

Appendix C:

Requirements for Public Involvement

What does it say in FDOT's *Public Involvement Handbook*?



2.0 REQUIREMENTS FOR PUBLIC INVOLVEMENT

2.1 Federal Requirements

The emphasis on public involvement has continued with the passage in 2005 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU). Previously, the Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991 required states and MPOs to involve the public to a much greater extent in transportation decision-making than under previous law. When ISTEA expired in 1998, it was replaced by the Transportation Equity Act for the 21st Century (TEA-21), which continued to place strong emphasis on public involvement. SAFETEA-LU retains all of the public involvement language from the previous acts and adds new requirements, including the development of an MPO Public Participation Plan in consultation with interested parties; the addition of bicycle and pedestrian facilities users and the disabled as interested parties; public meetings held at convenient times and accessible locations; and the use of electronic methods and visualization techniques to provide information to the public.

These regulations are found in 23 Code of Federal Regulations (CFR), Part 450.210 and 450.316 to guide the development of statewide, local and metropolitan plans and programs. These regulations also include the following:

- Early and continuous public involvement opportunities throughout the planning and programming process;
- Timely information to citizens, affected public agencies, representatives of transportation agencies, private sector transportation entities and other interested parties, including segments of the community affected by transportation plans, programs, and projects;
- Reasonable public access to information;

- Adequate public notice of public involvement activities and ample time for public review and comment at key decision points;
- Explicit consideration and response to public comment;
- Consideration of the needs of the traditionally underserved, including low-income and minority citizens;
- Periodic review of public involvement efforts by the Metropolitan Planning Organization (MPO) to ensure full and open access to all;
- Review of public involvement procedures by the FHWA and FTA when necessary; and
- Coordination of MPO public involvement processes with statewide efforts whenever possible.

The National Environmental Policy Act of 1969 (NEPA) established a national policy for the protection of the environment. NEPA requires the consideration of potential impacts on social and natural resources during transportation decision-making.

In addition, the Americans with Disabilities Act (ADA) requires reasonable efforts be made to accommodate citizens with disabilities who wish to attend public meetings.

Table 2.1 lists federal requirements and provides links to the listed requirements.

Legal Requirements, Policies & Guidance	
Federal	
Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU)	Continued and enhanced emphasis on strong planning processes and public involvement http://www.fhwa.dot.gov/hep/23cfr450.htm
23 CFR 450.210 and 450.316	Guides the development of statewide transportation plans and programs; requires early and continuous public involvement www.access.gpo.gov
FHWA/FTA Interim Policy on Public Involvement	Requires effective public involvement processes custom-tailored to local conditions www.fhwa.dot.gov/environment/pi_pol.htm
23 USC 128	Requires public hearings or the opportunity for public hearings for plans for Federal-aid highway projects www.access.gpo.gov/uscode
23 USC 135	Provides for reasonable access to comment on proposed plans www.access.gpo.gov/uscode
National Environmental Policy Act (NEPA)	Requires consideration of impacts on human environments www.fhwa.dot.gov/environment
Title VI of the Civil Rights Act of 1964	Declares that no person shall be excluded from participating in any program receiving federal assistance on the basis of race, color or national origin www.fhwa.dot.gov/environment/title_vi.htm
28 CFR 36 Americans with Disabilities Act	Requires government programs to be accessible to people with disabilities www.usdoj.gov/crt/ada/adahom1.htm
23 CFR 771 Environmental Impact and Related Procedures	Addresses early coordination, public involvement, project development www.access.gpo.gov
Technical Advisory 6640.8A	Guidance for preparing and processing Environmental and Section 4(f) documents www.environment.fhwa.dot.gov/projdev/impta6640.htm
Executive Order 12898 on Environmental Justice	Addresses avoidance of actions that can cause disproportionately high and adverse impacts on minority and low income populations www.fhwa.dot.gov/environment/ejustice/facts/index.htm
49 CFR 24 Uniform Relocation Assistance & Real Property Acquisition Policies Act	Ensures property owners and people displaced by Federal-aid projects are treated fairly, consistently and equitably www.access.gpo.gov
Executive Order 13166 on Limited English Proficiency	Improving access to services for people with limited English proficiency www.fhwa.dot.gov/hep/lowlim/index.htm
President's Council on Sustainable Development	http://clinton2.nara.gov/PCSD


Table 2.1 Legal Requirements, Policies & Guidance – Federal

2.2 State Requirements

Chapter 339.155, Florida Statutes (F.S.), addresses public involvement in transportation planning. It requires that citizens, public agencies and other known interested parties be given the opportunity to comment on the long-range component of the Florida Transportation Plan and before substantive revisions to the plan. It also requires hearings during the development of major transportation improvements.

