



REQUEST FOR PROPOSALS TITLE PAGE

Include This Page as the First Page in Your Proposal Response

City of Lynchburg, Virginia Procurement Division

Proposal Title: **Engineering Design Services for Linkhorne and W. M. Bass Elementary Schools Safe Routes to Schools Grants**

This is the City of Lynchburg's Request for Proposals (RFP) No. 14-915, issued May 16, 2014. Direct inquiries for information should be directed to Stephanie Suter: e-mail: stephanie.suter@lynchburgva.gov; Phone: 434-455-3963; Fax: 434-845-0711. All requests for clarification of or questions regarding this RFP must be made in writing and received by 2:00 p.m., June 5, 2014. All responses to this solicitation shall be in strict accordance with the requirements set forth in this RFP document and the ensuing contract documents.

Sealed proposals will be publicly accepted prior to **4:00 p.m., June 12, 2014**; however, only the names of firms responding will be available for announcement. Proposals received after the stated due date and time shall not be considered. Submit proposals in a sealed, opaque envelope, and put the RFP number, title, due date and time on the lower left front. Offerors are responsible for having their proposal stamped by Procurement Division staff before the deadline indicated above and acknowledge all addenda so issued in the space provided below. Any alteration or changes to this RFP will be made only by written addendum issued by the Procurement Division, and all Offerors are responsible for obtaining issued addenda from the City's Procurement website: <http://www.lynchburgva.gov/current-solicitations>.

Acknowledge receipt of addenda here: No. _____ Date: _____ No. _____ Date: _____

Submit Proposals: BY MAIL, GROUND DELIVERY, OR HAND DELIVER TO:

Procurement Division
Third Floor City Hall
900 Church Street
Lynchburg, Virginia 24504

Information the Offeror deems Proprietary is included in the proposal response in section(s): _____

See Paragraph B. on page 2 for guidelines on submitting proprietary information.

In compliance with this Request for Proposals and all the conditions imposed therein, the undersigned offers and agrees to furnish the services in accordance with the attached proposal or as mutually agreed by subsequent negotiations. By my signature below, I certify that I am authorized to bind the Offeror in any and all negotiations and/or contractual matters relating to this Request for Proposals and that the firm has no potential conflicts of interest with this project. Sign in ink and type or print requested information.

Full Legal Name of Offeror: _____

Fed ID OR SOC. SEC. NO.: _____ Date: _____

Address: _____ Phone: () _____

_____ Fax: () _____

Signature: _____

Typed or Printed Name, Title

City Procurement Manager's Signature

I. SUBMISSION OF PROPOSALS

- A. **An original (1), so marked, and (5) copies, so marked, for a total of (6)** of your proposal document are required. In addition, one (1) copy of proposal in an electronic format, either floppy disk or CD in Microsoft Word format or PDF file format must also accompany your proposal. The City will not assume responsibility for reproduction where an insufficient number of copies have been supplied. In any such case, the City will notify the Offeror of the deficiency and request that the appropriate number of copies be delivered within 24 hours. Failure to comply with this or other requirements of this Request for Proposal shall be grounds for the City to reject such proposals. Telegraphic or facsimile submission of proposals is not acceptable and any such proposals will not be considered. Nothing herein is intended to exclude any responsible Offeror or in any way restrain or restrict competition. All responsible Offerors are encouraged to submit proposals.
- B. Submission of Proprietary Information: Trade secrets or proprietary information submitted by an Offeror in connection with this procurement transaction shall not be subject to public disclosure under the Virginia Freedom of Information Act; however the Offeror must invoke the protection of this section prior to or upon submission of the data or the materials, and must identify the data or other materials to be protected and state the reason why protection is necessary (Section 2.2-4342F of the Code of Virginia). **Offerors shall submit, in a separate section of the proposal, any information considered proprietary and any copyrighted material and clearly identify the information as proprietary and/or copyrighted information. Offerors may not declare their entire proposal proprietary nor may they declare proposed pricing to be proprietary.**

References may be made within the body of the proposal to proprietary information; however all information contained within the body of the proposal not in the separate section labeled proprietary shall be considered Public Information.

- C. Proposals having any erasures or corrections must be initialed by the Offeror in ink.
- D. The City reserves the right to accept or reject any or all proposals, to waive informalities, and to reissue any request for proposals and to award contracts to multiple Offerors. Any contract resulting from this Request for Proposal shall not be exclusive to the Successful firm. The City reserves the right to contract with firms not party to the resultant contract for similar work if it determines this to be in their best interest.
- E. By submitting a proposal response, the Offeror agrees that the proposal response will not be withdrawn for a period of 90 days following the due date for proposal responses.
- F. By submitting a proposal response, the Offeror certifies that it has not combined, conspired or agreed to intentionally rig, alter or otherwise manipulate, or to cause to be rigged, altered or otherwise manipulated its proposal response for the purpose of allocating purchases or sales to or among persons, raising or otherwise fixing the prices of the goods or services, or excluding other persons from dealing with the City.
- G. By submitting a proposal response, the Offeror certifies that its proposal is made without collusion or fraud and that it has not offered or received any kickbacks or inducements from any other Offeror, supplier, manufacturer or subcontracting firm in connection with its proposal; and that it has not conferred on any public employee having official responsibility for this procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised.
- H. The City will not be responsible for any expense incurred by any Offeror in preparing and submitting a proposal response. All proposals submitted will become the property of the City.

II. GENERAL INFORMATION AND OBJECTIVE

A. BACKGROUND

The City of Lynchburg (City) is seeking proposals from highly qualified firms interested in providing engineering services for the recently awarded grants from the Federal Safe Routes to School Program (SRTS). The purpose of this project is to provide safe pedestrian enhancements within a half mile radius around two local elementary schools: Linkhorne and William Marvin Bass. These enhancements will help provide safe, healthy, and environmentally friendly transit options for children living within reasonable walking and biking distances from their school. The SRTS program application, which included approved Travel Plans showing potential pedestrian improvements in the designated areas, was approved in November 2013 by the Virginia Department of Transportation. Engineering Services will include, but are not limited to the following tasks: conduct meetings with appropriate City, State and Federal regulatory agencies, explore and recommend different design options, prepare detailed plans, specifications and cost estimates, preparation of contract and bid documents, and provide optional construction phase services to include administration and inspection.

The design will be done according to City, Virginia Department of Transportation (VDOT) and Federal Highway Administration (FHWA) standards.

Responding firms will be required to identify specifically the availability/qualifications of proposed project members assigned to provide these services, current work load, and projects of the firm which illustrate capabilities relevant to this project.

Grant application documents including proposed budgets and neighborhood maps are attached.

B. REQUEST FOR PROPOSAL ATTACHMENTS

1. Attachment A: Disadvantaged Business Enterprises
 - a. Disadvantaged Business Enterprises Policy
 - b. Firm Data Sheet
 - c. DBE and SWAM Payment Compliance Report
2. Attachment B: Title VI Assurance
3. Attachment C: Environmental Requirements

C. SCOPE OF WORK

The following phases include all activities required by the Consultant to undertake and accomplish a full and complete project design, including (but not limited to):

Design Phase:

Design shall only commence after the consultant has reviewed and obtained a thorough understanding of the adopted Travel Plans. All design options shall be in accordance with the plan unless sufficient justification is presented and approved by the City.

1. Complete all necessary state and federal environmental reviews or coordinate their completion with VDOT.
2. Participate in a public involvement meeting and any other community meetings conducted by the City and provide displays and other communication services or material as necessary for their conduct and assist in answering questions. Develop materials and prepare to answer questions at Council meetings as necessary.
3. Provide a design for all sidewalks as shown in the Travel Plans, designed in accordance with City of Lynchburg specifications, 2012 and in ADA compliance. Coordinate this design with the Campbell

Avenue Corridor Master Plan cross sections and phasing. This may include site excavation and/or construction of retaining walls.

4. Provide a design for all crosswalks from sidewalk to sidewalk, including handicap ramps, as shown in the Travel Plans to be ADA compliant. This shall include all appropriate signage and pavement markings.
5. Provide a design for all controlled pedestrian crossings as designated in the Travel Plans. This will involve determining the best approach for pedestrians / bicyclist to cross and may also involve researching other similar crossings. This will also include all appropriate signage and pavement markings.
6. Provide all surveying and geotechnical engineering services as needed for project design.
7. Account for the relocation of any interfering existing utilities in all designs.
8. Design a sitework/grading plan for all areas within the improvement zone. Include specialty items such as retaining walls where necessary.
9. Create a profile and cross-sections at all necessary intervals to accurately reflect the design area.
10. Design stormwater management elements for the design area. This may include working with the Department of Water Resources on best management practices (BMPs).
11. Design Erosion & Sediment Control plans.
12. Survey, draw plats, and provide acquisition assistance for all easement/right of way necessary for this project.
13. Design a traffic plan that addresses any partial and temporary road closures.
14. Prepare 50%, 90%, and final (100%) documents, plans and specifications based on preliminary plan approval through the Technical Review Committee (TRC) process and in accordance with applicable Local, State and Federal regulations and requirements.
15. Print and provide necessary copies of engineering drawings, plats (as needed) and final contract specifications.
16. Plans shall be prepared in the latest available version of AutoCAD and final plans will be provided in hard copy and electronic formats.

Bidding Phase:

1. Prepare plans and specifications and obtain written approval by City Engineering, and secure all necessary State and Federal approvals, documents or signatures
2. Present completed technical specification package to the City for advertisement and public posting.
3. Attend any pre-bid conferences, review bids and recommend to the City award to the lowest responsive, responsible bidder who complies with all Local, State and Federal regulations. Engineer's recommendation must be in writing and must clearly state supporting reasoning for recommendations.

Construction Phase (optional):

1. Conduct the pre-construction conference
2. Participate in monthly progress meetings
3. Review shop drawings and monthly submittals
4. Process change orders
5. Review pay applications
6. Provide minutes for all meetings
7. Provide construction inspection as determined by the city.

D. RESPONSIBILITIES OF THE CITY

1. Conduct all bidding, addenda issuance and contracting activity. Prepare the final bid document and post the solicitation and all notifications as required. The City will pay for any advertising costs.
2. Guarantee access to and make all provisions for the Engineer to enter upon public and private property as required for the Engineer to perform his/her services under this agreement.
3. Furnish all required approvals and permits from governmental authorities having jurisdiction over the Project and such approvals and consents from others as may be necessary for completion of the Project.
4. Give prompt written notice whenever the City observes or otherwise becomes aware of any development that affects the scope or timing of the Engineer's services.
5. The City will provide GIS Data to the selected consultant to include planometrics, topography, utilities, aerials and property lines as needed for the project.
6. Provide crash data and other available traffic data.

E. SPECIFICATIONS

1. VDOT Road and Bridge Specifications, latest edition
2. VDOT Road and Bridge Standards Volumes I and II, latest edition
3. Virginia Work Area Protection Manual, latest edition
4. City General Specifications and Standard Drawings, latest revision
5. AASHTO A Policy on Geometric Design of Highways and Streets, latest revision

F. MANDATORY REQUIREMENTS

1. Survey shall tie into City's existing coordinate system
2. Compliance with all applicable terms of this RFP and the subsequent negotiated Contract
3. Compliance with all applicable standards of the associated profession
4. Compliance with all applicable Federal, State and local laws
5. Federal Reference 23 CFR 172
6. State Reference Chapter 43, Section 2.2 of the Code of Virginia

III. PROPOSAL PREPARATION

The proposal response must address the items included in the Scope of Services and the Criteria for Proposal interpretation of evaluation. Proposals should be prepared simply, providing straightforward and concise responses to requests for information and descriptions of qualifications and capabilities. Responses shall be limited to no more than twenty (20) pages excluding the cover, including all other materials. The page count is based on the number of pages of narrative, front and back printing would count as two pages. The Transmittal Letter, Title Page, Table of Contents and Firm Data Sheet will not count towards the 20 page limit. Each copy of the proposal must be bound with all documentation in a single volume where practical. Failure to do so will result in a lowered evaluation. Incomplete proposals may be determined nonresponsive.

Offerors should organize their proposals using the format described below:

1. Letter of transmittal including name, address and telephone number of firm, including the location of the office that will directly contract for the work. Include a brief summary as to why the firm feels qualified to provide the requested services.
2. Title page

3. Table of Contents
4. Brief history of the firm including:
 - a. Years in business as an established firm
 - b. Firm principals
 - c. Size of firm (denote partnerships or subcontractors necessary to facilitate full service scope)
 - d. The name, position and telephone number of contact person authorized to conduct negotiations and authorize final contracts or otherwise bind the firm to a contractual relationship
 - e. A specific listing of services the firm is uniquely qualified to provide
5. Specific team experience, by professional and educational qualifications, as it relates to providing services for the project scope.
6. Available staff and current workload - A summary of staff, including proposed project manager and lead technical positions, with their experience in various disciplines needed to complete the work and the availability of these individuals. Provide a time line and schedule applicable for the proposed project.
7. Understanding of the project and the proposed approach.
8. List current and past work assignments of similar nature that the firm has directly contracted to provide within the last five years with names, address and telephone number of references.
9. A qualifying statement as to your firm's registry status with the Department of Professional and Occupational Regulation and the Virginia State Corporation Commission.

IV. CRITERIA FOR PROPOSAL EVALUATION

Evaluation Criteria:

1. Expertise, extent of experience and performance on projects of similar nature. Identify all disciplines available within the firm and those that will be subcontracted to others which are relevant to the project scope. Identify if any DBE/SWaM firms will be involved.
2. Qualifications of individuals assigned to project.
3. Demonstrated competency and qualifications.
4. Demonstrated understanding of the project.
5. Proposed approach.
6. Adequacy of firm's resources available to provide the services for the Contracts within the time, budget and operational constraints that may be present and the comments and/or recommendations of the engineering firm's previous clients as well as others references.

V. METHOD OF AWARD

Following evaluation of the written proposals as submitted, selection shall be made of two or more Offerors deemed to be fully qualified and best suited among those submitting proposals, on the basis of the factors involved in the Request for Proposal, and respondents ranked 1, 2, 3 or more. Negotiations shall then be conducted with the firm ranked number 1 in an attempt to reach an agreement to provide the services. Price shall be considered, but need not be the sole determining factor. After negotiations have been conducted with the top ranked firm, an agreement cannot be reached, negotiations will be terminated with that firm, and negotiations began with the firm ranked number 2. This procedure will continue until an agreement is reached or negotiations are terminated and the services re-solicited. Should the City determine in writing and in its sole discretion that only one Offeror is fully qualified, or that one Offeror is clearly more highly qualified than the others under consideration, a contract may be negotiated and awarded to that Offeror.

VI. CONTRACT TERM

The initial term of this contract shall be for (to be determined) from contract signing, upon mutual consent of the parties to the contract. Any time extensions granted by the City shall be by written amendment signed by both parties to the original agreement.

VII. GENERAL TERMS AND CONDITIONS

A. Subcontracting and Assignment of Work

The successful firm shall not subcontract or assign portions of the work, other than those specifically defined in the CONTRACT, without the express written consent of the City. A description of any work the Offeror proposes to subcontract shall be submitted to the City for review and approval along with the name and address of the individual, firm, or corporation that is the proposed subcontracting firm. This submittal shall also include a list of the key personnel that the subcontractor firm will assign to the project. All work performed by any subcontractor firm shall be coordinated by the successful firm and the successful firm will be responsible to the City for all work performed by any subcontracting firm or special consultant.

B. Payment for Services

Payments to the successful firm shall be made within 30 days after receipt of an approved invoice for services provided in the previous month. Backup documentation for each invoice shall be provided in detail satisfactory to the City. The successful firm's records and documentation supporting such invoices shall be made available to the City upon reasonable request. The successful firm agrees to retain all records, documents and support materials relevant to the CONTRACT for a period of five years following final payment.

C. Independent Successful firm

The successful firm is an independent successful firm and nothing contained in a subsequent CONTRACT shall constitute or designate such firm or any of its agents or employees as employees of the City.

D. Notification

Any notice required by the Contract shall be effective if given by registered mail, return receipt requested, to the Successful firm in the name and at the address given in its proposal submission; provided that change of address shall be effective if given in accordance with this paragraph. Unless otherwise specified, any notice to the City shall be given to the City of Lynchburg, Procurement Manager, 900 Church Street, Lynchburg, VA 24504. The Successful firm agrees to notify the City immediately of any change of legal status or of address. Any notice provided in accordance with this paragraph shall be deemed to have been completed five calendar days after the date of mailing.

E. Termination and Ownership of Documents

The City reserves the right to terminate the contract upon written notice to the Successful firm. In the event of termination pursuant to this paragraph which is not the fault of the Successful firm, the Successful firm shall be paid for all services provided through the date of termination. The contract will terminate immediately upon failure of the City of Lynchburg, City Council to appropriate funds for its continuance.

The Successful firm agrees that all information and materials gathered and/or prepared by or for it under the terms of the CONTRACT shall be delivered to, become and remain the property of the City upon completion of the work or termination of the CONTRACT. The City shall have the right to use and reproduce the data and reports submitted hereunder, without additional compensation to the Successful firm.

F. Insurance

The selected firm shall be required to maintain in force such insurance, in amounts acceptable to the City, as will protect himself and the City from claims which may arise out of or result from the execution of the work, whether such execution be by himself, his employees, agents, subcontractor firms or by anyone for whose acts any of them may be liable. This coverage should include, at a minimum, Worker's

Compensation, General Liability (including premises/operations, independent successful firms, products and completed operations, contractual liability and personal injury liability) and Professional Liability. All insurance shall be provided by companies authorized to conduct business in the Commonwealth. The selected firm shall furnish the City with an original Certificate of Insurance upon request. The Certificate should name the City as additional insured. The selected firm shall notify the City at least 30 days prior to policy cancellation, non-renewal or reduction of coverage.

G. Laws and Regulations

The City and Consultant will be required to adhere to the Environmental Requirements as they are outlined in Appendix G of the “Guide for Local Administration of Transportation Projects”.

The Consultant shall follow the Disadvantaged Business Enterprise requirements as outlined by VDOT (Attachment A).

The Successful firm shall abide by all Federal, State and Local laws and regulations governing the provision of the services called for in the contract. The Successful firm shall give notice and comply with all laws, ordinances, rules, regulations, and lawful orders of any public authority bearing on the performance of the work. Any legal proceedings arising out of or related to this agreement shall be filed by the parties in the City of Lynchburg General District Court or the Lynchburg Circuit Court.

H. Additional Services

The City may add to the Scope of Services or make changes in the Scope of Services any services of a similar nature to those specified in the Scope of Services of this Request for Proposals as mutually agreed to at a price mutually agreed upon.

I. Severability

Each paragraph and provision of the resultant contract will be severable from the entire agreement and if any provision is declared invalid, the remaining provisions shall remain in effect.

J. Licenses and Permits

The Successful firm shall secure and pay for all permits, governmental fees and licenses necessary for the proper execution and completion of the work which are legally required prior to and during the work. The City will not charge for any permits required by the City of Lynchburg.

K. Nondiscrimination

If the resultant contract exceeds \$10,000, during the performance of the contract, the Successful firm agrees as follows:

- a. The Successful firm will not discriminate against any employee or applicant for employment because of race, religion, color, sex or national origin, except where religion, sex or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of the Successful firm. The Successful firm agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.
- b. The Successful firm, in all solicitations or advertisements for employees placed by or on behalf of the Successful firm, will state that such Successful firm is an equal opportunity employer.
- c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.
- d. The Successful firm will include the provisions of the foregoing paragraphs a, b and c in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontracted firm or vendor.

