

Guide and / or I.M. Revision Notice

To: Cities, Counties, and Consultants

Date: February 11, 2014

From: Office of Local Systems

Revision Notice Number: 2014-01

The Federal-aid Project Development Guide (Guide) and / or Instructional Memorandums to Local Public Agencies (I.M.s) have been revised as indicated below. This revision notice identifies all new or revised documents and includes a summary of the significant changes. Where appropriate, it also references the existing Project Development Information Packet (Packet) or County Engineers I.M. documents that have been replaced or superseded.

The Iowa DOT does not provide paper copies of the Guide or I.M.s. Since these documents are updated frequently, we recommend using the on-line version of the [Guide and I.M.s](#) for reference. However, if you prefer using paper copies, all new or revised documents have been included in this file for convenient printing. If you maintain a paper copy of these documents, please remove the old documents and replace them with the new documents. **Note:** This file is designed for double-sided printing; therefore, all documents with an odd number of pages will be followed by a blank page.

For more information and additional download options, refer to the [Guide and I.M.s](#) web page. If you have any questions concerning these revisions, please contact Donna Buchwald Donna.Buchwald@dot.iowa.gov or 515-239-1051.

***** PLEASE NOTIFY ALL AFFECTED PERSONNEL OF THIS CHANGE *****

Document Title or I.M Number	Summary of Significant Revision(s)
I.M. Table of Contents February 11, 2014	The I.M. Table of Contents has been revised to reflect new or revised I.M.s, as indicated below.
I.M. 3.005 Project Development Submittal Dates and Information February 11, 2014	This I.M. has been updated. The Submittal Dates for Local Public Agency Projects Let by the Iowa DOT was updated through the October 18, 2016 letting.
I.M. 3.640 Utility Accommodation and Coordination February 11, 2014	These I.M.s have been updated as per Section 1518 of MAP-21. These changes made Buy America applicable to any Federal-aid eligible contract that is within the scope of a NEPA document, regardless of whether or not Federal-aid is actually used on the contract. Substantive changes from the previous version include the following:
I.M. 3.650 Federal-aid Participation in Utility Relocations February 11, 2014	<ul style="list-style-type: none"> • Indicating when Buy America applies to utility relocations. • Instructing LPAs to include Buy America provisions in their Federal-aid eligible utility relocation agreements. • Instructing LPAs to require certification(s) from the utility company to document compliance with Buy America, if it applies. • Instructing LPAs to keep these certifications in their project files for review by the Iowa DOT. • Clarifying the review process for utility agreements when Federal-aid participation is requested.
I.M. 3.760 Public Interest Findings February 11, 2014	This I.M. has been updated. Substantive changes from the previous version include the following: <ul style="list-style-type: none"> • The guidance regarding proprietary products (condition no. 2) has been significantly expanded and revised to conform to the most current guidance provided by FHWA on this subject. • A new form, Public Interest Finding Request (Form 517030), has been developed for local agencies to request a public interest finding. • The instructions for the approval procedures were updated to reference the new form and clarify that the LPA person in responsible charge must sign the certification on

Document Title or I.M Number	Summary of Significant Revision(s)
	the new form. <ul style="list-style-type: none">• The instructions were also updated to clarify that FHWA approval is required on projects that have full oversight by FHWA.

Instructional Memorandums to Local Public Agencies

Table of Contents



Some I.M.s are written either to counties or cities; others are written to both counties and cities. The intended audience is indicated in the "To:" field of the I.M. as well as the Table of Contents below. Many of the I.M.s are referenced by the Federal-aid Project Development Guide (Guide). These I.M.s are marked with an asterisk (*). For more information about the relationship between the Guide and I.M.s, refer to the [Guide and I.M.s web page](#).

Note: The I.M.s are currently in the process of being transitioned into a new format and numbering system. New or updated I.M.s will use the new format. Existing I.M.s will remain in the old format until they are revised or updated. Some of the I.M.s are not yet complete, as shown in light grey text. Some incomplete I.M.s will be based on an existing Project Development Information Packet document, some will be based on an existing County Engineers I.M. that will be renumbered, and some will include entirely new content. Where applicable, a reference and link to the existing Packet document or County Engineers I.M. is provided.

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INSTRUCTIONAL MEMORANDUMS

To Local Public Agencies



To: Counties and Cities	Date: February 11, 2014
From: Office of Local Systems	I.M. No. 3.005
Subject: Project Development Submittal Dates and Information	

Contents: This Instructional Memorandum (I.M.) lists the submittal dates for some of the major milestone events for development for Local Public Agency (LPA) projects that will be let by the Iowa Department of Transportation (Iowa DOT). It also summarizes the information that should be included with each submittal.

Submittal Dates for Local Public Agency Projects Let by the Iowa DOT

Following are submittal dates for the June 17, 2014, through October 18, 2016, Iowa DOT lettings. All submittals should be *received* by the Iowa DOT Administering Office on the dates shown below. However, early submittals are always encouraged.

Concept Statement		Preliminary Plans		Check Plans		Final Plans and PDC (2 weeks)	Contracts Turn-in	Letting Date	Fiscal Year
Major (42 weeks)	Minor (16 weeks)	Major (16 weeks)	Minor (11 weeks)	Major (6 weeks)	Minor (5 weeks)				
06/11/13	12/10/13	12/10/13	01/14/14	02/18/14	02/25/14	03/18/14	04/01/14	06/17/14	2014
07/16/13	01/14/14	01/14/14	02/18/14	03/25/14	04/01/14	04/22/14	05/06/14	07/15/14	
08/13/13	02/11/14	02/11/14	03/18/14	04/22/14	04/29/14	05/20/14	06/03/14	08/19/14	
09/10/13	03/11/14	03/11/14	04/15/14	05/20/14	05/27/14	06/17/14	07/01/14	09/16/14	
10/15/13	04/15/14	04/15/14	05/20/14	06/24/14	07/01/14	07/22/14	08/05/14	10/21/14	
11/12/13	05/13/14	05/13/14	06/17/14	07/22/14	07/29/14	08/19/14	09/02/14	11/18/14	
12/17/13	06/17/14	06/17/14	07/22/14	08/26/14	09/02/14	09/23/14	10/07/14	12/16/14	
01/14/14	07/15/14	07/15/14	08/19/14	09/23/14	09/30/14	10/21/14	11/04/14	01/21/15	2015
02/11/14	08/12/14	08/12/14	09/16/14	10/21/14	10/28/14	11/18/14	12/02/14	02/17/15	
03/18/14	09/16/14	09/16/14	10/21/14	11/25/14	12/02/14	12/23/14	01/06/15	03/17/15	
04/15/14	10/14/14	10/14/14	11/18/14	12/23/14	12/30/14	01/20/15	02/03/15	04/21/15	
05/13/14	11/11/14	11/11/14	12/16/14	01/20/15	01/27/15	02/17/15	03/03/15	05/19/15	
06/17/14	12/16/14	12/16/14	01/20/15	02/24/15	03/03/15	03/24/15	04/07/15	06/16/15	
07/15/14	01/13/15	01/13/15	02/17/15	03/24/15	03/31/15	04/21/15	05/05/15	07/21/15	
08/12/14	02/10/15	02/10/15	03/17/15	04/21/15	04/28/15	05/19/15	06/02/15	08/18/15	
09/16/14	03/17/15	03/17/15	04/21/15	05/26/15	06/02/15	06/23/15	07/07/15	09/15/15	
10/14/14	04/14/15	04/14/15	05/19/15	06/23/15	06/30/15	07/21/15	08/04/15	10/20/15	
11/11/14	05/12/15	05/12/15	06/16/15	07/21/15	07/28/15	08/18/15	09/01/15	11/17/15	
12/16/14	06/16/15	06/16/15	07/21/15	08/25/15	09/01/15	09/22/15	10/06/15	12/15/15	2016
01/13/15	07/14/15	07/14/15	08/18/15	09/22/15	09/29/15	10/20/15	11/03/15	01/20/16	
02/10/15	08/11/15	08/11/15	09/15/15	10/20/15	10/27/15	11/17/15	12/01/15	02/16/16	
03/17/15	09/15/15	09/15/15	10/20/15	11/24/15	12/01/15	12/22/15	01/05/16	03/15/16	
04/14/15	10/13/15	10/13/15	11/17/15	12/22/15	12/29/15	01/19/16	02/02/16	04/19/16	
05/12/15	11/10/15	11/10/15	12/15/15	01/19/16	01/26/16	02/16/16	03/01/16	05/17/16	
06/16/15	12/15/15	12/15/15	01/19/16	02/23/16	03/01/16	03/22/16	04/05/16	06/21/16	
07/14/15	01/12/16	01/12/16	02/16/16	03/22/16	03/29/16	04/19/16	05/03/16	07/19/16	
08/18/15	02/16/16	02/16/16	03/22/16	04/26/16	05/03/16	05/24/16	06/07/16	08/16/16	
09/15/15	03/15/16	03/15/16	04/19/16	05/24/16	05/31/16	06/21/16	07/05/16	09/20/16	
10/13/15	04/12/16	04/12/16	05/17/16	06/21/16	06/28/16	07/19/16	08/02/16	10/18/16	

Important notes regarding submittal dates:

- 1) Projects using the “Major” submittal dates typically involve any of the following: wetlands, recreational areas, or wildlife refuges; railroad crossings; historical structures or historical districts; right-of-way or easement acquisitions; or Federal-aid for consultant work. Examples include relocating a road on new alignment, major reconstruction, a major bridge, or a historical structure. Note: All projects requiring a hydraulic or structural review should follow the schedule for “Major” type projects.
- 2) Projects using the “Minor” submittal dates typically do not involve any of the items listed above for the “Major” type projects. Examples include an asphalt resurfacing project or a bike trail surfacing project on an existing railroad bed.
- 3) Neither the Major nor the Minor project submittal dates are applicable to Federal-aid projects that require an Environmental Assessment (EA) or Environmental Impact Statement (EIS) document. The submittal dates shown above reflect the *minimum* amount of time required by the Iowa DOT to review the submittal. *These dates do not reflect the time that may be required by other agencies for the appropriate reviews and approvals.* The project schedule should be based on the specific circumstances of the project. Federal-aid projects that have significant impacts to environmental or historical resources, require large amounts of right-of-way, or involve adjustments to railroad or utility facilities, will likely require additional time to develop for letting. Therefore, in such cases, it will probably be necessary to submit the Concept Statement and Preliminary Plans earlier than the dates shown. For additional guidance and information, refer to [I.M. 3.002](#), Federal-aid Project Scheduling.
- 4) The “Final Plans and PDC” date is when the LPA shall submit final plans and the Project Development Certification (PDC) to the Administering Office.
- 5) The “Letting Date” is the third Tuesday of every month, except January, which is the Wednesday after the third Tuesday of the month.
- 6) The “Contracts Turn-in” date is the first Tuesday, 2 months prior to letting. This date is when the Administering Office will deliver final plans to the Iowa DOT Office of Contracts.
- 7) All other submittal dates are calculated from the “Contracts Turn-in” date by subtracting the number of weeks shown, except when such dates conflict with a State holiday. Dates adjusted for a holiday are shown in **bold**.
- 8) The “Fiscal Year” is the Federal fiscal year in which a project should be programmed in the Statewide Transportation Improvement Program (STIP) for the letting dates shown. Even though October 1 is the beginning of the Federal fiscal year, projects targeting an October letting should be programmed in the previous fiscal year. This is because projects in the October letting are authorized for letting in September.

Administering Office: When it occurs in this document, and elsewhere throughout the I.M.s, the term, “Administering Office,” shall refer to the Iowa DOT [Office of Systems Planning](#) for projects funded by the Transportation Alternatives Program (TAP), Transportation Enhancement, Federal Recreational Trails, Scenic Byways, Safe Routes to School, or Revitalize Iowa’s Sound Economy (RISE) programs; unless such projects are already being administered by one of the Iowa DOT District Offices. For all other projects, the term, “Administering Office,” shall refer to the appropriate Iowa DOT [District Office](#).

