 TO 4+25 AFTER PLACING/COMPACTING LOWER LAYER OF ASC GRAVEL, THE SUBGRADE MATERIAL BEGAN TO PUMPING INTO THE LOWER ASC GRAVEL LIFT. THE RESIDENT DIRECTED THE CONTRACTOR TO EXCAVATE AND REMOVE THE CONTAMINATED GRAVEL. ROADWAY STABILIZATION GEOTEXTILE WAS THEN PLACED ON THE SUB-GRADE SURFACE BEFORE PLACING ASC GRAVEL. THIS WORK WILL BE PAID UNDER ITEM 203.20 COMMON EXC AND 304.10 ASC-GRAVEL. REF TO BOOK 4 PAGES 5 THROUGH 7 FOR FIELD MEASUREMENTS ROADWAY STABILIZATION GEOTEXTILE WILL BE PAID PER RESIDENTS WORK ORDER #1 (AMOCO 2006 INSTALLED)	
	THERE WAS AN ACCIDENT ON THE PROJECT TODAY AT STA 2+25 AT 10:00 AM +/-, VEHICLE NO 1 (FORD EXPLORER PLATE NO 4356 JJ) REAR-ENDED VEHICLE NO 2 (CHEVY S-10 PLATE NO 763784 I) WHICH WAS STOPPED FOR FLAGGER ED KNOWLES WITHIN THE WORK ZONE. THE ACCIDENT WAS INVESTIGATED BY JOEL RAMICH OF THE FARMINGTON POLICE DEPT. ALL SIGNS WERE UP AND TRAFFIC CONTROL DEVICES WERE SATISFACTORY. REFER TO CORRESPONDENCE FILE FOR A COPY OF THE POLICE/ACCIDENT REPORT COMPLETED ACCIDENT REPORT AND FORWARDED TO THE MDOT LEGAL DEPT.	
ENTERED BY :	BILL BITTERMAN 06-16-02	

6/17/02	MONDAY	FAIR 70'S
MDOT:	BILL BITTERMAN, RESIDENT BILLY BOB BENNETT, INSPECTOR	
M&H:	6:00AM TO 6:00 PM 1 SUPT 5 WORKERS 2 LARGE EXC.	1 COMPRESSOR 2 TRUCKS 1 5 TON VIB ROLLER
SUB:	PIKE IND, 4 ROLLERS, 1 PAVER, 12 TRUCKS, 1 SERVICE TRUCK, 1 WATER TRUCK & 1 BOBCAT.	
PERSONNEL:	1 SUPT, 1 FOREMAN, 7 SKILLED, 12 UNSKILLED, 2 LABORERS & 2 QC/QA WORKERS	
ITEM 304.104	FINEGRADE COMPLETE AND ACCEPTED STA 22+00 TO 35+25	
ITEM 403.207	PAVING OPERATIONS BEGAN AT STA 22+00 TO 35+25	
	CALL FROM BILL COBURN-FABRICATION INSPECTOR RE: CONCRETE CURBING. BILL HAD SOME CONCERNS ABOUT THE PERMIABILITY. HE WILL VISIT GAGNE THEIR VEAZIE TOMORROW AND WILL E-MAIL ME THE RESULTS OF THE TEST IF THERE IS A PROBLEM, REFER TO CORRES. FILE FOR RECORD.	
ITEM 211.20	STA 2+00 TO 5+00, EXCESS MATERIALS FROM INSLOPE WORK REMOVED AND TAKEN TO APPROVED WASTE AREA (SMITH PIT)	
ITEM 203.20	STA 2+00 TO 12+00, PIKES RECLAIMER ON PROJECT, STA 2+00 TO STA 5+00 TO REMOVE PVT IN FULL EXCAVATION AREA, LOADER PLACING MAT'L IN TRUCKS TO BE STOCKPILED ON SITE AND PLACED AS ASG AT A LATER DATE. TO BE PAID AS COMMON EXC AND ASG. RECLAIMED STA 5+00 TO 12+00, GRADED AND COMPACTED, TO BE PAID AS 307.	
DENNY DOYLE, MDOT	ON SITE TO TEST 307 COMPACTION	
ENTERED BY :	BILL BITTERMAN 6-17-02	

[illegible][illegible]

203.25 GRANULAR BORROW

600 CY @ \$12.00

STA	STA	QTY	ACC. QTY	ENT BY	DATE
30+00	32+00	275	275	BBB	37478
33+28 RT		21.43	276.43	BBB	
19+00	19+75	42.5	318.93		

FINAL PAY QUANTITY: 318.93 CY

ENTERED BY : BILL BITTERMAN 11-08-02

CHECKED BY: ABC 1-2-03

REF

NOTE: THE ENGINEERS ESTIMATE WAS REVIEWED AND APPEARS TO BE REASONABLE AND ACCURATE.