L. Payments to Successful Firms

In accordance with Virginia Code Section 2.2-4354 the Successful firm agrees that:

1. Should any contractor be employed by the Successful firm for the provision of any goods or services

under this Contract, the Successful firm agrees to the following:

- (a) The Successful firm shall, within seven days after receipt of any payments from the City pursuant to this Contract, either:
 - (1) Pay the subcontractor for the proportionate share of the total payment received from the City attributable to the goods or services provided by the subcontractor; or
 - (2) Notify the City, as applicable, and the subcontractor, in writing, of the intention to withhold all or a part of the subcontractors firm's payment with the reason for nonpayment. Written notice to the City shall be given to: City of Lynchburg, Procurement Administrator, 900 Church Street, Lynchburg, VA 24504.
 - (b) The Successful firm shall pay interest to the subcontractors firm, at the rate of one percent per month on all amounts owed to the subcontractors firm that remain unpaid after seven days following receipt of payment from the City for goods or services provided under this Contract, except for amounts withheld under subparagraph (a)(2) above.
 - (c) The Successful firm shall include in each of its subcontracts a provision requiring each subcontractors firm to include or otherwise be subject to the same payment and interest requirements with respect to each lower-tier subcontractors firm.
 - (d) The Successful firm's obligation to pay an interest charge to a subcontractors firm shall not be an obligation of the City.
 - (e) No contract modification shall be allowed for the purpose of providing reimbursement for these interest charges. No cost reimbursement claim shall include any amount for reimbursement of these interest charges.
2. Invoice processing is to be in strict accordance with the rules and regulations set forth by the applicable Jurisdiction and the *Code of Virginia* Section 2.2-4352, requiring payment of invoices within 30 days of receipt of a proper invoice. No promises or commitments on the part of any employee of the Public Body shall bind the Jurisdiction to any other terms and/or conditions other than those set forth in procedures issued by the Public Body.
- (a) Invoices shall be submitted to the City on a monthly basis. The City shall pay the amount of the invoice within thirty (30) days. However, the City shall have the right to verify information contained on an invoice and extend the time of payment until information is received to correct any errors found therein. The invoices submitted shall include, at a minimum, the following information:
 - (1) Project name, city and state project number;
 - (2) City Project Manager;
 - (3) City assigned Contract Number;
 - (4) Not to exceed amount or lump sum amount;
 - (5) Total payments requested to date;
 - (6) Payments received;
 - (7) Balance due;
 - (8) Invoice number;
 - (9) Period during which services were performed; and
 - (10) Brief description of work covered by invoice.
 - (b) Payments shall not be considered as evidence of satisfactory performance of the work either in whole or in part, nor shall any payment be construed as acceptance by the City of any defective work. The City reserves the right to withhold payment in the event the City believes that the work is unsatisfactory.

M. Contractual Claims

Contractual claims, whether for money or other relief, shall be submitted in writing no later than 60 days after final payment; however, written notice of the Successful firm's intention to file such claim shall have been given at the time of the occurrence or beginning of the work upon which the claim is based. Any notice or claim shall be delivered to the City's Procurement Manager, Third Floor City Hall, 900 Church Street, Lynchburg Virginia 24504 and shall include a description of the factual basis for the claim and a

statement of the amounts claimed or other relief requested. The City's Procurement Manager shall render a decision on the claim and shall notify the Successful firm within 30 days of receipt of the claim. The Successful firm may appeal the decision of the City's Procurement Manager by providing written notice to the City Manager, within 15 days of the date of the decision. The City Manager shall render a decision on the claim within 60 days of the date of receipt of the appeal notice and such decision shall be final unless the Successful firm appeals the decision in accordance with the Virginia Public Procurement Act. Invoices for all services or goods provided by the Successful firm shall be delivered to the City no later than 30 days following the conclusion of the work or delivery of the goods.

N. Taxes

The Successful firm shall pay all City, State and Federal taxes required by law enacted at the time proposals are received and resulting from the work or traceable thereto, under whatever name levied. Said taxes shall not be in addition to the contract price as the taxes shall be an obligation of the Successful firm and not of the City and the City shall be held harmless for same by the Successful firm.

O. Indemnification

To the fullest extent permitted by law, the Successful firm, for itself, heirs, representatives, successors and assigns agrees to save, defend, keep harmless and indemnify the City and all of its officials, agents and employees (collectively, the "City") from and against any and all claims, loss, damage, injury, costs (including court costs and attorney's fees), charges, liability or exposure, however caused, resulting from, arising out of or in any way connected with the Successful firm's performance (or nonperformance) of the agreement terms or its obligations under this agreement.

P. Contract Assignment

The resultant contract may not be assigned, in whole or part, without the written consent of the City.

Q. Royalty and License Fees and Copyright, Trademark and Patent Protection

The Successful firm shall pay all royalty and license fees relating to the items covered by the contract. In the event any third party shall claim that the manufacture, use and sales of these goods offered hereby constitutes an infringement of any copyright, trademark, or patent, the Offeror shall indemnify and hold harmless the City from any cost, expense, damage or loss incurred in any manner by the City on account of such alleged infringement.

R. Responsibility for Property

The Successful firm shall be responsible for damages to property caused by work performed under the CONTRACT. Property damage to surrounding or adjoining areas caused directly or indirectly by actions or omissions of the Successful firm shall be repaired or replaced by the Successful firm, to the satisfaction of the Owner, at the Successful firm's expense.

S. Precedence of Documents

The precedence of documents shall be as follows: the CONTRACT, the Request for Proposals and the Offeror's response to the Request for Proposals.

T. Administrative Appeals Procedure

- (a) The following are the exclusive procedures for a bidder or offeror to protest the city's award or decision to award a contract.
 - (1) Any protest to award a contract shall be in writing and shall be delivered so that it is received by the city manager not later than five (5) business days after announcement of the award or decision to award, whichever comes first. Otherwise any such protest shall be deemed to be waived.
 - (2) Except for a protest of an emergency or sole source procurement, a protest of a city award or decision to award a contract may only be made by a person who submitted a bid or proposal for the procurement at issue and who was reasonably likely to have its proposal accepted but for the city's decision. In the case of an emergency or sole source procurement, a protest may only be made by a

person who can show that he was reasonably likely to have submitted a successful bid or proposal if the procurement had been other than emergency or sole source.

- (3) Protests shall only be granted if (1) the protester has complied fully with this Sec. 18.1-6 and there has been a violation of law, the Lynchburg public procurement code, or mandatory terms of the solicitation that clearly prejudiced the protestor in a material way, or (2) a statute requires voiding of the decision.
 - (4) The city manager shall issue a written decision on a protest within ten (10) days of its receipt by the city manager.
 - (5) If the protest is denied, the protestor may only appeal the denial or otherwise contest or challenge procurement by then filing suit in the Lynchburg circuit court, Lynchburg, Virginia, and serving the city with such suit within ten (10) days of such denial. Otherwise, the city manager's decision shall be final and conclusive, and the protester's right to appeal the denial or to otherwise contest or challenge the procurement shall be deemed to be waived.
 - (6) The city should defer award of a contract where the decision to award has been protested unless there is a written determination by the city manager that proceeding without delay is necessary to protect the public interest or unless the bid or offer of the prospective awardee would expire.
 - (7) The validity of a contract awarded and accepted in good faith shall not be affected by the fact that a protest or appeal is filed.
 - (8) The exclusive relief allowed if a protest is granted is to void the decision being protested. If a contract has already been awarded and performance under the contract has begun, the contract need not be voided if not in the public interest to do so. Under no circumstances will any monetary amount be allowed to the protestor as part of any relief granted.
 - (9) Strictly following these procedures shall be a mandatory prerequisite for protest of the city's award or decision to award a contract. Failure by a bidder to follow these procedures strictly shall preclude that bidder's protest and be deemed to constitute a waiver of any protest.
- (b) A protest may not be based upon the alleged non-responsibility of a person to whom the city awards or makes a decision to award a contract.

U. Drug Free Workplace

In accordance with Sec 2.2-4312 of the Virginia Code, during the performance of this contract, the Consultant agrees to (i) provide a drug-free workplace for the consultant's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Consultant's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the consultant that such consultant maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each sub-Consultant or vendor.

Successful consultant shall not use, possess, manufacture, or distribute alcohol or illegal drugs during the performance of the contract or while on City premises or distribute it to City employees.

Successful Consultant understands that a violation of these prohibitions constitutes a breach of the contract and that the City has the right cancel the contract.

For the purpose of this section, "Drug-free workplace" means a site for the performance of work done in connection with a specific contract awarded to a Consultant, the employees whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

V. Termination for Convenience

The performance of work under contract may be terminated by the Public Body upon written notice to the Contractor without cause, for any reason in whole or in part; whenever it is determined that such termination is

in the Public Body's best interest. In the event of such termination, the rights and obligations of the parties, which by their nature survive termination of services covered by a contract, shall remain in full force and effect after termination. In the event of such termination, the Contractor shall be paid for services rendered and approved up to the date of termination. The Contractor may submit any termination claim within 60 days after receipt of the notice of termination.

W. Termination for Nonpayment

In the event the Public Body fails to make payment in accordance with applicable standard payment terms, the Contractor may declare the Public Body in default and exercise any right to cure such default. If the Public Body fails to cure such default within 30 days of receiving such written notice, the Contractor may, by giving written notice to the Jurisdiction, terminate the contract and/or the applicable Scope of Work as of the end of such 30-day period on such date as is specified in such notice of termination.

X. Notice of Cure

A cure letter is used when a contractor has failed to perform or deliver in accordance with the provisions of contract. Such notice provides the Contractor a period of time to correct or "cure" the deficiency and places Contractor on notice as to the consequences for failure to take the required corrective action. Such notice may be given orally or in writing. Notice of Cure informs the Contractor that non-conformance is a breach of contract and if the deficiency is not corrected within a stated number of days, the Public Body will terminate the contract for default and hold the Contractor liable for any excess costs.

Y. Right to Audit

All contracts are subject to audit by Federal, State or City Personnel or their representatives at no cost to the City. Consultant agrees to retain all records, books and other documents relevant to this contract and the funds expended hereunder for at least four (4) years after Contract acceptance, or as required by applicable law. Requests for audits shall be made in writing and Consultant shall respond with all information requested within ten (10) calendar days of the date of the request.

VIRGINIA DEPARTMENT OF TRANSPORTATION
SPECIAL PROVISION FOR
**NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION TO ENSURE
EQUAL EMPLOYMENT OPPORTUNITY (EXECUTIVE ORDER 11246)**

1. The Offeror's or Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" set forth herein.
2. The goals for female and minority participation, expressed in percentage terms of the Contractor's aggregate work force in each trade on all construction works in the covered area, are as follows:

Females- 6.9%
Minorities - See Attachment "A"

The goals are applicable to all the Contractor's construction work performed in the covered area, whether or not it is Federal or federally assisted. If the Contractor performs construction work in a geographical area located outside of the covered area, it shall apply the goals established for such geographical area where the work is actually performed. With regard to this second area, the Contractor also is subject to the goals for both its federally involved and non-federally involved construction.

The Contractor's compliance with the Executive Order and the regulations in 41 CFR Part 60-4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications, set forth in 41 CFR 60-4.3(a), and its efforts to meet the goals established herein. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the Contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, the Executives Order and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.

3. The Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs within 10 working days the award of any construction subcontract in excess of \$10,000 at any tier for construction works under this contract. The notification shall list the name, address and telephone number of the subcontractor, employer identification number, estimated dollar amount of the subcontract, estimated starting and completion dates of the subcontract. and the geographical area in which the contract is to be performed.

**STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY
CONSTRUCTION CONTRACT SPECIFICATIONS (EXECUTIVE ORDER 11246)**

1. As, used in this provision:
 - a. "Covered area" means the geographical area described in the solicitation from which this contract resulted;
 - b. "Director" means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority;
 - c. "Employer identification number" means the Federal Social Security number used on the Employer's Quarterly Federal Tax Return, U. S. Treasury Department Form 941;

- d. "Minority" includes:
- (i) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);
 - (ii) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race);
 - (iii) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and
 - (iv) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).
2. Whenever the Contractor, or any Subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation.
 3. If the Contractor is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U. S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each Contractor or Subcontractor participating in an approved Plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other Contractors and Subcontractors toward a goal in an approved Plan does not excuse any covered Contractor's or Subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.
 4. The Contractor shall implement the specific affirmative action standards provided in paragraphs 7 a through p of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered construction Contractors performing construction work in geographical areas where they do not have a Federal or federally assisted construction contract shall apply the minority and female goals established for the geographical area where the work is being performed. Goals are published periodically in the Federal Register in notice form, and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from Federal procurement contracting officers. The Contractor is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.
 5. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the Contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the Contractor's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.
 6. In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U. S. Department of Labor.

7. The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:
- a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Contractor's employees are assigned to work. The Contractor, where possible, shall assign two or more women to each construction project. The Contractor shall specifically ensure that all foreman, superintendents and other on-site supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites in such facilities.
 - b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.
 - c. Maintain a current file of the names, addresses and telephone numbers of each minority and female off the street applicant and minority or female referral from a union, a recruitment source or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union, or if referred, not employed by the Contractor, this shall be documented in the file with the reason therefore, along with whatever additional actions the Contractor may have taken.
 - d. Provide immediate written notification to the Director when the union or unions which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or women sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.
 - e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under 7b above.
 - f. Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper or annual report; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.
 - g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination, or other employment decisions including specific review of these items with onsite supervisory personnel such as Superintendents and General Foremen prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed and disposition of the subject matter.
 - h. Disseminate the Contractor's EEO policy externally by including in any news media advertisement that the Contractor is "An Equal Opportunity Employer" for minority and female,

and providing written notification to and discussing the Contractor's EEO policy with other Contractors and Subcontractors with whom the Contractor does or anticipates doing business.

- i. Directs its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by recruitment source, the Contractor shall send written notification to organizations such as the above, describing the openings, screening procedures and tests to be used in the selection process.
 - j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth both on the site and in other areas of Contractor's workforce.
 - k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.
 - l. Conduct, at least annually, an inventory and evaluation of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for such opportunities through appropriate training or other means.
 - m. Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations under these specifications are being carried out.
 - n. Ensure that all facilities and company activities are nonsegregated, except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.
 - o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.
 - p. Conduct a review, at least annually, of all supervisors' adherence to and performance under the Contractor's EEO policies and affirmative action obligations.
8. Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (7a through p). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under 7a through p of these Specifications provided that the contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's noncompliance.
9. Goals for women have been established. However, the Contractor IS required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female and all women, both minority and non-minority. Consequently, the Contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner, that is even though the Contractor has achieved its goals for women, the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized.

10. The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex or nation origin.
11. The Contractor shall not enter into any Subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.
12. The Contractor shall carry out such sanctions and penalties for violation of these specifications and the Equal Opportunity Clause, including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations by the Office of Federal Contract Compliance Programs. Any Contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246. as amended.
13. The Contractor, in fulfilling its obligations under these specifications shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from Its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director will proceed in accordance with 41 CFR 60-4.8.
14. The Contractor shall designate and make known to the Department a responsible official as the EEO Officer to monitor all employment related activity, to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, Contractors will not be required to maintain separate records.
15. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

ATTACHMENT A

<u>Economic Area</u>	<u>Goal (Percent)</u>
Virginia:	
021 Roanoke-Lynchburg, VA	
SMSA Counties:	
4640 Lynchburg, VA	19.3
VA Amherst; VA Appomattox; VA Campbell; VA Lynchburg.	
6800 Roanoke, VA.....	10.2
VA Botetourt; VA Craig; VA Roanoke; VA Roanoke City; VA Salem	
Non-SMSA Counties.	12.0
VA Alleghany; VA Augusta; VA Bath; VA Bedford; VA Bland; VA Carroll;	
VA Floyd; VA Franklin; VA Giles; VA Grayson; VA Henry; VA Highland;	
VA Montgomery; VA Nelson; VA Patrick; VA Pittsylvania; VA Pulaski;	
VA Rockbridge; VA Rockingham; VA Wythe; VA Bedford City; VA Buena Vista;	
VA Clifton Forge; VA Covington; VA Danville; VA Galax; VA Harrisonburg;	
VA Lexington; VA Martinsville; VA Radford; VA Staunton; VA Waynesboro;	
WV Pendleton.	
022 Richmond, VA:	

SMSA Counties:	
6140 Petersburg - Colonial Heights - Hopewell, VA	30.6
VA Dinwiddie; VA Prince George; VA Colonial Heights; VA Hopewell; VA Petersburg.	
6760 Richmond, VA.....	24.9
VA Charles City; VA Chesterfield; VA Goochland, VA Hanover; VA Henrico; VA New Kent; VA Powhatan; VA Richmond.	
Non-SMSA Counties	27.9
VA Albermarle; VA Amelia; VA Brunswick; VA Buckingham, VA Caroline; VA Charlotte; VA Cumberland; VA Essex; VA Fluvanna; VA Greene; VA Greensville; VA Halifax; VA King and Queen; VA King William; VA Lancaster; VA Louisa; VA Lunenburg; VA Madison; VA .Mecklenburg; VA Northumberland; VA Nottoway; VA Orange; VA Prince Edward; VA Richmond VA Sussex; VA Charlottesville; VA Emporia; VA South Boston	
023 Norfolk - Virginia Beach - Newport News VA:	
SMSA Counties:	
5680 Newport News- Hampton, VA	27.1
VA Gloucester; VA James City; VA York; VA Hampton; VA Newport News; VA Williamsburg.	
5720 Norfolk - Virginia Beach - Portsmouth, VA - NC	26.6
NC Currituck; VA Chesapeake; VA Norfolk; VA Portsmouth; VA Suffolk; VA Virginia Beach.	
Non-SMSA Counties	29.7
NC Bertie; NC Camden; NC Chowan; ,NC Gates; NC Hertford; NC Pasquotank; NC Perquimans; VA Isle of Wight; VA Matthews; VA Middlesex; VA Southampton;VA Surry; VA Franklin.	
Washington, DC:	
020 Washington, DC.	
SMSA Counties:	
8840 Washington, DC - MD - VA	28.0
DC District of Columbia; MD Charles; MD Montgomery MD Prince Georges; VA Arlington; VA Fairfax; VA Loudoun; VA Prince William VA Alexandria; VA Fairfax City; VA Falls Church.	
Non- SMSA Counties	25.2
MD Calvert; MD Frederick; MD St. Marys; MD Washington; VA Clarke; VA Culpeper; VA Fauquier; VA Frederick; VA King George; VA Page; VA Rappahannock; VA Shenandoah; VA Spottsylvania; VA Stafford; VA Warren; VA Westmoreland; VA Fredericksburg; VA Winchester WV Berkeley; WV Grant; WV Hampshire; WV Hardy; WV Jefferson; WV Morgan.	
Tennessee:	
052 Johnson City - Kingsport - Bristol, TN - VA	
SMSA Counties:	
3630 Johnson City - Kingsport -Bristol, TN-VA.....	2.6
TN Carter; TN Hawkins; TN Sullivan; TN Washington; VA Scott: VA Washington;VA Bristol.	
Non-SMSA Counties	3.2
TN Greene; TN Johnson; VA Buchanan;VA Dickenson; Va Lee; VA Russell; VA Smyth; VA Tazewell; VA Wise; VA Norton; WV McDowell; WV Mercer.	
Maryland	
019 Baltimore MD:	
Non-SMSA Counties	23.6
MD Caroline; MD Dorchester; MD Kent; MD Queen Annes; MD Somerset; MD Talbot; MD Wicomico; MD Worchester, VA Accomack; VA Northampton.	

PARTICIPATION BY DISADVANTAGED BUSINESS ENTERPRISES
IN DEPARTMENT OF TRANSPORTION PROGRAMS

The Consultants, its agents, employees, assigns, or successors, and any person, firm or agency of whatever nature with whom it may contract or make an agreement, shall comply with the provisions of 49 CFR Part 26, as amended, which is hereby made part of this Agreement by reference. The Consultant shall take all necessary and reasonable steps in accordance with 49 CFR Part 26, as amended, to ensure that DBE firms have the maximum opportunity to compete for and perform contracts and subcontracts under this Agreement. Subpart A of 49 CFR 26, Section 23.13 requires each contract signed with a contractor (and each subcontract the prime contractor signs with a subcontractor) must include the following assurance:

The contractor, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.

Further, the Consultant agrees to provide the Department with the dollar amount contracted and name of each subcontractor which identifies itself as a DBE. The DBE goal for this Contract is 0%.

The Department is also required to capture DBE payment information on all professional services contracts. Therefore, the prime consultant will be required to complete the DBE/SWaM Payment Compliance Report, Form C-63 on a quarterly basis.

It is the policy of the Virginia Department of Transportation that Disadvantaged Business Enterprises (DBE) as defined in 49 CFR Part 26 shall have the maximum opportunity to participate in the performance of federally funded consultant contracts. A list of Virginia Department of Minority Business Enterprise certified DBE firms is maintained on their web site (<http://www.dmb.e.state.va.us/>) under the **DBE Directory of Certified Vendors**. Consultants are encouraged to take all necessary and reasonable steps to ensure that DBE firms have the maximum opportunity to compete for and perform services on the contract, including participation in any subsequent supplemental contracts. If the consultant intends to subcontract a portion of the services on the project, the consultant is encouraged to seek out and consider DBE firms as potential subconsultants. The consultant is encouraged to contact DBE firms to solicit their interest, capability and qualifications. Any agreement between a consultant and a DBE firm whereby the DBE firm promises not to provide services to other consultants is prohibited.