Electronic Submittals: Plans shall be submitted electronically and conform to the requirements of the [File Specifications for Electronic Plan Submittals to the Iowa DOT](#). All other submittals listed below shall also be submitted in electronic format, provided the means of transmission and file format is acceptable to the Administering Office. Due to e-mail file size limitations, the Iowa DOT recommends that electronic plans and all other electronic submittals be transmitted using the submittal tools provided in the Transportation Program Management System (TPMS). To obtain access to TPMS, contact the Iowa County Engineer’s Service Bureau at 515-244-0779. If sent by e-mail, contact the Administering Office for the appropriate e-mail address. The preferred file format for other electronic documents is Adobe Acrobat’s Portable Document Format (PDF). Other acceptable file formats include: Microsoft Word (*.doc), Joint Photographs Expert Group (*.jpg), Graphic Interchange Format (*.gif), and Tag Image File Format (*.tif).

Concept Statement: Include the following items in a Federal-aid project “Concept Statement for Local Systems Federal-aid Projects” ([Form 517001](#)) submittal (non-Federal-aid projects do not require a Concept Statement):

- A transmittal letter, memo, or e-mail. Include a description of any unique aspects of the project or other information that cannot be adequately explained on the Concept Statement form.
- A completed Concept Statement. Include a location map and any applicable environmental documents. For more information, refer to [I.M. 3.105](#), Concept Statement Instructions.
- Design exception documentation, if required as per [I.M. 3.205](#), Urban Design Guidelines, or [I.M. 3.210](#), Rural Design Guidelines. If the need for a design exception cannot be determined when the Concept Statement is submitted, submit the design exception request as soon as possible, but no later than the Check Plan submittal date.

- If required by the Concept Statement, include the Environmental Data Sheet ([Form 517006](#)). If the information required by this form is not known at the time of the Concept Statement submittal, submit the Environmental Data Sheet as soon as possible, but no later than the Preliminary Plan submittal date. For more information, refer to [I.M. 3.110](#), Environmental Data Sheet Instructions.

Incomplete Concept Statement submittals will delay project reviews. All submittals shall include the Iowa DOT project number. Users of the [TPMS](#) may request project numbers using this system; otherwise, contact the Administering Office to obtain a project number.

Preliminary Plans: Submit in accordance with [I.M. 3.405](#), Preliminary Plans and [I.M. 3.410](#), Preliminary Bridge and Culvert Plans.

Please note: Design activities for Federal-aid projects may not progress past the preliminary plan stage until after FHWA Environmental Concurrence has been received.

Check and Final Plans: Submit in accordance with [I.M. 3.505](#), Check and Final Plans and [I.M. 3.510](#), Check and Final Bridge or Culvert Plans.

INSTRUCTIONAL MEMORANDUMS

To Local Public Agencies



To: Counties and Cities	Date: February 11, 2014
From: Office of Local Systems	I.M. No. 3.640
Subject: Utility Accommodation and Coordination	

Contents: This Instructional Memorandum (I.M.) provides instructions for a Local Public Agency (LPA) to accommodate utilities located on non-primary highway rights-of-way and recommended procedures for coordinating with utilities located in or adjacent to such roadways that are affected by LPA transportation projects. This I.M. also includes the following attachments:

- [Attachment A](#) – Utility Coordination Flowchart
- [Attachment B](#) – Utility Coordination Checklist ([Word](#))

Definitions

The terms used in this I.M. have the same meaning as defined in the Iowa Department of Transportation (Iowa DOT) [Policy for Accommodating Utilities on the County and City Non-Primary Federal-aid Road System](#), unless specifically noted otherwise.

Primary Highways

As noted in the Contents section above, this I.M. is focused on utility accommodation and coordination for non-primary highways. Nevertheless, because LPAs are often involved with cooperative Primary highway projects, some guidance is included here. Cooperative projects are those where both the Iowa DOT and LPA are involved, financially or otherwise, in the development and / or construction of the project. For such projects, the LPA may be responsible for some or all of the utility coordination activities, if so designated in the project agreement. In such cases, the LPA shall follow the Iowa DOT's [Policy for Accommodating and Adjustment of Utilities on the Primary Road System](#).

For additional assistance or questions related to Primary highway utility accommodation or coordination, contact the appropriate District Utility Coordinator or utility relocation staff, as listed on the Iowa DOT [Utility Accommodation Coordination](#) webpage.

Utility Accommodation

In accordance with [23 CFR 645 B](#), the Iowa DOT is required to develop and implement a policy for accommodating utilities located on all Federal-aid highway rights-of-way. Federal-aid highways include roadways of all classifications, except local roads and rural minor collectors, as designated on the [Federal Functional Classification maps](#) provided by the Iowa DOT.

In response to this Federal requirement, the Iowa DOT has developed, with input from local governments and utility companies, and with the approval of the Federal Highway Administration (FHWA), a [Policy for Accommodating Utilities on the County and City Non-Primary Federal-aid Road System](#). This policy shall be followed for all projects located on non-primary Federal-aid highways. The Iowa DOT recommends LPAs use a similar policy and / or permitting procedures for other non-primary roadways under their jurisdiction.

Buy America Requirements

As amended by Section 1518 of the Moving Ahead for Progress in the 21st Century Act (MAP-21), [23 U.S.C. 313](#) requires the use of domestically produced iron and steel products in all contracts eligible for Federal-aid that are within the scope of the National Environmental Policy Act (NEPA) document, if at least one of those contracts uses Federal-aid. Therefore, Federal-aid eligible utility relocations that are caused by a Federal-aid project are subject to the Buy America requirements, even if no Federal-aid is actually used to reimburse the utility relocation costs. To determine if the utility relocation is eligible for Federal-aid, refer to [I.M. 3.650](#), Federal-aid Participation in Utility Relocations.

In addition, utility work included as part of a highway construction contract let using the Iowa DOT Standard Specifications must also comply with Buy America because these provisions are included in these specifications, regardless of whether the relocation is Federal-aid eligible or not.

Buy America does not apply to manufactured products that are less than 90% iron or steel by weight.

For additional guidance concerning the Buy America requirements, refer to FHWA's [Buy America Construction Program Guide](#).

For additional tools and information related to Buy America requirements, refer also to the Iowa DOT Office of Traffic and Safety's [Buy America web site](#). This web site describes how the Iowa DOT will address these requirements on its projects involving utility relocations, but some of the information may be helpful for LPA projects too.

Utility Coordination

Introduction

To effectively coordinate utility adjustments, it is critical for LPAs to work with utilities affected by their transportation projects using a pro-active, cooperative approach. This approach should have as its foundation timely and frequent communication that provides reliable information regarding the nature and schedule of proposed transportation projects. Likewise, it is critical that utility companies respond by providing timely and accurate information concerning the anticipated impacts to their facilities. Utilities should also cooperate with LPAs to adjust their facilities when needed, preferably in advance of project construction if possible. If this is not possible, utilities should work in close coordination with the LPA and / or their contractors to adjust their facilities in a timely manner. In summary, both parties are responsible to ensure effective utility coordination throughout the development and construction of transportation projects.

Therefore, the Iowa DOT strongly recommends both LPAs and utilities implement the following procedures for utility coordination on all transportation projects that require utility adjustments. These procedures are presented in a recommended sequence, beginning with the project concept and continuing through construction. Refer to [Attachment A](#), Utility Coordination Flowchart, for a graphical summary of these procedures. Refer also to [Attachment B](#), Utility Coordination Checklist, ([Word](#)) which may be used to track and document completion of the major milestones in the utility coordination process.

When considering the utility coordination procedures outlined below, please note the following:

- These procedures are presented as “best practices” of utility coordination. They do not represent a legislative or regulatory requirement, except where indicated otherwise.
- These procedures are not intended to supersede the requirements of the LPA’s existing utility accommodation policy and / or utility permit process.
- The timeframes included below are intended to serve as general guidelines. Because the circumstances of each project may vary significantly, it is not possible to specify timeframes that will fit every situation. Some projects may require significantly more time than what is suggested; others may require significantly less. When planning a project’s schedule, the following items are especially important to consider:
 - Lead times for delivery of certain materials can greatly extend the time required to complete the utility adjustments. Examples include steel poles, fiber optic cable, high pressure pipelines, and certain types of conduits or manholes. Some of these materials may require up to 6 months lead time.
 - If replacement property or easements must be acquired for utilities, this should be factored into the project schedule.
- These procedures are not intended for use in emergency situations. Emergency work involving utilities also requires close coordination, but it may be neither possible nor prudent to follow all these procedures.
- These procedures rely heavily upon proper notice and communications. Both LPAs and utilities may want to consider the use of registered mail to ensure that notices or other critical communications have been received.
- If a utility fails to respond or participate, it does not affect the LPA’s ability to proceed with the project. In such cases, the LPA should carefully document its efforts to contact the potentially affected utilities.

Project Concept

During this stage of project development, the LPA develops the general scope and type of work. For Federal-aid projects, the project concept shall be documented using the Concept Statement for Local Systems Federal-aid Projects ([Form 517001](#)), in accordance with [I.M. 3.105](#), Concept Statement Instructions. For non-

Federal-aid projects, the project concept can be documented using a letter or e-mail. In either case, as a minimum, the project concept should include the following:

1. A general description of the proposed work.
2. The proposed project limits. If possible, the physical limits should be designated by a specific route or street name with approximate beginning and ending points. If several routes or alternatives will be considered, the LPA should identify a general corridor in which the project will likely be constructed.
3. A location map showing the proposed project limits or corridor.
4. If available, the proposed roadway or street typical section.

Initial Utility Research

During this stage of project development, the LPA should research available records to determine if any utilities may exist within the project limits or corridor, as defined by the project concept. Possible sources of information may include previously approved utility permits or agreements, field investigations or surveys, or the Design Request System provided by the [Iowa One Call](#) service.

The LPA should also prepare a preliminary list of utility contacts for the project. Contact information may be obtained using the Iowa One Call Design Request System, the Iowa DOT's [Utility Company Contact Report](#), or from previous utility company contacts.

At this point, it is not necessary to determine if utilities will be affected. Utilities should indicate whether or not they are affected in response to the Initial Utility Notification or at the Utility Coordination Meeting.

Initial Utility Notification

All utilities that may be within the project limits or corridor should be notified as early as possible. As required by Iowa Code Section [318.9](#), utilities in the highway right-of-way that must be adjusted shall be provided a minimum of 90 days notice. However, in order to allow adequate time for the utility coordination activities outlined in this I.M., the LPA should send the Initial Utility Notification approximately 4 to 6 months prior to when utility adjustments need to begin.

After determining which utilities may be present, the LPA should notify those utilities in writing and request them to confirm if they have facilities in the project area. If so, the LPA should request utilities to provide available information regarding the location of their facilities. At a minimum, the LPA's written notice should include the following:

1. Date of the notice.
2. Project concept information (as described above).
3. LPA contact information (name, address, phone number, and e-mail of LPA or consultant staff person responsible for utility coordination).
4. Date the requested utility information should be provided (should allow at least 30 days from receipt of notification).
5. A request to confirm the name and contact information of the appropriate utility contact person for the proposed project.
6. If known, the anticipated project schedule (approximate letting date and / or beginning of construction) .
7. If scheduled, the date, time, and location of the Utility Coordination Meeting.

Utilities should acknowledge the Initial Utility Notification within 14 calendar days of receipt. Within 30 calendar days of receipt, utilities should respond by either confirming they do not have any facilities within the proposed project limits or by providing available information concerning their facilities. This information should include a general description of the type of facilities present and their location. The location may be indicated by providing utility system or plant maps, Geographic Information System (GIS) data, or other available data.

Utility Coordination Meeting

In accordance with Section 1 of House File 2651, 82nd General Assembly (Iowa Code Section [306.47](#)), the LPA is required to meet with affected utilities during the design phase of the project. To comply with this requirement, the LPA shall invite all utilities within the project limits or corridor to at least one Utility Coordination Meeting. Additional meetings may be necessary, depending on the impacts to utilities and the complexity of the project. This meeting may be combined with other site visits and / or project design meetings, but adequate time must be allowed for discussion of utilities.

Notice of the Utility Coordination Meeting may be provided separately or in combination with the Initial Utility Notification. In either case, notice of the meeting should be provided at least 14 calendar days in advance. Use of certified mail is recommended. The notice should include the following:

1. The date, time, and location of the meeting.
2. The anticipated project schedule (approximate letting date and / or beginning of construction).

The Utility Coordination Meeting has several objectives:

- Provide an opportunity to confirm or establish the appropriate contact persons for both the LPA and the utility companies.
- Review the project concept.
- Review the proposed schedules of both the transportation project and possible utility adjustments; including anticipated lead times for delivery of materials.
- Communicate the goals and objectives of the project.
- Help identify the location of existing utility facilities.
- Clarify the status of utilities facilities (i.e., whether they are active; abandoned; or planned for removal, relocation, or abandonment in the near future).
- Discuss options that would limit the impact of the project construction on utility facilities.
- Provide an opportunity for the affected utilities to discuss and coordinate adjustments of their facilities with one another.
- Discuss Buy America requirements for utility work, if applicable.