Chapter 339.175, F.S., requires public involvement in the development of the Long Range Transportation Plan (LRTP) and Transportation Improvement Program (TIP).

Chapter 286, F.S., commonly known as “The Sunshine Law,” addresses public access to governmental proceedings at the state and local level. The Sunshine Law requires that meetings of boards or commissions be open to the public, reasonable notice of such meetings be given, and minutes taken and made available to the public in a timely manner.



Legal Requirements, Policies & Guidance	
State	
s. 286.011, F.S.	Meetings of public boards or commissions must be open to the public; reasonable notice of such meetings must be given; and minutes of the meetings must be taken.
s. 339.135, F.S.	Public hearings during development of work program
s. 339.155, F.S.	Public involvement during development of Florida Transportation Plan, major transportation improvements and design hearings.
s. 339.175, F.S.	Public Involvement in the development of the Long Range Transportation Plan (LRTP) and Transportation Improvement Program (TIP).
s. 341.051(2), F.S.	Public involvement during development of public transit plans
s. 335.02(1), F.S.	Public hearings during the designation of facilities as part of the State Highway System.
*To search Florida Statutes, visit www.flsenate.gov/statutes	

Public involvement activities support many FDOT programs. Several manuals and handbooks are available to assist in developing comprehensive public involvement/outreach programs:

- **Access Management**

Access Management is the process used to plan the location, design, and operation of driveways, median openings, interchanges, and street connections. Median decisions can be particularly controversial. Sound public involvement strategies can facilitate open communication with affected parties. In 1995, FDOT adopted *Deviations from Median Opening Standards: A Procedure for Engineering Decisions*, which calls for initiating public involvement on median design during PD&E and carrying this through production. For additional information, see the *Public Involvement Handbook for Median Projects* available through the FDOT Systems Planning Office.

- **Florida Scenic Highways**

The Florida Scenic Highway program relies heavily on grassroots public involvement to obtain support in the community for scenic highway designations. The *Florida Scenic Highway Program Manual* provides resources and techniques to design a Community Participation Program (CPP). The CPP is an outreach program designed to heighten awareness, build consensus and foster support of the scenic corridor. For additional information see www.dot.state.fl.us/publicinformationoffice/scenichighway.

- **Transportation Design for Livable Communities**

Chapter 21 of FDOT's *Plans Preparation Manual* addresses Transportation Design for Livable Communities (TDLC), which is a more flexible approach to planning and designing highway projects. Once community values have been identified through public involvement and sociocultural effects evaluation, TDLC provides a way to address or preserve some of those values. The Department's policy is to consider the incorporation of TDLC when such features are desired, appropriate and feasible.

Transportation Design for Livable Communities, also known as Context-Sensitive Design, is based on the consideration of:

- Safety of pedestrians, bicyclists, motorists and public transit users;
- Balancing community values and mobility needs;
- Efficient use of energy resources;
- Protection of the natural and man-made environment;
- Coordinated land use and transportation planning;
- Local and state economic development goals; and
- Complementing and enhancing existing standards, systems and processes.

TDLIC strategies include landscaping, roadside amenities, pedestrian and bicycle facilities, lighting approaches, interchange designs and various traffic calming practices. See the *Plans Preparation Manual* or visit the Web site, <http://www.dot.state.fl.us/rddesign/Publications/pub.htm> for additional information.

- **Cultural Resources**

Federal and State historic preservation law requires that the Department take into account the effects of its undertakings upon archaeological and historical resources listed in or eligible for listing in the *National Register of Historic Places*. The *Project Development and Environment Manual, Part 2, Chapter 12: Archaeological and Historical Resources* and the *Cultural Resource Management Handbook* include discussion of the process for coordinating with other agencies, local governments, Native American tribes, the general public, and other “consulting parties” concerning cultural resource evaluations conducted to comply with Federal and State law. Additional information regarding cultural resources can be found at www.dot.state.fl.us/emo/pubs/cultmgmt/cultmgmt.htm.