The DBE goal for this consultant contract is 0%; however, the Department believes that these services support 10% DBE participation.

In accordance with the Governor's Executive Order No. 33, the Virginia Department of Transportation also requires a utilization of Small, Women and Minority (SWaM) Businesses to participate in the performance of state funded consultant contracts. A list of Virginia Department of Minority Business Enterprise (DMBE) certified SWaM firms is maintained on the DMBE web site (<http://www.dmb.e.state.va.us/>) under the **SWaM Vendor Directory** link. Consultants are encouraged to take all necessary and reasonable steps to ensure that SWaM firms have the maximum opportunity to compete for and perform services on the contract, including participation in any subsequent supplemental contracts. If the consultant intends to subcontract a portion of the services on the project, the consultant is encouraged to seek out and consider SWaM firms as potential subconsultants. The consultant is encouraged to contact SWaM firms to solicit their interest, capability and qualifications. Any agreement between a consultant and a SWaM firm whereby the SWaM firm promises not to provide services to other consultants is prohibited.

If portions of the services are to be subcontracted to a DBE or SWaM, the following needs to be submitted with your EOI and both must reference the project number(s) for the services:

- Written documentation of the prime's commitment to the DBE or SWaM firm to subcontract a portion of the services, a description of the services to be performed and the percent of participation.
- Written confirmation from the DBE or SWaM firm that it is participating, including a description of the services to be performed and the percent of participation.

49 CFR Part 26 requires VDOT to collect certain data about firms attempting to

participate in VDOT contracts. This data must be provided on the enclosed Firm Data Sheet.

VDOT is also required to capture DBE and SWaM payment information on all professional services contracts. The successful prime consultant will be required to complete C- 63 form for both state and federally funded projects on a quarterly basis.

Any DBE or SWaM firm must become certified (with the Virginia Department of Minority Business Enterprise) prior to your response being submitted. If DBE or SWaM firm is the prime consultant, the firm will receive full credit for planned involvement of their own forces, as well as the work that they commit to be performed by DBE or SWaM subconsultants. DBE or SWaM prime consultants are encouraged to make the same outreach efforts as other consultants. DBE or SWaM credit will be awarded only for work actually being performed by them. When a DBE or SWaM prime consultant subcontracts work to another firm, the work counts toward DBE or SWaM goals only if the other firm is itself a DBE or SWaM. A DBE or SWaM prime consultant must perform or exercise responsibility for at least 30% of the total cost of its contract with its own force.

DBE or SWaM certification entitles consultants to participate in VDOT's DBE and SWaM programs. However, this certification does not guarantee that the firm will obtain VDOT work nor does it attest to the firm's abilities to perform any particular work.

Business Opportunity and Workforce Development (BOWD) Center - The BOWD Center is a VDOT developmental supportive services program and partnering initiative funded by FHWA for selected DBE firms of various skill and competence levels interested in entering, enhancing or expanding highway contracting opportunities with prime consultants. The partnering initiative between prime consultants and BOWD DBE firms provides the opportunity for the further development of DBE firms through performance on contracts and guidance from prime consultants. The intent of this partnering initiative is to increase capacity by perfecting existing skills and knowledge, expanding into new work areas, and prime consultant joint venturing with DBE firms.

The prime consultants are encouraged to achieve all or a percentage of the required DBE participation/goals determined for this project by the utilization of BOWD approved firms. To assist consultants in taking advantage of this opportunity for utilization of approved BOWD firms, please contact the BOWD Center for additional information, details, resources and support. For further information on the BOWD Center and to view the DBE profiles, go to www.virginiadot.org/business/BOWD.asp. The BOWD Center can be contacted at (804) 662-9555 or via email to BOWDCenter@vdot.virginia.gov.

If any firms involved with this submission currently have work with the Department, indicate the projects, the division managing the projects, the amount of outstanding fee remaining, and the estimated date of completion. For limited services term

contracts, include only the amount of all tasks orders executed or under negotiation. Also, include your estimated fees for pending supplemental agreements and any projects for which the firms have been selected, but have not executed an agreement. Work of affiliated and/or subsidiary companies is to be included. The outstanding workload of any Virginia Department of Minority Business Enterprise certified DBE or SWaM prime or subconsultant is not to be included. When a DBE or SWaM firm graduates from the program, their workload incurred while a DBE or SWaM will be exempted for the next three years. Any workload obtained after graduating from the program will be counted. Work being performed under the Public Private Transportation Act (PPTA) or as a subcontractor on a Design-Build project shall not be included. Work being performed as a prime or joint venture on a Design-Build project shall be included. The outstanding fee remaining is the maximum total compensation payable less the amount previously paid to date. Only Category B work will be counted in the scoring criteria. This information shall be submitted using the attached Present Workload with Department form. Please carefully read the instructions on the Present Workload with Department form.

Title VI Assurance
USDOT 1050.2 – Appendix A

TITLE VI OF THE CIVIL RIGHTS ACT OF 1964: During the performance of this Agreement, the Consultant, for itself, its assignees and successors in interest (herein referred to as “the Consultant”), agrees as follows:

- a. Compliance with Regulations: The Consultant will comply with the Regulations of the U.S. Department of Transportation relative to nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation (Title 49), Code of Federal Regulations, Part 21, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this Agreement.
- b. Nondiscrimination: The Consultant, with regard to the services provided by it after award and prior to completion of this Agreement, will not discriminate on the grounds of race, religion, color, sex, national origin, age or handicap in the selection and retention of subconsultants, including procurements of materials and leases of equipment. The Consultant will not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the services cover a program set forth in Appendix B of the Regulations.
- c. Solicitations for Subconsultants: In all solicitations, either by competitive bidding or negotiation made by the Consultant for work to be performed under a subcontract, including procurements of materials or equipment, each potential subcontractor or supplier shall be notified by the Consultant of the Consultant’s obligations under this Agreement.
- d. Information and Reports: The Consultant will provide all information and reports required by the Regulations, or orders and instructions issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Department or the Federal Highway Administration to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of the Consultant is in the exclusive possession of another who fails or refuses to furnish this information, the Consultant shall so certify to the Department, or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain the information. Consultants and subconsultants with fifteen (15) or more employees will submit an updated Title VI Evaluation Report (EEO-D2) annually as long as the consultant or subconsultant is performing in accordance with this Agreement.
- e. Sanctions for Noncompliance: In the event of the Consultant’s noncompliance with the nondiscrimination provisions of this Agreement, the Department shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including but not limited to:
 - 1) withholding of payments to the Consultant under this Agreement until the Consultant complies, and/or
 - 2) cancellation, termination or suspension of this Agreement, in whole or in part.
- f. Incorporation of Provisions: The Consultant will include the provisions of paragraphs “a” through “f” in every subcontract of \$10,000 or more, including procurements of materials and leases of equipment, unless exempt by the Regulations, order or instructions issued pursuant thereto. The Consultant will take such action with respect to any subcontractor or procurement as the Department or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, in the event the Consultant becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the Consultant may request the Department to enter into such

litigation to protect the interests of the Department and, in addition, the Consultant may request the United States to enter into such litigation to protect the interests of the United States.

FIRM DATA SHEET

Funding: ____ (S=State F=Federal)

Project No.: _____

Division: _____

EOI Due Date: _____

The prime consultant is responsible for submitting the information requested below on all firms on the project team, both prime and all subconsultants. All firms are to be reported on one combined sheet unless the number of firms requires the use of an additional sheet. Failure to submit all of the required data will result in the Expression of Interest not being considered.

Firm's Name and Address	Firm's DBE/SWAM Status *	Firm's Age	Firm's Annual Gross Receipts

* YD = DBE Firm Certified by DMBE

N = DBE/SWAM Firm Not Certified by DMBE

NA = Firm Not Claiming DBE/SWAM Status

YS = SWAM Firm Certified by DMBE. Indicate whether small, woman-owned, or small business.

VDOT TITLE VI EVALUATION FORM

This Title VI Evaluation Form is used as a Pre-award Review and Post-award Review. VDOT is required to conduct routine assessments prior to releasing funds to ensure Title VI compliance. A pre-award review assists VDOT in determining whether applicants operate in a nondiscriminatory manner. Pre-award reviews can also be used to require applicants to take preventive measures to ensure that discrimination will not occur in their services as a condition of receiving contracts. Pre-award reviews represent a frontline approach to eliminating and preventing discrimination before it occurs.

Post-Award Reviews are generally conducted after a contractor begins the scope of work. However to minimize the burden on VDOT's contractors, VDOT has developed a form that serves as both a pre-award and post-award compliance tool.

VDOT must also conduct on-site reviews of prime contractors periodically to ensure that the contractor remains in compliance with Title VI and to verify that the contractor has preventive measures to ensure nondiscrimination by their sub-contractors.

Name of Preparer:		Preparer's Title:	
Phone #:		Email Address:	
Name of Organization:		Address of Organization:	
Address of Virginia location where project will be done:			
Type of Contractor/Organization:			
<input type="checkbox"/> Private Organization <input type="checkbox"/> Governmental Agency		<input type="checkbox"/> Supplier <input type="checkbox"/> Other	
Workforce for Virginia Location			
Total	% Minority	% Female	
Business Ownership/Control			
Minority <input type="checkbox"/> Yes <input type="checkbox"/> No Female <input type="checkbox"/> Yes <input type="checkbox"/> No		DBE Certified <input type="checkbox"/> Yes <input type="checkbox"/> No SWAM Certified <input type="checkbox"/> Yes <input type="checkbox"/> No	
Does your organization currently have contracts or subcontracts with VDOT? <input type="checkbox"/> Yes <input type="checkbox"/> No What is your organization's most recent date of Title VI approval?			
Status of Project(s):		Value of current Contract(s):	
What does your organization have in place to ensure nondiscrimination in your VDOT scope of work and your programs and services?			

Virginia Workforce

CONSULTANT EQUAL EMPLOYMENT OPPORTUNITY WORKFORCE ANALYSIS

Employment at this establishment – Report all permanent full and part-time employees including apprentices and on-the job trainees unless specifically excluded as set forth in the instructions. Enter the appropriate figures on all lines and in all columns. Blank spaces will be considered zeros.

Job Categories	Number of Employees (Report employees in only one category)														Total Col A-N
	Hispanic or Latino		Not Hispanic or Latino										Two or more races	Total Col A-N	
	Male	Female	Male					Female							
			White	Black or African American	Native Hawaiian Or Other Pacific Islander	Asian	American Indian or Alaska Native	Two or more races	White	Black or African American	Native Hawaiian Or Other Pacific Islander	Asian	American Indian or Alaska Native		
A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	
Executive/Sir. Level Officials & Managers (1.1)															
First/Mid-Level Officials & Managers (1.2)															
Professionals (2)															
Technicians (3)															
Sales Workers (4)															
Administrative Support Workers (5)															
Craft Workers (6)															
Operatives (7)															
Laborers & Helpers (8)															
Service Workers (9)															
TOTAL (10)															
PREVIOUS YEAR TOTAL (11)															

Organization, Staffing, & Training

1. What type of services will your organization provide VDOT?
2. Identify the person responsible for the administration of Title VI policies and procedures (a Title VI Coordinator). Provide the name, position, title, and contact information.

Title VI/Nondiscrimination

1. Is your Title VI Coordinator, project managers, and other staff made aware of Title VI compliance and regulations relative to nondiscrimination in federally-assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21 and the Federal Highway Administration's 23 Code of Federal Regulations 200? Please explain how they are made aware.
2. What procurement procedures does your organization have in place to ensure nondiscrimination in the selection and retention of subcontractors including procurements of materials and leases of equipment?
3. How does your organization notify your subcontractors and suppliers of their obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, national origin, sex, age, disability and low income populations?
4. Are facilities and meeting areas fully accessible to persons with disabilities?
5. Does your organization have a system in place to accommodate persons with disabilities? If yes, how does your organization notify the public? If no, please explain.
6. How are limited English proficient persons made aware that they can receive translation services for access to services?
7. Has your organization been reviewed by any governmental agencies for compliance with Title VI and other laws and regulations? If yes, provide a copy of the letter identifying the review findings?

8. Does your organization receive federal assistance (grants, loans, donations of property, or detail of personnel) from any Federal government entity?

9. List any discrimination complaints and/or lawsuits received in Virginia during the reporting period. Include the basis for the complaint (ethnicity, gender, etc.) and summarize the outcome or resolution. If applicable, include a copy of the investigation report.

Disadvantaged Business Enterprises (DBE)

1. Did your organization award any contracts/subcontracts related to VDOT work to DBEs during the reporting period? If yes, provide the following:
 - The DBE's name and amount awarded
 - Total # of contracts awarded to DBEs
 - Total dollar amount of contracts awarded to DBEs

I certify that the data given in this report is correct to the best of my knowledge. (Report has to be submitted with original signature, not a photocopy.)

Signature:

 (Authorized Officer) (Title) (Date)

For Office Use Only:

Provide award? Yes _____ No _____

Recommendations:

Appendix A

VDOT is a recipient of federal financial assistance. As a recipient, VDOT is required to comply with Title VI of the Civil Rights Act of 1964, as amended and other nondiscrimination laws and authorities. Title VI of the Civil Rights Act of 1964, and other directives prohibit agencies and sub-recipients receiving federal assistance from discriminating against anyone or any group in the United States on the grounds of race, color, national origin, sex, age, disability, or low-income. The United States Department of Transportation (USDOT) and Federal Highway Administration (FHWA) Regulations (49) Code of Federal Regulations (CFR), Part 21, and 23 CFR, Part 200 respectively, and other applicable orders and authorities provide guidelines, actions, and responsibilities for VDOT's implementation of the Title VI Program. These laws and regulations include but are not limited to the following:

- **The 1970 Uniform Act (42 USC 4601)** – prohibits unfair treatment of displaced
- **Section 504 of the 1973 Rehabilitation Act (29 USC 790)** – prohibits discrimination based on disability
- **The Federal-Aid Highway Act 1973 (23 USC 324)** – prohibits discrimination based on gender
- **The 1975 Age Discrimination Act (42 USC 6101)** – prohibits age discrimination (any age)
- **The Civil Rights Restoration Act of 1987** – clarified the original intent of nondiscrimination organization-wide
- **Executive Order 12898 on Environmental Justice (EJ)** addresses disproportionately high and adverse human health and environmental effects on minority and low-income populations
- **Executive Order 13166 on Limited English Proficiency (LEP)** - ensures people who are limited English proficient (LEP) have meaningful access to services

In brief, these laws and regulations prohibit discrimination in federally assisted programs and activities. Title VI of the 1964 Civil Rights Act states that:

"No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance."

By contracting with VDOT, a contractor is obligated to comply with the laws and regulations listed above and within the Memorandum of Agreement (MOA) executed between the Department and the contractor. VDOT's Civil Rights Division with the assistance from each applicable division's Program Manager, monitors an organization's compliance with the non-discrimination provisions.

To monitor compliance, each contractor and all sub-contractors are required to submit a Title VI Evaluation Form. This requirement is applicable for all contractors.

The Title VI Evaluation Form provides documentation that a contractor has procedures in place to prevent discrimination in programs and services based on Title VI.

VDOT will request a Title VI Evaluation Form within ten (10) days of notification of selection for new contractors or contractors that do not have a current assessment on file with VDOT. The Assessment Form should be submitted to the Program Manager in the division that is negotiating the contract. These are the divisions we currently receive Title VI Evaluation Forms from:

Right of Way & Utilities Division
Location & Design Division
Environmental Division
Structure & Bridge
Innovative Project Delivery
Materials Division
Transportation & Mobility Planning Division

Once the Title VI Evaluation Form is provided to VDOT, the Title VI Coordinator in the Civil Rights Division reviews the information and issues a pre-award letter within fifteen (15) days of receiving documentation or may schedule an on-site review within the same time frame to confirm information provided in the Assessment Form. VDOT Program Managers have access to a Title VI Log that is updated monthly on the Civil Rights Website. The Title VI Coordinator may request additional information and/or recommend corrective actions. The Title VI Coordinator may randomly schedule on site compliance reviews at the contractor's office.

If the report is approved for award, a letter is sent out with an expiration date for one year from the date of the approval letter. Typically the letter remains current and on file with VDOT for a period of one year. An updated report is required annually for contractors who continue to perform under a contract with VDOT. It should be noted that if VDOT conducts an on site compliance review the contractor can still be found to be out of compliance during the one year period.

Failure to comply with the nondiscrimination provisions may result in cessation of negotiations, withholding of payments, cancellation, termination, or suspension of the contract in whole or in part.

Should you have any questions about VDOT's Title VI Program or the Title VI Evaluation Form, you may directly contact the Title VI Coordinator in VDOT's Civil Rights Division at 804-786-2085 or at robin.underwood@vdot.virginia.gov.

PART 3

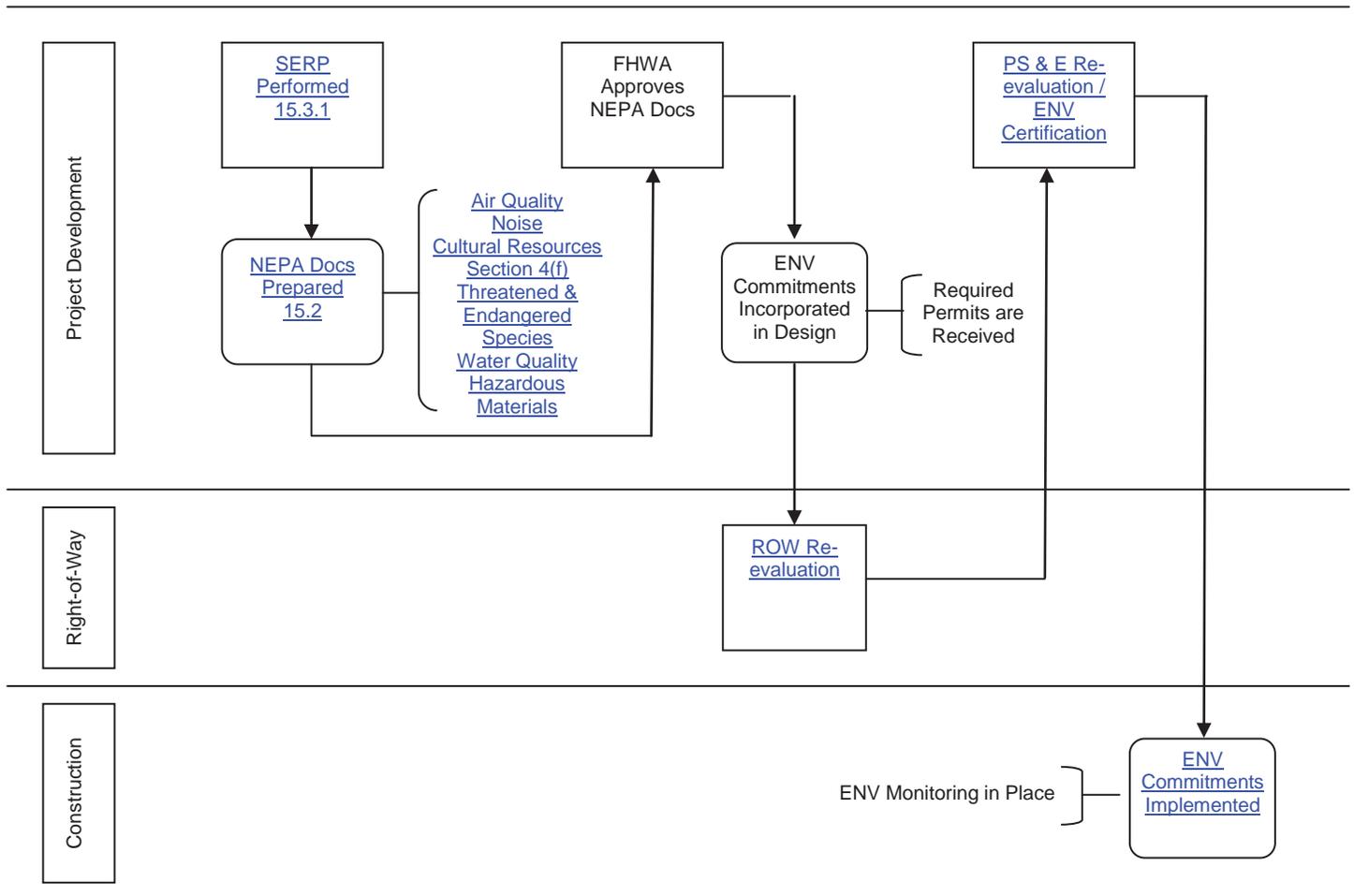
Standards and
practices for LAP

Chapter 15

Environmental
Requirements

Locally Administered
Projects (LAP) Manual

CHAPTER 15 ENVIRONMENTAL FLOW CHART



CHAPTER 15 ENVIRONMENTAL PROCEDURES

This chapter includes the following topics:

15.1 GENERAL ENVIRONMENTAL PROCEDURES

15.1.1 Introduction

15.1.2 Environmental Legislative, Regulatory, and Executive Orders References

APPENDICES

A – Tasks/Submittals/Responsibilities Table

B – Environmental Legislative, Regulatory, and Executive Orders References

15.2 NATIONAL ENVIRONMENTAL POLICY ACT (NEPA) COMPLIANCE

SPECIAL ENVIRONMENTAL STUDIES

15.3. State Environmental Review Process (SERP)

15.4 Cultural Resources

15.5 Section 4(f) Evaluations

15.6 Noise Studies and Abatement

15.7 Air Quality

15.8 Water Quality Permits

15.9 Threatened and Endangered Species

15.10 Hazardous Materials

15.11 ENVIRONMENTAL RE-EVALUATIONS & CERTIFICATION

15.12 ENVIRONMENTAL MONITORING DURING CONSTRUCTION

15.1 GENERAL ENVIRONMENTAL PROCEDURES

15.1.1 Introduction

Transportation projects require compliance with a wide variety of state and federal environmental laws, regulations, and executive orders. The project scope and associated environmental impacts will determine the specific laws, regulations and executive orders that must be addressed in detail during design and construction. For federal-aid LPA administered projects, FHWA has set minimum oversight expectations which can be found in [VDOT's plan for the oversight of environmental elements of locally administered projects](#). The environmental requirements in the following chapters reflect these expectations. Except as otherwise noted, non federal-aid projects generally will require a certification of compliance as noted in chapter 5, instead of meeting the federal-aid requirements emphasized in this manual.

