



Florida Department of  
**TRANSPORTATION**

# LAP Certification, Recertification and Performance Evaluations

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# **INTRODUCTION AND OVERVIEW TO THE LAP CERTIFICATION AND RECERTIFICATION PROCESS**

- Per 23 USC 106 Congress authorized the delegation of the duties for the Federal-Aid Highway Program on locally administered projects.
- USDOT & FDOT risk-based approach to oversight compliance factors:
  - local agency experience
  - cooperation between the Department & the local agency
  - consistent training for Department & local agency staff
- The certification process is used to:
  - Gauge local agency experience administering federal projects
  - Determine the level of oversight the local agency may need over project life-cycle (based on their experience)
  - Use the first two factors to offer targeted training to increase experience and maximize delegation of project management functions to LPAs.

### **Local Agency Benefits:**

- Additional access to limited infrastructure funding sources
- Fund more local priorities on the local roadway systems where state funds may not be available
- Retain control of day to day project management

### **Department Benefits:**

- Achieves the Department's mission
- Deliver more projects, in faster timeframes
- Pass-through funding for local priorities not eligible for state financial assistance
- Delegate project administration while minimizing risk



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# **RISK ASSESSMENTS AND THE CERTIFICATION PROCESS**

Three components:

- 1) Sub-recipient Compliance Assessment Tool (SCAT) (March 2014)
- 2) Financial Risk Assessment- 2 CFR 200
- 3) Current and estimated production

### 1. INITIAL SCREENING

Based on the initial screening  is eligible for

*Please Choose One*


Title VI Sub-recipient Compliance Assessment approval date by Central Office:

Financial Risk Assessment approval date by Central Office:

Number of projects programmed in the current 5 Year Adopted Work Program:

## Step 1) Sub-Recipient Compliance Assessment Tool

- Title VI compliance required of all LPAs once they receive any type of federal funding (HUD, EPA, etc.)
- Quickly determines local agency compliance with Title VI and ADA requirements.
- SCAT Review Team provides compliance assessment based on the SCAT Tool.
  - ❖ State Title VI Coordinator
  - ❖ State ADA Coordinator
  - ❖ State Local Program Administrator
  - ❖ FHWA Civil Rights Program Coordinator
- FDOT offers LAP training specific to Title VI & ADA
- SCAT approvals are valid for 3 years in most cases.



23 Code of Federal Regulations (CFR) Part 200 requires that the Florida Department of Transportation (FDOT) conduct periodic reviews of cities, counties, planning agencies and other recipients of federal-aid highway funds to ensure they are complying with Title VI of the Civil Rights Act of 1964 and other nondiscrimination authorities. Title VI states that "no person in the United States shall be excluded from participation in, denied the benefits of, or be subjected to discrimination in any Federally-funded program, policy or activity on the basis of race, color or national origin." Similarly, the Highway Act of 1973, the Age Discrimination Act of 1975, Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act of 1990 (ADA) prohibit discrimination on the basis of sex, age and disability, respectively.

FDOT has developed this assessment as a means of determining sub-recipient nondiscrimination compliance; helping sub-recipients understand their nondiscrimination responsibilities; and assisting FDOT in planning future training and technical assistance. Sub-Recipient Nondiscrimination Compliance Assessments must be completed as a condition of LAP Certification and each triennial Recertification. The Assessments may be used as the basis of random or risk based reviews by either FDOT or Federal Highway Administration (FHWA).

This assessment is designed to take only a few minutes of your time. Please complete the Assessment and upload it to LAPIT, attaching related documents as requested. Please contact your District LAP Administrator or the Statewide LAP Administrator with questions, or refer to the Nondiscrimination Handbook for Local Agencies.

Name of Agency:  Number of Employees:

1. Has your organization completed and uploaded an FDOT Nondiscrimination Agreement? See document at <http://www.dot.state.fl.us/planning/policy/metrosupport/titlevi.pdf>
2. Does your organization have a written nondiscrimination policy and/or notice, and complaint filing procedures for discrimination based on race, color, national origin, sex, age and disability? Note, this request does not include your organization's employment discrimination policies/procedures (i.e. Title VII).

