LPA PARTICIPATION REQUIREMENTS

The Federal Highway Administration (FHWA) permits the Ohio Department of Transportation (ODOT) to delegate project activities on Federal-aid projects to Local Public Agencies (LPAs). However, ODOT is ultimately responsible and, as such, must assure local compliance with all Federal and State laws, regulations, and policies. LPA participation is at ODOT’s discretion; it is a privilege and not a right. In order to uphold the integrity of ODOT’s Local-let program, and as evidence of their capability to administer a Local-let construction project, LPAs must possess a minimum organizational structure, credentialed employees, and certain documented processes and experience. These considerations apply to more than just the specific project development disciplines associated with design and construction. The considerations also apply to general aspects of public business, fiscal accountability, and other applicable requirements associated with Federal and State funding. Through the qualification process outlined in this chapter, ODOT determines if an LPA possesses the qualified staff, experience, and management oversight to successfully administer a project from preliminary development through project completion.

An LPA seeking qualification to participate in the Local-let process, must meet standardized requirements described within this chapter. General requirements include:

1) The LPA must have designated a Person in Responsible Charge to act as its authority for all ODOT delegated responsibilities and project approvals pertaining to the Local-let project.
2) All Qualification Modules MUST be completed by an LPA staff person. While the responsibility for completing the modules may be shared among the LPA staff, it is highly recommended that the LPA’s Person in Responsible Charge be the LPA staff member responsible for completing these modules on behalf of the LPA.
3) The LPA shall have sufficient expertise and capability to perform and/or supervise the design, environmental, Plans, Specifications & Estimates (PS&E), and construction administration phases of the project.
4) All LPA projects must be administered by a Licensed Professional Engineer or Architect, as applicable, registered in the State of Ohio, and who is either on staff as a public employee or contracted through a qualified engineering firm and designated as the LPA Project Engineer.
5) Projects must be administered in accordance with ODOT’s Locally Administered Transportation Projects (LATP) Manual of Procedures.

Once a project has been formally identified, the LPA may request to the ODOT District LPA Manager to administer the project utilizing the Local-let process. The LPA’s intentions should be made known prior to the initial project-scoping meeting. Upon this request, the LPA Manager will provide the LPA with ODOT’s prequalification requirements and associated forms. The qualification requirements include the eLearning training modules and the Local-let Participation Requirement Review Form. These shall be completed and submitted by the LPA to the District LPA Manager prior to the PS&E being submitted. Required criteria will be addressed as a component of the Local-let Participation Requirement Review Form, and are as follows:
1) **Person in Responsible Charge:** As provided for in 23 CFR 635.105(c) (4), an LPA must provide a full-time employee of that agency to be in “responsible charge” of the project. This individual is held accountable for ensuring all applicable Federal and State regulations are followed on the project and must have the responsibility, authority, and resources to manage it effectively. This person serves as the agency contact for all project issues or inquiries and should be familiar with project progress, involved in all decisions requiring change orders, and visit the project on a frequency commensurate with the project magnitude and complexity. This person is also responsible for ensuring the project is delivered in accordance with established milestone dates. The Person in Responsible Charge may be the project engineer provided the project engineer is a full-time employee of the public agency. In situations where the project engineer is a consultant, the Person in Responsible Charge must be a full-time employee of the LPA.

2) **Local Project Administration Training Series:** The LPA’s designated Person in Responsible Charge or other LPA staff involved with the project’s administration must complete the eLearning Local Project Administration Training Series based upon the LATP Manual of Procedures and Equal Employment Opportunity (EEO) laws. Successful completion of the training is a threshold requirement before an LPA may apply for local project administration qualification. The training series is available through Ohio’s Local Technical Assistance Program (LTAP) Center. More information and access to the training is available at: [http://www.dot.state.oh.us/Divisions/Planning/LocalPrograms/LTAP/Pages/Ohio_LTAP_eLearning.aspx](http://www.dot.state.oh.us/Divisions/Planning/LocalPrograms/LTAP/Pages/Ohio_LTAP_eLearning.aspx)

3) **Previous Project Experience:** The LPA should have previously delivered and maintained successful capital improvement projects of a similar nature, size and complexity. If the LPA has no previous experience with a Federal-aid project, previous project experience examples may include projects funded solely by the LPA themselves.

4) **Project Engineer:**

   a) The LPA’s designated Project Engineer must be aLicensed Professional Engineer registered in the State of Ohio, who has previously performed/provided similar engineering services/products (including project management) in a successful manner on comparable projects. The Project Engineer shall exercise the primary, day-to-day responsibilities over the engineering and other technical aspects of designing and constructing the project.

   b) In the event the role of Project Engineer is to be filled through an ODOT Prequalified consultant, the required separation of interests between the design and construction phase necessitates this role be divided between two distinct, unaffiliated consultant service providers with respect to the two phases of the project, resulting in both a Project Design Engineer and a Project Construction Engineer from separate providers. In unusual circumstances, a waiver of this requirement may be provided as described in the Consultant Contract Administration Chapter of this manual.
5) Project Administration Processes: The LPA must have established and documented practices for each of the following project administration components. The LPA must identify, the individual(s) responsible for the management of these processes, whether on the LPA staff or through consultant services.