The most common environmental requirements for transportation projects are explained in greater detail in the sections that follow. However, LPA's may encounter additional environmental requirements from time to time on individual projects. [VDOT District Environmental Managers](#) and their technical staff are available to support and assist the LPA's.

In order to ensure that VDOT and the LPA have a clear and thorough understanding regarding environmental expectations, VDOT recommends that an environmental kick-off meeting be held. This may be as simple as a telephone conversation with the VDOT project coordinator and Environmental staff or it may occur within a formal scoping meeting.

At the kick-off meeting, the VDOT District Environmental Manager (or designee) will provide the LPA with a completed copy of the [Environmental Scoping Recommendations form](#), as well as other documentation applicable to the project. The information on this form will assist the LPA in determining what the environmental requirements are and assist in determining their needs for consultant assistance, if required.

For LPA's unfamiliar with many of the technical aspects of environmental analyses, VDOT can provide assistance reviewing scopes of services or determining appropriateness of consultants' proposals for environmental work, in accordance with [Chapter 11](#), Consultant Services, of this manual.

15.1.2 Summary of Requirements/Submittals Table

[Appendix 15.1-A](#) provides a list of the required submittals that must be completed to adequately address the range of environmental issues associated with a typical federal-aid project.

The table also includes timing for those submittals, general VDOT review times, and LPA/VDOT responsibilities associated with those tasks and submittals. [Appendix 15.1-A](#) is intended to provide a list of all required LPA submittals and primary LPA/VDOT tasks. It is **not** intended to provide details of all activities that must take place prior to or after each submittal or task identified in the table.

APPENDIX 15.1 – A
Summary Table of Primary Tasks/Responsibilities

Task/Submittal/ File Documentation	LPA Responsibility	VDOT Responsibility	Submittal Timing/Recordkeeping Requirement/Review Timeframe
EQ-429 – Project Definition form	Submit a completed EQ-429 with project location map	Enter into CEDAR	EQ-429 submitted by LPA to VDOT prior to project scoping or at Scoping Meeting
State Environmental Review Process/PEI Exemption / Preliminary Environmental Inventory (PEI) construction >\$500,000	N/A	PEI exemption notification to LPA; or complete State Agency Coordination; provide PEI to LPA	VDOT PEI to LPA within 30 – 90 days
NEPA Concurrence Form	Submit completed form to VDOT (<u>not</u> required for PCE)	Coordinate with FHWA; convey level of NEPA document to LPA; enter into CEDAR	LPA submits to VDOT prior to beginning NEPA document; response from FHWA in 5 days
NEPA – BCE/PCE/CE	Complete prior to Public Hearing and any R/W acquisition	Review/coordinate with FHWA; provide approved document back to LPA; enter into CEDAR (The decision to use a BCE category must be approved by VDOT)	LPA will submit draft PCE/CE 60 days prior to Public Hearing; VDOT will review and notify the LPA within: BCE – 1 day PCE - 5 days CE - 10 days

Task/Submittal/ File Documentation	LPA Responsibility	VDOT Responsibility	Submittal Timing/Recording/Requirement/Review Timeframe
NEPA – EA	Complete prior to Public Hearing and any R/W acquisition	Review/coordinate with FHWA for approval of draft EA; FHWA issues FONSI; enter into CEDAR	Draft EA must be submitted by LPA to VDOT 60 days prior to public release and available 30 days prior to Public Hearing. VDOT review - 15 days for each individual section (FHWA review time is additional) Effect determination concurrence (or MOA) submitted by LPA to VDOT prior to/or concurrent with submittal of NEPA documentation.
Section 106 Process (Cultural Resources)	Coordinate with VDHR, submit technical reports, and obtain effect determination letter or MOA if required; submit documentation to VDOT	Enter into CEDAR	Effect determination concurrence (or MOA) submitted by LPA to VDOT prior to/or concurrent with submittal of NEPA documentation.
Noise analysis	Submit draft and final reports to VDOT	Determine if Type I; review/comment on Report; plan for State Noise Abatement Committee meeting, as applicable; enter into CEDAR	LPA submits to VDOT prior to completing NEPA documentation
Air Quality Studies	Submit draft and final reports to VDOT	Review /comment on Report; enter into CEDAR	LPA submits to VDOT prior to completing NEPA documentation
EQ-121 (Hazardous Materials Due Diligence form)	Complete necessary studies and submit completed/signed forms to VDOT.	Provide EQ-121 at kick off/scoping meeting. Enter EQ-121 into CEDAR	LPA submits completed form prior to requesting R/W authorization.
Natural Resources	Coordinate with regulatory agencies to determine if permits /clearances are necessary	Received regulatory agency correspondence and copies of any permits/clearances	Locality submits to VDOT correspondence/permits prior to VDOT's completion of Environmental Certification/PS&E Re-evaluations
Environmental Certification and	Notify VDOT PC ready for authorization at R/W and/or	R/W reevaluation form/PS&E reevaluation form/Environmental	VDOT completes Re-evaluations and Certification within 15

Task/Submittal/ File Documentation	LPA Responsibility	VDOT Responsibility	Submittal Timing/Recordkeeping Requirement/Review Timeframe
Reevaluation @ RW authorization and Construction Advertisement	construction advertisement	Certification form completed by VDOT; provided to LPA; enter into CEDAR	business days

APPENDIX 15.1 -B

ENVIRONMENTAL LEGISLATIVE, REGULATORY, AND EXECUTIVE ORDERS REFERENCES

National Environmental Policy Act (NEPA)

- National Environmental Policy Act, 42 U.S.C. 4332(2)(C) PL 91-910
- Safe, Accountable, Flexible, Efficient Transportation Equity Act: A legacy for Users (SAFETEA-LU) PL 109-59
- Moving Ahead for Progress in the 21st Century (**MAP-21**) – Transforming the Way We Build, Maintain and Manage our Nation’s Highways P.L. 112-141
- Clean Air Act, as amended, 42 U.S.C. 1857 PL 95-95
- Federal Aid Highway Act of 1970 23 U.S.C. 109 (h)(i)(j)
- Federal Highway Administration’s Noise Regulations, 23 CFR Part 772
- Transportation Conformity Regulations, 40 CFR Parts 51 and 93
- National Historic Preservation Act (16 U.S.C. 470f)
- Section 4(f) 23 CFR 774
- Endangered Species Act, 1973, as amended, 16 U.S.C. 1531-15443
- Farmland Protection Policy Act, 1981, 7 C.F.R. 658
- Section 6(f) of the Land and Water Conservation Fund Act (Section 6(f)) 16 U.S.C. 4601-8(f)
- Transportation Alternatives Activities, 23 U.S.C. 101(a)(35); 23 U.S.C. 133(b)
- Federal Highway Administration Regulations Governing the Preparation of Environmental Documents, 23 C.F.R. 771
- Regulations for Implementing the Procedural Provision of the National Environmental Policy Act, 1978, 40 C.F.R. 1500-1508
- National Recreational Trails Program, 23 U.S.C. 206
- National Scenic Byways Program, 23 U.S.C. 162
- Procedures for Abatement of Highway Traffic Noise, Federal Aid Program Guide, 23 C.F.R. 772
- Section 106 of the National Historic Preservation Act, 16 U.S.C. 470f; 36 C.F.R. Part 800; 36 C.F.R. Part 60; 36 C.F.R. Part 63
- Section 110 of the National Historic Preservation Act, 16 U.S.C. 470h-2; 36 C.F.R. 78
- Archaeological Resources Protection Act, 16 U.S.C. 470 aa-mm; 32 C.F.R. 229; 36 C.F.R. 79; 36 C.F.R. 296; 43 C.F.R. 7
- Wilderness Act, 36 C.F.R. 293; 43 C.F.R., 8560; 50 C.F.R. 35
- Wild and Scenic Rivers Act, 36 C.F.R. 297
- Uniform Relocation Assistance and Real Property Acquisition Act of 1970, 49 C.F.R. 24
- Title VI of the Civil Rights Act of 1964, 49 C.F.R. 21; 23 C.F.R. 200

- Resource Conservation and Recovery Act of 1976 (RCRA), 40 CFR §260 et seq.
- Hazardous and Solid Waste Amendments (HSWA) of 1984
- Emergency Planning and Community Right to Know Act (EPCRA) 40 CFR Part 355
- Comprehensive Environmental Response Compensation and Liability Act, 40 CFR §300 et seq. and 29 CFR §1910
- Superfund Amendments and Reauthorization Act (SARA), 40 CFR §300 et seq.
- Hazardous Materials Transportation Act (HMTA), 49 CFR 171-180
- Occupational Safety and Health Act of 1970, 29 U.S.C §651-678
- Federal Water Pollution Control Act, Public Law 101-508 §1388 et seq
- Safe Drinking Water Act of 1974, 40 CFR §104 et seq.
- Clean Air Act, 40 CFR §§60 and 763 et seq.
- Toxic Substances Control Act (TSCA) 40 CFR §761
- Federal Insecticide, Fungicide, Rodenticide Act (FIFRA), 86 Sta. §973 et seq.
- Fish and Wildlife Coordination Act ,16 U.S.C 661-666 PL 93-205
- Clean Water Act, 33 U.S.C 1251-1376
- Rivers and Harbors Act of 1899, 33 U.S.C 401 et. seq
- Coastal Zone Management Act (1972), 16 U.S.C
- Tennessee Valley Act of 1933
- Endangered Species Act, 1973, as amended, 16 U.S.C. 1531-15443
- Executive Order 13112: Invasive Species
- Executive Order 11988: Floodplain Management, as amended by Executive Order 12148
- Executive Order 12898: Federal Actions to Address Environmental Justice in Low Income Populations and Minority Populations, as amended by Executive Order 12948
- Executive Order 11990: Protection of Wetlands
- Executive Order 11514: Protection and Transportation Alternatives of Environmental Quality
- Executive Order 12630: Governmental Actions and Interference with Constitutionally Protected Property Rights
- Executive Order 13166: Improving Access to Services for Persons with Limited English Proficiency
- Executive Order 13186: Responsibilities of Federal Agencies to Protect Migratory Birds
- Executive Order 13195: Trails for America in the 21st Century
- Executive Order 13352: Facilitation of Cooperative Conservation
- Executive Order 13392: Improving Agency Disclosure of Information
- Executive Order 13406: Protection the Property Rights of the American People

State Environmental Review Process

- Code of Virginia Section 10.1-1188 (B)

Cultural Resources

- Section 106 of the National Historic Preservation Act, 16 U.S.C 470f
- Protection of Historic Properties, 36 CFR Part 800
- National Environmental Policy Act, 42 U.S.C 4321-4347
- Environmental Impact Reports of State Agencies, Code of Virginia 10.1-1188-1192

Section 4(f)

- 23 CFR 774
- Title 49 U.S.C. Section 303
- Title 23 U.S.C. Section 138

Noise Studies and Abatement

- National Environmental Policy Act, 42 U.S.C 4332(2)(C) PL 91-910
- Noise Control Act of 1972, 42 U.S.C Chapter 65 Section 4901 et seq.
- Federal Aid Highway Act of 1970, 23 U.S.C 109(h)(i)(j)
- Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU)
- Federal Highway Administration's Noise Regulations, 23 CFR 772
- Section 33.1-12 of the Code of Virginia.
- State Noise Abatement Policy

Air Quality

- National Environmental Policy Act, 42 U.S.C 4332(2)(C) PL 91-910
- Clean Air Act, as amended, 42 U.S.C 1857 PL 95
- Federal Aid Highway Act of 1970, 23 U.S.C 109(h)(i)(j)
- Energy Policy Act, 42 U.S.C 15801
- Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU)
- Transportation Conformity Regulations, 40 CFR Parts 51 (Implementation), 81 (Designations), and 93 (Transportation Conformity)
- Statewide Transportation Planning Regulations, 23 CFR Part 450
- Interim Guidance on Air Toxic Analysis in NEPA Documents – FHWA Guidance Memorandum – February 3, 2006
- Memorandum of Agreement with FHWA Regarding Streamlining Project Level Carbon Monoxide Air Quality Studies, 2009
- Virginia Air Pollution Control Law
- State Regulation for Transportation Conformity, 9 VAC 5 Chapter 151

Water Quality Permits

- National Environmental Policy Act, 42 U.S.C 4321-4347
- Fish and Wildlife Coordination Act ,16 U.S.C 661-666 PL 93-205
- Clean Water Act, 33 U.S.C 1251-1376
- Rivers and Harbors Act of 1899, 33 U.S.C. 403
- Section 106 of the National Historic Preservation Act, 16 U.S.C. 470f
- Executive Order 11988, Floodplain Management
- Executive Order 11990, Protection of Wetlands
- Virginia General Permit, Code of Virginia, 28.2-103 and 28.2-1203
- Coastal Zone Management Act, 16 U.S.C 1451-1465
- Endangered Species Act, 16 U.S.C 1531-1544
- Tennessee Valley Act of 1933, 16 U.S.C. 831
- Virginia Stormwater Management Program 2005
- Virginia Water Protection Permit Regulations, Title 62.1-44.15.5
- Wild and Scenic Rivers Act, 16 U.S.C. 1278
- Virginia Scenic Rivers Act, Code of Virginia, 10.1-400 to 418
- Virginia Endangered Plant and Insect Species Act, Code of Virginia, 3.1-1020 to 1030
- Virginia Department of Game and Inland Fisheries manages endangered and threatened fish and wildlife (except insects) in Virginia, Code of Virginia, 29.1-564
- Federal Guidance for the Establishment, Use, and Operation of Mitigation Banks (1995)
- Virginia Erosion and Sediment Control Law and Regulations, Code of Virginia 10.1-561 et seq.
- Chesapeake Bay Preservation Act, Code of Virginia, 10.1-2100 to 2116
- Virginia Cave Protection Act, July 1979, as amended, July 1984, Code of Virginia 10.1-1000 to 1008
- Natural Area Preserves Act, Code of Virginia, 10.1-208 to 217

Threatened and Endangered Species

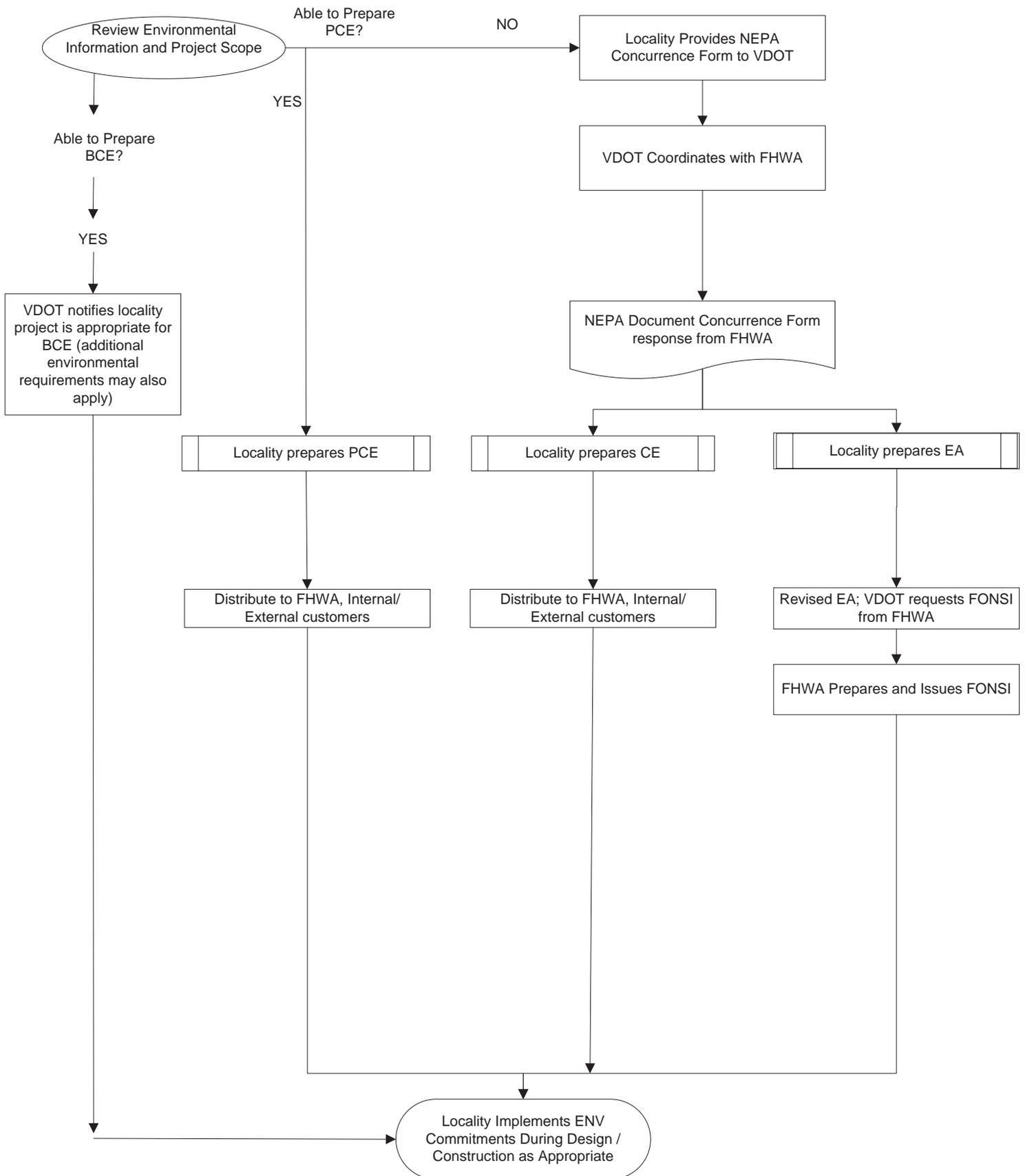
- Endangered Species Act, 16 U.S.C 1531-1544
- National Environmental Policy Act, 42 U.S.C 4321-4347
- Fish and Wildlife Coordination Act ,16 U.S.C 661-666 PL 93-205
- Clean Water Act, 33 U.S.C 1251-1376
- Rivers and Harbors Act of 1899, 33 U.S.C. 403
- Executive Order 11988, Floodplain Management
- Executive Order 11990, Protection of Wetlands
- Coastal Zone Management Act, 16 U.S.C 1451-1465
- Tennessee Valley Act of 1933, 16 U.S.C. 831
- Wild and Scenic Rivers Act, 16 U.S.C. 1278
- Federal Guidance for the Establishment, Use, and Operation of Mitigation Banks (1995)

- Migratory Bird Treaty Act 16 U.S.C Sections 703-712
- Bald and Golden Eagle Protection Act RIN 1018-AV11
- Virginia Stormwater Management Program 2005
- Virginia Water Protection Permit Regulations, Title 62.1-44.15.5
- Virginia Scenic Rivers Act, Code of Virginia, 10.1-400 to 418
- Virginia Endangered Plant and Insect Species Act, Code of Virginia, 3.1-1020 to 1030
- Virginia Department of Game and Inland Fisheries manages endangered and threatened fish and wildlife (except insects) in Virginia, Code of Virginia, 29.1-564
- Virginia Erosion and Sediment Control Law and Regulations, Code of Virginia 10.1-561 et seq.
- Virginia General Permit, Code of Virginia, 28.2-103 and 28.2-1203
- Chesapeake Bay Preservation Act, Code of Virginia, 10.1-2100 to 2116
- Virginia Cave Protection Act, July 1979, as amended, July 1984, Code of Virginia 10.1-1000 to 1008
- Natural Area Preserves Act, Code of Virginia, 10.1-208 to 217

Hazardous Materials

- Resource Conservation and Recovery Act of 1976 (RCRA), 42 U.S.C 6901-6991k
- Hazardous and Solid Waste Amendments (HSWA) of 1984
- Emergency Planning and Community Right to Know Act (EPCRA), 40 CFR 355
- Comprehensive Environmental Response Compensation and Liability Act (CERCLA), 40 CFR 300 et seq. and 29 CFR 1910
- Superfund Amendments and Reauthorization Act (SARA), 40 CFR 171-180
- Hazardous Materials Transportation Act (HMTA), 49 CFR 171-180
- Occupational Safety and Health Act of 1970, 29 U.S.C 651-678
- Federal Water Pollution Control Act, PL 101-508, 1388 et seq.
- Clean Water Act of 1977 and Safe Drinking Water Act of 1974, 40 CFR 104 et seq.
- Clean Air Act, 42 U.S.C 7401-7671q
- Toxic Substances Control Act (TSCA), 40 CFR 761
- Virginia Hazardous Waste Management Regulation, 9 VAC 25-31-10 et seq. and 9 VAC 25-260 et seq.
- Virginia Solid Waste Management Regulations, 9 VAC 20-80 et seq.
- Virginia Water Control Board Regulations, 9 VAC 25-91-10 et seq. and 25-280-10 et seq.
- National Environmental Policy Act of 1969, 42 U.S.C 4321-4347
- Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), 7 U.S.C 136 et seq.