Enter link below or upload document to LAPIT:

<http://www.dot.state.fl.us/programmanagement/LAP/TitleVI.shtm>

### Step 2) Financial Risk Assessment

- FDOT is required to evaluate LPAs ability to manage federal grants & maintain satisfactory accounting controls and project delivery processes.
- Financial Risk Assessment Team:
  - ❖ Statewide Grants Coordinator
  - ❖ State Single Audit Coordinator
  - ❖ State Local Program Administrator



***Risk Team provides approval date based on risk level ascertained from SARA and LAP performance evaluations.***

- Financial statements are reviewed on an annual basis for fully certified agencies.
- Project specific agencies assessed upon request from District.



## STEP 3) Deciding Project Specific versus Full Certification based on anticipated production

*Production in this context is the continuous level of exposure to program requirements through consistent project delivery.*

### 13. CERTIFICATION / RECERTIFICATION STATUS

Effective [redacted], [redacted] qualifies for the following certification/recertification:

*Please Choose One*

- The following certification/recertification status is:
- Check  *Please Choose One*
- Full Certification*
- Full Certification with Exceptions*
- Project Specific Certification*
- Project Specific Certification with Exceptions*
- Certification Denied at this time*

- Districts exit Initial Qualifications Screening phase with an idea of which type of certification would best suit the agency.
- Through analysis of agency experience capability provided in the Certification Qualification Tool and during the agency interview process that initial idea may change.

**FDOT**  U.S. Department of Transportation Federal Highway Administration

**LAP CERTIFICATION QUALIFICATION TOOL**

Per the [Stewardship and Oversight Agreement](#), in enacting *23 United States Code (USC) 106(c)* Congress recognized the need to give states more authority to carry out Federal-Aid Highway Program project responsibilities traditionally handled by the Federal Highway Administration (FHWA). Under this assignment of responsibilities, the Florida Department of Transportation (FDOT) may permit local agencies to carry out the FDOT's assumed responsibilities on locally administered projects. The FDOT is responsible for Local Agency compliance with all applicable Federal laws and requirements.

Congress recognized the importance of a risk-based approach to oversight of the Federal-Aid Highway Program (FAHP) and established requirements in *23 U.S.C. 106(g)*. The processes of Certification and recertification record local agency staff capability and proficiency in executing Local Agency Program (LAP) projects. Local agencies may be certified in up to five phases in the transportation project life cycle and each phase carries its own requirements and commitments. The keys to compliance and reducing state and federal risk factors related to compliance in the most simplest of terms are Local Agency staff experience and cooperation and state sponsored training of local agency staff.

*Certification and recertification is a commitment by the local agency to perform all associated activities of the Federal-Aid Highway Program including but not limited to Title VI compliance, ADA compliance, grant management and fiscal accountability, procurement of professional service and construction administration in adherence to all federal and state requirements. The Certification Qualification Tool is a risk-based assessment of your Local Agency and measures performance based risk of your participation in LAP.*

Answer all questions in this Tool to the best of your ability. Your District LAP Team is there to provide assistance and support as required while you complete the re/certification process.

**1. INITIAL SCREENING**

Based on the initial screening  is eligible for  
 Please Choose One

Title VI Sub-recipient Compliance Assessment approval date:

Financial Risk Assessment approval date:

Number of projects programmed in the current 5 Year Adopted Work Program:

**2. RESPONSIBLE CHARGE**

The responsible charge for your agency is:  This person must be a full time employee of the agency. This person (or people) will be the designated point of contact in LAPIT. This person (or people) should be available upon request to attend all coordination meetings with the FDOT.



