

Federal Funding 101 – There is no Such Thing as a Free Lunch

MnDOT State Aid/WSB

2022 CEAM Conference – January 26, 2022

Topics

Planning for Funding

Once You Get Funding

Common Problems

Planning for Funding

Jack Corkle – WSB

Planning for Federal Funding - Grants

- Understand what you want to apply for, how much it will cost, and that there is support for the project
 - Think through what the project limits should be – do they make sense?
 - Think through what improvements you want – see if the grant covers those items
 - Will you have to acquire property in order to build the project?
 - Can you afford the grant match?
 - Have you got enough time to meet the grant requirements?
 - Do you have enough staff/the correct staff to deliver the project?
 - Does your community and/or elected officials support the project?
 - Does the project involve coordination with the railroad?

Planning for Federal Funding - Grants

- Is your project in an adopted plan?
 - Most grants require projects to be in an adopted plan – prepare ahead for the projects you want to pursue
- Does your agency have an ADA transition plan?
 - Many grants require agencies to have an adopted ADA transition fund to receive federal funding
- Review grant requirements and conditions
 - Construction dollars are for construction – they are not for engineering, right of way, etc.
 - Understand any penalties/impacts for failing to meet grant requirements

Once You Get Funding

Elisa Bottos, Colleen Brown, and Sulmaan Khan – MnDOT State Aid

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- The elements of the National Environmental Policy Act (NEPA) include:
 - Assessment of **social, economic, and environmental impacts** of a proposed action or project
 - Analysis of a **range of reasonable alternatives** to the proposed project based on the defined purpose and need
 - Consideration of appropriate **avoidance, minimization, and compensation** impact mitigation measures
 - Coordination and consultation with **interagency partners**
 - **Public involvement**
 - **Documentation** and disclosure

NEPA Classes of Action

- Categorical Exclusion (CE) – Category of actions which do not individually or cumulatively have a significant impact on the environment
- Environmental Assessment (EA) – Done when the significance of impacts for a project is uncertain. If it is found that significant impacts will result, an EIS should be prepared.
- Environmental Impact Statement (EIS) – Prepared for projects where it is known that the project will significantly affect the environment

NEPA Public Involvement

- Includes:
 - **Early and continuing opportunities during project development for the public** to be involved in the identification of social, economic, and environmental impacts as well as impacts associated with relocation of individuals, groups, or institutions
 - **Opportunities for hearings** for projects which require significant amounts of right of way, substantially changes the layout or functions of connecting roadways or the facility being improved, has a substantial adverse impact on abutting property, or otherwise has a significant social, economic, environmental or other effect

NEPA Interagency Coordination

- Communication and collaboration with Federal, state, and local partners
- Partnerships with tribal governments, businesses, transportation and environmental interest groups, resource and regulatory agencies, affected neighborhoods, and the public
- Ensure that those historically underserved by the transportation system, including minority and low-income populations, are included in outreach
- Actively involve partners and all affected parties in an open, cooperative, and collaborative process beginning at the earliest planning stages and continuing through project development, construction, and operations

NEPA Documentation

- Since projects vary in type, size and complexity, and potential to affect the environment, the three classes of action (CE, EA, EIS) are allowed and determine how compliance with NEPA is carried out and documented
- Majority of projects that State Aid processes fall under the CE class of action
- State Aid often refers to CE documents as project memos, or PMs
- Document templates and guidance on the NEPA documents that come through State Aid can be found on our website:
<http://www.dot.state.mn.us/stateaid/environmental-forms.html>

Federal Laws Covered Under NEPA

- Section 4(f) – park & rec land protection
- Section 6(f) – LAWCON Fund Act compliance
- Section 106 – historic preservation
- Section 7 – threatened & endangered species
- Migratory Bird Treaty Act
- Bald and Golden Eagle Protection Act
- Farmland Protection Policy Act
- Executive Order 11988 – floodplain management
- Executive Order 11990 – protection of wetlands
- Clean Water Act
- Clean Air Act
- Noise

