



STATE OF DELAWARE
DEPARTMENT OF TRANSPORTATION
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JENNIFER COHAN
SECRETARY

MEMORANDUM

TO: Jennifer Cohan, Secretary

VIA: Annie Cordo, Deputy Attorney General
Nicole Majeski, Deputy Secretary
Drew A. Boyce, Director of Planning

DATE: January 18, 2019

RE: Public Involvement Policy Implement O-03

Attached is a request for an addition to the Policy Implements and titled Bid Analysis and Recommendation to Award Procedures. The existing P.I. O-03 was issued on 8/8/1996. This version updates the policy to accurately describe DelDOT's current procedures.

Updates include:

- Federal law affecting the required public involvement provisions for planning and project development.
- Current public involvement procedures for DelDOT's Long-Range Transportation Plan.
- Current public involvement procedures for DelDOT's Capital Transportation Program.
- Current date for COT review of the CTP.
- Current public involvement procedures for Project Development.
- Expanded descriptions of public hearings and public workshops.
- Addition of virtual workshops.

DELAWARE DEPARTMENT OF TRANSPORTATION
POLICY IMPLEMENT NUMBER: O-03
TITLE: Public Involvement

() Policy Implement Number has been reviewed for form, content and meets all legal and administrative requirements currently in effect, approved by the Delaware Department of Transportation Directors, and signed by the Secretary of Transportation.

(X) Policy Implement Number O-03 has been revised, reviewed for form, content and meets all legal and administrative requirements currently in effect, approved by the Department of Transportation Directors, and signed by the Secretary of Transportation.

() Policy Implement Number is deleted effective with the signature of the Secretary of Transportation.

() Policy Implement Number_____ is subject to the regulatory process required by the Administrative Procedures Act (29 Del.C. Ch.1001) and will begin the regulatory review process after the signature of the Secretary.

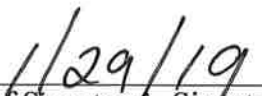

Drew A. Boyce, Director, Planning


Annie Cordo, Deputy Attorney General
(Approved as to Form/Regulatory Review)


Director (Division with primary responsibility)


Nicole Majeski, Deputy Secretary of Transportation


Jennifer Cohan, Secretary of Transportation


Date of Secretary's Signature

**POLICY IMPLEMENT
STATE OF DELWARE
DEPARTMENT OF TRANSPORTATION
P.I. Number O-03
DelDOT Public Involvement Policy**

Issued: 8/8/1996
Revised: 01/29/2019

Primary Responsibility:
Directors of Planning and
Transportation Solutions

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I. Purpose

To establish the public involvement requirements and procedures in the development of the Statewide Long-Range Plan, Capital Transportation Program, and capital transportation projects. Federal law establishes public involvement requirements for the Long-Range Statewide Transportation Plan, the Statewide Transportation Improvement Program (in Delaware, the Capital Transportation Plan (CTP)), and for certain categories of federally-funded transportation projects. These requirements are contained in U.S. Code (USC) Title 23 parts 128 and 135.

II. Policy

It is DelDOT's policy to utilize public involvement to further educate the public about transportation issues, services and projects, as well as to solicit information, reach a consensus, and provide a way for the general public to express their needs, ideas, concerns and perspectives relating to the transportation system.

III. Procedures

Long-Range Transportation Plan

The DelDOT Long Range Transportation Plan is a Federally-required process that includes a comprehensive public outreach program encouraging citizens to think in a long-range way and to consider what they want the state to look like in the years to come.

The Long Range Transportation Plan serves as a blueprint for the state's transportation future and is integrally coordinated with the state's three Metropolitan Planning Organizations (MPO's) and their regional land use and transportation planning activities. The Plan ensures a balance and consensus between the need for increased capacity within key commuting and freight bottlenecks in the transportation system, and the realities of various fiscal, environmental, and other technical

challenges that must be identified, documented, and addressed within Federal and State planning requirements.