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# **CERTIFICATION OPTIONS: PROJECT SPECIFIC, FULL, EXCLUSIONS**



## Certification Comparison

Project Specific Certification	Full Certification
Inconsistent Number of Projects	Consistent Number of Projects
Mandatory Training Requirements	Mandatory Training Requirements
Step-by-Step FDOT Monitoring	Increased Delegation based on performance
Requires review of all project based documentation	Requires review of documentation related to high-risk elements of project
Requires reapplication on a project by project basis	Requires reapplication once every 3 years
Reapplication requires full agency review by FDOT LAP Team	Performance based Recertification may limit level of review by FDOT LAP Team

## Certification Areas and Requirements

Table 1: Certification Areas and Requirements	
Certification Area	Minimum Qualifications
Planning	Employees with knowledge of the Metropolitan Planning Organization transportation planning processes; experience with transportation planning studies; and transportation projects of a nature similar to those the agency intends to develop. Refer to <b>Chapter 14-75 of the Florida Administrative Code</b> for minimum planning qualifications required for SHS/NHS projects.
Design	Experience in design with various types of infrastructure projects, particularly projects of a nature similar to those the Local Agency intends to design with federal funds. Florida Professional Engineer registration is required if the Local Agency intends to design a project with its own forces. Training and knowledge of the American with Disabilities Act requirements <b>49 CFR 27, 49 CFR 37</b> , and per the <a href="#">Departments of Justice and Transportation Joint Technical Assistance Memo on Title II of the Americans with Disabilities Act Requirements</a> . Refer to <b>Chapter 14-75 of the Florida Administrative Code</b> for minimum design qualifications required for SHS/NHS projects.
Construction/ Construction Administration	Local Agency staff with experience in providing construction oversight of transportation projects (preferably federally funded), including but not limited to managing contract time, change orders, and construction invoicing. The Local Agency has a materials quality assurance process in place and a process for contract compliance; including but not limited to: Equal Opportunity, Disadvantage Business Enterprise tracking, and compliance with minimum wage rate decisions and payroll verification. Any inspection and oversight work on the SHS/NHS must comply with the qualifications of work group 10 of <b>Chapter 14-75 of the Florida Administrative Code</b> .  An approved design-build procedure is required if the Local Agency will administer a design-build project.

Agencies may be certified in one or all of the areas listed here based on their qualifications.

### Deciding Project Specific versus Full Certification based on Qualifications

The following exceptions are applicable to this Certification/Recertification:

Check all that apply:

- AGENCY MAY NOT PERFORM IN-HOUSE DESIGN
- AGENCY MAY NOT PERFORM FORCE ACCOUNT CONSTRUCTION
- AGENCY MAY NOT PERFORM IN-HOUSE CEI ON OFF-SYSTEM PROJECTS
- AGENCY MAY NOT PERFORM IN-HOUSE CEI ON SHS/NHS PROJECTS
- AGENCY MAY NOT PERFORM IN-HOUSE CONTRACT COMPLIANCE (RSC)



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# LAP CERTIFICATION QUALIFICATION TOOL: STEP BY STEP

In 2011, FHWA issued a memorandum clarifying the requirements of a “responsible charge”. A responsible charge must be a full time employee of the local agency, but is not required to be a professional engineer. Per 23 CFR 635.105, responsible charge shall:

- *Administers governmental project activities, including those dealing with cost, time, adherence to contract requirements, construction quality and scope of Federal-Aid projects;*
- *Maintains familiarity of the day to day project operations, including project safety issues;*
- *Makes or participates in decisions about changed conditions or scope changes that require change orders or supplemental agreements;*
- *Visits and reviews the project(s) on a frequency that is commensurate with the magnitude and complexity of the project(s);*
- *Review financial processes, transactions and documentation to ensure that safeguards are in place to minimize fraud, waste, and abuse; and*
- *Directs project staff, agency or consultant, to carry out project administration and contract oversight, including proper documentation.*
- *Is aware of the qualifications, assignments and on-the-job performance of the agency and consultant staff at all stages of the project.*



### LOCAL AGENCY PROGRAM INFORMATION TOOL

**Centennial FDOT** 1915 ★ 2015

# LAPIT

Local Agency Program Information Tool

Welcome to LAPIT

**FDOT Disclaimer**

By logging on to a FDOT system, you acknowledge your responsibility to comply with all laws, rules, directives, policies, and procedures related to the use and security of information technology resources. Unauthorized use is strictly prohibited. You are hereby on notice that you should have no expectation of privacy as to your use of Department information technology resources as all data is potentially subject to Florida's public records law.

**LAPIT Login**

Please enter your username and password.  
[Create New Account](#) if you don't have an account.