- **Roadway Design**

FDOT’s *Plans Preparation Manual* addresses public involvement in the design phase. During this phase, alternatives must be evaluated for potential impact on communities; commitments made in earlier phases must be communicated to designers who are

responsible for carrying them out, and design changes that affect the department's ability to meet those commitments require follow-up with the community.

In addition, the chapter provides a list of potential community impacts that are not identified until the design phase. Community Awareness Plans developed by the districts provide the mechanism for continued public involvement depending on the impact to the community.

Additional information pertaining to public involvement can be found on FDOT's website: www.dot.state.fl.us. Public involvement pages list upcoming opportunities in each district. Information on planning, transportation modes and other topics can also be found at the website.

2.3 District Requirements



Pursuant to s. 339.135(4)(c), F.S., each Florida Department of Transportation district office develops a District Work Program in cooperation with the MPOs and counties within its jurisdiction. These district work programs include, to the maximum extent feasible, the project priorities submitted by MPOs and by the Boards of County Commissioners in non-MPO counties.

Each district office is required to hold a public hearing in at least one urbanized area within its jurisdiction and to make a presentation at a meeting of each MPO in the district to determine if changes (additions, deletions, and revisions) are necessary to projects contained in the District Work Program. Department policy goes beyond this statutory requirement by requiring a public hearing in *each* urbanized area within the district. Non-MPO counties are also invited to these public hearings.



Legal Requirements, Policies & Guidance
FDOT Policies, Procedures, Directives & Manuals
FDOT Environmental Policy (000-625-001-h)
FDOT Public Involvement Opportunities Policy (000-525-050)
FDOT Transportation Design for Livable Communities Policy (000-625-060-b)
FDOT Community Impact Assessment Policy (000-650-015-a)
FDOT Project Development and Environmental Manual
FDOT Median Opening and Access Management Decision Process (625-010-021)
Public Involvement Handbook for Median Projects
Plans Preparation Manual
Florida Scenic Highway Program Manual
Cultural Resource Management Handbook

Table 2.3 Legal Requirements, Policies & Guidance – FDOT Policies, Procedures, Directives & Manuals

2.4 Local Requirements

As city and county governments begin to develop and/or amend their Local Government Comprehensive Plans (LGCP), Florida law requires them to follow procedures providing for effective public participation in the process. This includes providing property owners with notice of all official actions which will impact the future use of their property.

Section 163.3181(2), F.S., states that during consideration of the LGCP or plan amendments, these procedures “shall provide for broad dissemination of proposals and alternatives, opportunity for written comments, public hearings, provisions for open discussion, communication programs, information services, and consideration of and response to public comments. Citizen Advisory Committees (CAC) can be used for input and evaluation when LGCPs or plan amendments are developed.”

Subsection 163.3184(15)(b), F.S., requires that at least two advertised public hearings be held on a proposed comprehensive plan or amendment, and prescribes how these hearings will be advertised.

2.5 Metropolitan Planning Organizations (MPOs)/ County Requirements

SAFETEA-LU (23 CFR 450.316) requires MPOs to provide the general public and other interested parties with reasonable opportunities to comment on the proposed TIP and LRTP, which lays out the MPO's priorities for transportation projects. In addition, MPOs must prepare a Public Participation Plan in consultation with the general public and specific "interested parties", use visualization techniques when practicable, employ electronic methods to distribute information to the public, and hold public meetings at convenient times and accessible locations.

Subsection 339.175(16), F.S. requires each MPO to appoint a citizens' advisory committee, representing a cross-section of the community (including minorities, the elderly and the disabled), to provide public input to the transportation planning process.

The "interested parties" as listed in 23 CFR 450.316 are:

- General Public
- Affected Public Agencies
- Public Transportation Employees
- Private Transportation Providers
- Public Transportation Users
- Freight Shippers
- Users of bicycle and pedestrian facilities
- Disabled
- Others as appropriate