In order to allow meaningful input from the utilities, the Utility Coordination Meeting should be held early in the design phase of the project. If held too late, it may be difficult to adjust the project plans without incurring additional costs and / or delays. Therefore, the Utility Coordination Meeting should be held approximately 3 to 5 months prior to when utility adjustments need to begin.

The Utility Coordination Meeting should be well documented, including an attendance list and a written summary of the issues discussed and / or decisions reached. After the meeting, the LPA should prepare and distribute the meeting notes to all attendees and retain a copy for their project file. Copies of the meeting notes should also be sent to all invited utilities that did not attend.

Preliminary Plan Submittal

For projects that will be let through the Iowa DOT, the preliminary plans shall be developed in accordance with [I.M. 3.405](#), Preliminary Plans. If available, the information provided by the utilities should be used by the LPA's designer to minimize impacts to utility facilities, even for those utilities that are required to move at their own expense. This does not mean LPA designers should attempt to avoid utility facilities at all cost, but simply that designers should strive to minimize the overall cost of the project to the general public, taking into consideration the potential costs to both the LPA and the utilities.

Preliminary plans should be complete enough to allow utilities to determine possible impacts to their facilities and begin preparing their work plan, including design of any necessary facility adjustments. As a minimum, preliminary plans submitted to utilities should include the following information:

1. Title sheet, including a location map, type of work, project number, and other general project information.
2. Typical sections.
3. Horizontal and vertical geometry, such as plan and profile sheets, elevations, or grading plans.
4. Existing and proposed right-of-way and easements.
5. Cross sections.
6. If available, the locations of existing utility facilities.
7. Utility contact information.

The LPA should submit preliminary plans to all utilities within the project limits or corridor. The submittal should be accompanied by a cover letter that includes the following:

1. The anticipated project schedule (proposed letting date and / or beginning of construction).
2. A request that all affected utilities prepare a Utility Work Plan and submit it to the LPA for review.

Utility Work Plan

If its facilities need to be adjusted, the utility should prepare and submit a Utility Work Plan to the LPA within 30 calendar days after the receipt of the preliminary plans. If submittal within 30 days is not possible, the

utility should notify the LPA and provide an approximate date when the Utility Work Plan will be submitted. As a minimum, the Utility Work Plan should include the following information:

1. A narrative description of the work to be performed.
2. A drawing showing the existing and proposed locations of the utility facilities in relation to the transportation project improvements, including the existing and proposed rights-of-way.
3. If the proposed utility adjustments are dependent on another utility owner or require coordination with other entities.
4. If the proposed utility adjustments can be accomplished prior to beginning construction of the transportation project or if work must be coordinated with the transportation project contractor.
5. The estimated number of working days to complete the utility adjustments, including the anticipated lead time for delivery of materials.
6. If permits or approvals from other agencies are required to complete the utility adjustments, a list of such permits or approvals and the estimated date such approvals will be obtained.
7. If the utility adjustment is reimbursable, copies of documents that verify the utility has a property interest in its current location, and a detailed cost estimate for the utility adjustments (for more information see the "Utility Compensation" section below).

Note: If some or all of the above information is required as part of LPA's utility permit request or application form, and such a permit is required by the LPA, the permit request or application form, along with other information as appropriate, may be used to document the Utility Work Plan.

Within 14 calendar days of receipt, the LPA should review the Utility Work Plan and provide comments to the utility. If the LPA's review will require more than 14 days, the LPA should notify the utility and provide an approximate date when comments will be provided. The LPA should review each Utility Work Plan for compatibility with the following:

- The appropriate utility accommodation policy, if any.
- The project requirements, such as design or environmental restrictions.
- The project schedule.
- Other Utility Work Plans (if multiple utilities are involved).

If the Utility Work Plan is acceptable, the LPA should promptly notify the utility. If the Utility Work Plan is not acceptable, the utility should revise and resubmit its Utility Work Plan within 14 calendar days of receiving notice from the LPA.

Utility Compensation and Agreements

Utilities may or may not be entitled to receive compensation for the cost of adjusting their facilities, depending on the terms of the applicable utility accommodation policy and / or utility permit. Utilities located on existing rights-of-way for Primary highways and non-primary Federal-aid highways must adjust their facilities at their own expense. Typically, this is also true for utilities located in the rights-of-way of other roadways; however, the LPA should verify the terms of its policies and / or permits for such roadways.

If a utility is entitled to compensation, the LPA and utility should work together to draft an agreement. Most utilities have a standard form of agreement that may be used. A sample form of agreement used by the Iowa DOT is also available upon request. The agreement shall include the following as a minimum:

1. A description of the work to be performed by the utility.
2. A detailed cost estimate.
3. The method by which the work will be performed (e.g., utility forces, LPA forces, or by contract).
4. The method of compensation (e.g., actual cost, unit cost, lump sum, etc.).
5. Procedures for determining and applying credit for betterments and salvaged materials.
6. Buy America provisions, if applicable (see below).

A mutually acceptable compensation agreement should be executed before notice to proceed with utility adjustments is given to the utility. For all projects let through the Iowa DOT, a fully executed compensation agreement is required before a project may enter the letting process.

If Federal-aid reimbursement of the utility compensation costs will be sought, the LPA shall follow the procedures in [I.M. 3.650](#), Federal-aid Participation in Utility Relocations, which include submitting a draft agreement to the Iowa DOT for review and FHWA authorization.

If the project requires utility work that is eligible for Federal participation, regardless of whether Federal funds are actually used or not, the agreement shall include provisions that require the utility to certify compliance

with the Buy America law at [23 U.S.C. 313](#) and its implementing regulations at [23 CFR 635.410](#). The agreement shall also require the utility to maintain records to support its certification(s). A sample agreement provision, where “COMPANY” is the utility and the “AGENCY” is the LPA, is provided below:

“All portions of the project performed by the COMPANY shall be in compliance with the Buy America Requirements, as set forth in 23 CFR 635.410 and 23 USC 313, as amended by Section 1518 of P.L. 112-141. Before incorporating any iron or steel products into the work, the COMPANY shall provide the AGENCY with manufacturer’s certifications indicating that all manufacturing processes for iron and steel, including the application of coatings, have occurred in the United States, unless granted a waiver pursuant to 23 CFR 635.410.”

The Iowa DOT recommends the utility agreement require the utility company to use a step-certification process, whereby each corporate entity involved in the manufacturing process (from melting to fabrication) on transfer of the intermediate product, certify that its product complies with Buy America. This process produces a “chain of custody” documentation trail that can be used to verify compliance.

Regardless of the type of certification process used, the LPA shall retain the certifications provided by the utility as part of its Federal-aid project file.

Acquisition of Utility Property Rights

If acquisition of utility property interests are required by the transportation project, the LPA must secure the necessary property interests in the same way as other private property required for the project. Typically this occurs when the utility is located in its own easement or property outside the existing highway right-of-way.

In such cases, after the utility property interests have been acquired, the LPA should send the utility a Disclaimer of Interest for the affected utility properties. After execution by both the utility and the LPA, the LPA should file the Disclaimer of Interest with the appropriate County Recorder. To obtain an example Disclaimer of Interest form, contact the appropriate District Utility Coordinator (see “Contact Information” section below). The compensation agreement should also contain a provision requiring the utility to execute a Disclaimer of Interest, as described above.

If the utility elects to relocate to a new easement or property outside of the proposed highway right-of-way, the cost of such replacement property rights should be included in the compensation agreement. Either the LPA or the utility may be responsible for acquiring the replacement utility easement or property, as specified in the compensation agreement. If the LPA is responsible for obtaining a new easement, it should coordinate closely with the utility to ensure the necessary restrictions are included (e.g., limits on placement of trees or other landscaping items by the property owner).

Utility Permits

For any utility facilities that will be located within the highway right-of-way, the LPA should require the utility to obtain a permit. A permit review and approval process is important because it helps effectively manage and coordinate the use of the highway right-of-way by utilities. This is important for both new installations (i.e., facilities not currently located within the right-of-way) and adjustments of existing utility facilities (i.e., facilities already located within the right-of-way).

In either case, the LPA should be careful to review permit applications for potential conflicts with upcoming highway projects. As a minimum, this should include all projects that are currently programmed, and any others not programmed but anticipated within the foreseeable future. If a permit request may be affected by an upcoming transportation project, the LPA should consider delaying issuance of the utility permit until the transportation project design has been finalized. This reduces the possibility that new utility installations or utility relocations will be affected by the proposed transportation project.

The level of review performed by the LPA will depend on the stage of development of the proposed project(s). If a project is still in the planning or conceptual stage, the exact type and limits of construction are not known; therefore, the reviewer may only be able to check for obvious conflicts with the proposed highway improvements. If the proposed project is in the preliminary or final design stage, a more detailed review can be performed. The following items, as applicable, should be reviewed for utility permit requests:

1. Compliance with the appropriate utility accommodation policy.
2. Check locations of proposed utility facilities with respect to the proposed highway improvements including slope intercept lines, fill heights, driveways, culvert or sewer installations, bridge locations,

construction staging, and areas for storage of materials and / or equipment. Any conflicts should be resolved before granting a permit.

3. Determine if above-ground installations will conflict with the recommended clear zone. If so, the facilities should be redesigned to be located outside the recommended clear zone if possible. For additional guidance, refer to [I.M. 3.215](#), Clear Zone Guidelines.
4. Determine if above-ground installations may conflict with aerial clearances required for construction cranes. If so, they should be redesigned to allow adequate room for construction operations.
5. Determine if above-ground installations will interfere with the desirable sight distance. If so, they should be redesigned to eliminate or minimize sight distance restrictions.
6. If the utility's plan includes proposed future expansion of utility facilities, check the proposed future expansions for possible conflicts.
7. Determine if the utility's plan contains appropriate erosion control measures.

Upon receipt of a utility permit request, the LPA should review and provide a response within 14 calendar days. If acceptable, the LPA should document the permit approval by signing the permit application form, or if a form is not used, by sending a letter of approval to the utility. If the request is not acceptable, the LPA should explain the reasons why. The utility should then revise their permit request as needed and resubmit.

Final Plan Submittal

For projects that will be let through the Iowa DOT, the final plans shall be developed in accordance with [I.M. 3.505](#), Check and Final Plans. For locally let projects, the final plans shall include all of the information normally included in the bid documents for local lettings. In either case, the plans should also include the contact information for all utilities with facilities located on the project.

In addition, if some or all of the utility adjustments will occur during construction of the transportation project, the final plans should explain the type of coordination that will be required. This information may be included on the plans and / or as an attachment to the bid documents. At a minimum, this information should include:

1. The names of affected utilities.
2. The type and size of the affected facilities.
3. The approximate location of utility facilities and any known utility conflicts.
4. A summary of the work to be completed by the utilities, as specified in their approved Utility Work Plans.

When final plans are complete, the LPA should send a copy to all utilities with facilities within the project limits. The LPA's final plan submittal should be accompanied by a cover letter that includes the following:

1. The anticipated project schedule (proposed letting date, anticipated beginning of construction, and contract period, if known).
2. If scheduled, the time, date, and location of the pre-construction meeting.

If significant changes to the type or location of the transportation improvements have been made since the preliminary plan submittal, these should be identified. If easily described, this information can be included in the cover letter. If the changes are more complex, the plans should be marked-up to indicate the changes using highlighter, clouding, or other visible means.

Work Plan Revisions

If changes to the plans require changes to a previously submitted or approved Utility Work Plan, the utility should notify the LPA and submit a revised Utility Work Plan for review and approval within 14 calendar days of receipt of the final plans. Within 14 calendar days of receipt from the utility, the LPA should review the revised work plan and provide comments or notification of approval.

If the utility has already completed adjustments to its facilities after receipt of notice to proceed from the LPA, and the changes to the final plans will require the facilities to be adjusted again, the utility should be entitled to compensation for the costs of such adjustments.

Notice to Proceed

After the Utility Work Plan has been approved, and after the compensation agreements and utility permits have been approved, as applicable, the LPA should provide written notice to proceed to each affected utility. Such notice should be provided at least 14 calendar days prior to when the utility adjustments must begin.