REF: RWO NO 1: CONTRACTOR AGREED TO PLAN QTY PAYMENT PLUS ANY ADDITIONAL EXCAVATION OUTSIDE OF EXCAVATION LIMITS OR AS DIRECTED.

BK 4 PG 2 MULTI PLATE BACKFILL COMPLETED TO PLAN 5 & SPEC

BK 4 PG 2 FOR ADDITIONAL EXCAVATION (UNDERCUT)

BK 4 PG 2 MAINTENANCE OF TRAFFIC

[illegible][illegible]

631.12 ALL PURPOSE EXCAVATOR (INCL OPERATOR)

DREW NO.	NO OF HRS	ACCUM HRS	ENT BY	DATE
1	2 ✓	2 ✓	BBB	7/1/2002
2	10 ✓	12 ✓	BBB	7/6/2002
3	3 ✓	15 ✓	BBB	7/16/2002
5	8 ✓	23 ✓	BBB	7/25/2002
6	10 ✓	33 ✓	BBB	8/5/2002
8	8 ✓	41 ✓	BBB	8/12/2002

TOTAL

41 ✓

FINAL PAY QUANTITY: 41 HRS ✓

ENTERED BY : BILL BITTERMAN 11-08-02

CHECKED BY: ABC 1-2-03 ✓

20HRS @ 100.00/HR

REF

INSP DIARY BK 4 PAGE 4

INSP DIARY BK 4 PAGE 12

INSP DIARY BK 4 PAGE 13

INSP DIARY BK 4 PAGE 22

INSP DIARY BK 4 PAGE 55, REF CONTRACT MOD #5

INSP DIARY BK 4 PAGE 56, REF CONTRACT MOD #5

652.33 DRUMS

DATE COUNTED	EA	REF	ENT BY	DATE
9-27-01	10	DIRECT ENT	BBB	9/27/2002
10-15-01	22		BBB	10/05/2002
10-30-01	22		BBB	10/10/2002
10-25-01	36		BBB	10/25/2002
11-05-01	66	BK 3 PGE XX ✓	BBB	11/5/2002
11-10-01	25	DIRECT ENT	BBB	11/20/2002
11-17-01	30	DIRECT ENT	BBB	12/5/2002

MAXIMUM AMOUNT = 66 DRUMS ✓

FINAL PAY QUANTITY: 66 EA ✓

ENTERED BY : BILL BITTERMAN 12-10-02

CHECKED BY: ABC 1-2-03 ✓

50 EA @ \$65.00

656.75 TEMP SOIL EROSION AND WATER POLLUTION

ACCEPTED	INSPECTED	WEEK ENDING
O.K.		8/8/2002
	O.K.	8/15/2002
	O.K.	8/22/2002
	O.K.	8/29/2002
	O.K.	9/6/2002
	REF TO REMARKS	9/10/2002
	REF TO REMARKS	9/11/2002
	O.K.	9/13/2002
	O.K.	9/20/2002

FINAL PAY QUANTITY: 1 LS OF \$20,000 ✓

ENTERED BY : BILL BITTERMAN 11-08-02

CHECKED BY: ABC 1-2-03 ✓

1 L.S. @ \$20,000

REMARKS
MIKE CLARK, OES, REVISED AND APPROVED SEWPCC, PAY 10%

PAID 50%

- ✓ DEDCUT \$100 FOR NON COMP TO PLAN, REF TO CORRESPONDENCE DATED 9/10/02 AND PROJECT DIARY PAGE 45
- ✓ DEDCUT \$100 FOR NON COMP TO PLAN, REF TO CORRESPONDENCE DATED 9/11/02 AND PROJECT DIARY PAGE 70

NOTE: THE DEDUCTIONS ARE MADE UNDER SAME ITEM #
W.O. SS, FOR A \$200 LS DEDUCT

SUBGRADE CHECKS

LEFT		STA	RIGHT	
16'	12'		12'	16'
CHECKED & FOUND TO BE WITHIN ALLOWABLE TOLERANCES, ENT BY BBE 8-2-02		15+00	CHECKED & FOUND TO BE WITHIN ALLOWABLE TOLERANCES, ENT BY BBE 8-2-02	
		15+50		
		16+00		
		16+50		
		17+00		
		17+50		
		18+00		
CHECKED & FOUND TO BE WITHIN ALLOWABLE TOLERANCES ENT BY BBE 8-3-02		18+50	CHECKED & FOUND TO BE WITHIN ALLOWABLE TOLERANCES ENT BY BBE 8-3-02	
		19+00		
		19+50		
		20+00		
		20+50		
		21+00		
CHECKED BY B. SMITH 10-10-02				