- A PM includes a Design Study, which consists of:
 - Design Standards
 - Design Elements
 - Design Exceptions, if any

Design Exceptions & Variances

- Design exceptions
 - When federal funds are used on a project, a design exception is required for those design elements that do not meet State Aid standards
 - Justification is typically submitted with PM document and processed by the State Aid Project Development Engineer
- Variances
 - When State Aid funds are used on a project, a variance is required for those design elements that do not meet State Aid standards
 - Variance procedures include a peer review by a Variance Committee
- Both a design exception and variance might be needed on a project depending on the funding on the project

Right of Way (ROW)

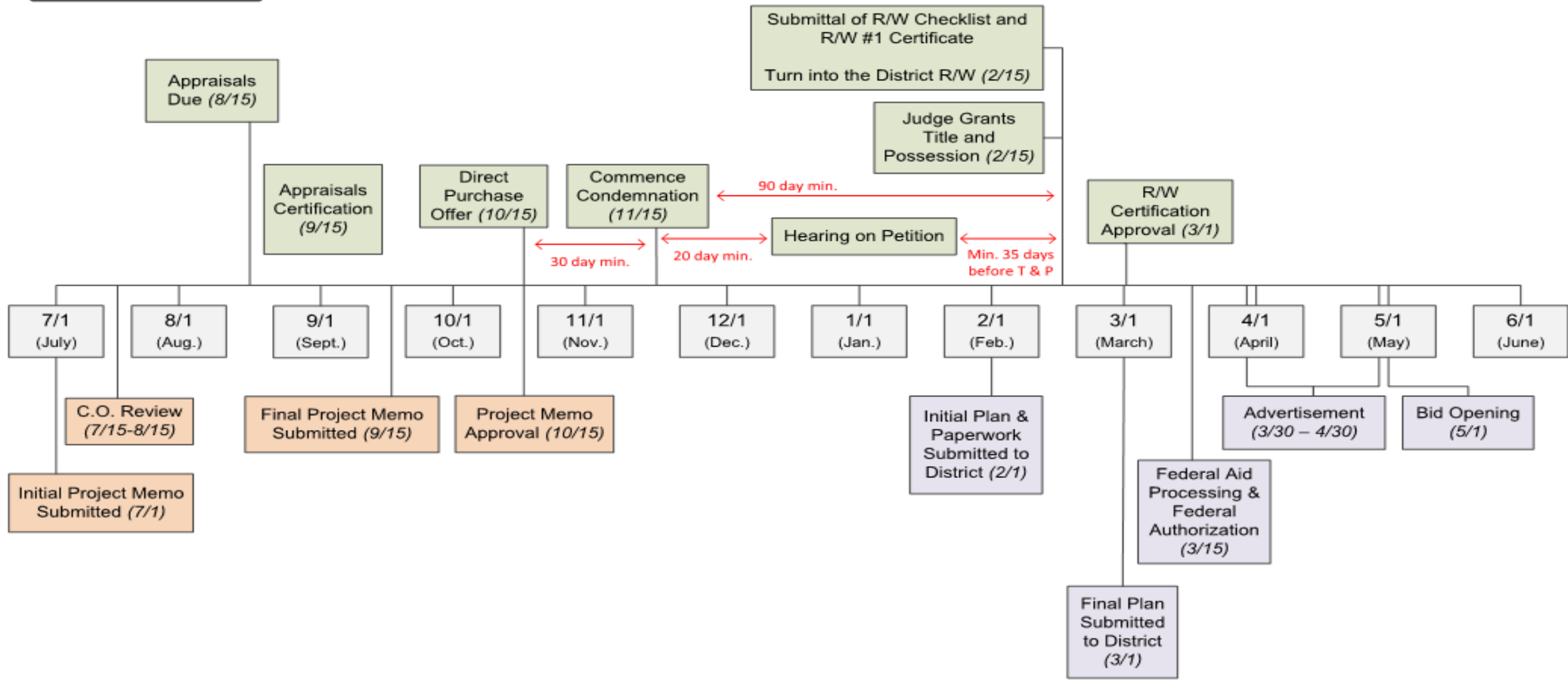
- What is it?
 - Land required for a transportation improvement project (roadway construction or reconstruction, modal facility or communications facility)
- Various types of ROW that are acquired include:
 - Fee title – full taking
 - Permanent easement – taking for a specific use
 - Temporary easement – temporary taking for working space
 - Access rights – to access private property
 - Others