Please Note: For Federal-aid projects, Environmental Concurrence and, if Federal reimbursement is desired, FHWA Authorization of utility costs, must be obtained prior to beginning construction of any utility adjustments. For more information, refer to [I.M. 3.650](#), Federal-aid Participation in Utility Relocations.

Pre-Construction Meeting

The LPA should invite all affected utilities to the pre-construction meeting. Notice of this meeting should be provided at least 14 calendar days in advance. The pre-construction meeting provides an excellent opportunity to coordinate any utility adjustments that will be concurrent with the transportation project construction. At a minimum, the following items should be discussed at the pre-construction meeting:

1. Updates to either LPA or utility contact information (changes may have occurred since the plans were developed)
2. If the necessary utility adjustments are not complete, the current status and the proposed schedule for completion.
3. Whether or not any utility adjustments are dependent on transportation project construction, or vice-versa.
4. Whether or not any utility adjustments may impact environmentally sensitive areas, and if so, the project constraints for working in or around those areas.
5. Installation and maintenance of erosion control measures for utility adjustment work.
6. Buy America provisions and certification procedures, if applicable.

The pre-construction meeting should be well documented, including an attendance list and a written summary of the issues discussed and / or decisions reached. After the meeting, the LPA should prepare and distribute the meeting notes to all attendees and retain a copy for their project file. Copies of the meeting notes should also be sent to all invited utilities that did not attend.

Construction

If utility adjustments will be concurrent with construction of the transportation project, close coordination between the LPA, the utilities, and the contractor will be required. The LPA should invite utility representatives to regularly scheduled construction progress meetings as appropriate. Maintaining close communication during this phase of the project is essential in order to avoid delays and added expense for all parties involved.

If the utility's work is dependent upon the contractor's work, the contractor should provide at least 48 hours notice to the utility before beginning and after completing its work. Likewise, if the contractor's work is dependent upon utility relocations, the utility should provide at least 48 hours notice to the contractor and the LPA before beginning and after completing its work. If the contractor has fulfilled its utility coordination obligations in accordance with the contract documents, but is not able to work on the controlling item of work because of delays caused by a utility, the contractor should not be charged working days.

If unexpected utility conflicts arise during construction, the LPA, utility, and the contractor should work together to obtain a mutually agreeable solution.

If Buy America applies to a utility relocation, the LPA shall obtain certifications from the utility prior to incorporating iron or steel products into the work and retain these records in its Federal-aid project file for which the utility relocation was eligible. These records shall be retained for at least 3 years after FHWA approval of the final amendment / modification document for the project, as described in Section 9.3 of the [Federal-aid Project Development Guide](#).

For utility relocations related to a Federal-aid project, the Iowa DOT will review these records during field inspections and as part of the project close-out process.

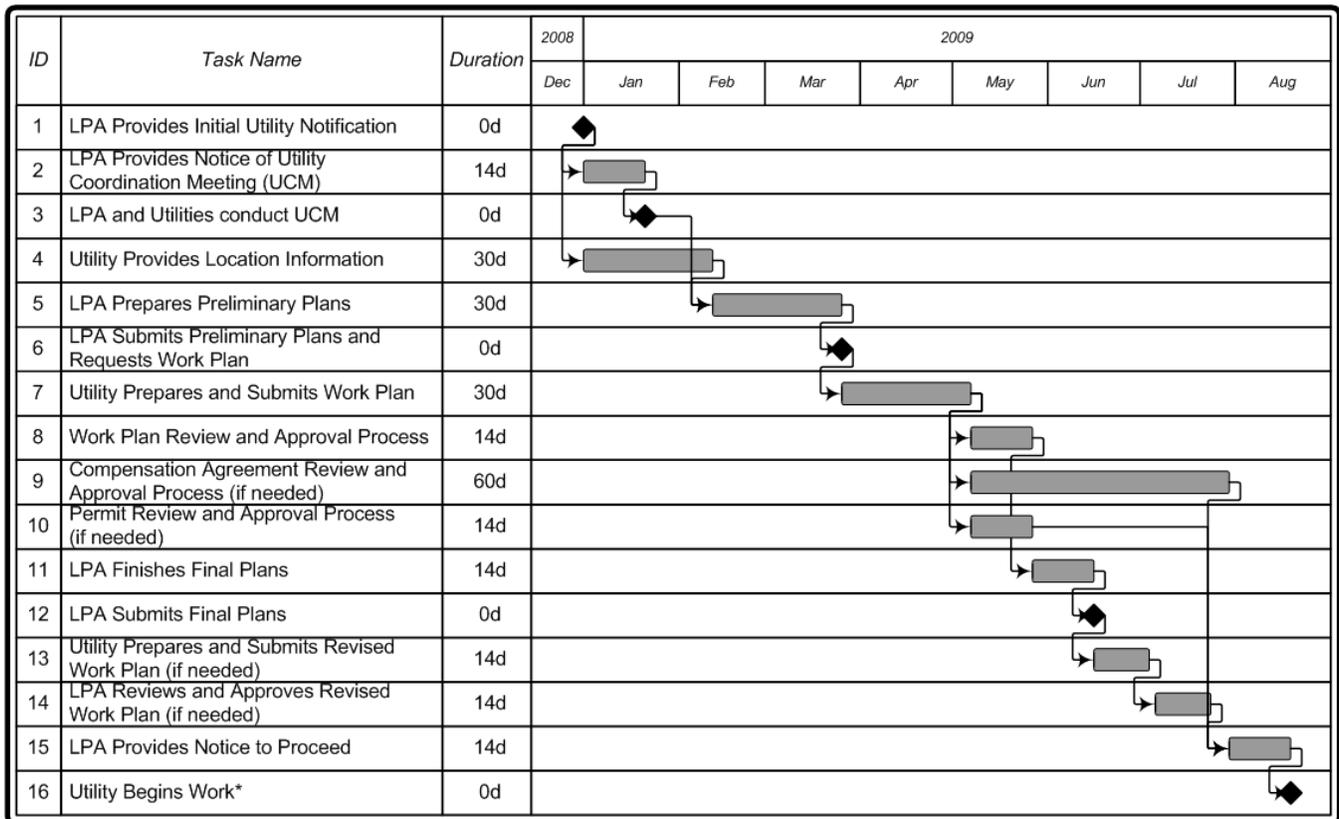
Utility Coordination Schedule

The schedule shown below is intended to illustrate the relationship between the utility coordination activities outlined in this I.M. and indicate the approximate lead time required for adequate utility coordination on most LPA transportation projects. The recommended time frames included in the preceding text are based on the schedule shown below.

Please Note: This schedule is presented as a general guide and should only be used as a starting point for setting a project-specific utility coordination schedule. Substantially more or less time may be required,

depending on the complexity of the project, the number of utilities affected, and other project development requirements, especially for Federal-aid projects.

Utility Coordination Schedule



* Depending on the lead times required for certain material deliveries, the utility may not be able to begin work within 14 days of notice to proceed. LPAs and utilities should discuss the impact of lead times early in the project development process and adjust the project schedule as needed.

Additional Resources

Reference Information

- [Policy for Accommodating and Adjustment of Utilities on the Primary Road System](#) (for Primary highways only)
- Iowa Guide to Utility Coordination (for Primary highways only)
- [Iowa One Call website](#)
- [Policy for Accommodating Utilities on the County and City Non-Primary Federal-aid Road System](#)
- [Program Guide – Utility Relocation and Accommodation on Federal-aid Projects](#) (provides guidance and interpretation of applicable Federal laws and regulations)

Contact Information

- [Utility accommodation and coordination](#) (includes the Iowa DOT central complex staff. Select the “Coordination” tab to view the Iowa DOT District Utility Coordinators)
- [Utility Company Contact Report](#) (Iowa DOT database of utility contact information)

Utility Coordination Checklist

LPA Name: _____ Project Number: _____

Project Description: _____

The following checklist summarizes the tasks a Local Public Agency (LPA) should complete in the utility coordination process, as outlined in this I.M. This checklist may also be used to track and document the utility coordination process.

- Initial Utility Research** - Based on the project concept, determine if any utility facilities may be present within the proposed project limits or corridor. Obtain contact information for all utilities identified.

Date completed: _____

Initial list of utilities identified:

- Initial Utility Notification** - Send written notice and project concept to all potentially affected utilities within the project limits or corridor, request utilities to verify if they have facilities within the project limits or corridor, and if so, request information on the location of their facilities.

Date sent: _____

List of utilities notified:

- Invite Utilities to Utility Coordination Meeting** - Send an invitation to all utilities within the project limits or corridor (may be done in conjunction with the Initial Utility Notification).

Date sent: _____

List of utilities that were invited:

- Utility Coordination Meeting** - Conduct at least one Utility Coordination Meeting during the design phase of the project. If more than one meeting was held, record those in the space below also.

Date held: _____ Location: _____

List of utilities that attended:

Date meeting notes were distributed:

- Incorporate Utility Information** - Use utility information received to show approximate locations of utilities on the preliminary plans. Field locate above-ground utility facilities. If practical, revise the design to minimize impacts to utility facilities.

Date completed: _____

Information was received from the following utilities:

- Preliminary Plan Submittal** - Submit preliminary plans to all utilities within the project limits or corridor and request a Utility Work Plan from those utilities that need to adjust their facilities.

Date sent: _____

List of utilities that received plans:

- Utility Work Plans** - Review and provide comments on Utility Work Plan. Once acceptable, provide written approval to utility.

Utility Name:	Date Received:	Date Comments Provided:	Date Approved:

- Follow-up with Non-responsive Utilities** - Contact those utilities that either did not provide a Work Plan or confirm their facilities will not be affected.

List of utilities, date contacted, and status:

- Compensation Agreement** - If a utility is entitled to compensation, prepare a draft compensation agreement, send for review, negotiate compensation and other terms of agreement, and execute final agreement.

Utility Name:	Date Sent:	Date Comments Received:	Date Executed:

Please Note: If Federal reimbursement of utility compensation costs will be requested, additional review and approval of agreement(s) are required by the Iowa DOT. For more information, see [I.M. 3.650](#), Federal-aid Participation in Utility Relocations.

- Utility Permits** - For utility adjustments within the right-of-way, review, provide comments, and approve utility permits for affected utilities.

Utility Name:	Date Permit Request Received:	Date Comments Returned:	Date of Permit Approval:

- Final Plan Submittal** - Send final plans to all affected utilities within the project limits.

Date sent: _____

List of utilities that received plans:

- Utility Work Plan Revisions** - If required by changes between preliminary plans and final plans, review, provide comments, and approve revised Utility Work Plans as needed.

Utility Name:	Date Received:	Date Comments Provided:	Date Approved:

- Issue Notice to Proceed** - After the Work Plan and compensation agreement or utility permit (as applicable) have been approved, send written notice to proceed to each affected utility.

List of utilities and date of notice for each:

Please Note: For Federal-aid projects, Environmental Concurrence and, if Federal reimbursement is desired, FHWA Authorization of utility costs, must be obtained prior to beginning construction of any utility adjustments. For more information, refer to [I.M. 3.650](#), Federal-aid Participation in Utility Relocations.

- Invite Utilities to Pre-construction Meeting** - Send an invitation to all utilities within the project limits or corridor (may be done in conjunction with final plan submittal).

Date sent: _____

List of utilities that were invited:

- Pre-Construction Meeting** - Include discussion of utility coordination required during construction, if any, as part of the meeting.

Date held: _____

List of utilities that attended:

- Disclaimers of Interest** - Follow up on any disclaimers of interest that are required from utilities whose property interests have been acquired. Record documents with the County Recorder.

Utility Name:	Date Contacted:	Disclaimer of Interest Fully Executed:	Date Filed:

INSTRUCTIONAL MEMORANDUMS

To Local Public Agencies



To: Counties and Cities

Date: February 11, 2014

From: Office of Local Systems

I.M. No. 3.650

Subject: Federal-aid Participation in Utility Relocations

Contents: This Instructional Memorandum (I.M.) provides a summary of the requirements and procedures for Local Public Agencies (LPAs) to obtain Federal participation in the cost of utility relocations on Federal-aid transportation projects, as specified in Title 23 of the Code of Federal Regulations, Part 645, Subpart A ([23 CFR 645 A](#)). Topics addressed include eligibility of utility relocations, utility agreements, and the procedures for obtaining Federal participation in utility relocations. This I.M. includes the following attachments:

[Attachment A](#) – Utility Relocation Federal-aid Eligibility Flowchart

[Attachment B](#) – FHWA Authorization of Utility Relocation Costs Flowchart

Note: For additional instructions and procedures related to utility accommodation and coordination, refer also to [I.M. 3.640](#), Utility Accommodation and Coordination.