15.2 NATIONAL ENVIRONMENTAL POLICY ACT



15.2.1 Introduction

This section provides a general overview of the National Environmental Policy Act ([NEPA](#)) and the process a LPA must follow to ensure successful completion of the NEPA process. By regulation, FHWA retains NEPA approval authority and requires VDOT oversee compliance with NEPA on its behalf, even if a project is administered by a local government. While a LPA is required to perform all necessary environmental investigations and prepare all necessary documentation demonstrating compliance with NEPA, the FHWA must provide all approvals for NEPA actions. Accordingly, close coordination between the LPA, their consultant, and VDOT is extremely important during the NEPA process to ensure that project delays are avoided.

Transportation projects differ in type, size, complexity, and potential to impact the environment. Transportation project impacts on the natural and human environment can vary from very minor to significant. To account for the variability of project impact, three basic "classes of action" are allowed and determine how compliance with NEPA is carried out and documented:

- [Categorical Exclusions \(CE's\)](#) are issued for actions that do not individually or cumulatively have a significant effect on the environment. CE's can be concluded typically within six to nine months time. There are also project categories that may be addressed as Programmatic Categorical Exclusions (PCE's) or Blanket Categorical Exclusions (BCE's). PCE's may typically be concluded in several weeks time and BCE's may be concluded in less time. Most LPA administered projects will fall into this level of NEPA action.
- An [Environmental Assessment \(EA\)](#) is prepared for actions in which the significance of the environmental impact is not clearly established. Should environmental analysis and interagency review during the EA process find a project to have no significant impact on the quality of the environment, a [Finding of No Significant Impact \(FONSI\)](#) is issued. EA/FONSI's can be concluded typically within 16 months.

- An [Environmental Impact Statement \(EIS\)](#) is prepared for projects where it is known that the action will have a significant effect on the environment. EIS documents routinely take several years to complete.

This chapter will focus on the requirements for BCE's, PCEs, CEs, and EAs. When it is determined an EIS will be required for a LPA project, a separate memorandum of agreement, outlining specific actions and requirements of VDOT and the LPA will be developed.

15.2.2 Applicability

- All federal-aid projects and projects developed to qualify for federal-aid.
- Projects which are not federal-aid or developed to qualify for federal-aid but involve another federal action (such as a federal permit or use of federal property) require compliance with NEPA; however, VDOT does not provide oversight or have approval authority for actions required by agencies other than FHWA.

15.2.3 NEPA Concurrence



Prior to the initiation of environmental studies, the LPA must submit a NEPA Concurrence form to the VDOT project coordinator. It is recommended that the LPA discuss the NEPA class of action with the VDOT District Environmental Coordinator when completing this form.



It is important to remember that only CE's, EA's, and EIS's require preparation of a NEPA Concurrence form; BCE's and PCE's do not.

VDOT requires the use of a standardized [NEPA Concurrence form](#).

VDOT has developed guidance on the use of the NEPA Concurrence form which is available [here](#) or through the District Environmental Section.

VDOT Responsibilities:

- *After receiving the NEPA Concurrence Form, the project coordinator will forward the form to the District Environmental Manager for review and concurrence.*
- *The VDOT District Environmental Manager will request FHWA concurrence or request additional information from the LPA within 5 business days. The VDOT project coordinator will forward the information request or concurrence to the LPA and facilitate further consultations, if necessary.*
- *The approved NEPA Concurrence form will be uploaded into CEDAR.*

15.2.4 Categorical Exclusions

15.2.4.1 Blanket Categorical Exclusions (BCE's)

VDOT and FHWA signed a revised [Programmatic Categorical Exclusion Agreement](#) on May 1, 2013 which offers further NEPA documentation efficiencies for certain categories of transportation projects. The Agreement creates Blanket Categorical Exclusions (BCE's) which are actions that require no further NEPA approval or documentation for the action. VDOT will notify the LPA if their project qualifies as a BCE. No further NEPA documentation is needed by the LPA. The use of a BCE means that the proposed project will not have other state/federal environmental laws or regulations requirements. If additional state or federal environmental actions are that are applicable to the project (e.g. water quality permit acquisition), the use of a BCE is not appropriate.

15.2.4.2 Programmatic Categorical Exclusions (PCE's)

There are a variety of project types which may qualify for preparation of a Programmatic Categorical Exclusion. The VDOT-FHWA [Programmatic](#)

[Categorical Exclusion Agreement](#) list identifies these types of projects and provides the requirements for and restrictions on the use of these PCEs.

To complete a PCE, the LPA must determine through coordination with various regulatory agencies that the project does not require an individual permit from the Coast Guard or Army Corps of Engineers, does not have relocations or substantial R/W impacts, does not use land from a Section 4(f) resource (including de minimis findings), and does not have an Adverse Effect on Historic Properties (see section 15.4.8). The sources of these determinations are based on [15 criteria outlined](#) and documented on the standardized [PCE](#) Form, with the LPA's submittal of additional supporting documentation to VDOT.

VDOT requires the use of a standardized [PCE](#) form.

VDOT has developed guidance on the completion of the PCE form which is available [here](#) or through the District Environmental Section.

15.2.4.3 Categorical Exclusions (CE's)

Other actions which are not identified in the Programmatic Categorical Exclusion Agreement, but based on experience do not involve significant environmental impacts require preparation of a Categorical Exclusion, with the submittal of additional documentation. A list of these actions is contained in [23 CFR 771.117\(d\)](#) .

VDOT requires the use of a standardized [CE](#) form.

VDOT has developed guidance on the completion of the CE form which is available [here](#) or through the District Environmental Section.

15.2.4.4 Submitting the PCE/CE



The LPA must submit a draft PCE or CE, along with the supporting documentation, to the VDOT project coordinator.



VDOT concurrence with the completed PCE or CE, and supporting documentation, must be received prior to announcement of a public hearing or posting of willingness and prior to Right of Way Authorization.

PCE's will require a minimum of 5 business days for a quality assurance review. Complex and more detailed CE's may require additional review time. The LPA may want to schedule additional time for a consultation meeting with the District Environmental Section.

The LPA will address comments provided, if necessary, and will submit a final PCE or CE, including an electronic copy, to the project coordinator.

VDOT Responsibilities:

- *During PCE/CE development, the project coordinator and the District Environmental Section may provide support to the LPA as requested, to ensure a quality PCE/CE will be submitted. The project coordinator will forward the completed PCE/CE to the District Environmental Manager for a quality assurance review.*
- *For most PCE/CE's, the VDOT Environmental staff will provide a concurrence or make a request for additional information within 5 business days for a PCE and 10 business days for a CE. When additional review time or consultation with the LPA is necessary, the Environmental Section will promptly notify the project coordinator and the LPA.*
- *The District Environmental Office will upload documentation into CEDAR.*

15.2.5 Environmental Assessments

Because of the complexity involved with the preparation of an EA, close coordination with the VDOT Environmental Coordinator throughout the development of the EA is essential.



To ensure concurrence with the [Purpose & Need](#) (P/N) and the [Alternatives Analysis](#) sections of the documents, FHWA requires those portions of the EA be submitted for review, as they are completed. This early review by VDOT and FHWA will expedite the overall approval process for the EA. A link to an example of a P/N chapter is found [here](#). An example of an Alternatives Analysis chapter can be found [here](#).

For additional guidance on the development of an EA, click [here](#).

VDOT does not require the use of a standardized form for EA's; however, the VDOT Environmental Coordinator can provide examples of Environmental Assessments for assistance with formatting. The LPA should note that FHWA allows no consultant logos in NEPA documentation.



The LPA must submit the EA which has addressed any comments on the P/N and Alternative Analysis sections, along with supporting documentation, to the VDOT project coordinator. Supporting documentation for the EA may include technical reports for air quality, noise analysis, cultural resources, natural resources technical reports, hazardous materials investigations, and agency coordination letters.



FHWA's written approval of the EA for public availability must be received prior to announcement of a public hearing or posting of willingness.

EA's will require a minimum of 10 business days for a quality assurance review. Complex and more detailed EA's may require additional review time. The LPA may want to schedule additional time for a consultation meeting with the District Environmental Section.

The LPA will address comments provided, if necessary, and will submit the revised EA, including an electronic copy, to the project coordinator.

After the public hearing, the LPA will have to revise the EA based on public comments and make the written request for a Finding of No Significant Impact (FONSI). The LPA's draft request should be provided to the VDOT project coordinator for the final written request to FHWA. Once FHWA's FONSI has been received, the LPA will be provided with an electronic copy.

VDOT Responsibilities:

- *During EA development, the project coordinator and the District Environmental Section may provide support to the LPA as requested, to ensure a quality EA will be submitted. The project coordinator will forward the completed draft P/N section, Alternatives Analysis section, and EA to the District Environmental Manager for a quality assurance review.*
- *For most reviews, the Environmental Section will generally provide a concurrence or comments/request for additional information within 10 business days. When additional review time or consultation with the LPA is necessary, the Environmental Section will promptly notify the project coordinator and LPA.*
- *The District Environmental Office will upload all required documentation into CEDAR.*

15.2.6 Documentation

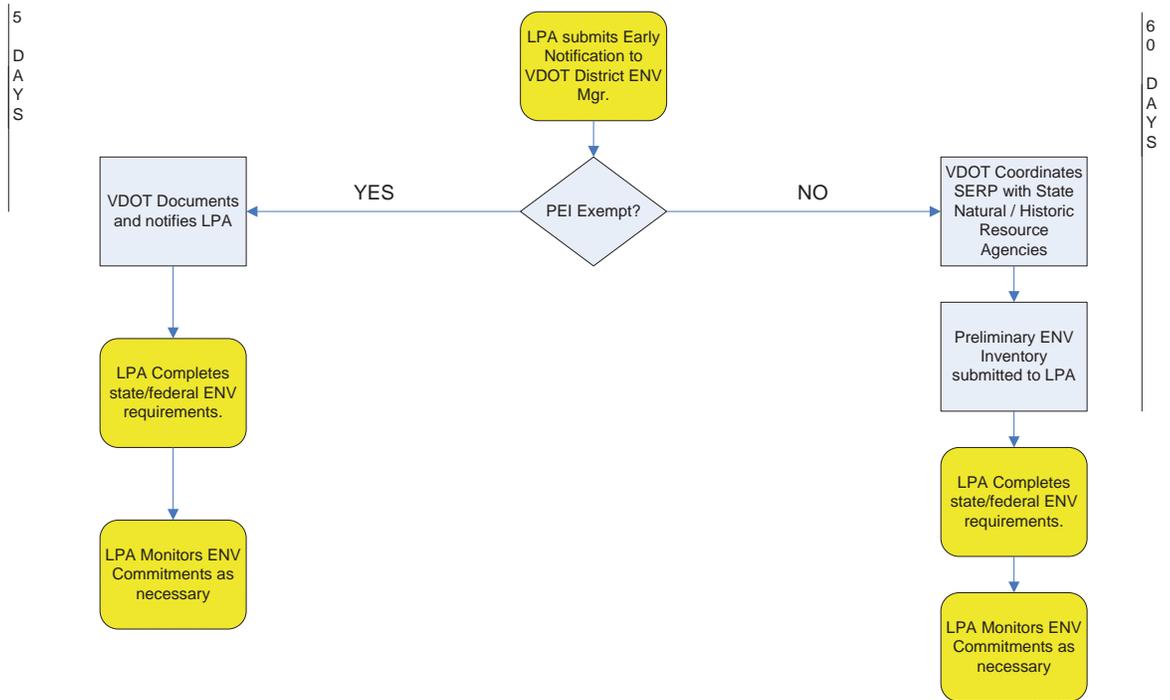
Another equally important aspect of compliance with state and federal laws, regulations and Executive Orders is written documentation. LPA will provide VDOT with copies of all documentation evidencing compliance with applicable laws, regulations and executive orders. This will allow any project specific audits or investigations of environmental compliance to be efficiently and successfully addressed. The American Association of State Highway and Transportation Officials (AASHTO) provide an excellent discussion on maintaining and preparing an administrative record for environmental compliance ([AASHTO Center for Environmental Excellence](#)).

15.2.7 References

- [NEPA Concurrence form](#) and [Guidance](#)
- [PCE form](#) and [Guidance](#)
- [CE form](#) and [Guidance](#)
- [Purpose & Need](#)
- [Alternatives Analysis](#)

15.3 STATE ENVIRONMENTAL REVIEW PROCESS (SERP)

State Environmental Review Process SERP



15.3.1 Introduction

The Code of Virginia directed the Secretaries of Natural Resource and Transportation to establish procedures for review and comment on highway construction projects. The [Memorandum of Agreement](#) (MOA) between those Secretariats implemented a streamlined process for accomplishing this, known as the State Environmental Review Process (SERP).

The SERP provides Virginia state natural and historic resource agencies the opportunity to provide environmental resource information and comment on transportation construction projects at the earliest possible stage of development.

The resource information provided in the Preliminary Environmental Inventory (PEI) assists the LPA, VDOT, and the state resource agencies in identifying any known environmental issues early in project development.

15.3.2 Applicability

- Only applicable to state funded construction projects estimated to cost more than \$500,000.

15.3.3 SERP Coordination Process



The LPA will submit a [Project Definition form \(EQ-429\)](#) and a topographic map depicting the project limits after the Project Administration Agreement is completed and once the preliminary project scope is determined.



The LPA should be sure to be as inclusive as possible when providing project information. It is best to include any project features that may be included in the project, even if a final determination of those project features has not been made.

VDOT Environmental staff will determine if the project is exempt from preparation of a PEI. If so, the LPA will be notified by VDOT. However, the LPA is still required to obtain any environmental clearances necessary to satisfy state/federal regulatory requirements.

If a project is determined to require preparation of a PEI, VDOT Environmental staff will contact state resource agencies with the information and project description provided by the LPA. State resource agencies will generally provide comments within 45 days.

VDOT Environmental staff will consolidate agency comments and prepare a “Preliminary Environmental Inventory” for the LPA’s use. An example of a completed PEI is found [here](#).



The PEI will not include comments from federal resource agencies (such as US Fish and Wildlife) nor will it provide information on specific water quality permitting requirements. The PEI is solely intended as a preliminary environmental inventory from state resource agency databases. The PEI does not take the place of direct coordination with regulatory agencies to resolve project impacts.

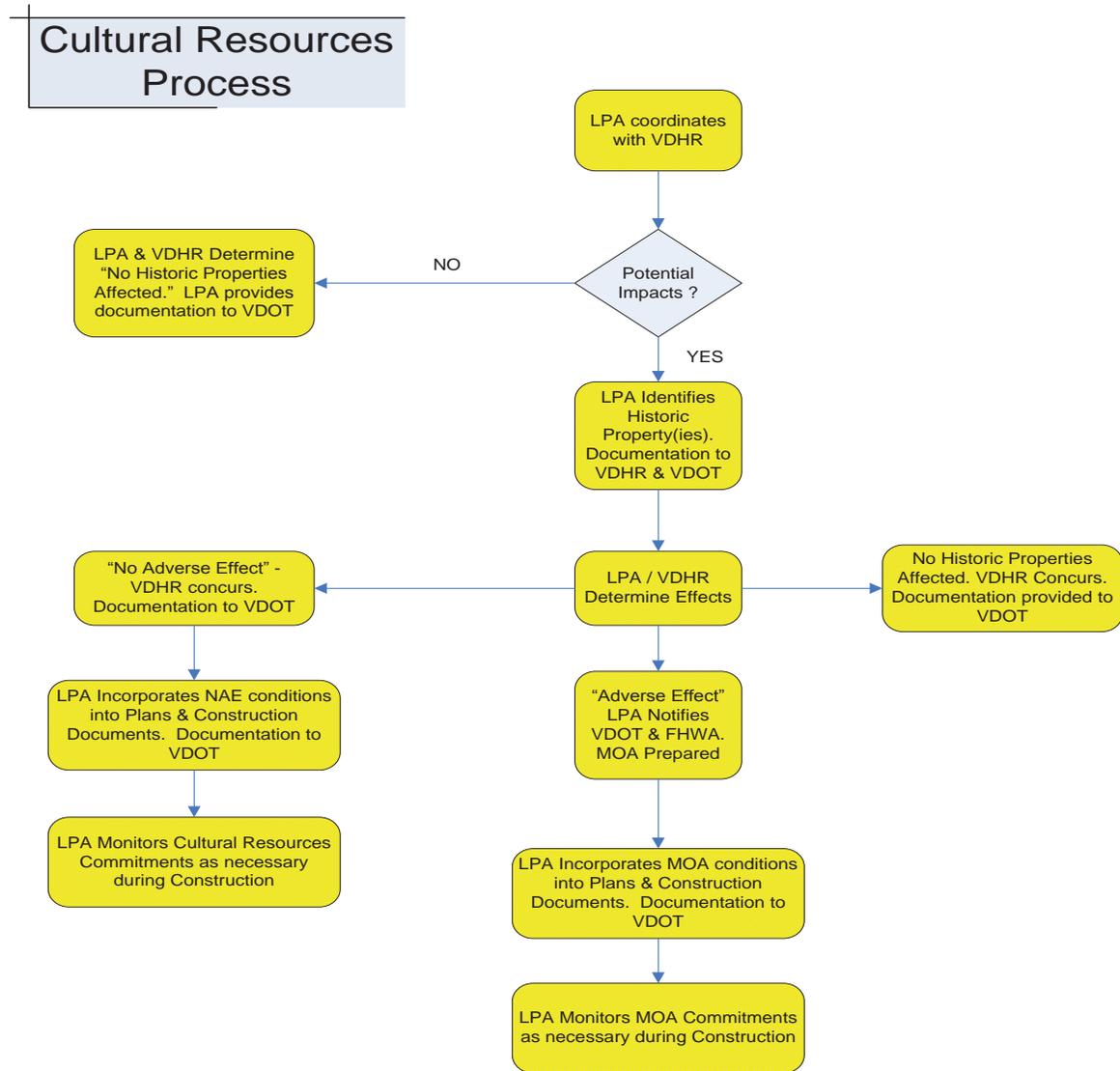
VDOT Responsibilities:

- *The VDOT project coordinator will input the information from the Project Definition form (EQ-429) into CEDAR.*
- *VDOT Environmental Staff will coordinate with regulatory agencies and prepare a PEI and a memorandum outlining any required environmental commitments, generally between 30 and 90 days after submittal of the Project Definition form (EQ-429).*
- *Where a project is exempt from preparation of a PEI, a PEI exemption will be completed within 5 business days after the project coordinator completes the CEDAR Project Definition form.*

15.3.4 References

- [SERP Memorandum of Agreement](#)
- [Project Early Notification form \(EQ-429\)](#)
- [Preliminary Environmental Inventory \(example\)](#)

15.4 CULTURAL RESOURCES



15.4.1 Introduction

A cultural resource review, performed in accordance with Section 106 of the National Historic Preservation Act, is required for any federal undertaking to include projects receiving federal-aid or projects requiring a federal permit (such as a water quality permit from the US Army Corps of Engineers or the Tennessee Valley Authority). The regulations that implement Section 106 (36 CFR Part 800) provide the process steps for considering the effects of an undertaking on historic properties. This process must be conducted in consultation with the State Historic Preservation Office (SHPO; in Virginia, the Virginia Department of Historic Resources), federally recognized Indian tribes, representatives of local government, other interested parties, the general public, and in some cases, the Advisory Council on Historic Preservation (ACHP) (the federal entity that oversees implementation of Section 106).

