

Memorandum

To: Programs, Projects, and Operations Subcommittee

Subject: Local Public Agency Designation

Date: July 2, 2009

From: Gerry Bowen

As you are aware, the NRD has received federal transportation funds to construct trails in the District. Currently, there are four active projects that have federal funds attached to them that as yet have not been constructed. These federal funds are administered by the Nebraska Department of Roads (NDOR), with oversight provided by the Federal Highway Administration (FHWA). The FHWA conducted an audit of the NDOR's procedures in this regard and decided that some changes were necessary.

Now in order to utilize federal transportation funds, FHWA is requiring all local public agencies (LPA), such as the District, to become certified by the NDOR to be allowed to administer those funds. This involves attending a special eight-day training course, plus completing six on-line courses. The writer has completed the required training and the District is now, or soon will be, certified as an LPA.

It needs to be pointed out that any unit of government in the state must also become certified to continue to utilize federal funds on all transportation projects, including trails, within their jurisdiction.

To complete the certification process, the attached resolution needs to be adopted by the District. Specifically, the resolution refers to the following items.

1. Consultant Selection Process – The LPA Manual requires LPA's to follow a "qualification based" selection process. The District currently selects their consultants following this method, so no basic changes are necessary. However, NDOR now must review and approve each step of the process (i.e., request for proposals, "short-listing", final selection, and contract with the selected firm).
2. National Environmental Policy Act (NEPA) – Federal regulations require that the provisions of NEPA be followed on any project receiving federal funds. This includes all environmental aspects of a project including floodplain/floodway, wetlands and 404 permitting, water quality certification, threatened and endangered species, historical properties, and "environmental justice" (a project cannot be located in an area of predominantly minority or poverty populations because it was believed that these individuals did not possess the resources to oppose the project). The District is already doing this, but several NDOR approvals will be necessary as this process plays out.
3. Uniform Relocation Assistance and Real Property Acquisition Policies Act – This federal and state law establishes a procedure for acquiring real estate for a project. The District already follows this act.

4. Federal Financial Management Systems Certification – This refers to the manner in which the District keeps and maintains project financial records. This may require some minor changes in the Accounting Department on these transportation projects. The District currently follows the federal guidelines for audits, so this should not be a problem, or inconvenience.

Management recommends that the Subcommittee recommend to the Board that the attached resolution be approved and incorporated into the District Policy Manual.

**RESOLUTION
COMBINED CONSULTANT SELECTION, NEPA, UNIFORM ACT,
FINANCIAL MANAGEMENT SYSTEMS**

Papio-Missouri River Natural Resources District

Resolution No. _____

Whereas: Certain transportation facilities (roads, streets, trails, and others) in **the Papio-Missouri River Natural Resources District** (hereinafter "the District") have been designated as being eligible for federal funds by the Federal Highway Administration in compliance with federal laws pertaining thereto;

Whereas: **the District** desires to continue to participate in Federal-Aid transportation construction programs;

Whereas: The Nebraska Department of Roads as a recipient of said Federal funds is charged with oversight of the expenditures of said funds, and;

Whereas: **the District** as a sub-recipient of said Federal-Aid funding is charged with the responsibility of expending said funds in accordance with Federal and State law, the rules and regulations of the Federal Highway Administration, the requirements of the Local Public Agency (LPA) Guidelines Manual of the Nebraska Department of Roads, including the Consultant Selection process as stated in the LPA Guidelines Manual, the National Environmental Policy Act (NEPA), the Uniform Relocation Assistance and Real Property Acquisition Policies Act (Uniform Act) and the maintaining of adequate Financial Management Systems; and.

Whereas: **the District** understands that the failure to meet all requirements for federal funding could lead to a project(s) being declared ineligible for federal funds, which could result in the District being required to repay some or all of the federal funds expended for a project(s).

Be It Resolved: The **Papio-Missouri River Natural Resources District Board of Directors** does hereby adopt and bind itself to comply with all applicable federal law, including the rules and regulations of the Federal Highway Administration, all applicable state law and rules and regulations (Nebraska Administrative Code) and the requirements of the LPA Guidelines Manual of the Nebraska Department of Roads, including the consultant selection process as stated in the LPA Guidelines Manual, the National Environmental Policy Act (NEPA), the Uniform Relocation Assistance and Real Property Acquisition Policies Act (Uniform Act) and the maintaining of adequate Financial Management Systems.