Eligibility

To determine if the costs associated with a utility relocation are eligible for Federal-aid reimbursement, three questions must be answered: 1) Do the circumstances of the relocation allow for Federal reimbursement? 2) Are the activities associated with the relocation eligible? and 3) Are the specific cost items associated with those activities eligible? Each question is further explained below.

Eligible Relocations

Relocation of a utility facility may or may not be eligible for Federal-aid reimbursement, depending on the specific circumstances of that relocation. These circumstances include a number of variables, such as ownership, location, reasons for relocation, and the applicable Federal and State laws, regulations, and policies.

The questions listed below are designed to assist in determining the eligibility of a proposed utility relocation. Additional explanation and information is provided below each question. To obtain the correct determination of eligibility, these questions must be answered in the order indicated. The same decision making process is also illustrated graphically in [Attachment A](#) to this I.M.

1. *Is the utility relocation part of a safety project?* If yes, the relocation is eligible. If no, go to the next question.

A “safety project” is initiated specifically for the purpose of reducing the roadside hazards of utility facilities to the transportation facility users. Only those facilities that pose a safety hazard would be eligible, and the safety benefit of such relocations must be supported by a site-specific crash history or a safety study.

2. *Is the utility relocation required to construct the project?* If no, the relocation is not eligible. If yes, go to the next question.

Except for safety corrective measures, the need for the utility relocation must be caused by the transportation project. That is, the utility facilities must be relocated in order for the proposed transportation project to function properly. Relocations that are solely for the benefit of the utility, the utility’s contractor, or the LPA’s contractor are not eligible.

For example, the project construction may be more convenient or efficient for the utility or the contractor if certain utility relocations are made, but such reasons by themselves are not sufficient to allow Federal reimbursement.

3. *Is the utility relocation required to construct an Interstate Highway project?* If yes, the relocation is eligible. If no, go to the next question.

The utility itself does not have to be located on the Interstate, but the cause for the relocation must be due to an Interstate project. Such relocations are eligible for Federal reimbursement because this is explicitly permitted by Iowa Code Section [306A.10](#).

4. *Is the utility located within the existing right-of-way of a non-Interstate primary highway?* If yes, the relocation is not eligible. If no, go to the next question.

This question pertains to utilities located on primary highways, except those highways that are part of the Interstate. This includes extensions of primary highway inside city corporate limits. For such projects, the Iowa DOT's [Policy for Accommodating and Adjustment of Utilities on the Primary Road System](#) will apply. This policy requires all utilities that occupy the primary highway right-of-way to relocate at their own expense.

5. *Does the utility occupy publicly owned land?* If no, the relocation is eligible. If yes, go to the next question.

For purposes of this question, publicly owned land includes the LPA's road or street right-of-way, or any other property that is owned by a political subdivision of the State.

If a utility is not located on any road right-of-way or other publicly owned lands, the utility will have rights to the property it is located on, either by fee title or an easement. In this case, if a transportation project damages or takes the utility's property, the utility is entitled to compensation under eminent domain, and therefore such costs paid by the LPA are eligible.

6. *Is the utility required to relocate at its own expense?* If yes, the relocation is not eligible. If no, go to the next question.

The utility's obligations for relocation should be specified in the applicable permit, agreement, or utility accommodation policy.

For projects located on the right-of-way of non-primary, Federal-aid highways, the [Policy for Accommodating Utilities On the County and City Non-Primary Federal-Aid Road System](#) will apply. Federal-aid highways include all roadway classifications on the [Federal Functional Classification maps](#), except local roads and rural minor collectors. This policy requires all utilities located within the Federal-aid highway right-of-way to relocate at their own expense when required by a highway project.

For projects that are neither on a primary highway nor a Federal-aid highway, this question will be determined by the provisions of the applicable permit or utility agreement between the LPA and the utility. Typically, these permits or agreements require that utilities occupying the public right-of-way must relocate at their own expense. However, the LPA should verify this by reviewing the terms of the applicable permit or agreement.

7. *Is the utility owned by the LPA?* If yes, the relocation is eligible. If no, go to the next question.

LPA owned utilities are owned, operated, and controlled by either the LPA or a subdivision of the LPA's government. For example, a municipal utility for a city would be considered an LPA owned utility for that city.

8. *Does the LPA have legal authority to pay for the relocation?* If yes, the relocation is eligible. If no, the relocation is not eligible.

To answer yes to this question, the LPA must have an existing local statute, ordinance, agreement, or some other legal basis for making a relocation payment to the utility. If in doubt, the LPA should consult with their attorney to determine if such payments are allowed.

Note: If a request for Federal participation in utility relocations is based on this condition, the LPA shall include the following with its request for FHWA authorization of utility costs: copies of the relevant local statutes, ordinances, agreements, permits, or policies; and an explanation of how these allow the LPA to make payment to the utility. The Iowa DOT and / or the FHWA may request a written legal opinion that supports this determination.

Eligible Activities

After verifying that a particular relocation itself is eligible, it must be determined if the activity associated with that relocation is eligible. The following types of activities associated with eligible relocations may be eligible for Federal reimbursement, as detailed below.

Engineering

Federal funds may participate in the cost of preliminary engineering work required for the design of utility relocations and the associated construction engineering work. Such engineering work may be accomplished by one of the following methods, subject to mutual agreement between the utility and the LPA:

1. The LPA's engineering staff. If the LPA's engineering staff is used, these services must be reviewed and approved in accordance with [I.M. 3.310](#), Federal-aid Participation in In-House Services.
2. The utility's engineering staff. If the utility's engineering staff is used, Federal participation in these costs will be subject to the limitations set forth in the "Eligible Costs" section below.
3. An engineering consultant contract that is procured and administered by the LPA with approval of the Iowa DOT Administering Office and the utility. In this case, the procedures in [I.M. 3.305](#), Federal Participation in Consultant Costs, shall be followed.
4. An engineering consultant contract that is procured and administered by the utility with approval of the LPA. In this case, the consultant fees must be reasonable and not based on a percentage of construction cost. The utility may contract for the required engineering work on a project-specific basis, or as part of an existing continuing contract, if such work is regularly performed for the utility. Use of a qualifications-based selection, as outlined in [I.M. 3.305](#), Federal Participation in Consultant Costs, is encouraged, but not required.

Right-of-Way

When required by the transportation project, the cost of providing replacement right-of-way for a utility is eligible for Federal reimbursement, provided both the following conditions are met:

1. The utility has a property interest in its current location, the damage or taking of which is compensable under eminent domain; or providing replacement right-of-way for the utility makes the project more cost effective as a whole; or the acquisition is necessary to meet the requirements of the project.
2. There will be no charge to the project for that portion of the utility's existing right-of-way that will be used for transportation purposes. In other words, the utility cannot "double-dip" by receiving both the replacement right-of-way and compensation for its former right-of-way that is being used for the transportation project.

The replacement right-of-way may be acquired by either the utility or the LPA. When the LPA will acquire the utility's property or replacement right-of-way for the utility, such acquisitions must follow the procedures outlined in [I.M. 3.605](#), Right-of-Way Acquisition.

When the utility will acquire its own replacement right-of-way, the procedures specified by [I.M. 3.605](#) do not apply. However, before acquiring replacement right-of-way, the utility must prepare a written valuation of the property to be acquired and provide this to the LPA. The LPA shall submit this documentation to the Iowa DOT with the draft utility agreement.

If the transportation project requires acquisition of real property belonging to the utility, but does not require relocation of the utility's facilities, the cost of acquiring such property is also eligible, provided the utility has a real property interest in its current location, and the damage or taking of which is compensable under eminent domain. In such cases, the utility is treated like any other property owner whose property is needed for the project, and the Federal acquisition procedures outlined in [I.M. 3.605](#) shall apply.

Construction

In general, the construction work associated with relocation or adjustment of utility facilities is eligible for Federal participation.

Construction work may be performed by the utility if the utility is adequately staffed and equipped to perform the work in a satisfactory manner (i.e., at a time convenient to and in coordination with the transportation project construction), and one of the following conditions is met:

1. The work is minor, involves existing facilities, and is routinely performed by the utility with its own forces. In this case, it has already been determined that it is cost effective for the utility to perform such work.
2. The Administering Office concurs that it is cost effective for the utility to perform the work, even if the work is not minor or involves installation of new facilities. In this case, the LPA shall submit the utility's justification for a cost effective determination to the Administering Office as part of its request for FHWA Authorization of utility costs.

If one of these conditions are not met, the work shall be accomplished by means of a construction contract. The contract may be procured in a number of different ways:

1. The LPA may award a separate utility relocation contract, or with permission of the utility, include the utility relocation work as part of the LPA's contract for the transportation project.

In either situation, the contract must follow the same bidding and contract requirements that would apply for other Federally funded transportation projects. In most cases, this means the contract will have to be let through the Iowa DOT, as described in [I.M. 3.730](#), Iowa DOT Letting Process. However, for those transportation projects that qualify, the procedures described in [I.M. 3.720](#), Local Letting Process – Federal-aid, may be followed instead.

2. The utility may award a utility relocation contract using a competitive bidding process.

In this case, the LPA should review the utility's bidding procedures and concur in the award of the contract. Neither the Iowa DOT nor the FHWA needs to review or concur in competitive contract awards made by the utility. For such contracts, the Federal bidding and contracting requirements that must be followed for LPA let contracts do not apply. This includes such provisions as Disadvantaged Business Enterprises (DBE), Equal Opportunity Employment (EEO), the Clean Air Act, Davis-Bacon Wage Rates, and other provisions, as shown on [Form FHWA-1273](#).

Nevertheless, this does not relieve the utility or its contractor from compliance with other Federal laws or regulations that apply regardless of whether Federal funds participate in the utility costs or not, such as the National Environmental Policy Act (NEPA), Title VI of the Civil Rights Act of 1964, the Americans with Disabilities Act (ADA), and the Buy America requirements, as per [23 U.S.C. 313](#) and [23 CFR 635.411](#). For more information on Buy America, refer to the "Agreements" section below.

3. The LPA or the utility may include the work as part of an existing continuing contract, provided the costs are reasonable and the LPA can demonstrate this to be the most cost-effective method.
4. For low-cost incidental work, the LPA or the utility may award a construction contract to a qualified contractor without a competitive bidding process, provided the costs are reasonable.

For cases 3 and 4 above, the LPA shall submit a request to the Iowa DOT Administering Office that includes a cost estimate for the utility relocation work and an explanation of why this is the most cost-effective method to accomplish the utility relocations. Before proceeding with such work, the LPA must receive written concurrence from the Administering Office.

Eligible Costs

After determining the relocation is eligible, and the activity associated with the relocation is eligible, the cost elements of that activity (e.g., labor, overhead, materials, equipment, etc.) must also be evaluated for eligibility. The eligibility criteria for these cost elements is specified in [23 CFR 645.117](#). If a pre-audit is requested, the

eligibility of these cost elements will be reviewed by the Iowa DOT (see the “Pre-audit Procedures” subsection under the “Procedures for Federal Participation” section below). These cost items may also be reviewed as part of the project’s final audit.

There are some elements of utility costs that may require credit to the Federal-aid project. These are briefly described below.

Betterment Credits

The additional costs associated with a betterment to utility facilities that are replaced or adjusted will require a credit. For example, if an 8” waterline must be relocated because of the project, and the utility chooses to increase the capacity of their facilities by replacing it with a 12” waterline, the estimated differential cost between the 8” and 12” lines must be deducted from the actual 12” waterline costs before the appropriate Federal share is calculated.

However, there are certain conditions under which a betterment to relocated utility facilities will not require a credit. Those include:

1. The betterment is required by the transportation project.
2. Replacement of devices or materials that are of equivalent standards but not identical.
3. Increases to the next higher grade or size when the existing devices or materials are no longer manufactured.
4. The betterment is required by law under governmental and appropriate regulatory commission code.
5. The betterment is required by the utility’s current design practices and there is a direct benefit to the transportation project.

In addition to betterments, the accrued depreciation of utility buildings and associated equipment that are replaced may also require a credit. Such accrued depreciation is based on the ratio between the period of actual length of service and the total life expectancy applied to the original cost. Depreciation credit is not required for utility buildings or equipment that are rehabilitated or moved (i.e., not replaced) because of the transportation project.