The major steps in the Section 106 process are:

- (1) Identification of consulting/interested parties;
- (2) Definition of the geographic area within which a project may directly or indirectly cause changes in the character or use of historic properties;
- (3) Identification of historic properties within the Area of Potential Effects (APE);
- (4) Assessment of project effects on historic properties;
- (5) Consideration of alternatives or modifications to project design that would avoid or minimize adverse effects; and
- (6) Resolution of any remaining adverse effects through the federal agency's execution of a Memorandum of Agreement with the SHPO and other parties.

For federal-aid transportation projects in Virginia, the Section 106 process is used to meet the requirements of the National Environmental Policy Act (NEPA) for ensuring that historic preservation is given appropriate consideration in project planning and development.

Cultural resource review of state-funded transportation projects (that do not require a federal permit) is conducted pursuant to §10.1-1188-1192, Code of Virginia and the SERP MOA. If cultural resource issues on transportation projects without federal involvement (funding or permit) cannot be resolved during the SERP, they are investigated and coordinated further with the VDHR in a manner consistent with 36 CFR Part 800 and the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation. The process followed to ensure project effects on historic properties are considered on state-funded projects is consistent with the federal Section 106 process, but does not involve the ACHP or a federal sponsor.

The Virginia Department of Historic Resources maintains a [Web site](#) that contains valuable information regarding cultural resource coordination requirements.

15.4.2 Applicability

- The requirements of this chapter are applicable to federal-aid projects and projects developed as federally eligible.
- State funded projects requiring a federal water quality permit.

15.4.3 Section 106 Coordination Process

After completion of SERP, the VDOT District Environmental Manager will provide the LPA information on known historic resources within the vicinity of the project obtained from the VDHR's Data Sharing System. After receiving information on known historic resources, the LPA is responsible for identifying consulting parties, defining the APE, conducting technical studies needed to identify historic properties within the APE, assessing the project's effects on historic properties, and coordinating these findings with VDHR and other consulting parties. The LPA can begin coordination with VDHR as soon as a project scope is ready.

15.4.4 Effect Determinations



The LPA is required to provide VDOT with copies of the technical reports (two hard copies and an electronic copy in PDF format) and written correspondence from VDHR, providing VDHR's concurrence with the LPA's findings and effect determinations.

The outcome of coordination with VDHR will be one of several effect determinations: No Historic Properties Present or Affected; No Adverse Effect on Historic Properties (with or without conditions); or Adverse Effect on Historic Properties. When the effect is adverse, a Memorandum of Agreement to resolve adverse effects must be executed.

The LPA should be mindful that receiving an Adverse Effect will require preparation of a CE (instead of a PCE) to comply with NEPA.

Additionally, the LPA should consider whether a historic property may also require preparation of a Section 4(f) evaluation (see 15.5).

15.4.5 Memorandum of Agreement

When an LPA reaches an Adverse Effect determination with VDHR, the VDOT project coordinator must be notified. VDOT and FHWA will participate in the development and execution of the Memoranda of Agreement (MOA). The US Army Corps of Engineers or Tennessee Valley Authority may also be consulting parties for projects with federal permits.

15.4.6 Post Consultation/Construction

The LPA is required to implement commitments required by VDHR during design and/or construction to avoid, minimize, or mitigate effects on historic properties. The LPA must provide VDOT documentation evidencing commitments have been implemented.

If any design changes occur, which affect the project scope reviewed by VDHR, the LPA must coordinate again with VDHR to address any change in effects to historic properties. The LPA must provide VDOT documentation demonstrating VDHR's continued concurrence with the LPA's findings and determination.

If previously unidentified archaeological sites are encountered during project construction, the LPA must address these in accordance with Section 107.14(d) of the VDOT's *Road and Bridge Specifications* and 36 CFR 800.13.

15.4.7 VDHR Permits



Regardless of funding source, when the LPA must conduct archaeological testing or excavations within state-owned right of way, it must first secure a permit from VDHR pursuant to [§10.1-2302](#) of the Code of Virginia. Permits are issued through the VDHR's Division of Resource Services and Review.

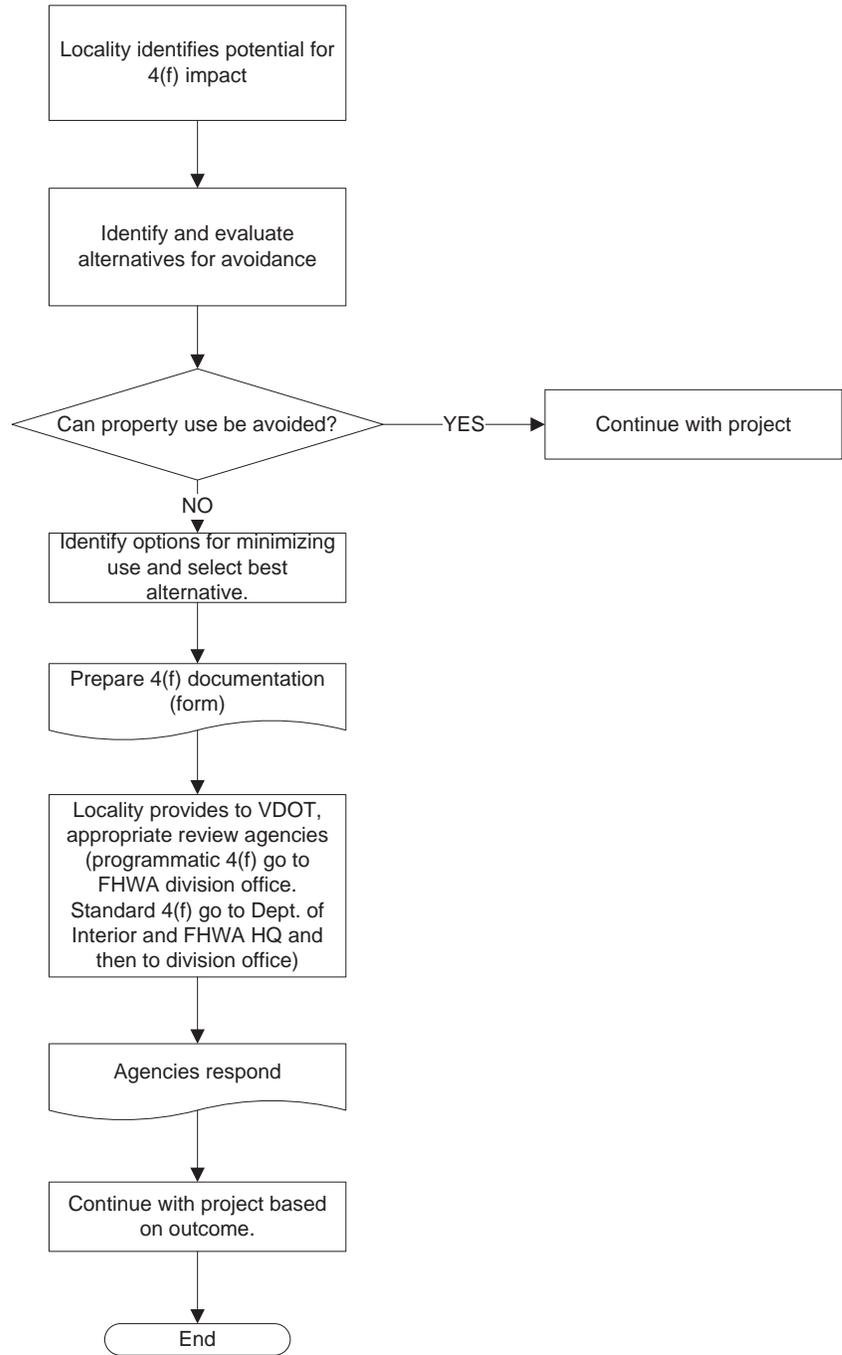
VDOT Responsibilities:

The VDOT Environmental Manager will provide the LPA information on known historic resources within the vicinity of the project as obtained from the VDHR's Data Sharing System.

- *Participate, as a consulting party, during the development of any MOA between the LPA and VDHR, for federal-aid projects..*
- *Prior to completion of NEPA documentation, ensure a copy of the effect determination letter from VDHR or MOA is received and entered into CEDAR.*
- *Oversee all commitments made for a federal-aid project to obtain a cultural resource effect determination are implemented by the LPA during the appropriate phase of project development or during construction.*

15.4.8 References

- Advisory Council on Historic Preservation [Section 106 Regulations User's Guide](#)
- Virginia Department of Historic Resources' [Environmental Review](#)
- VDHR's [Guidelines for Conducting Cultural Resource's Survey in Virginia](#)
- VDHR's [Guidelines for Archaeological Investigations in Virginia](#)



15.5.1 Introduction

The Department of Transportation Act (DOT Act) of 1966 included a special provision - Section 4(f) - which stipulated that the Federal Highway Administration (FHWA) and other DOT agencies cannot approve the use of land from publicly owned parks, recreational areas, wildlife and waterfowl refuges, or public and private historical sites unless the following conditions apply:

- There is no feasible and prudent alternative to the use of land, and
- The action includes all possible planning to minimize harm to the property resulting from use.

In August 2005, [Section 6009\(a\) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users \(SAFETEA-LU\)](#), made the first substantive revision to Section 4(f) since the 1966 US Department of Transportation Act. Section 6009, which amended existing Section 4(f) legislation at both Title 49 U.S.C Section 303 and Title 23 U.S.C. Section 138, simplified the process and approval of projects that have only *de minimis* (minor) impacts on lands impacted by Section 4(f). Under the new provisions, once FHWA determines that a transportation use of Section 4(f) property results in a *de minimis* impact, analysis of avoidance alternatives is not required and the Section 4(f) evaluation process is complete. Section 6009 also required the US DOT to issue regulations that clarify the factors to be considered and the standards to be applied when determining if an alternative for avoiding the use of a section 4(f) property is feasible and prudent. On March 12, 2008 FHWA issued a [Final Rule](#) on Section 4(f), which clarifies the 4(f) approval process and simplifies its regulatory requirements. In addition, the Final Rule moves the Section 4(f) regulation to [23 CFR 774](#).

15.5.2 Applicability

- The requirements of this chapter are applicable to all federal-aid projects and projects developed to qualify for federal aid.

15.5.3 Section 4(f) Coordination Process

Potential 4(f) properties should be identified during pre-scoping, scoping, or during the preliminary environmental review of the project if at all possible. When VDOT Environmental staff believes that 4(f) properties may be impacted, the LPA will be notified.



The LPA must consider 4(f) property impacts and coordinate with VDOT Environmental staff for additional review. The VDOT Environmental Coordinator will consult with FHWA for a formal determination of 4(f) applicability.

After a determination that 4(f) is applicable, the LPA will complete the necessary evaluation, coordination, and documentation.



VDOT requires the use of a standardized form for [Section 4\(f\) Evaluation](#).

Guidance for completing the Section 4(f) evaluation can be found [here](#).

The draft 4(f) Evaluation will be submitted to VDOT for review. Comments will generally be provided within 15 business days. After addressing the VDOT comments, the LPA will submit a final draft 4(f) Evaluation and VDOT will submit to FHWA for final approval.

VDOT Responsibilities:

- *VDOT Environmental staff will consult with FHWA regarding Section 4(f) applicability and notify the project coordinator and LPA of the determination.*
- *After receiving the draft 4(f) Evaluation, the Environmental Coordinator will provide comments to the VDOT project coordinator and LPA within 15 business days.*

- *After receiving the final 4(f) Evaluation, the VDOT Environmental Coordinator will submit it to FHWA.*
- *Information uploaded into CEDAR.*

15.5.4 References

- [FHWA Section 4\(f\) Policy Paper](#)
- [Guidance for Determining De Minimis Impacts to Section 4\(f\) Resources - FHWA](#)
- [Section 4\(f\) - Independent Bikeway or Walkway Construction Projects](#)
- [Section 4\(f\) - Use of Historic Bridges](#)
- [Section 4\(f\) - Involvements with Historic Sites](#)
- [Section 4\(f\) - Involvements with Public Parks, Recreation Lands, and Wildlife and Waterfowl Refuges](#)
- [Section 4\(f\) Evaluation and Approval for Transportation Projects That Have a Net Benefit to a Section 4\(f\) Property](#)
- [Section 4\(f\) Evaluation form](#) and [Guidance](#)

15.6 NOISE STUDIES AND ABATEMENT

15.6.1 Introduction

Federal regulations ([23 CFR Part 772](#)) require that each State Transportation Agency determine and analyze anticipated noise impacts and alternative noise abatement measures for those impacts for specific type of highway construction projects.

In response to new technology and the industry practices, FHWA proposed changes to federal noise abatement policy and regulation. The final rule was published on July 13, 2010 with an effective date of July 13, 2011. It required each State DOT to revise its noise policy to be in accordance with this final rule. [FHWA approved the Virginia Department of Transportation Highway Traffic Noise Impact Analysis Guidance Manual on March 15, 2011. The CTB approved the Manual on June 15, 2011.](#)

Effective Date: July 13, 2011

Updated: February 11, 2013

The new policy sets out statements on general applicability (FHWA resources, General Assembly mandate, and administration of the policy) as well as creates a companion document to cover details in a comprehensive manner. The companion document is titled “Highway Traffic Noise Impact Analysis Guidance Manual”. The VDOT noise policy and guidance manual can be located at: <http://www.virginiadot.org/projects/pr-noise-walls-about.asp>.

A noise wall is a specially designed structure built to reduce noise levels created by nearby highway traffic. It is built only after noise impact studies are conducted and certain conditions are met. VDOT conducts studies and looks into options for reducing noise levels along proposed federally funded highway improvement projects. Projects must meet one of the following conditions to be considered for noise abatement:

- (1) The construction of a highway on new location; or,
- (2) The physical alteration of an existing highway where there is either:

- (i) Substantial Horizontal Alteration. A project that halves the distance between the traffic noise source and the closest receptor between the existing condition to the future build condition; or,
 - (ii) Substantial Vertical Alteration. A project that removes shielding therefore exposing the line-of-sight between the receptor and the traffic noise source. This is done by either altering the vertical alignment of the highway or by altering the topography between the highway traffic noise source and the receptor; or,
- (3) The addition of a through-traffic lane(s). This includes the addition of a through-traffic lane that functions as a HOV lane, High-Occupancy Toll (HOT) lane, bus lane, or truck climbing lane; or,
- (4) The addition of an auxiliary lane, except for when the auxiliary lane is a turn lane; or,
- (5) The addition or relocation of interchange lanes or ramps added to a quadrant to complete an existing partial interchange; or,
- (6) Restriping existing pavement for the purpose of adding a through-traffic lane or an auxiliary lane; or,
- (7) The addition of a new or substantial alteration of a weigh station, rest stop, ride-share lot or toll plaza.

15.6.2 Applicability

- Requirements of this chapter apply to all federal-aid projects and projects developed to qualify for federal-aid.

15.6.3 Noise Abatement Coordination Process

15.6.3.1 Project Type Determination

Only those projects determined to be Type I federal-aid projects will require noise analysis. Type I projects involve the construction of a highway on new location or the physical alteration of an existing highway which significantly changes the horizontal or vertical alignment or increases the number of through traffic lanes and are further defined in section 15.6.1 (1) through (7).

VDOT Responsibilities:

- *VDOT Environmental coordinates with VDOT Noise Abatement Engineer to obtain determination whether project is Type I and will require a Noise analysis.*
- *VDOT Environmental provides project coordinator and LPA determination within 7 business days.*

15.6.3.2 Noise Analysis



During the noise analysis, the LPA is encouraged to consult with VDOT Noise Abatement Engineer to ensure that the approach and methodologies being used meet the requirements of FHWA. The LPA may request a coordination meeting with VDOT Noise staff to discuss analysis planning.



The LPA will provide the draft and final Preliminary Design and Final Design Noise Analysis Technical Report to the VDOT project coordinator who will transmit the reports to the VDOT Noise Abatement Engineer for review. The noise analysis must document the existing, no-build (where applicable), and the design year noise environment and the results of the noise analysis must be included in the NEPA documentation. This information should also be used to ensure appropriate Right of Way and design considerations take place.

VDOT Noise Abatement Engineer reviews and comments on draft Noise Technical Reports within 30 days of receipt from LPA/consultant.

15.6.4 Citizen Coordination

After the approval of the Final Design Noise Analysis and Chief Engineer approval, the LPA will send out certified survey letters to affected property owners. Results are presented to VDOT Noise Abatement Engineer. An example

of a [cover letter](#) and [survey](#) for citizens is attached. A graphic is also usually inserted with letters.

The impacted citizens have the final say in the construction of barriers. If a tie vote occurs the barrier is typically constructed. However, if more than half of the citizens do not want the barrier a graphical analysis of the votes is recommended. For example, if 10 citizens in the front row vote yes and 12 citizens in the 2nd row vote no, then the barrier would be constructed because the front row of homes are anticipated to have a greater noise impact.

The LPA provides results of the citizen survey to the VDOT Noise Abatement Engineer.

15.6.5 Noise Abatement Design

The LPA will ensure design and construction of noise abatement (barriers, berms, etc.) as per the approved Final Design Noise Analysis. The LPA provides the VDOT Noise Abatement Engineer with any changes to design plans that take place after the approval of the Final Design Noise Analysis.

Noise Abatement Specialists use computer models to analyze and predict noise levels based on the loudest hour of the day for future conditions. Along with the road's design, they must consider the area's topography, the distance between the road and nearby properties, traffic speeds and the sounds created by different types of vehicles. The computer model uses that data to predict the future noise level, which is compared with Federal Highway Administration (FHWA) and VDOT noise abatement criteria. If this comparison identifies an impact, VDOT noise abatement specialists must evaluate noise reduction options.

Several options including noise barriers are available and they are presented in the Highway Traffic Noise Impact Analysis Guidance Manual.

The noise barriers can reduce traffic noise significantly and improve quality of life for people living behind them. However, noise barriers must meet the following conditions to be feasible and/or reasonable:

To be feasible a noise barrier:

- (1) must reduce noise levels by at least a 5 decibels fifty percent (50%) or more of the impacted receptors experience 5 dB(A) or more of insertion loss to be feasible; and;
- (2) it must be possible to design and construct the noise abatement measure in the proposed location. The factors related to the design and construction include: safety, barrier height, topography, drainage, utilities, and maintenance of the abatement measure, maintenance access to adjacent properties, and general access to adjacent properties (i.e. arterial widening projects)

All of the reasonableness factors listed below must collectively be achieved in order for a noise abatement measure to be deemed reasonable:

- (1) the viewpoints of the affected citizens shall be obtained through surveys. Fifty percent (50%) or more of the respondents shall be required to favor the noise abatement measure in determining reasonableness, and
- (2) the noise barrier must be 1,600 square feet or less per benefited receptor to be considered cost-effective, and
- (3) the noise barrier shall reduce noise levels by 7 decibels for at least one (1) noise impacted property.