Be It Further Resolved: The **Papio-Missouri River Natural Resources District Board of Directors** does hereby designate the following as responsible for the management of the following processes:

Consultant Selection process: **the District's General Manager**

The National Environmental Policy Act (NEPA): **the District's General Manager**

The Uniform Relocation Assistance and Real Property Acquisition Policies Act (Uniform Act): **the District's General Manager**

The following individual is hereby authorized to sign the Financial Management Systems Certification attached to this Resolution: **John Winkler**

Adopted this _____ day of _____, 2009 at Omaha, Nebraska.

Papio-Missouri River Natural Resources District

Chairperson

Attest

LOCAL PUBLIC AGENCY (LPA)

FINANCIAL MANAGEMENT SYSTEMS CERTIFICATION

Name of Local Public Agency Papio-Missouri River Natural Resources District

Date: August 13, 2009

The above-named local public agency (LPA) certifies that the financial management systems and procedures used by them meet all requirements set forth by the Nebraska Department of Roads (NDOR) and the Federal Highway Administration (FHWA), and are sufficient to satisfy all applicable financial management system standards set forth in 49 CFR Part 18, Uniform Administrative Requirements for Grants & Cooperative Agreements to State & Local Governments, and all the requirements set out on the attachment to this certification document.

By signing this document, the above-named LPA certifies that the local systems and procedures provide an accurate representation of the financial transactions associated with Federal-aid projects, and that financial records are maintained for subsequent audit purposes. In the event the LPA determines that a financial transaction is not accurately shown on the LPA's financial records, the LPA agrees to notify the NDOR and FHWA and disclose and correct the details of that financial transaction. Further, if it is determined that the LPA's systems are no longer compliant with all requirements of the first paragraph of this certification then the LPA will modify their system(s) to make them compliant and submit a new certification to NDOR.

The person signing below hereby certifies that he or she is duly authorized to sign this document and that the statements contained herein are true and correct to the best of his or her knowledge and belief. This certification is submitted with an attached resolution of the governing board or council of the LPA authorizing the following individual to sign this document.

LPA's Authorized Representative

John Winkler _____
(Print Name) (Signature) (Date)

STATE OF NEBRASKA)

)ss.

COUNTY OF Douglas)

Subscribed, sworn to and acknowledged before me by John Winkler,

this day _____ day of _____, 2009

Signature Notary Public

NDOR conditionally accepts this certification pending successful completion of an audit by NDOR verifying the statements contained herein.

NDOR _____
Controller Division Head Date

NDOR _____
Local Projects Division Head Date

**LOCAL PUBLIC AGENCY (LPA)
FINANCIAL MANAGEMENT SYSTEMS CERTIFICATION
ATTACHMENT**

Name of Local Public Agency **Papio-Missouri River Natural Resources District**

Date: August 13, 2009

Additional Financial Management System Requirements

A. The LPA is responsible for maintaining an adequate financial management system and will immediately notify the NDOR when the LPA can no longer comply with the requirements established below.

B. The LPA's financial management system shall provide for:

Financial Reporting: The LPA must maintain accurate, current and complete disclosure of the results of the financial audits of Federal financially-assisted activities in conformity with generally accepted principles of accounting, and reporting in a format that is in accordance with the financial reporting requirements of the Federal-aid program.

Accounting Records: The LPA must maintain records that adequately identify the source and application of funds for Federal financially-assisted activities. These records must contain information pertaining to Federal financial assistance and authorizations, project expenditures to date and the project funds remaining and available to pay for future expenditures. The LPA agrees to grant NDOR and FHWA access to these records immediately upon request.

Internal Control: The LPA must maintain effective internal and accounting controls over all funds, property and other assets. The LPA shall adequately safeguard all such assets and assure that they are used solely for authorized purposes.

Budget Control: The LPA will maintain records for Federal financial assistance that compares actual expenditures or outlays with budgeted amounts. Financial information must be related to performance and productivity data including the development of unit cost information.

Allowable Cost: The LPA must have procedures for determining whether costs are reasonable, allowable, and allocable; consistent with State and Federal requirements.

Source Documentation: The LPA must maintain, or cause to be maintained, the source documentation for its accounting records.

C. The NDOR will periodically review the adequacy of the financial management system of any applicant for financial assistance, as part of a pre-award review or at any time during the Federal-aid project. If NDOR determines that the LPA's accounting system does not meet the standards described in paragraph B above, the NDOR will require remedial action by the applicant to maintain eligibility for federal assistance. Failure to comply with any requirements imposed by the NDOR may result in sanctions as identified in Chapter 15 of the LPA Guidelines Manual.