Uniform Relocation Act

- Minnesota Statutes Sections 117.51 and 117.52 require “acquiring authorities” to meet the provisions of federal law entitled *The Uniform Relocation and Real Property Acquisition Policies Act of 1970*, as amended (also known as The Uniform Relocation Act), together with those regulations which implement The Uniform Relocation Act. Conformance with applicable federal policies and regulations are therefore required on *all city and county acquisitions*, regardless of funding sources.
- More guidance can be found on FHWA website (https://www.fhwa.dot.gov/real_estate/local_public_agencies/lpa_guide/) and in State Aid Manual (<http://www.dot.state.mn.us/stateaid/manual.html>), Chapter 5.2

Federal Aid Letting Timeline

R/W PROCESS



PROJECT MEMO

PLAN

ROW Certification Requirements

- Prior to federal authorization, the acquiring agency must furnish suitable evidence that:
 - It has acquired the right to occupy and use all right of way required for the construction of the project
 - All property owners have been paid
 - Plans show right of way limits
 - A Right of Way Certificate No. 1 or a Right of Way Certificate No. 1-A, as appropriate for the project, is on file in the State Aid Division office prior to authorization to advertise for bids

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What is Needed Prior to Federal Authorization?

- Approved environmental document
- Approved Public Interest Findings (PIFs), if any
- Permits
- Approved ROW Certificate #1 or #1-A
- Engineer's Estimate
- Approved Plans

Public Interest Findings (PIFs)

- PIFs document that a deviation from Federal statutory or regulatory requirements is in the public interest
- Types of PIFs that are processed by State Aid
 - Design or inspection work by local forces (with federal fund reimbursement)
 - Construction work by local forces
 - Purchasing items competitively and installing them with local forces
- Force Account agreement may also be needed along with PIF if federal fund reimbursement is requested for work done by someone other than the contractor (local forces, utility/railroad forces) or for local agency furnished items. Agreement usually executed after authorization.
- PIF templates available on State Aid website: <http://www.dot.state.mn.us/stateaid/plans-forms.html>

- Submit any permits necessary for the project with plan submittal
 - USACE Section 404
 - DNR Water Permit
 - MPCA NPDES Permit
 - Watershed District Permit
 - WCA/BWSR Permit
 - Railroad Permits
 - MnDOT LUP
 - Others

Engineer's Estimate

- Used as a benchmark for analyzing bids
- Should be done in an Excel spreadsheet
- Submit to State Aid along with plan submittal

Plan Submittal Package

- Completed Plan
- Engineer's Estimate
- Project Description – very plan, project memo and STIP description essentially match
- Plan Review Checklist
- Request for Lab Services Form
- ROW Certificate #1 or #1-A
- Working Days Computation or Project Completion by Date
- Permits

Bid Date and Advertisement

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Letting Date and Award

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Common Problems

Jack Corkle - WSB

Common Problems

- Timelines
 - The federal process has a lot of steps and they take some time
 - Railroad coordination is complicated and is slow – early coordination is essential
- Funding
 - Matching dollars – cannot match federal dollars with federal dollars
 - Correct funding pots/matches
- Adding local work
 - Is it something you want to federalize?
 - Incorporate early in the process if doing so.

Common Problems

- Useful life
 - Funding should be used for long-term improvements – life expectancy on federal dollars
- Specifications
 - Federal funding has design requirements that must be met – projects must meet these standards
- Is it worth it?
 - Make sure dollars at least cover costs

Thank you again!

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