VDOT Responsibilities:

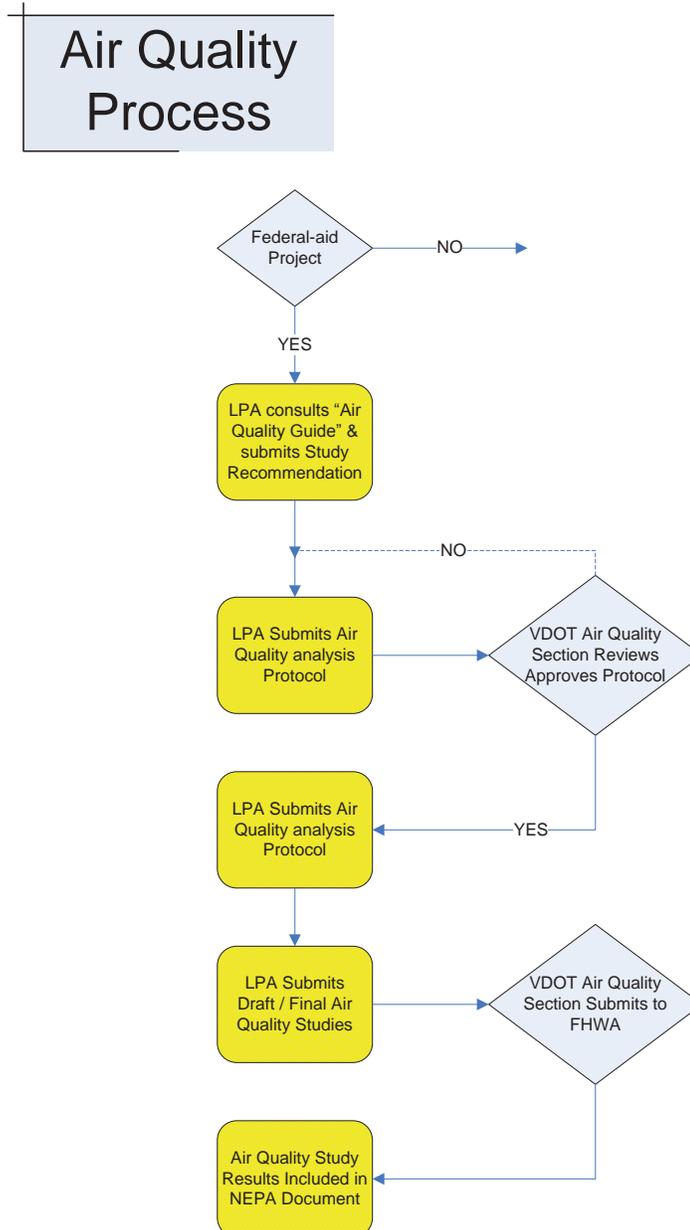
- *Oversee LPA implementation of any required noise abatement during design and construction.*
- *Ensure LPA coordinates with VDOT Noise Abatement Engineer changes to design plans made after NAC decision.*

- *Obtain Chief Engineer/FHWA concurrence memorandum and provide to LPA.*

15.6.7 References/Links

- [VDOT "About Noise Walls"](#)
- [FHWA Guidebook References on Noise](#)
- [State Noise Abatement Policy](#)
- [FHWA's Highway Traffic Noise Analysis and Abatement Policy and Guidance](#)
- Bridge [Manuals](#) Soundwall; Volume V-Part 12

15.7 AIR QUALITY



15.7.1 Introduction

The Clean Air Act requires that transportation projects not result in or contribute to a violation of the National Ambient Air Quality Standards (NAAQS), or delay timely attainment of them. As such, all federally funded transportation plans, improvement programs, and projects must be shown to conform to the purpose of the Air Quality Plan in all non-attainment and maintenance areas throughout Virginia. This process is called Transportation Conformity and applies to regional long-range transportation plans (LRTP) and transportation improvement programs (TIP), as well as individual transportation projects.

Every regionally significant transportation project must be included in a conforming LRTP and/or TIP. Regional transportation conformity requirements are generally met by performing a regional emissions analysis for various analysis years throughout the timeframe of the LRTP, and the total projected air pollutant emissions must be demonstrated to fall below the motor vehicle emissions budgets included in the applicable Air Quality Plan. This function is typically performed by VDOT, or in the case of Northern Virginia, by the Metropolitan Washington Council of Governments.

In addition, NEPA requires each federally funded transportation project be evaluated for its potential impact on air quality in the immediate vicinity of the project, and this evaluation is called a “hot-spot” analysis. Each applicable project must demonstrate that sensitive populations will not be exposed to pollutant concentrations above an applicable air quality standard. Depending upon its location, each project may need to be evaluated for its impact on carbon monoxide, fine particulate matter, and mobile source air toxics concentrations. VDOT’s [Air Quality Consultant's Guide](#) sets standards for air quality assessment work and must be consulted to avoid approval delays.

15.7.2 Applicability

- All federal-aid projects and projects developed to qualify for federal-aid.

- Regionally significant non federal-aid projects, as identified in VDOT's SYIP.
- Transportation conformity requirements apply only to transportation projects located in Virginia's air quality nonattainment and maintenance areas. Currently, this includes the Richmond/Tri-Cities, Hampton Roads, Fredericksburg, and Northern Virginia regions.

15.7.3 Air Quality Coordination Process

The LPA will review the requirements outlined in VDOT's Air Quality Consultant's Guide and in consultation with VDOT Environmental determine which, if any, project-level air studies (i.e. PM2.5 Hot Spot Analysis, Carbon Monoxide Analysis, and/or Mobile Source Air Toxics Analysis) are required, as well as appropriate level of analysis (i.e. qualitative or quantitative).



The LPA will prepare an air quality analysis protocol in accordance with [VDOT's Air Quality Consultant's Guide](#) and submit to the VDOT project coordinator (who will coordinate with the VDOT Air Section) for review/comment. The VDOT Air Section will provide comments and recommendations within five (5) business days.

The LPA will perform the required project-level air quality analyses and submit an electronic draft to the project coordinator. VDOT Air Section will provide comments within 10 business days. After consideration of VDOT's comments, the LPA will submit an electronic copy of the final analyses. When appropriate, VDOT will submit the final analysis to FHWA for review and approval.

VDOT Responsibilities:

- *The VDOT project coordinator and the District Environmental staff will work with VDOT Air Section to provide technical advice to the LPA, as requested during development of the Air Quality analyses.*

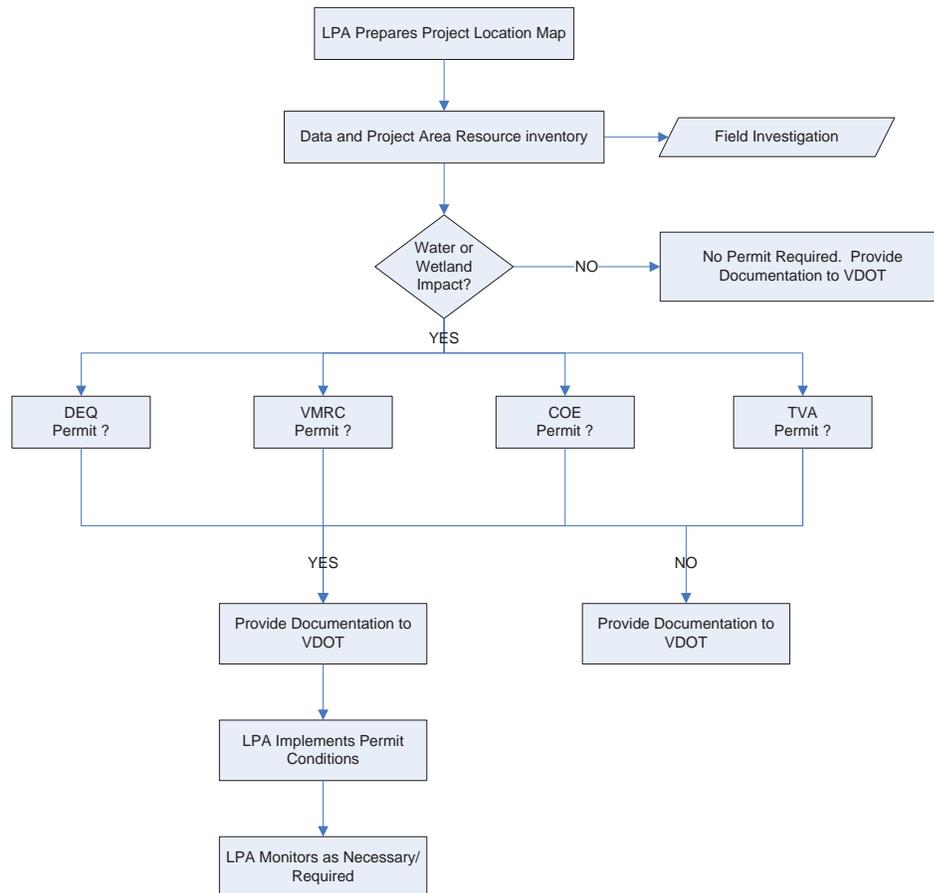
- *VDOT Air Section will review and provide comments for protocols within 5 business days of receipt. Comments for draft analyses will generally be provided within 10 business days.*
- *VDOT Air Section submits draft/final project level air studies to FHWA as appropriate.*

15.7.4 References/Links

- [Interim Guidance on Mobile Air Toxic Analysis in NEPA documents - FHWA Guidance Memorandum September 30, 2009](#)
- [FHWA Agreement on Streamlining Project Level Air Studies 2009](#)
- [VA Department of Environmental Quality - Air regulation](#)
- [VDOT's Air Quality Consultant's Guide](#)
- [FHWA Air Quality](#)
- [FHWA Air Toxics](#)

15.8 WATER QUALITY PERMITTING

Water Quality Permits



15.8.1 Introduction

There are a variety of different state and federal regulations that are applicable when a transportation project impacts streams and/or wetlands. LPA's should expect to consult with the US Army Corps of Engineers (COE) for permits for fill and/or excavation to waters of the United States, including wetlands. LPA's bordering the Tennessee River or any of its tributaries may be required to obtain permits through the Tennessee Valley Authority (TVA). Additionally, Localities may be required to consult with the Virginia Department of Environmental Quality (VDEQ) and/or the Virginia Marine Resources Commission (VMRC) for permits.

15.8.2 Applicability

- The requirements of this chapter are applicable to federal-aid projects and projects developed to qualify for federal-aid.

15.8.3 Water Quality Permitting Coordination Process

The LPA is responsible for obtaining all necessary regulatory approvals, permits, and licenses for each project, which may include United States Coast Guard permits over navigable waterways and COE permits for impacts to waters of the United States (streams and wetlands) and any other permits issued by state agencies. The locality must design its projects in accordance with the laws and regulations referenced below. Unless otherwise agreed to, VDOT will not be involved in the LPA's efforts to obtain the regulatory approvals, permits, or licenses.



Prior to federal authorization for construction advertisement, the LPA must submit documentation based on the [Natural Resources Due Diligence Checklist](#) (EQ-555). This documentation must be submitted as part of the PS&E Submittal Package (see [chapter 12.6](#)). VDOT cannot complete the Environmental Certification (EQ-103) without this information.



Oftentimes there are conditions associated with the issuance of water quality permits. Compliance with those permit conditions are the sole responsibility of the LPA and regulatory agencies will enforce those conditions.

VDOT Responsibilities:

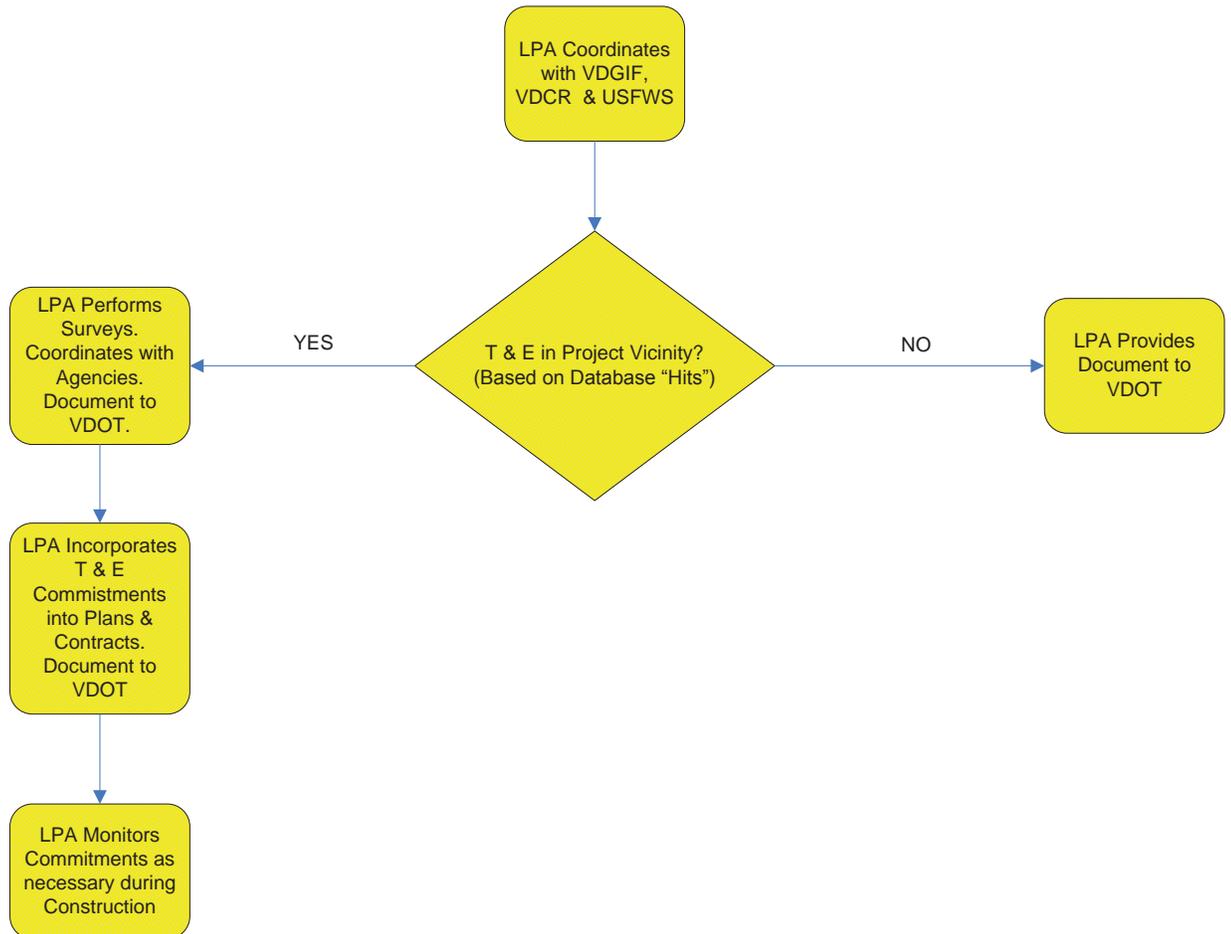
- *VDOT Environmental Staff provides the Natural Resources Due Diligence Checklist to the LPA.*
- *VDOT receives copies of LPA's documentation based on the Natural Resources Due Diligence Checklist from regulatory agencies (e.g. clearance correspondence or permits obtained).*

15.8.4 References

- [Virginia Department of Environmental Quality - Water Division](#)
- [US Army Corps of Engineers - Norfolk District](#)
- [Virginia Marine Resource Commission](#)
- [Natural Resources Due Diligence Checklist \(EQ-555\)](#)

15.9 THREATENED AND ENDANGERED SPECIES

Threatened & Endangered Species



15.9.1 Introduction

Threatened and Endangered (T&E) species clearances are required to ensure the LPA is meeting its state and federal requirements to address potential effects and impacts on state and federal species in accordance with legal and regulatory requirements.

In Virginia, LPA's may expect to coordinate with the US Fish and Wildlife Service (FWS), the Virginia Department of Game and Inland Fisheries (DGIF), and the Division of Natural Heritage (DNH) within the Virginia Department of Conservation and Recreation (DCR).

15.9.2 Applicability

- The requirements of this chapter are applicable to federal-aid projects and projects developed as federally eligible.

15.9.3 T&E Coordination

The LPA will coordinate with appropriate regulatory agencies to determine if listed state/federal T&E species exist within the project area. Based on this initial coordination with the regulatory agencies, LPA's would then conduct any technical studies (i.e. habitat assessment, species surveys, Biological Evaluations or Biological Assessments) as required.



The results of this coordination and any studies are then provided to VDOT based on the [Natural Resources Due Diligence Checklist](#) (EQ-555). Information related to the potential presence of federally listed T&E species is necessary for completion of the NEPA document. Complete T&E documentation is required for VDOT to complete the PS&E re-evaluation and Environmental Certification prior to authorization to advertise.



The LPA must incorporate any environmental commitments made to regulatory agencies during the T&E coordination process into project plans or construction documents (e.g. avoidance of specified area, relocation of species prior to ground disturbance, Time of Year Restrictions, etc.).

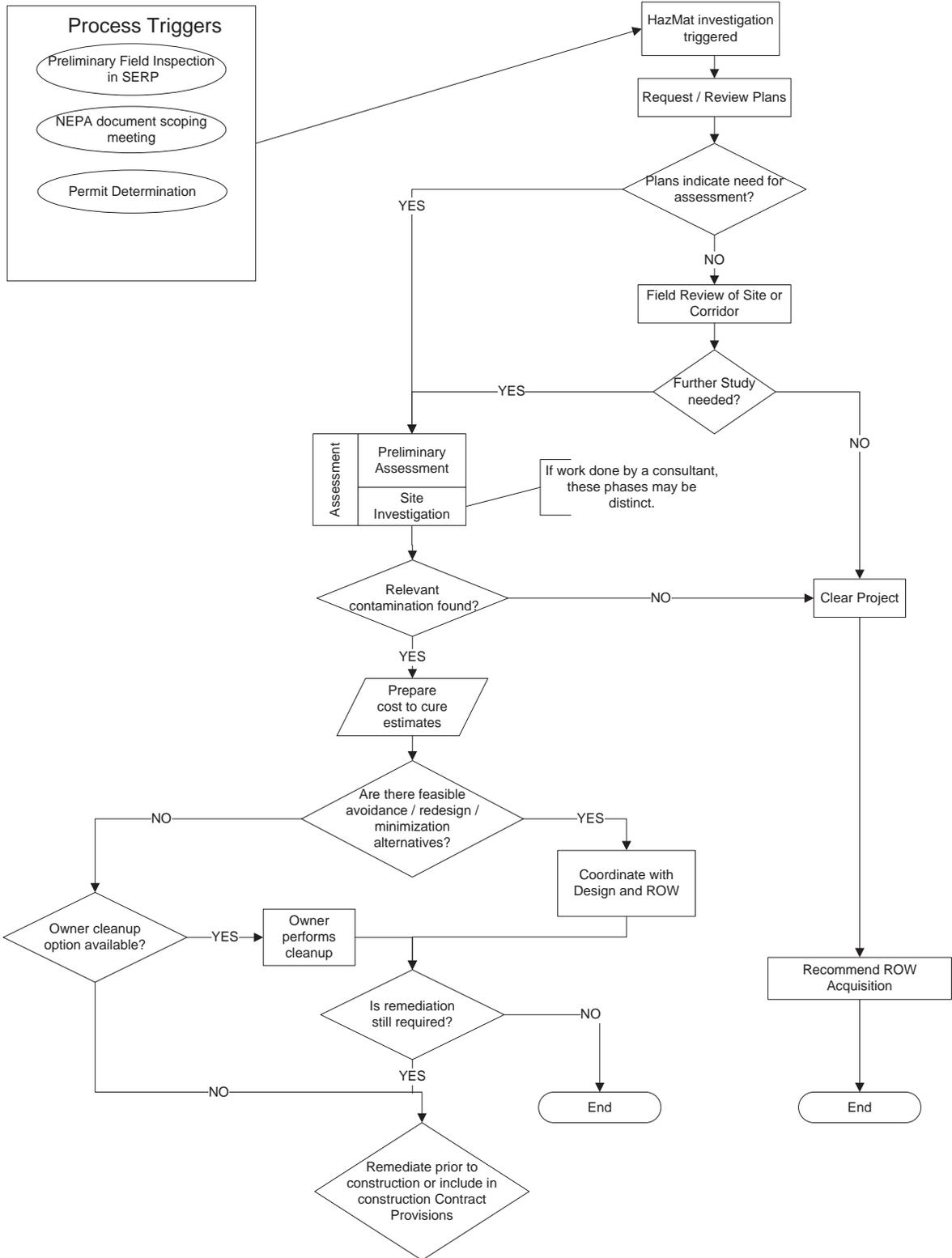
VDOT Responsibilities:

- *Provide copy of Natural Resources Due Diligence Checklist to LPA.*
- *Receive copies of LPA's agency correspondence based on Natural Resources Due Diligence Checklist.*
- *Oversee that any environmental commitments are incorporated into locality's design or construction.*

15.9.4 References/Links

- [US Fish & Wildlife Service Endangered Species Act](#)
- Virginia Department of Conservation & Recreation's [Division of Natural Heritage](#)
- [Virginia Department of Game & Inland Fisheries](#)
- [Natural Resources Due Diligence Checklist](#)

15.10 HAZARDOUS MATERIALS



15.10.1 Introduction

LPA's are responsible for performing an appropriate level of environmental "due diligence" to determine any "recognized environmental conditions" (REC's) on properties that will be acquired for the project. Additionally, LPA's will need to determine any such conditions on existing right-of-way that might impact construction activities. Such REC's can indicate a continuing release, past release, or a material threat of a release of hazardous substances or petroleum into the soil, groundwater or surface water of the property or adjacent properties, or the presence of such impairments associated with buildings or structures.

