



## 2013 LPA Training Session

### Question and Answers



#### District Three - Yazoo City: February 26, 2013

Question: Can the purchase of real property by the LPA, prior to a project being initiated, be used as special match credit on a project?

Answer: If it can be documented by the LPA that the property was purchased in accordance with the Uniform Act, and the LPA has met the environmental and LPA program regulations, it is conceivable that the value of the property could be used as match credit. However, experience has shown that usually the LPA cannot provide the documentation that the Uniform Act was followed on acquisitions prior to project initiation. If the documentation can be provided to the ROW Division that the Uniform Act was followed, the ROW Division will verify the amount and submit a recommendation to the LPA Division. The LPA Division will have the final authority to approve the use of the expenditures as special match credit.

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Question: Can the LPA use a contract title abstractor to provide title abstracts on a project (implied rather than use an attorney)?

Answer: Yes, title abstractors can be used to provide title abstracting services, but, the LPA project manager must be able to certify that the LPA has clear title to all real property interest on each acquired parcel, before the Right of Way Division Administrator will issue a right of way certificate on the project

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Question: Can Waiver Valuations be used on Temporary Easements for LPA projects?

Answer: The waiver valuation process is explained in 49 CFR 24.102(c)(2), Subpart B and Appendix A. The purpose of the appraisal waiver provision is to provide the agency a technique to avoid the costs and time delay associated with appraisal requirements for low value, non-complex acquisitions. The intent is that non-appraisers make the waiver valuations, freeing appraisers to do more complex work. If the proper waiver valuation process is followed where the LPA determines that an appraisal is unnecessary because the valuation problem is uncomplicated based on the review of the available data, waiver valuations could be used to value temporary easements. It is important to realize that the agency employee or consultant

making the determination to use the appraisal waiver process must have enough understanding of appraisal principles to be able to determine whether or not the proposed acquisition is low value and uncomplicated. We recommend consulting with a qualified review appraiser and the ROW District Coordinator to determine if the acquisition can be accomplished using waiver valuations in accordance with the Uniform Act.

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Question: Do LPA Supplemental Agreements that are signed by the District Engineer need to be ratified by the Commission?

Answer: Yes, once the total amount of work added to a project via supplemental agreements that have are <\$100,000 reaches \$100,000 they will need to go through ratification before the Mississippi Transportation Commission. Your LPA Coordinator can facilitate this.

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Question: Will funds under MAP-21, or any other Federal-Aid funds be effected by the federal sequester?

Answer: It is unlikely but it is still not determined at this time.

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### **District Seven - McComb: February 28, 2013**

There were no particular questions at this session that required follow-up from MDOT, only clarifications.

### **District Six- Gulfport: March 14, 2013**

Question: What if there is a change in the PDM during project development?

Answer: Whether or not the change in the PDM affects a particular project depends on the phase of project development and the degree of change. In short it will be evaluated on a case-by-case basis but will tend to side towards NOT hindering the progress a project development if at all possible. Contact your coordinator for guidance.

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Question: Are donated Right-of-Way properties eligible for Special Match Credit?

Answer: Yes, but they would need a certified appraisal and review appraisal to verify the value that is available.

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Question: What if there have been pages removed from a bid packages for the low bidder and all other bids are bids are irregular?

Answer: Any bid proposal with parts removed is to be considered “stripped” and should be deemed irregular and not accepted.

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Question: Are contractor’s required to obtain performance bonds for the work they perform on an MDOT LPA project?

Answer: Yes, Section 903 of the contract documents outlines the terms of the Performance and Payment Bond.

### **District Five- Jackson: March 21, 2013**

Question: If the LPA decides to use the Master List, and the Consultant they select are unable to pick up extra work, is the Consultant obligated to take the contract?

Answer: No.

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Question: What if the total of two or more contracts exceeds \$250,000 for the Master List selection?

Answer: It wouldn’t matter for this; only for Small Business Purchases.

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Question: Does ROW acquisition fall under the Brook’s Act?

Answer: No

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Question: After selection is made, can you go public before MDOT concurrence?

Answer: No, MDOT must concur in the selection prior to the selection being made public.

Question: If there is a simple project that you think does not need ROW and you start the project and find out you need ROW, can you do an S/A to get ROW?

Answer:

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Question: Can you select based on base bid for Add Option Bidding?

Answer: No, the low bidder must be selected based on a combination of base bids and all Add Options. The LPA would at that time select which Add Options, if any, they are able to include when they award the contract based on bids.

## **District Two - Oxford: March 26, 2013**

Question: Will all projects over \$500,000 be audited?

Answer: The \$500,000 amount triggers the requirement to have an audit conducted in accordance with OMB Circular A-133. Also, the \$500,000 is in regards to federal expenditures incurred for all federal programs of the LPA. If an A-133 audit is required, the CPA will determine the federal programs that will be tested/audited.

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Question: What time of year will the notification letter be sent?

Answer: The first part of January following the end of LPA's fiscal year. Example: For the year ended September 30, 2012, the notification letter was sent January 14, 2013.

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Question: Does the letter go out after the project is completely closed out?

Answer: No, the notification letter pertains to the annual audit of the LPA.

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Question: Is the letter in reference to all Federal money or just Federal Highway?

Answer: All federal expenditures incurred by the LPA during the fiscal year

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**Question:** If an LPA selects a Consultant for CE&I, and then has an S/A that pushes the money over \$250,000, will Federal Hwy. pay that?

**Answer:** No, the LPA is responsible for incurring those costs.

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### **District One - Tupelo: March 26, 2013**

**Question:** If the notification letter reveals that the LPA has not received Federal Hwy funds but has received other Federal funds, does Audit Division want the report?

**Answer:** No, only if the LPA receives a notification letter from MDOT.

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**Question:** Is the audit threshold based on the amount of the grant or the amount the LPA actually used?

**Answer:** The audit threshold of \$500,000 is based on all federal expenditures incurred during the year and not the overall grant/contract amount.

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**Question:** When limiting the use of “variable” on plan typical sections, what about variable slopes?

**Answer:** The slopes should remain constant except at the beginning and the end of construction, where they will have to vary to transition to the existing slopes, assuming that the existing slopes are different than the proposed slopes. Additionally, there may be short sections that require variable slopes in order to stay within ROW. These sections of variable slope should be kept as short as possible. If the majority of the length of the project will require variable slopes, then flattening the slopes and acquiring ROW may be a better alternative.

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**Question:** Is state law more stringent than Federal law regarding acquisition?

**Answer:** In regard to acquisition of real property, state law is very similar to the Uniform Act (Federal acquisition law). All LPA projects administered by the MDOT LPA Division have federal funds

participation, either in the engineering, right of way or construction phase of the project, which requires the local public agency to comply with the Uniform Act requirements in the acquisition of real property. LPAs must follow all state and Federal acquisition laws.