a) Consultant Services Evaluation and Selection: Selection of consultants for the provision of professional services to the project must result from an objective, qualification-based selection process pursuant to State and Local laws. If Federal funds are used in a consultant agreement, the selection and contract administration must comply with Federal requirements as stated in 23 CFR 172. Geographic location of a business entity, or other restrictions on competition, may not be imposed in selecting a service provider.

b) Consultant Services Management: Established practices and processes in place to ensure each consultant is held accountable for delivering its services in a quality and timely fashion pursuant to the terms of the contractual agreement and schedule.

c) Right-of-Way Design and Acquisition: Established practices and processes must be in place to ensure property acquisition is managed and paid in accordance with the Uniform Relocation and Real Estate Acquisition Act of 1970 and/or Chapter 163 of the Ohio Revised Code. Note: At this time, all LPAs must follow ODOT’s Right-of-Way Design and Acquisition process for any Local-let projects utilizing Federal funds.

d) Environmental: Established practices and processes must be in place to ensure compliance with the proper level of coordination in accordance with the National Environmental Policy Act of 1969. Note: Due to the National Environmental Policy Act (NEPA) Assignment, all LPAs must follow ODOT’s Environmental process for any Local-let projects utilizing Federal funds.

e) Change Order Process: Established practices and processes must be in place for the review and approval of change orders on a project. This process should follow the general guidance outlined in the LPA Change Order Guidance in Appendix K of the LPA Construction Contract Administration Chapter.

f) Dispute Resolution / Claims Management Process: An established and defined process must be in place identifying, at minimum, a two-tiered approach taken in the resolution of a dispute or claim.

g) Finance, Accounting and Record Keeping: Established practices and processes must be in place to ensure all financial transactions associated with the project are properly accounted for and accurate records are maintained in this regard for subsequent audit purposes. (OBM Circular A-87 – based on 2 CRF 225 “Cost Principles for State, Local and Tribal Governments”)

h) Project Award Procedures, Policies, and Processes: Established practices and processes must be in place identifying activities associated with bid opening, review, and award.
i) Disadvantaged Business Enterprise (DBE) / Ensuring Diversity, Growth and Equity (EDGE) Business Enterprises: Established practices and processes must ensure all applicable DBE / EDGE requirements are met.

j) Davis-Bacon and/or State Prevailing Wages: Established practices and processes must be in place to ensure the proper payment, reporting and record keeping associated with Federal Davis-Bacon and/or State Prevailing Wage Requirements are met.

k) Maintenance of Project Files: Established practices and processes must ensure all required documentation is maintained in the project file and the project file is retained for a specified length of time in accordance with Federal, State, and Local laws.

The LPA must meet additional requirements not outlined on the Local-let Participation Requirement Review Form. The LPA must not be under fiscal watch or fiscal emergency for its most recently completed fiscal year. In the event the LPA is emerging from fiscal watch or fiscal emergency, the LPA must be able to clearly demonstrate it has adequate financial resources to fund matching and/or cost overruns on the project.

Additionally, the LPA must have established authority in place for executing the project. The LPA must also be willing to provide a copy to ODOT of the approved legislation allowing the mayor, county engineer or other designated local official with clear authority to enter into a project agreement with ODOT. A sample of this legislation can be found at the end of this chapter, labeled “SAMPLE LEGISLATION FOR AUTHORITY”.

An evaluation of the LPA’s Local-let Participation Requirement Review Form will be performed by the LPA Manager upon receipt into the district. The LPA Manager will provide feedback to the LPA, if necessary, as to any corrections that should be made. Once the LPA Manager is satisfied with the submission, they will send it on to ODOT’s Office of Local Programs for their review and concurrence.

Once an LPA has qualified to administer a Local-let project, the qualifications are valid for a number of years. The LPA will then complete the training modules every five (5) years and complete the Local-let Participation Requirement Review Form every four (4) years. The LPA may be asked to go through the qualification processes prior to the end of the qualification time period if there are changes in key personnel within the LPA. It will be at the discretion of the District LPA Manager to determine if this is necessary. Further, the LPA understands Federal and State laws, regulations, policies, and administrative practices might be modified from time to time and affect the implementation of the project and agrees the most recent Federal and State requirements will apply to the project, unless ODOT or FHWA issues a written determination otherwise.
SAMPLE LEGISLATION FOR AUTHORITY

Resolution/Ordinance Number ______________

The [Enter name of the Board of County Commissioners/City/Village Council here] of 
_________________________ County, Ohio, herein after known as the “Local Public Agency 
(LPA)” met with the following members present:

[Enter names of board members present here]

WHEREAS; Section 5501.03 (C) of the Ohio Revised Code provides that the Director of the 
Ohio Department of Transportation (ODOT) may coordinate the activities of the Department with 
other appropriate public authorities and enter into contracts with such authorities as necessary to 
carry out its duties, powers and functions; and

WHEREAS; the [Enter project description / name here] (herein after known as “the project”) is a 
transportation activity eligible to receive federal/state funding; and

WHEREAS; the LPA has received funding approval for the project listed above from the ODOT 
Program Manager having responsibility for the federal/state funds involved, and

WHEREAS; it is the mutual desire of both ODOT and the LPA to have the LPA serve as the 
responsible lead agency for the administration of the project; and

WHEREAS; the LPA authorizes the [Enter name of responsible party of the LPA here] to enter 
into an agreement with ODOT for the above-mentioned improvements.

NOW, THEREFORE a motion was made by ____________________ and duly seconded by 
__________________________, to adopt the foregoing resolution/ordinance.