Salvage Credits

Credit will also be required for the salvage value of materials removed. Materials recovered from temporary use and accepted for reuse by the utility shall be credited to the project at prices charged to the job, less a consideration for loss in service life at 10 percent. Materials recovered from the permanent facility of the utility that are accepted by the utility for return to stock shall be credited to the project at the current stock prices of such used materials. Materials recovered and not accepted for reuse by the utility, if determined to have a net sale value, shall be sold to the highest bidder by the LPA or utility, following an opportunity for inspection by the LPA and an appropriate solicitation for bids. If the utility practices a system of periodic disposal by sale, credit to the project shall be at the going prices supported by records of the utility.

Eligibility of Utility Relocations for Earmark Funds

Projects that are specially designated or “earmarked” by Congress for Federal funding usually follow the same utility relocation eligibility rules as any other Federal-aid project, as outlined above. However, if the funds for an earmarked project are specifically designated for utility relocations, this may override the normal rules of eligibility. To be eligible, such a designation must occur in the legislative description of the project itself or elsewhere in the authorizing legislation. Funding applications or Congressional letters are not sufficient to establish the eligibility of utility relocations that are otherwise ineligible under the normal rules.

Utility Agreements

In order for Federal funds to participate in utility relocation costs, a written agreement must be executed by the LPA and the utility. The agreement must also be reviewed and approved by the Iowa DOT Administering Office.

It is the responsibility of the LPA to initiate the agreement process with the utility. Some utility agreements can take a significant amount of time to negotiate and execute; therefore, the LPA should contact the utility as early as possible in the project development process.

Agreement Content

Many utilities have standardized agreements that may be used for this purpose. However, use of a standard format is not required. Regardless of the particular form of agreement used, all utility agreements for construction-type projects shall include the following provisions:

1. A statement of each party's responsibilities for accomplishing and paying for the cost of the utility relocations. This statement should include the basis of LPA's authority or obligation to pay for utility relocation costs.
2. The provisions of [23 CFR 645](#) and the [Policy for Accommodating Utilities On the County and City Non-Primary Federal-Aid Road System](#) incorporated by reference.
3. The method for performing the utility relocation work. The method used must be one of the options described in the "Construction" subsection under the "Eligible Activities" section above.
4. The method for developing utility relocation costs.

The preferred method is based on actual direct and related indirect costs. However, subject to approval by the Iowa DOT, other methods may be used, provided they are based on generally accepted industry practices and can be reasonably supported by recent actual expenditures. The lump-sum method may be used if the work can be clearly defined and the cost accurately estimated. Unit costs may be used if they are developed by the LPA in cooperation with the utility and are updated annually based on actual cost data.

5. An itemized cost estimate of the utility relocation work.

If the work will require any credits for the purposes of Federal-aid reimbursement, these shall be identified. The cost estimate should also include right-of-way, preliminary engineering, and construction engineering costs, if applicable. If the agreement is based on the utility's actual costs, the cost estimate should include a break-down of the estimated costs, such as direct labor, labor surcharges, overhead and indirect construction charges, materials, equipment, etc.

6. If the LPA and the utility will share in the cost of the utility relocation, the agreement shall identify the share to be paid by each party.
7. If the utility will make repayment of any costs that were initially paid by the LPA, the agreement shall specify the amount and terms of such repayments.
8. References to the plans, and if needed, specifications that describe the proposed work. These should be incorporated into the agreement as an attachment or exhibit.
9. A provision stating that the utility may not commence work until after receipt of written notification from the LPA that the relocation work has been approved by the Iowa DOT and received FHWA Authorization.
10. If the utility has a property interest in its current location, a provision that states the utility will provide a release or disclaimer of all property interests to the LPA after completion of the relocation and prior to final payment by the LPA.
11. Buy America provisions. The relocation agreement shall contain provisions that require the utility to certify compliance with the Buy America law at [23 U.S.C. 313](#) and its implementing regulations at [23 CFR 635.410](#). The agreement shall also require the utility to maintain records to support its certification(s). A sample agreement provision, where "COMPANY" is the utility and the "AGENCY" is the LPA, is provided below:

"All portions of the project performed by the COMPANY shall be in compliance with the Buy America Requirements, as set forth in 23 CFR 635.410 and 23 USC 313, as amended by Section 1518 of P.L. 112-141. Before incorporating any iron or steel products into the work, the COMPANY shall provide the AGENCY with manufacturer's certifications indicating that all manufacturing processes for iron and steel, including the application of coatings, have occurred in the United States, unless granted a waiver pursuant to 23 CFR 635.410."

The Iowa DOT recommends the utility agreement require the utility company to use a step-certification process, whereby each corporate entity involved in the manufacturing process (from melting to fabrication) on transfer of the intermediate product, certify that its product complies with Buy America. This process produces a “chain of custody” documentation trail that can be used to verify compliance.

Regardless of the type of certification process used, the LPA shall retain the certifications provided by the utility as part of its Federal-aid project file for which the utility relocation was eligible. These records shall be retained for at least 3 years after FHWA approval of the final amendment / modification document for the project, as described in Section 9.3 of the [Federal-aid Project Development Guide](#).

Buy America does not apply to manufactured products that are less than 90% iron or steel by weight.

For additional guidance concerning the Buy America requirements, refer to FHWA's [Buy America Construction Program Guide](#).

For additional tools and information related to Buy America requirements, refer also to the Iowa DOT Office of Traffic and Safety's [Buy America web site](#). This web site describes how the Iowa DOT will address these requirements on its projects involving utility relocations, but some of the information may be helpful for LPA projects too.

Changes to the Agreement

If there are changes to the scope of work approved by the agreement (e.g., extra work, significant changes to the plans, specifications, or estimates), an amendment to the agreement, written change, or extra work order must be approved by the LPA and the Iowa DOT. Absent such documentation, Federal funds may not participate in the additional costs associated with such changes.

Procedures for Federal Participation

To obtain Federal participation in utility relocation costs, follow the process illustrated in the flowchart included as [Attachment B](#) to this I.M. Like any other type of project work, FHWA Authorization must be obtained prior to beginning any utility work which will be reimbursed with Federal funds. Additional details and guidance concerning this process are provided below.

FHWA Authorization Request Submittal

To request FHWA Authorization for utility relocation costs, submit the following to the Administering Office:

1. A cover letter, memo, or e-mail that includes the project number and a description of the circumstances that require the utility relocation.
2. The draft utility agreement, including the proposed plans, specifications (if applicable), and an itemized estimate of utility relocation costs to be paid by the LPA.

Agreement Review Procedures

Administering Office Review

The Administering Office will review the agreement to determine if it includes the necessary agreement provisions, as set forth in this I.M. The Administering Office will also review the proposed relocations to ensure they are within the scope of the project, as defined by the Concept Statement or other environmental documents, if applicable.

Pre-audit

If the estimated total utility cost to be paid by the LPA is greater than \$100,000, the Administering Office will forward a copy of the draft utility agreement to the Iowa DOT Office of Finance, External Audits, and request a pre-audit. If the estimated cost is less than \$100,000, a pre-audit is usually not required, unless:

- the utility is to be paid on a lump-sum or unit price basis;
- there is insufficient knowledge of the utility's accounting system;
- there is a previous unfavorable experience regarding the reliability of the utility's accounting system;

- the utility agreement involves procurement of new equipment or supplies for which cost experience is lacking; or
- the Administering Office has concerns about any item in the proposed cost estimate.

External Audits may waive the need for a pre-audit based on its knowledge of the utility and its past audit history. A pre-audit typically includes:

- an analysis of the utility's cost proposal and financial records for the method of accounting in place to assure that the utility has the ability to adequately segregate and accumulate reasonable and allowable costs to be charged against the project; and
- an analysis of the utility's proposed direct costing rates and indirect overhead factors to assure their propriety and eligibility for Federal reimbursement, as required by [23 CFR 645.117](#).

If there are any questions about the pre-audit procedures, the LPA or Administering Office may contact External Audits for assistance.

Utility Section Review

The Administering Office will forward a copy of the draft agreement to the Office of Traffic and Safety, Utilities Section. The Utilities Section will review the agreement to determine if the estimated cost of the proposed utility relocations is reasonable. The Administering Office may also request assistance from the Utility Section in reviewing other provisions of the agreement. The Utilities Section will review and provide its comments to the Administering Office on the reasonableness of the estimated cost and other provisions of the agreement if requested or if deemed necessary.

Reimbursements

The LPA may request reimbursement for the costs of approved and authorized utility relocation work anytime after payments have been made to the utility. Before submitting a request for reimbursement, the LPA shall ensure the work completed to-date is in accordance with the authorized utility agreement. Each request for reimbursement shall include:

- A cover letter, memo, or e-mail that identifies the project number, the work for which reimbursement is being requested, and the total amount claimed for reimbursement.
- If the utility is performing the work with its own forces, include a copy of the utility's estimate of work completed to date.
- If the utility is using a contractor or consultant to perform the work, include a copy of the contractor or consultant invoices, and any applicable subcontractor or subconsultant invoices.
- A copy of the canceled check or check register to verify that the LPA has made payment to the utility.
- If the reimbursement includes iron or steel products subject to Buy America, include copies of Buy America certifications provided by the utility.

Completion of Utility Work

After all the utility relocation work is completed, the LPA shall submit a request for final reimbursement to the Administering Office. The final reimbursement request shall include:

- A cover letter, memo, or e-mail that identifies the project number, the work for which reimbursement is being requested, and the total amount claimed for reimbursement. The cover letter shall also include a statement by the LPA that the utility relocation work was completed in general conformance with the utility agreement.
- If the utility is performing the work with its own forces, include a copy of the utility's final costs.
- If the utility is using a contractor or consultant to perform the work, include a copy each of the contractor or consultant final invoice, and any applicable subcontractor or subconsultant final invoices.
- A copy of the canceled check or check register to verify that the LPA has made final payment to the utility.

Because the final audit process can require a significant amount of time, and the final audit will need to be complete before the project as a whole can receive final Federal-aid reimbursement, the LPA should submit their request for final reimbursement of utility relocation work as soon as possible.

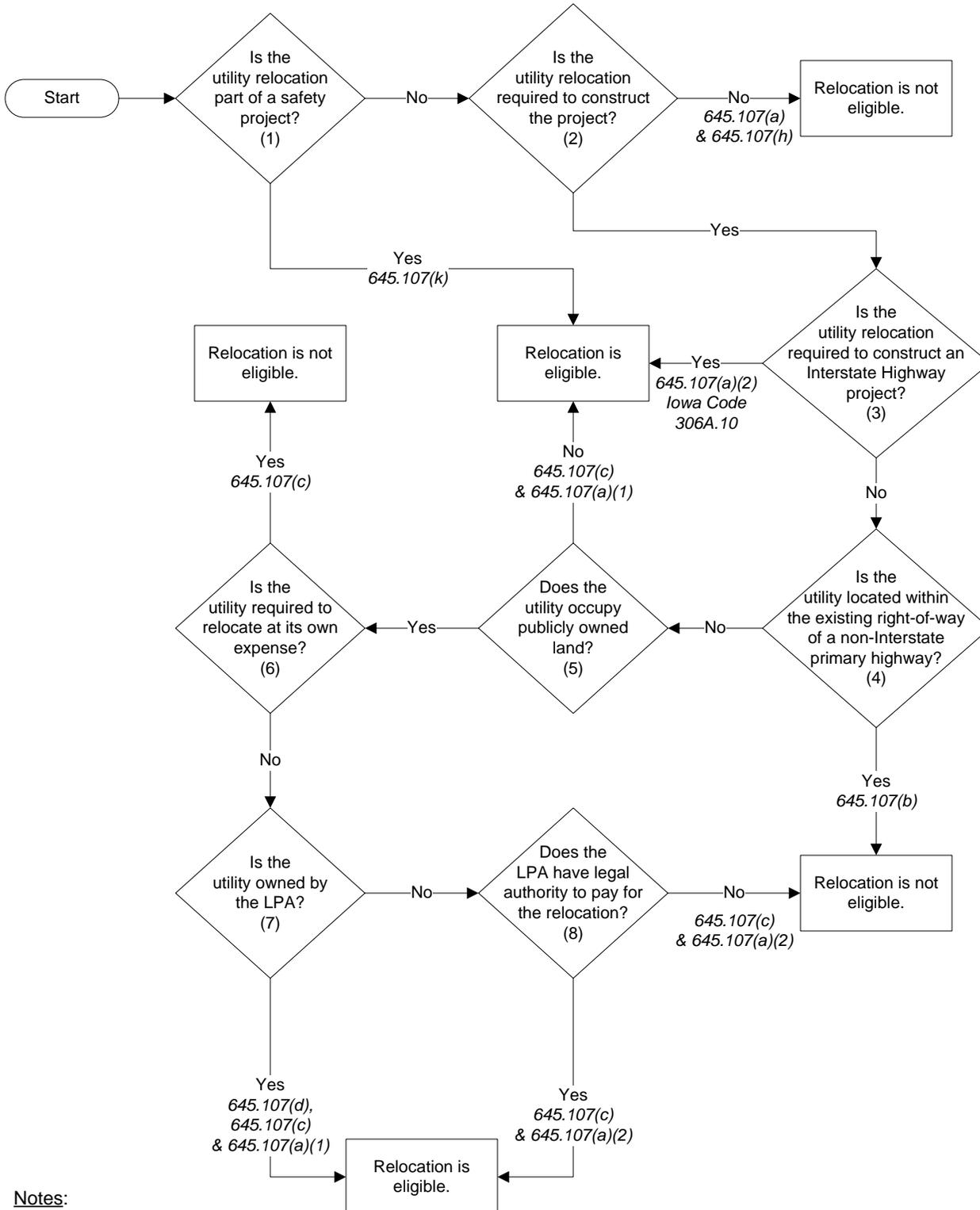
Upon receipt of a request for final reimbursement of utility relocation costs, the Administering Office will forward a request for a final audit or final review to the Office of Finance, External Audits. Lump sum