User Name

Password

[Forgot your Password?](#)  
[Change your Password?](#)

Questions or suggestions? Please [Provide Feedback](#)  
Florida Department of Transportation, Office of Information Systems  
Report Technical Problems to the Service Desk  
1-866-955-4357 [Email Service Desk](#)  
[Internet Privacy Policy, Disclaimers & Credits](#)

**FDOT** Office of Information Systems

MyFlorida.com

- Required project tracking system for **all** LAP projects.
- Local Agency administrators manage staff information and levels of access for all other staff and consultants.

- Based on existing face-to-face or web-based courses
- May use multiple employees to satisfy requirement
- Majority of courses only required once of an employee OR  
Only required once every three year cycle
- Web-based courses average 1 hour or less to complete
- Over a three year cycle, estimated to require approximately 2-3 days per calendar year to satisfy requirements (for fully certified agencies only)

***\*\*Agencies who do not fulfill the training requirements will not be eligible for certification or recertification.\*\****

Local Agency must have adequate staff for efficient and compliant project delivery.

- How many projects can your staff manage at one time?
- Does your agency need consultant support to augment staff?
- Does your agency have staff to manage all areas of certification?

Project development is critical to utilizing local agency and Department resources efficiently and to maximize cost effectiveness. Not all projects should be LAP projects!

### RISK FACTORS COMMON TO LAP:

- Do you proactively work with your MPO or governing board to select those prioritized projects that most fit the federal delivery method?
- Projects that require extensive right of way acquisition or environmental mitigation may not be suited for the federal delivery method.
- Can low cost projects be bundled and delivered in one fiscal year?
- Should high dollar, high risk projects be spaced out to provide agency staff adequate time to deliver one project before embarking on the next?
- ADA Design Accessibility Training

There are two types of procurement:

- 1) Professional Services (including continuing services contracts)
  - 2) Construction
- Each method must meet a separate set of requirements. 23 CFR 172 for professional services and 23 CFR 635 for construction contracting are the most familiar.

**Agencies may choose to be certified in one or both methods.**

- The intent of the questions on this section are to identify those high-risk elements of local agency contracting. Examples, include:
  - ❖ Advertisements
  - ❖ Local preference clauses
  - ❖ Materials purchasing preferences
  - ❖ Maintenance clauses
  - ❖ Qualifications criteria

- Agencies who do not perform planning studies may skip this section.
- Chapter 14-75 of the Florida Administrative Code sets the minimum planning qualifications for projects performed on the State or National Highway Systems.
- Main purpose of this section is to establish the makeup of your agency's planning department and whether the requirements of 14-75 F.A.C. are met by current staffing.

Whether or not the Department participates in the cost of design, each project must have an approved PS&E package for federal construction authorization. **All agencies performing construction projects must also be certified in design and preparation of the PS&E package.**

Questions assess whether:

- Agency has in-house design staff to self-perform
- Staff who can manage design consultants for contracted work
- How your agency manages the design process
- Who your project managers are and how your agency delegates responsibilities
- How comfortable your staff is with on-system and off-system project requirements
- How familiar your staff is with ADA design elements
- Who is responsible for the approvals identified on the LAP Construction Checklist (high-risk elements)
- Who the department will coordinate with for all aspects of PS&E approvals

- In general, most agencies will contract out construction work. **This section is only applicable to those agencies performing force account construction.**
- Agencies seeking to self-perform construction activities need to consider their staff time and capabilities.
- Does your agency routinely construct public works?
- Agencies need to be capable of performing all work items listed in the construction estimate without contractor assistance.



- Construction Administration is broken out into Sections 11- General, 11a-Inspections, and 11b- Contract Compliance due to the nature of CEI on LAP projects.
  - CEI, including contract compliance, may be self-performed by agency staff.
  - Inspections may be performed by agency staff, while contract compliance is contracted out.
  - All aspects of CEI including contract compliance may be contracted out.

Construction Administration questions provide a picture of how the project manager will administer the project from start to finish. Subjects such as change order and time extension approvals are covered.