Engaging the Public

DelDOT will seek out and encourage public involvement for the development and future revision of all statewide long-range transportation plan elements, documents, and events.

Although a schedule of specific public outreach is not part of this policy, the following statements outline the elements of how public involvement in the plan development process will be sought and achieved:

- Meetings with and presentations to interested parties including a variety of community, business, environmental, and special interest groups.
- Public meetings in each county of the state to discuss the plan and/or revisions.
- Close coordination and participation with county governments and the MPOs, and their corresponding public involvement processes.
- The production and distribution of newsletters. Newsletters will be used to inform a wide public audience on the status and findings of the current plan, specific public outreach efforts, and other information as to how they can comment on the plan.
- Making available Long-Range planning materials for review by the general public and interested groups at libraries and DelDOT offices throughout the state.
- Having a public comment period on the plan and/or revisions of no less than 30 days.
- Major revisions to the plan will be reviewed with the county governments and MPOs at which point the public will have the opportunity to comment via public notices, newsletters and/or public meetings. Any final plan or revision will include documentation as to how comments from the public were addressed.
- The Long Range Transportation Plan website will be updated regularly to include new outreach activities, listing of newly updated documents, data presentations, and other materials.

Capital Transportation Program

The Delaware Capital Transportation Program (CTP) is synonymous with the Statewide Transportation Improvement Program (STIP). The development of the CTP is essentially a continuous process, with the adopted CTP for any one year becoming the starting point for the creation of the next. Through the course of any one development cycle the public has the opportunity to provide input and comment in any number of venues. The generalized CTP schedule and the corresponding opportunities for public involvement are described below:

- On or before September 1st of each year, the Council on Transportation (COT) reviews the previously adopted CTP and the proposed changes for the upcoming fiscal year. This review of the Draft CTP is conducted at a regularly scheduled meeting of the COT which is open to the public.
- In coordination with the appropriate MPO and Sussex County for the area not represented by an MPO, the COT schedules and holds public meetings in September to seek public input for updating the CTP. Public meetings are held in each of the three counties.
- After the public workshops, DelDOT works with the COT and the MPOs in responding to public comments, DelDOT project and program schedules, the financial plan for the Transportation Trust Fund, available federal funds, clean air conformity determinations and deliverability issues to develop a final Draft CTP for the new six year CTP planning

period. This final draft is formally delivered to the COT in a meeting open to the public in the late fall.

- The information contained in the final draft CTP is used by the MPO's to develop their Transportation Improvement Programs for their planning areas. The MPO's then present their draft document to the public in a series of joint MPO and DelDOT workshops in January.
- Based on comments received, further refinements may be made to the CTP before finalizing the documents in early February.
- The final CTP is formally presented to the COT by DelDOT in sufficient time for the Council to convene publicly and vote on adoption by March 1.

After adoption, the CTP is then submitted to the State Budget Office and the Governor by March 15 for inclusion in the State Capital Transportation Program for the following state fiscal year beginning July 1 and ending June 30.

- Once the Governor approves the CTP it is taken up by the General Assembly which may make revisions in conjunction with formal public hearings on the Bond Bill in May and June.
- The General Assembly passes the Bond Bill by June 30, which authorizes expenditure of the funding provided by the General Assembly and the Governor for the first year of the six-year CTP.

The portions of the CTP falling within the geographical jurisdictions of the MPOs are developed at the MPO level using processes comparable to those used to create the CTP as a whole, offering similar opportunities for public involvement. It is the nature of the process for most projects to enter the CTP in the farther-out years, and move toward their capital authorization year through several CTP cycles. Therefore, it is the norm for capital projects, particularly the larger system expansion or management projects, to have been before the public for review on more than one occasion.