agreements do not need a final audit, but may have a final review. External Audits may waive final audit requirements on utility agreements of less than \$100,000. Final reimbursement for lump sum agreements under \$100,000 can be made prior to the final audit or review (reimbursement set by agreement).

If a final audit is conducted, External Audits will review all invoiced charges to assure that the charges are adequately supported and are eligible for reimbursement. After the final audit is complete, External Audits will return the audit report to the Administering Office, which in turn will pass the report on to the LPA and the utility.

- If the final audit report finds that a balance is due to the utility, the utility may invoice the LPA for the balance due and the LPA may request reimbursement for the additional payment. Upon receipt of such a request, the Iowa DOT will reimburse the LPA for the appropriate Federal share.
- If the final audit report finds that the utility has been overpaid, the Iowa DOT will invoice the LPA for the appropriate Federal share or deduct this amount from the balance of reimbursement that is due to the LPA for other project costs. Likewise, the LPA may request reimbursement from the utility for the amount of overpayment.

Utility Relocation Federal-Aid Eligibility Flowchart For Local Public Agency (LPA) Federal-aid Projects



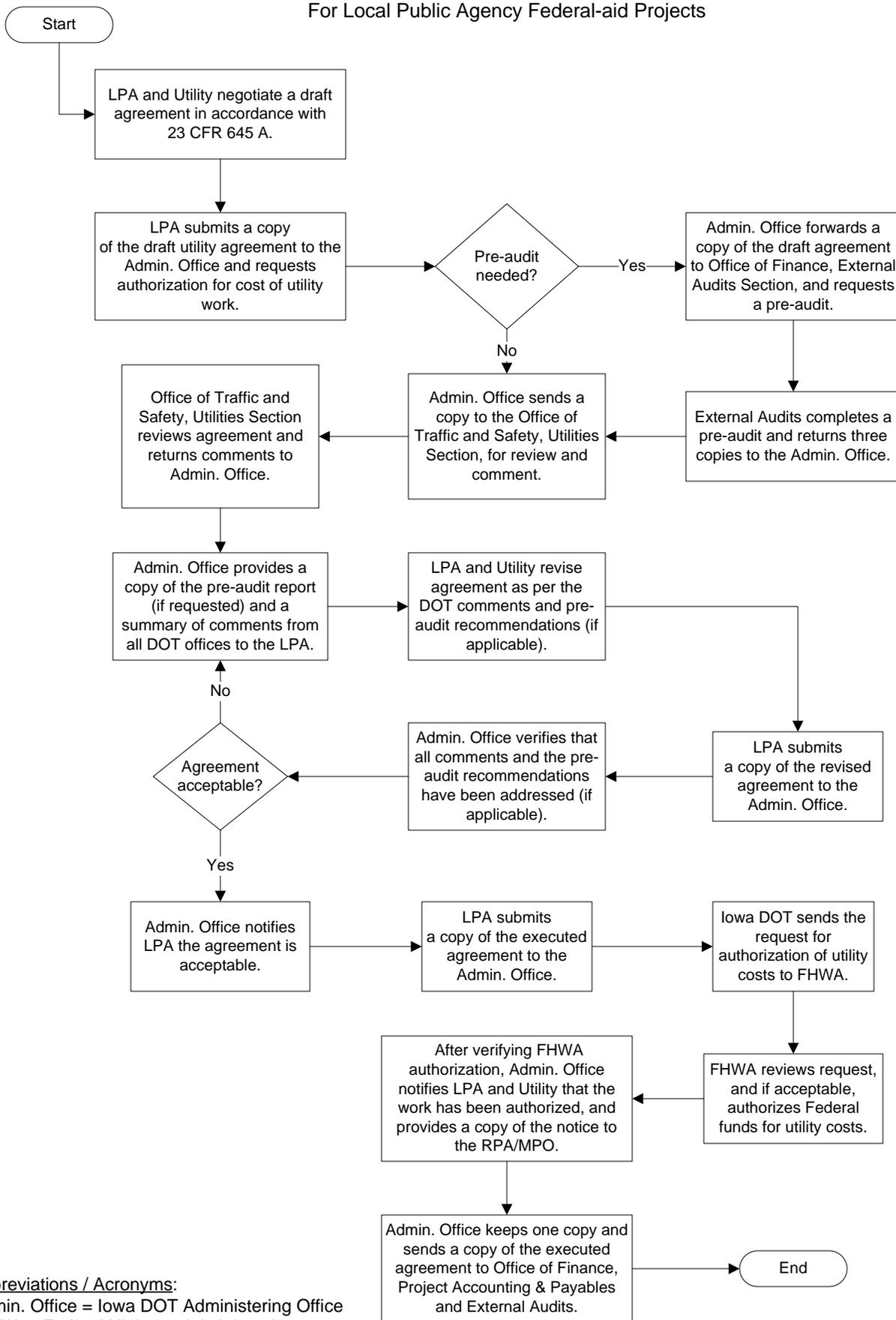
Notes:

1) For additional explanation of each question shown on this flowchart, refer to the corresponding numbered questions in the "Eligible Relocations" section of this I.M.

2) For each eligibility determination shown on this flowchart, the supporting references from 23 CFR 645 and Iowa Code are shown in *italics*.

FHWA Authorization of Utility Relocation Costs Flowchart

For Local Public Agency Federal-aid Projects



Abbreviations / Acronyms:

- Admin. Office = Iowa DOT Administering Office
- FHWA = Federal Highway Administration
- LPA = Local Public Agency
- MPO = Metropolitan Planning Organization
- RPA = Regional Planning Affiliation

INSTRUCTIONAL MEMORANDUMS

To Local Public Agencies



To: Counties and Cities	Date: February 11, 2014
From: Office of Local Systems	I.M. No. 3.760
Subject: Public Interest Findings	

Contents: This Instructional Memorandum (I.M.) provides guidance and information about Public Interest Findings. It includes a description of what they are, conditions that require them, and procedures for their submittal, review, and approval. Except where noted otherwise, the guidance contained in this I.M. applies to any Local Public Agency (LPA) project let by the Iowa Department of Transportation (Iowa DOT), regardless of its funding source(s) or road system classification.

Introduction

There are many State and Federal rules, policies, and procedures that apply to construction contract lettings conducted by the Iowa DOT. For LPA Federal-aid projects, the Iowa DOT is responsible for monitoring the LPA's compliance with these rules, policies, and procedures. However, a limited number of these rules, policies, and procedures contain provisions that permit them to be waived under certain circumstances. A Public Interest Finding (PIF) is an approval by the Iowa DOT to allow such an exception.

As its name suggests, these exceptions are approved if it is in the public's best interest to do so. Usually, an exception is deemed to be in the public's best interest if it is more cost effective than following the established rule, policy, or procedure. Cost effectiveness means that the proposed action results in the lowest overall cost. However, in some situations, other factors may also be considered. A PIF, by its very nature, is an unusual situation. Therefore, the Iowa DOT will approve a PIF only after careful consideration of the specific situation and the precedent that may be set.

Conditions that Require a Public Interest Finding

For each condition listed below, the explanation describes why a PIF is required. In addition, guidance for justification of each type of PIF request is provided. The type and amount of justification required will vary, depending on the nature of the request. Whenever possible, the justification should be objective or quantifiable, such as a cost comparison or product research. The typical conditions that require a PIF include, but may not be limited to, the following:

Note: Conditions 2-6 are applicable both before and after the letting. Therefore, a PIF should be approved before issuing a change order for any of these conditions.

- 1. All of the applicable project clearances will not be obtained by the 1st Tuesday, 2 months prior to letting.**

Explanation: Projects let without the necessary clearances have an increased risk of delays and increased construction costs. To help minimize the potential for delays and increased costs, the Iowa DOT's policy is to ensure that all projects have the necessary clearances prior to this date. This date is when the Administering Office submits the project plans and specifications to the Office of Contracts. It marks the beginning of the letting process.

Project clearances, for the purposes of this document, shall include:

- a) Project Agreement (applicable to Federal-aid and State-aid projects only): This item is considered clear when the appropriate officials of both the Iowa DOT and the LPA have signed the project agreement.
- b) An approved Project Development Certification (PDC): This certification addresses several project clearances, including: railroads, utilities, permits for work on Primary Highways, and right-of-way acquisitions and relocations. These items are considered clear when the PDC has been approved (signed) by the appropriate Iowa DOT office(s). For more detailed guidance on each of the clearances addressed by the PDC, refer to [I.M. 3.750](#), Project Development Certification Instructions.
- c) U.S. Army Corps of Engineers 404 Permit (if applicable): This item is considered clear when the Corps has approved the applicable 404 permit application.

- d) Iowa DNR Floodplain Permit (if applicable): This item is considered clear when the Iowa DNR has approved the permit application.

Note: For Federal-aid projects, FHWA Environmental Concurrence is also an essential project clearance. However, since final design may not proceed until after Environmental Concurrence is received, this clearance must already have been obtained prior to submittal of final plans for letting. Therefore, a PIF will not be accepted for lack of this clearance.

The LPA should contact the Iowa DOT Administering Office for assistance in determining which clearances apply to a specific project.

Guidance: If a PIF is requested for this condition, the LPA's request shall address several things:

- a) Identify the project clearance that is not yet obtained.
- b) Explain the special circumstances that have prevented the LPA from obtaining the needed clearance in accordance with the established processes and typical timeframes. The LPA must be able to demonstrate that the circumstances were not reasonably foreseeable or are beyond their control. Lack of planning is not acceptable justification for approving a PIF for this condition.
- c) List the steps being taken to obtain the needed clearance. The LPA must be able to show that aggressive efforts are being made to obtain the needed clearance and their chances of success are high.
- d) Provide an estimate of when the needed clearance will be obtained. This estimate must be reasonable, given the typical timeframes for the clearance in question. A request that requires an accelerated process may not be approved.
- e) Explain the nature of and quantify, if possible, any anticipated negative impacts that are likely to result from delaying the project. The LPA should also explain why those potential impacts outweigh the additional risk of allowing the project to proceed in the letting without the clearance.

Except as noted below, all of the applicable clearances must be obtained by the 1st Tuesday, 1 month prior to letting. Otherwise, the project will be rescheduled for a later letting.

The 1st Tuesday, 1 month prior to letting is when the Iowa DOT begins requesting Federal Highway Administration (FHWA) authorization of projects for letting. As required by the Federal regulations ([23 CFR 635.309](#)), the Iowa DOT's request contains assurances that either all the necessary project clearances have been obtained or necessary arrangements have been made so that the project may progress without unnecessary delay or expense. The Iowa DOT is responsible to the FHWA for ensuring that all Federal-aid projects comply with these regulations. While non-Federal-aid projects don't require FHWA authorization, the same procedure will be used for all projects let by the Iowa DOT.