VDOT recommends that all due diligence investigations satisfy the practices that constitute all appropriate inquiries into the previous ownership and uses of the property consistent with good commercial or customary practice as defined in 42 U.S.C. 9601(35)(B). Accepted industry environmental due diligence procedures are available through [ASTM-International](#). When REC's are determined to be present, the LPA is responsible for coordinating with appropriate environmental agencies to determine what, if any, regulatory requirements must be met prior to, during, and/or following construction.



The LPA should take prudent steps to avoid, minimize, contain or otherwise manage potential impacts from contamination or potential sources of contamination through alignment shifts or design changes. Where such impacts cannot feasibly be avoided, the LPA is responsible for developing cost estimates for site closure/remediation/mitigation and addressing the impacts either prior to project construction (e.g. underground storage tank closure) or during the construction phase through the use of specific contract provisions.

The responsible entity must also ensure that appropriate inspections are made for asbestos containing materials and that provisions are made to remove/abate or otherwise mitigate such hazards. VDOT can provide copies of established

procedures for asbestos inspection, asbestos abatement, and asbestos project monitoring that the LPA can follow.

15.10.2 Applicability

- Federal-aid projects and projects developed to qualify for federal aid.
- All projects where VDOT will maintain the project after construction.

15.10.3 Hazardous Materials Coordination Process

After completion of the SERP, the LPA will receive a PEI that contains an inventory of known REC's within the project corridor. The LPA should use this information in addition to any prudent further due diligence activities they deem appropriate.



After completion of the due diligence activities and before federal Right of Way Authorization can be provided, the LPA must submit a completed and signed [Hazardous Materials Due Diligence form \(EQ-121\)](#) to the VDOT project coordinator (to be used by the VDOT District Right-of-Way Manager and District Environmental Manager).

At times, hazardous materials mitigation must be performed during construction. On these occasions, the LPA will need to prepare special contract provisions and/or special provision copied notes to address hazardous materials issues on a project (e.g. petroleum contamination, lead paint, asbestos inspections, abatement, and monitoring). VDOT has a number of special provisions and the LPA is encouraged to coordinate with VDOT Environmental staff to obtain those provisions.

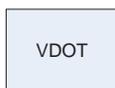
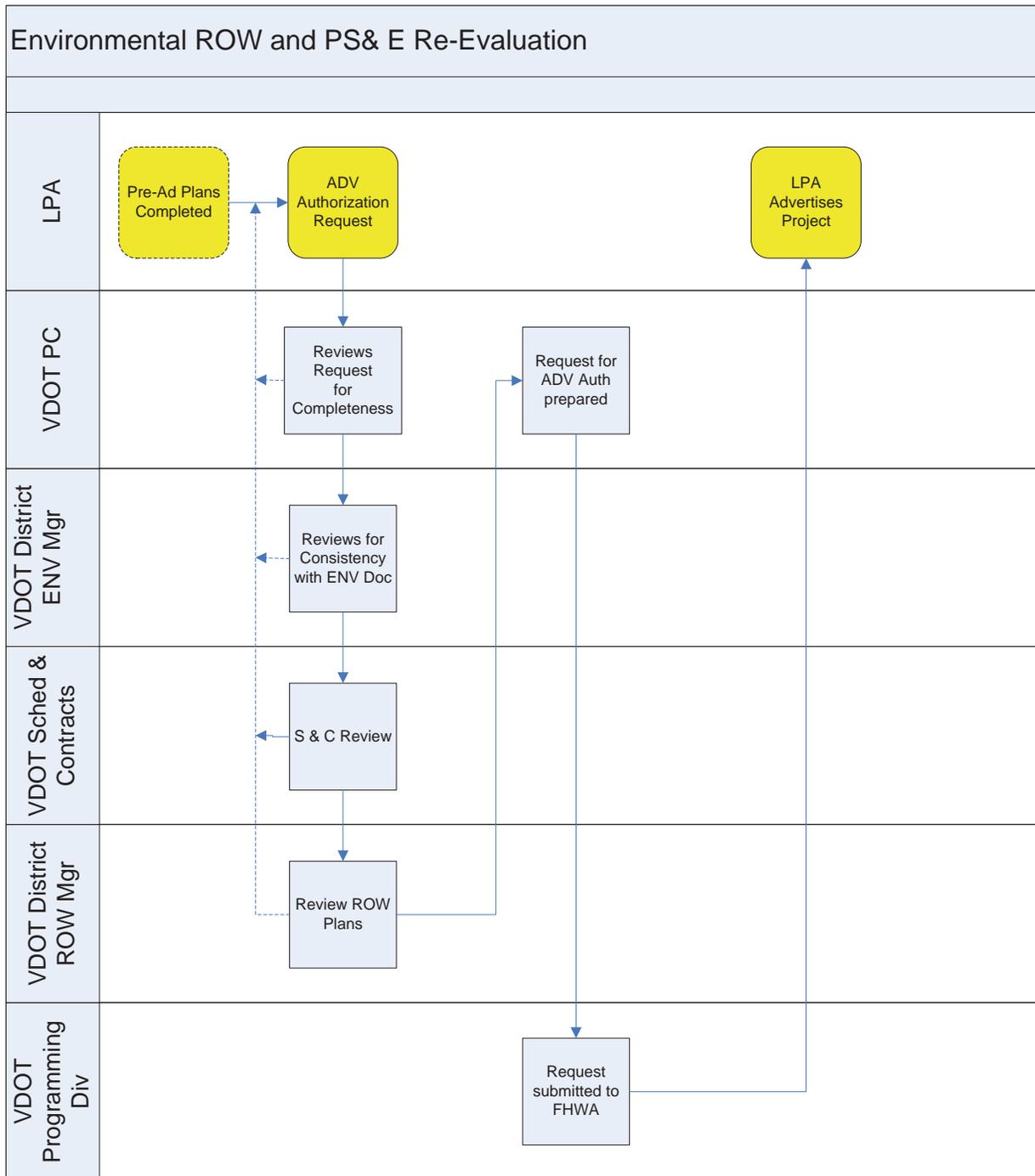
VDOT Responsibilities:

- *VDOT Environmental provides the EQ-121 to the LPA at kick off or scoping meeting.*
- *VDOT Right-of-Way Manager receives the completed and signed EQ-121 form from LPA. VDOT Right-of-Way then can proceed with the Right-of-Way certification process.*
- *VDOT District Environmental Manager receives the completed and signed EQ-121 form from LPA. Environmental Manager then can proceed with PS&E re-evaluation / Environmental Certification process.*

15.10.4 References

- [ASTM-International](#)
- [FHWA Guidance on Hazmat](#)
- [Virginia Department of Environmental Quality - Waste](#)
- [Environmental Protection Agency - Due Diligence/Due Care](#)
- [Hazardous Materials Due Diligence form \(EQ-121\)](#)

15.11 RE-EVALUATIONS AND CERTIFICATION



15.11.1 Introduction

The VDOT District Environmental Manager must certify that the environmental documentation is complete and valid prior to federal right of way and construction authorizations.

15.11.2 Applicability

- All federal-aid projects and projects developed to qualify for federal-aid.

15.11.3 Right of Way Re-evaluation



Prior to Right-of-Way authorization (when the acquisition involves federal right of way funds), VDOT must confirm that the Right-of-Way proposed for purchase conforms to the footprint studied in the NEPA document. This is documented by VDOT in the [Right-of-Way Re-evaluation form](#) and provided to FHWA.

Projects which have received a Programmatic Categorical Exclusion (PCE) are not required to receive a PM-130 form or right-of-way re-evaluation form at the right-of-way authorization stage.

VDOT Responsibilities:

- *VDOT project coordinator provides [PM-130 form](#) to VDOT Environmental Manager for right-of-way authorization. Environmental Manager reviews plans and environmental documentation; completes right-of-way reevaluation form within 15 business days. Copy provided to LPA.*

15.11.4 PS&E Re-evaluation & Environmental Certification



Prior to Construction authorization by FHWA, VDOT District Environmental Manager must confirm that the plans proposed for construction match the footprint originally studied in the NEPA document (PS&E Re-evaluation), that all required environmental permits,

environmental commitments and conditions have been fulfilled, or plans are in place to fulfill them (Environmental Certification).

The environmental documentation and project plans provided by the LPA to the VDOT project coordinator (which will be forwarded to the VDOT District Environmental Manager), allow this confirmation to take place. The [Plans, Specifications, and Estimates \(PS&E\) Re-evaluation form](#) and the [Environmental Certification Checklist](#) taken together, reaffirm to VDOT and FHWA that the environmental documentation originally prepared by the LPA is sufficient to advance to construction.

The LPA project manager should review the requirements identified in these forms and ensure that all necessary documentation has been submitted prior to requesting authorization to advertise. Missing documentation will delay VDOT's ability to complete the processes necessary to request FHWA authorization for advertisement.

VDOT Responsibilities:

- *VDOT project coordinator provides [PM-130 form](#) to VDOT Environmental Manager for PS&E authorization. Environmental Manager reviews environmental documentation and completes PS&E reevaluation and Environmental Certification form within 15 business days. Copy provided to LPA.*

15.12 Environmental Monitoring

15.12.1 Introduction

Coordination with state and federal regulatory agencies and completion of NEPA documents may result in environmental commitments that must be implemented during design, construction, or post-construction. It is the responsibility of the LPA to ensure environmental process steps or environmental commitments made to regulatory agencies are implemented. VDOT's oversight responsibility is limited to those items identified in this manual and items identified in VDOT's plan for the oversight of environmental elements of locally administered projects, found [here](#).

The VDOT Area Construction Engineer will conduct periodic monitoring of environmental commitments identified in the SERP or NEPA process. Failure to implement environmental commitments can result in the LPA's loss of federal aid or the possibility of fines and criminal convictions.

LPA's are solely responsible for the compliance with all environmental laws and regulations applicable to their projects.

Linkhorne Elementary and Middle School Safe Routes to School Improvements Phase 1

Legend

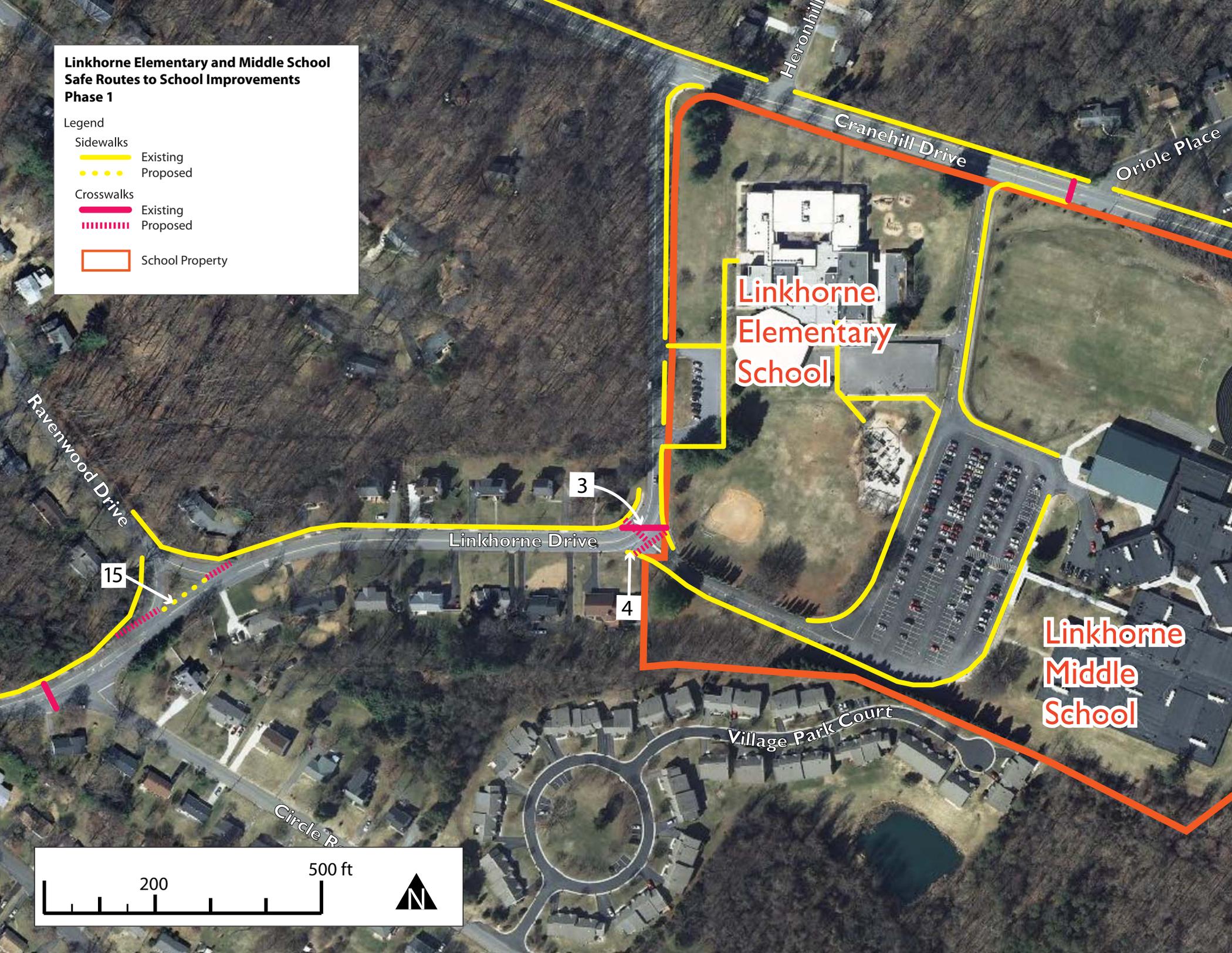
Sidewalks

- Existing
- Proposed

Crosswalks

- Existing
- Proposed

- School Property



Linkhorne Elementary School

Linkhorne Middle School



3

4

15

City of Lynchburg
FY 2013 SRTS Construction Application

Linkhorne Elementary and Middle School Campus
Project Budget

Linkhorne School Campus FY 2013 Safe Routes to School Application				
<i>PROJECT BUDGET</i>		<i>PROJECT PHASING</i>		
Task by Project Development Phase	Infrastructure Improvement Total	Project 1	Project 2	Project 3
PRELIMINARY ENGINEERING PHASE				
Engineering & Survey	\$2,088	\$2,088		
NEPA/Environmental	\$1,044	\$1,044		
VDOT Review Charges	\$1,044	\$1,044		
PE Phase Total Costs	\$4,176	\$4,176		
RIGHT OF WAY				
Right of way & Utility	\$3,132	\$3,132		
RW Phase Total Costs	\$3,132	\$3,132		
CONSTRUCTION PHASE				
Map C #3 & 4; improve the crossing mechanism along Linkhorne Drive by installing and adjusting location of ADA ramps, installing striped crosswalks, and constructing pedestrian refuge islands. NOTE: Final design involves combining original design from submitted Travel Plan that provides the same safety and impact benefits as original components 1,2,3,4 & 5 from the Travel Plan.	\$18,192	\$18,192		
Map C #15; New crosswalks across Ravenwood Drive and installation of new sidewalk across existing island creating pedestrian refuge	\$2,687	\$2,687		
Inspection	\$1,044	\$1,044		
Grant Management	\$1,044	\$1,044		
Construction Phase Total Costs	\$22,967	\$22,967		
TOTAL PROJECT COST				
Contengency (10%)	\$2,088	\$2,088		
TOTAL (PE, RW, CN)	\$32,363	\$32,363		

**William Marvin Bass Elementary School
Safe Routes to School Improvements
Phase 1**

Legend

- Sidewalks
 - Existing
 - ⋯ Proposed
- Crosswalks
 - Existing
 - ⋯ Proposed
- School Property



**W.M. Bass
Elementary
School**

Fairview
Methodist
Church

Younger
Park



City of Lynchburg
FY2013 SRTS Construction Application

William Marvin Bass Elementary School

Project Budget

W. M. Bass Elementary School FY 2013 SRTS Infrastructure Application				
<i>PROJECT BUDGET</i>		<i>PROJECT PHASING</i>		
Task by Project Development Phase	Infrastructure Improvement Total	Project 1	Project 2	Project 3
PRELIMINARY ENGINEERING PHASE				
Engineering & Design Fees	\$17,021	\$17,021		
Environmental Review	\$8,510	\$8,510		
VDOT Review	\$8,510	\$8,510		
PE Phase Total Costs	\$34,041	\$34,041		
RIGHT OF WAY PHASE				
Right of Way Acquisition & Utility Relocation	\$25,532	\$25,532		
RW Phase Total Costs	\$25,532	\$25,532		
CONSTRUCTION PHASE				
Map C #1: Install marked crosswalks, ADA ramps, and 4 timed pedestrian signals across Campbell and Fairview Avenues.	\$23,352	\$23,352		
Map C #2: Upgrade this intersection at Seabury and Campbell Avenue by installing stripped crosswalks and improve the ADA ramps as necessary and install 2 additional timed pedestrian signal I.	\$12,352	\$12,352		
Map C #3: Install marked crosswalk across Hughes Avenue, include ADA ramps	\$2,352	\$2,352		
Map C #4: Improve existing sidewalk, by widening and/or upgrading existing ~ 300 ft. sidewalk along Campbell Avenue	\$10,753	\$10,753		
Map C #5: Improve existing sidewalk, by widening and/or upgrading existing ~ 320 ft. sidewalk along Campbell Avenue	\$11,478	\$11,478		
Map C #6: Install marked crosswalk across Pocahontas Street, include ADA ramps	\$2,352	\$2,352		
Map C # 7: Install marked crosswalk across Light Street, include ADA ramps	\$2,352	\$2,352		
Map C #11: Improve existing sidewalk, by widening and/or upgrading existing ~ 350 ft. sidewalk along Campbell Avenue	\$12,548	\$12,548		
Map C #12: Improve existing sidewalk, by widening and/or upgrading existing ~ 300 ft. sidewalk along Campbell Avenue	\$10,754	\$10,754		
Map C #13: Install marked crosswalk across Sabine Avenue, include ADA ramps	\$2,352	\$2,352		
Map C #14: Improve existing sidewalk, by widening and/or upgrading existing ~ 450 ft. sidewalk along Seabury Avenue; include bumpouts along road to create safe car/pedestrian separation zone	\$17,833	\$17,833		
Map C #15: Improve existing sidewalk, by widening and/or upgrading existing ~ 350 ft. sidewalk along Seabury Avenue; include bumpouts along road to create safe car/pedestrian separation zone	\$13,868	\$13,868		
Map C #16: Improve existing sidewalk, by widening and/or upgrading existing ~ 550 ft. sidewalk along Seabury Avenue; include bumpouts along road to create safe car/pedestrian separation zone	\$21,798	\$21,798		
Map C #17: Install marked crosswalk across Seabury Avenue, include ADA ramps	\$2,352	\$2,352		
Map C #18: Install marked crosswalk across Hughes Avenue, include ADA ramps	\$2,352	\$2,352		
Map C #19: Improve existing sidewalk, by widening and/or upgrading existing ~ 250 ft. sidewalk along Campbell Avenue	\$8,961	\$8,961		
Map C #20& 21: Install marked crosswalk across Easeley Avenue, include ADA ramps	\$4,704	\$4,704		
Map C #53: Construct ~ 300 ft. of new sidewalk along Utah Street, include ADA ramps as necessary	\$7,698	\$7,698		
Inspection	\$8,510	\$8,510		
Grant Management	\$8,510	\$8,510		
Construction Phase Total Costs	\$187,231	\$187,231		\$0
TOTAL PROJECT COST				
<i>Contingency (10%)</i>	\$17,021	\$17,021		
Total (PE, RW, CN)	\$263,825	\$263,825	\$0	\$0