Embedded within the MPO and DelDOT CTP processes is the system by which the MPOs and the product of a public outreach effort undertaken in 2013 and presented for public review/ testimony prior to adoption by the COT in December 2013. The system itself is subject to continuing refinement. Any revisions must be approved by the COT. It is the practice of the COT to solicit public input and provide opportunities for public testimony on all changes prior to taking any official action.

Project Development

It is the policy of the DelDOT to utilize public involvement, where applicable, in the development of capital improvement projects. Through public involvement, DelDOT receives comments and suggestions related to projects under development or design which are then directed to the appropriate division for evaluation and consideration. Although DelDOT makes every attempt to respond positively to comments, public involvement does not assure that a given project will meet with complete acceptance as it is sometimes impossible to satisfy all of the varying concerns of the public.

The extent of public involvement for projects is established on the basis of environmental impacts (as required by the Code of Federal Regulations, Title 23, Part 771 for federal aid projects). The Class of Action and public involvement requirements are indicated on the Project Initiation Form.

Environmental impacts fall into the following classes:

- Class I - Requires Environmental Impact Statement
- Class II - Categorical Exclusion (minimal environmental documentation)
- Class III - Environmental Assessment required

The extent of public involvement necessary to fully solicit public views and opinions can take several forms, depending on the size, complexity, location, and potential impacts of the project:

- Public Hearing or "If" Notice*
- Public Workshop
- Virtual Workshop
- Meeting with adjacent property owners
- No public involvement required

*An "If" Notice is a public notice allowing the public to request a hearing, otherwise known as "an opportunity for a public hearing."

Public Hearing

A public hearing or an opportunity for a hearing is required for federally funded projects which require substantial amounts of right-of-way, substantially change the layout or functions of connecting roadways or of the facility being improved, have a substantial adverse impact on abutting property, otherwise have a significant social, economic, environmental or other effect, or for which the Federal Highway Administration determines that a public hearing is in the public interest. "Substantial amounts of right-of-way" is defined as requiring a large number of residential or business relocations.

If DelDOT wishes to provide an opportunity for a public hearing, the procedure for requesting a public hearing shall be explained in an "If" Notice and applies only to Class I and Class III projects. The deadline for submission of such a request may not be less than 21 days after the date of publication of the first notice of Opportunity for Public Hearing, and no less than 14 days of the date of publication of the second notice of Opportunity of Public Hearing. A Public Hearing will not be held if requests for such a hearing are not received within the comment period. Every effort will be made to resolve differences which may surface during the comment period. A hearing will be scheduled as a result of a formal request based on the inability to resolve differences concerning a given proposal.

If a hearing is to be held, a legal notice should be printed in daily and weekly newspapers circulated within the general area of the project. This notice should be printed 21 to 40 days prior to the hearing and again five to 12 days prior to the event. When appropriate, supplemental action may involve a copy of the notice to be mailed or hand delivered to all those along the affected corridor of the proposal. The legal notice will also indicate the availability of the environmental assessment document for public review.

Within the scope of public hearings, there are two types of public hearing formats utilized by DelDOT: the Open House Format and the Auditorium Format. The Project Manager, in consultation with the Office of Community Relations, will determine the format to be used.

Open House Format

This type of hearing does not utilize a moderator or formal technical presentation. The technical presentation will be replaced by printed material, including display boards, describing the need for the project, alternative design considerations, right of way acquisitions and relocations, the project's consistency with the land use process (when applicable), the proposed construction schedules and other information as appropriate. Conceptual plans and drawing will be on display in this open forum situation which will allow and promote questions and answers between interested parties and DelDOT staff. Formal comments under this format will be recorded directly by a court stenographer either in a remote part of the meeting room or a separate room entirely. This type of public hearing will also accommodate a ten-day period following the hearing for comments from those who could not attend. Written comments shall be sent to the Office of Community Relations to be incorporated into the formal transcript of the actual public hearing proceedings.