Under very limited circumstances, a project may proceed in the letting process without all the clearances up until the 1st Tuesday of the letting month, but only if the pending clearance is virtually assured. One example is if a right-of-way parcel has not been acquired but is scheduled for condemnation (i.e., a court date has been set) before the 1st Tuesday of the letting month. Another example is if formal permit approval is pending but the permitting agency has given written assurance that approval will be granted before the 1st Tuesday of the letting month.

2. *The contract documents direct the contractor to provide a single proprietary product.*

Explanation: Federal regulations ([23 CFR 635.411](#)), Iowa Code Section [73.2](#), and Iowa DOT policy requires procurement of construction contracts through a competitive bidding process. This condition is applicable whether the item in question will have Federal participation or not. Specifications that direct the contractor to provide a single proprietary product do not allow competition by other acceptable products. Use of such specifications may unnecessarily add to the project cost.

A product, specification, or process identified in the plans or specifications is considered proprietary if it includes a brand or trade name. If the designer is uncertain whether a particular name is considered a brand

or trade name, it may be helpful to consult the United States Patent Office [Trademark Electronic Search System](#).

Also, a specification is considered proprietary if it is so narrowly written that only one product can meet the requirements, even if a brand or trade name is not used.

Guidance: Generic, end-result specifications are always the preferred method because they promote competition. A less desirable but acceptable specification may include proprietary products if at least three acceptable products are listed along with the phrase, "or approved equal." However, if only one product is specified, one of the following justifications must be provided:

- a) The LPA certifies the product is necessary to ensure compatibility or synchronization with existing facilities or systems for one of the following reasons:
 - 1) Function – the product is necessary for the satisfactory operation of existing facilities.

For example, improvements to a traffic signal system may require a certain model of controller because other controllers would not be compatible with the existing traffic signal system.
 - 2) Aesthetics – the product is necessary to match the visual appearance of existing facilities.

For example, to avoid impacts to an historic district, it may be necessary to specify a certain style of street lights in order to match the appearance of the existing street lights that match those of a certain historical period.
 - 3) Logistics – the product must be interchangeable with other parts in the agency's existing inventory.

For example, an agency may specify a particular type of guard rail end terminal because it maintains a limited inventory of spare parts that are compatible with only this type of end terminal.
- b) The LPA certifies no alternative products exist that adequately meet the project requirements.
- c) The product is part of a research project approved by the Iowa DOT which is designed to test or evaluate new or experimental products. Please note:
 - Before initiating research or testing of an experimental product, LPAs should review the American Association of State Highway and Transportation Officials (AASHTO) [Product Evaluation List](#) to see if the product has already been evaluated.
 - If the experimental portion of the project is being funded by a Federal or State research program, and the purpose of the project is to test or evaluate the proprietary product, then no separate approval is required.
- d) The LPA believes it is in the public's best interest to specify a single proprietary product, even though other suitable products are available.

The LPA's request for the use of a single proprietary product shall identify the product and include additional information and / or supporting documentation. The type of information and / or supporting documentation required depends on the type of justification used, as indicated below.

For a justification based on a certification (justification a or b above), include the following:

- An estimate of the additional costs, if any, of providing the single proprietary product.
- The unique needs of the project and an explanation of why only one product can meet those needs.
- The pool of potential alternative products and an explanation of why none of these products can meet the needs of the project.
- If a higher than normal standard of performance is driving the need for the proprietary product, explain why the higher performance standard is needed.

For a justification based on research or experimental products (justification c above), include the following:

- A copy of the approved experimental product evaluation work plan. The work plan should conform to FHWA's guidance for [Construction Projects Incorporating Experimental Features](#).

For a justification based on a public interest finding (justification d above), in addition to the information listed for justifications a and b, include the following:

- An explanation of how the public benefit gained by using a single proprietary product outweighs the increased competition that would be obtained if other acceptable products were allowed.
- Since other acceptable products exist, the above point may be difficult to demonstrate; therefore, additional engineering or economic analysis may be necessary.

Regardless of whether a PIF is approved or what funds are used to pay for the item, any contract let using the Iowa DOT Standard Specifications must also comply with Buy America because these provisions are included in these specifications. The same is true of contracts let under other specifications that are within the scope of the National Environmental Policy Act (NEPA) document, if at least one of those contracts uses Federal-aid.

For additional guidance on the use of proprietary items, refer to [FHWA's Questions and Answers Regarding Title 23 CFR 635.411](#).

3. *The LPA will directly perform some or all of the construction work using its own labor, materials, or equipment; and the LPA will request Federal-aid participation in this work.*

Explanation: Federal regulations ([23 CFR 635.114\(a\)](#) and [23 CFR 635 B](#)) prohibit competition by LPAs with private contractors for award of Federal-aid construction work. By completing the construction work with its own labor, materials, or equipment, the LPA is in essence competing with private contractors for this work.

Guidance: There may be situations where it is in the public's best interest for the LPA to complete the work using its own labor, materials, or equipment. This determination is made either on the basis of cost effectiveness or that an emergency situation exists. To justify this condition on the basis of cost effectiveness, refer to the instructions and procedures contained in [I.M. 3.810](#), Federal-aid Construction by Local Agency Forces.

To justify this condition on the basis of an emergency, the LPA must be able to show that a major element or segment of the highway system has failed and immediate action is needed to:

- a) minimize the extent of damage,
- b) protect the remaining facilities, or
- c) restore essential travel.

Work that meets this criteria may proceed prior to FHWA authorization. However, before such work may be reimbursed with Federal-aid, the Iowa DOT and FHWA must concur in the emergency determination and FHWA authorization must be received.

4. *The contract documents make publicly owned equipment available for use by the contractor and the LPA will request Federal-aid reimbursement for the use of this equipment.*

Explanation: Federal regulations ([23 CFR 635.106](#)) do not allow competition of publicly owned equipment with privately owned equipment in the completion of a highway construction contract.

Guidance: In some cases, it may be in the public's best interest to approve such a use of publicly owned equipment. This determination is made exclusively on the basis of cost effectiveness.

Therefore, the LPA must be able to substantiate the costs associated with use of its equipment and compare those to the costs that would be incurred by a contractor for similar use. In calculating its own equipment costs, the LPA must take into consideration the initial purchase price, as well as maintenance and operational costs. As an alternative to calculating its own equipment costs, the LPA may use the current [Iowa DOT Schedule of Equipment Rates](#) provided by the Iowa DOT Office of Local Systems.

If a PIF is approved for this condition, the contract documents must also contain the following information:

- a) a statement clearly indicating that publicly owned equipment will be made available for use by the contractor;
- b) a clear identification of the specific pieces of equipment that will be made available, the rates to be charged by the LPA (if any), and the locations where the equipment will be made available or delivered; and
- c) a statement giving the contractor the option of either using the publicly owned equipment or providing the necessary equipment to complete the work.

If the LPA charges a rental rate for such equipment, it shall not make a profit. If, due to unforeseeable circumstances, the use of publicly owned equipment is not approved until after the work has started, such use shall not be a basis for an increase in project costs, or Federal or State reimbursement.

5. *The contract documents for a Federal-aid contract specify that the contractor shall incorporate materials or products provided by the LPA into the project.*

Explanation: Federal regulations ([23 CFR 635.407](#)) require that all materials to be incorporated into the project be acquired through a competitive bidding process. This condition is applicable whether the item in question will have Federal-aid participation or not. Competitive bidding usually delivers the project at the lowest possible cost to the public. Requiring the contractor to use materials provided by the LPA does not allow contractors to select their own sources for materials or products, and may result in higher overall project costs.

Guidance: When considering the justification for this condition, materials or products furnished by the LPA will be evaluated on the basis of two general categories, as described below:

- a) **Manufactured materials (products):** Examples include items such as street lights, utility accesses or covers, water mains, fire hydrants, etc.

Justification of a PIF for this condition should be based on cost effectiveness or existing facilities / systems compatibility. The cost effectiveness determination shall consider all the costs of obtaining and providing the manufactured materials, even if they are provided to the contractor free of charge.

If a PIF is approved for the LPA to furnish manufactured materials or products to the contractor, their use must be made mandatory. Optional use is not permitted because this in effect allows the LPA to compete with private suppliers. Also, to be eligible for Federal-aid participation, the LPA must be able to demonstrate that the product was previously acquired through a competitive bidding process, unless another method has been approved by a separate PIF for a non-competitive contract award (see no. 2 above). Documentation describing the bidding process used, including the specifications, must be included in the PIF request.

- b) **Local natural materials:** Examples include earth material (borrow), HMA millings, crushed PCC pavement, sand, or gravel.

Justification of a PIF for this condition should be based on cost effectiveness. When calculating its cost for local natural materials, the LPA must account for all costs incurred in obtaining and providing the materials, such as their cost to acquire a borrow or quarry source, and their labor and equipment costs in transporting or stockpiling the material.

If a PIF is approved for the LPA to furnish local natural materials, the contract documents must clearly specify how and where they will be provided. If the LPA elects to deliver the materials to the project site, the method, frequency, and location of the delivery must be specified. Or, if the LPA chooses to make its stockpile, borrow, or quarry areas available for the contractor's use, their locations must be identified. Also, the unit price (if any) that will be charged for the materials must be stated in the contract documents. If Federal-aid participation is requested in the cost of local natural materials, the Federal-aid share will be limited to the LPA's actual costs, or the fair market value, whichever is less.

6. *The contract documents for a Federal-aid contract specify a mandatory disposal area for excavated materials.*

Explanation: Federal regulations ([23 CFR 635.407](#)) prohibit the contract documents from specifying a mandatory disposal site for excess excavated materials. This condition is applicable whether the item in question will have Federal-aid participation or not. The excess excavated materials may have some value. Therefore, if the contractor was allowed to dispose of the excavated materials elsewhere, perhaps by selling the excavated materials to another interested party, the contractor may be able to submit a lower bid as a result.

Excavated materials include earth, rock, sand, or gravel and crushed, broken, or milled pavement materials. Excavated materials do not include other items that may be salvaged, such as traffic signals, controller cabinets, light poles, guard rail, fire hydrants, manhole castings, street furniture, or retaining wall blocks.

Guidance: This requirement may be waived if the LPA can demonstrate that use of a mandatory disposal area is cost effective. Use of a mandatory disposal area may also be justified on the basis of environmental considerations, provided that it would not result in excessive extra costs. The findings of the environmental document may be used to substantiate a PIF based on environmental considerations.

If a PIF is approved for this condition, the location of the mandatory disposal area shall be clearly identified in the contract documents.

Note: Regardless of which type of materials are salvaged or whether a PIF is required, the cost of transporting and stockpiling any salvaged materials shall not have any Federal-aid or State-aid participation. For additional guidance, refer to Attachment A to [I.M. 3.505](#), Check and Final Plans.

Procedures for Requesting and Approving a Public Interest Finding

1. If the LPA proposes to do something that requires a PIF, the Iowa DOT Administering Office contacts the LPA and explains the reasons why the rule, policy, or procedure is in place. The Administering Office should encourage compliance with the rule, policy, or procedure by suggesting alternatives that do not require a PIF.
2. If, after consultation with the Administering Office, the LPA still feels that a PIF can be justified, the LPA shall submit a Public Interest Finding Request ([Form 517030](#)) to the Administering Office. This request shall include sufficient information and supporting documentation (e.g., cost comparisons, a description of specific project requirements, etc.) to support the PIF. The request form may be prepared by a consultant, but must be signed by the LPA staff person who is in responsible charge of the project.
3. The Administering Office reviews the LPA's request and either approves or disapproves the request in writing to the LPA. The Administering Office keeps a copy of the request and approval or disapproval in its project file. If the PIF was for a project clearance (see condition no. 1), the Administering Office's approval will also indicate how far the project may progress in the letting without the needed clearance. For most LPA projects, only the Administering Office approval is required. For projects with full oversight by FHWA, if the Administering Office recommends approval, it will forward the form to FHWA for review and approval.
4. When the project plans and specifications are turned-in to the Iowa DOT Office of Contracts, the Administering Office includes a copy of the LPA's approved PIF request. If the need for a PIF is discovered after the plans are turned-in, the approved PIF documentation shall be submitted to the Office of Contracts as soon as possible, but no later than the 1st Tuesday, 1 month prior to letting. Otherwise, the project will be rescheduled for a later letting.