NOTE: DEPTHS EXPRESSED IN INCHES BELOW C-1' F.6

LEFT		STA	RIGHT	
16'	12'		12'	16'
-2%	-2%	15+00	-2.0%	-2%
25"	24"	21"	24"	24.75"
-2%	-1.50%	15+50	-2.0%	-2%
24.25"	23.25"	21"	24"	24.75"
-2%	-1.0%	16+00	-2.0%	-2%
23.5"	22.5"	21"	24"	24.75"
-2%	-0.50%	16+50	-2.0%	-2%
22.75"	21.75"	21"	24"	24.75"
-2%	+1.0%	17+00	-2.0%	-2%
20.5"	19.5"	21"	24"	24.75"
-2%	+2.5%	17+50	-3.0%	-3.0%
18.5"	17.5"	21"	25.25"	26.75"
-2%	+4.0%	18+00	-4.0%	-4.0%
16.25"	15.25"	21"	26.25"	28.75"
-2%	+4.0%	18+50	-4.0%	-4.0%
16.25"	15.25"	21"	26.25"	28.75"
-2%	+2.5%	19+00	-3.0%	-3.0%
18.5"	17.5"	21"	25.25"	26.75"
-2%	+1.0%	19+50	-2.0%	-2%
20.5"	19.5"	21"	24"	24.75"
-2%	-0.5%	20+00	-2.0%	-2%
22.75"	21.75"	21"	24"	24.75"
-2%	-1.5%	20+50	-2.0%	-2%
24.25"	23.25"	21"	24"	24.75"
-2%	-2.0%	21+00	-2.0%	-2%
25"	24"	21"	24"	24.75"
CHECKED BY B. SMITH 10-10-02				

~~FINEGRADE CHECKS~~

The diagram shows a cross-section of a road with a total width of 16 feet. The left side is a 12-foot lane, and the right side is a 4-foot shoulder. The stationing is marked from 15+00 to 21+00. The diagram includes notes on allowable tolerances and a check status.

STATION	LEFT (12')	RIGHT (4')
15+00	CHECKED & FOUND TO BE WITHIN TOLERANCES, ENT BY BBB 8-2-02	CHECKED & FOUND TO BE WITHIN TOLERANCES, ENT BY BBB 8-2-02
15+50		
16+00		
16+50		
17+00	CHECKED & FOUND TO BE WITHIN TOLERANCES, ENT BY BBB 8-3-02	CHECKED & FOUND TO BE WITHIN TOLERANCES, ENT BY BBB 8-3-02
17+50		
18+00		
18+50		
19+00	CHECKED & FOUND TO BE WITHIN TOLERANCES, ENT BY BBB 8-3-02	CHECKED & FOUND TO BE WITHIN TOLERANCES, ENT BY BBB 8-3-02
19+50		
20+00		
20+50		
21+00	CHECKED & FOUND TO BE WITHIN TOLERANCES, ENT BY BBB 8-3-02	CHECKED & FOUND TO BE WITHIN TOLERANCES, ENT BY BBB 8-3-02

NOTE: DEATHS EXPRESSED IN INCHES BELOW C-1'

LEFT		STA	RIGHT	
16'	12'	15+00	12'	16'
-2%	-2%	15+00	-2.0%	-2%
4"	3"	0"	3"	4"
-2%	-1.50%	15+50	-2.0%	-2%
3.25"	2.25"	0"	3"	4"
-2%	-1.0%	16+00	-2.0%	-2%
23.5"	1.5"	0"	3"	4"
-2%	-0.50%	16+50	-2.0%	-2%
1.75"	.75"	0	3"	4"
-2%	+1.0%	17+00	-2.0%	-2%
-0.5"	-1.5"	21"	3"	4"
-2%	+2.5%	17+50	-3.0%	-3.0%
-2.5"	-3.5"	0"	4.25"	5.25"
-2%	+4.0%	18+00	-4.0%	-4.0%
-4.75"	-5.75"	0"	5.75"	6.75"
-2%	+4.0%	18+50	-4.0%	-4.0%
-4.75"	-5.75"	0"	5.75"	6.75"
-2%	+2.5%	19+00	-3.0%	-3.0%
-2.5"	-3.5"	0"	4.25"	5.25"
-2%	+1.0%	19+50	-2.0%	-2%
-0.5"	-1.5"	0"	3"	4"
-2%	-0.5%	20+00	-2.0%	-2%
1.75"	0.75"	0"	3"	4"
-2%	-1.5%	20+50	-2.0%	-2%
3.25"	2.25"	0"	3"	4"
-2%	-2.0%	21+00	-2.0%	-2%
4"	3"	0"	3"	4"
CHECKED BY B. SMITH 10-10-02				

END OF CHAPTER 11