Auditorium Format

This type of Public Hearing format it conducted by a moderator, includes the formal technical presentation. The technical presentation is followed by a formal comment period which involves receipt of testimony and comment. All of the proceedings will be formally recorded by a court stenographer. These hearings will normally begin at 7:30 p.m. A comment period of ten days will be extended after every hearing to allow additional comments to be included in the formal transcript.

Upon completion of the public hearing, the Project Manager shall prepare a summary of the proceedings, addressing formal comments, and include these in the environmental documentation. The official transcript of the hearing will be made a part of the permanent record. The final environmental documentation will be submitted to Federal Highway Administration for approval by a formal transmittal letter.

The project manager will determine if additional hearings will be held as the design is refined. Substantial revisions in design or scope, or extended periods of time since the previous hearing was held, will be considered in making this decision.

Public Workshop

For projects not requiring a formal Public Hearing, the Project Manager, in consultation with the Environmental Studies Office and the Division Director, will determine if a public workshop will be held. A Public Workshop does not include a formal presentation or a moderator. It is an open format allowing and promoting exchange of comments and ideas between the public and the staff responsible for the further development of the project.

Legal notices shall be printed seven days prior to the event. These notices shall appear in daily and weekly newspapers circulated within the general area of the project. When appropriate,

supplemental action may involve a copy of the notice to be mailed or hand delivered to all those along the affected corridor of the proposal.

The Project Manager will hold an organizational meeting prior to the workshop with all project team members who will work the event to anticipate and prepare for issues that may come up during the workshop. This includes team members from all Divisions and consulting firms. The Project manager will encourage public participants to provide feedback to the project team, using hard copy and/or electronic questionnaires, surveys, and interactive media, as appropriate. Written comments shall be accepted for a minimum of one week, but a maximum of 30 days, following the meeting. The Project manager shall submit a meeting summary to the project file and to the Secretary's Weekly Report, with a copy to the Division of Community Affairs. Following the event, the Project manager will hold a debriefing with project team members who worked the event to collect verbal feedback voiced by workshop participants.

The project manager will determine if additional workshops will be held as the design is refined. Substantial revisions in design or scope, or extended periods of time since the previous workshop was held, will be considered in making this decision.

Virtual Workshop

For projects with minimal impacts and few design options (e.g., a bridge rehabilitation) the project manager, in consultation with the Division Director and Community Relations Division, may choose to hold a Virtual Workshop. This format is held strictly online to present similar information that is presented at a Public Workshop. It is an open format but the exchange of comments and ideas between the public and the staff responsible for the further development of the project is limited due to the online nature of the format. It should be used either to supplement a Public Workshop for those who could not attend or as the main format to provide information on a project that does not lend itself to soliciting feedback. An online survey questionnaire may be provided to allow the public to submit written comments. If written comments are solicited, they shall be accepted for a minimum of seven days following the date of the Virtual Workshop.

Due to the information being presented online instead of in-person, the project team should take care to present the information in a format that is easy to be understood without the help of a live moderator. The use of video or slide shows with visualization of the project and other graphic tools, such as interactive maps, should be considered to help the public understand the presented information.

Legal notices shall be printed seven days prior to the event. These notices shall appear in daily and weekly newspapers circulated within the general area of the project. When appropriate, supplemental action may involve a copy of the notice to be mailed or hand delivered to all those along the affected corridor of the proposed project.

Due to the well-defined scope of projects employing this type of workshop, typically only one Virtual Workshop is held.

Meeting with adjacent property owners

Occasionally, meetings with adjacent property owners are held. The purposes of these meetings may vary, and may include an introduction to the planned activity, right-of-way impacts, traffic impacts, or what to expect during construction. The need for these meetings is determined by the project manager.

IV. Justification

Federal Regulations, 23 CFR 450.210 and 23 CFR 771.111 establish the requirements for State DOTs to have documented public involvement processes for the development of the long-range statewide transportation plan, the statewide transportation improvement program, and project development.

V. Effective Date

This policy shall become effective immediately after signature by the Secretary.