*\*Note: Even if your agency hires consultant CEI services, you must have a responsible charge on staff who is providing oversight of the consultant!*

### Materials Testing Requirements (Question 11d)

- The District LAP Team will coordinate with the District Materials Offices during the certification and/or recertification process to perform a Quality Assurance Review of the local agencies materials testing procedures for off-system projects.
- On-system projects, both State and National Highway System, are required to meet the Type I LAP standards and requires use of the MAC system (replaced LIMS).

### **Construction Administration - Inspections**

- Identify whether your agency has staff to perform inspection services.
- Identify whether that staff is qualified for SHS and NHS project inspections (i.e. CTQP)
- Identify how your agency manages daily inspections and recordkeeping
- Identify how your agency manages consultant inspectors

### **Construction Administration – Contract Compliance**

- Identify whether your agency has staff to perform contract compliance activities (Resident Compliance Specialists- RCS)
- Identify experience level of agency staff performing contract compliance activities
- Identify how your agency manages consultant RCS

Federal projects require oversight of wages, payrolls, work activities, DBE, on-the-job training and many other aspects of services performed by the contractor and sub-contractors under the terms of the construction contract.

FHWA 1273 indicates many of the contract compliance factors monitored by the RCS.



## Invoicing (Qualification Tool Section 12)

- Your agency must comply with Prompt Payment requirements per Florida Statutes.
- Your agency must review and verify contractor/consultant invoices BEFORE sending them to the District for reimbursement.
- Your agency must comply with the 90 day invoicing requirement specified in the LAP Agreement with no exceptions.

- Deciding Project Specific versus Full Certification based on Qualifications

*Please Choose One*

*Full Certification*

*Full Certification with Exceptions*

*Project Specific Certification*

*Project Specific Certification with Exceptions*

*Certification Denied at this time*

The following exceptions are applicable to this Certification/Recertification:

Check all that apply:

- AGENCY MAY NOT PERFORM IN-HOUSE DESIGN
- AGENCY MAY NOT PERFORM FORCE ACCOUNT CONSTRUCTION
- AGENCY MAY NOT PERFORM IN-HOUSE CEI ON OFF-SYSTEM PROJECTS
- AGENCY MAY NOT PERFORM IN-HOUSE CEI ON SHS/NHS PROJECTS
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# LAP PERFORMANCE MANAGEMENT

*Performance Management is used to measure efficiency and effectiveness of the Local Agency Program.*

Performance Evaluations are performed by the District LAP Team within 30 days of the end of each local agency contract for **all** LAP project phases!

- Local agencies are evaluated in the following areas:
  - ❖ Overall Performance
  - ❖ Project cost, scope, and schedule
  - ❖ Communication and Cooperation
  - ❖ Invoicing
  - ❖ Each Project Phase
  - ❖ Construction Administration
  - ❖ Equal Opportunity Contract Compliance



Performance evaluation ratings are based on the level of District involvement required to satisfactorily execute a LAP project.

- **Above Satisfactory Performance** enables the District to tailor project oversight and ensures future eligibility for participation of the agency in LAP.
- **Satisfactory Performance** enables the District to identify any areas of weakness for additional support and tailor project oversight in other areas of capability. This rating generally ensures future eligibility for participation in LAP.
- **Unsatisfactory Performance** requires the District to implement corrective actions and also evaluate the agency's eligibility for future participation in LAP. May result in additional limitations on program participation including:
  - Amend certification type to include exceptions
  - Amend certification to exclude project phases
  - Revoke certification until further notice

Local Agency certification may be removed for any of the following instances:

- Non-compliance with federal requirements
- Non-compliance with state requirements
- Non-compliance with the LAP Manual
- Non-compliance with the LAP Agreement
- Not meeting mandatory training requirements
- Unsatisfactory performance evaluations, most often resulting from failure to deliver projects and or meeting program commitments

Project terminations due to non-compliance may result in both removal of certification and ineligibility for reimbursement (agency may also be required to payback funds received from the Department)



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**Questions?**  
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**Thank you!**

LAP Website: **<http://www.dot.state.fl.us/programmanagement/LAP/Default.shtm>**

**Provides links to the:**

**LAP Certification Webpage**

**LAP Certification Qualification Tool**

**LAP Title VI Webpage**

**LAP Training Webpage**

**LAP Manual**

**LAPIT**