

**LOCAL COORDINATION PROCEDURES  
FOR SECTION 404(b)(1) OF THE CLEAN WATER ACT**

**GEORGIA DEPARTMENT OF TRANSPORTATION  
FEDERAL HIGHWAY ADMINISTRATION  
U.S. ARMY CORPS OF ENGINEERS**

**SECTION 404 LOCAL COORDINATION PROCEDURES  
FOR PROJECTS BY GEORGIA DEPARTMENT OF TRANSPORTATION**

## **1.0 PURPOSE AND APPLICABILITY**

### **1.1 Purpose**

This agreement, known as Local Coordination Procedures (LCP), is a framework for coordination by the Georgia Department of Transportation (GDOT), Federal Highway Administration (FHWA), and U.S. Army Corps of Engineers (Corps) to improve consistency and streamline the permit process for GDOT projects under Section 404(b)(1) Guidelines of the Clean Water Act (Guidelines). The LCP is consistent with GDOT's Plan Development Process (PDP), which includes sequential steps to support development of alternatives and identification of the preliminary least environmentally damaging practicable alternative (LEDPA) by the Corps as defined in the Guidelines and 40 CFR Section 230.10(a).

### **1.2 Applicability**

The LCP is intended to ensure the successful coordination, evaluation and delivery of GDOT projects involving substantial impacts to waters of the U.S. While primarily involving major widening or new location projects, the LCP also applies to any project with potential for substantial impacts. The Corps can determine that a specific project no longer requires further coordination based on successful demonstration of avoidance and minimization of impacts to waters of the US.

Requirements to address Section 106 of the National Historic Preservation Act and Section 7 of the Endangered Species Act will be based on applicable regulations and agency procedures in effect at the time of a permit application. Those requirements must be addressed prior to authorization of the permit by the Corps.

## **2.0 AGENCY PARTICIPATION**

### **2.1 Key Agencies**

Key Agencies in the LCP are defined as the GDOT, FHWA, and Corps.

### **2.2 National Environmental Policy Act (NEPA) Requirements**

NEPA will be addressed either through project development with FHWA as Lead Federal Agency (LFA) on all federal-aid projects or during Section 404 permit review with Corps as LFA for state-funded projects. The involvement of FHWA will occur only on those projects committed to federal funding for right-of-way and/or construction, or otherwise having another federal nexus which requires FHWA NEPA approval prior to permitting.

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### **2.3 Commenting Resource Agencies**

Commenting Resource Agencies are those with specific regulatory responsibilities for environmental resource protection. These resource agencies are invited to participate and comment throughout the LCP. A primary point of contact will be identified for each agency and invited to the LCP proceedings.

- U.S. Environmental Protection Agency (EPA)
- U.S. Fish and Wildlife Service (FWS)
- Georgia Department of Natural Resources, Environmental Protection Division (Georgia EPD)
- Georgia Department of Natural Resources, Wildlife Resources Division (Georgia WRD)
- Georgia Department of Natural Resources, Historic Preservation Division (Georgia HPD)

For projects that may impact coastal marshlands, tidally influenced waters, anadromous fish species, or certain navigable waters, additional Commenting Resource Agencies include:

- Georgia Department of Natural Resources, Coastal Resources Division (Georgia CRD)
- National Oceanic and Atmospheric Administration (NOAA)/National Marine Fisheries Service (NMFS)
- U.S. Coast Guard (USCG)

Other agencies with a potential interest in a project shall be invited by GDOT when warranted.

### **2.4 Correspondence and Information**

Electronic (email) transmission is an acceptable and preferred method of correspondence and information exchange. The signatories to this LCP will agree on the preferred electronic platform. Hard copies will be provided upon request to agencies. Color maps or other displays will be available at LCP meetings.

### **2.5 Meetings**

As described in Section 3.0, the Key Agencies and Commenting Resource Agencies will discuss projects in the LCP on a regular schedule. While meetings at GDOT or Corps offices will be a primary means of regular coordination, project-specific conditions can be considered in setting frequency of meetings or determining alternative means of communicating including email and phone/video conferencing. The regular LCP coordination will allow for GDOT to introduce projects and carry them through the process as milestones are reached within

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GDOT's PDP prior to permit application. Further details about the coordination meeting include:

- An option will be offered in the regular schedule of coordination meetings between GDOT, FHWA, the Corps and other resource agencies at quarterly Interagency Review Team (IRT) meetings, which are scheduled in January, April, July, and October of each year.
- GDOT can arrange alternative meeting dates for projects where the IRT dates do not accommodate the project schedule.
- Handouts or draft materials will be provided at least 10 business days in advance of scheduled meetings.
- Additional project meetings or other communications can be scheduled at a time/date agreeable to Key Agencies and the relevant Commenting Resource Agencies for the project(s) of interest.

### **3.0 CHECKPOINTS**

Consistent with GDOT's PDP milestones including procedures to address state and federal environmental laws, a project must complete a series of checkpoints prior to submittal of the permit application. As every project is different, the LCP allows for flexibility in how a project enters and exits the checkpoints as changes occur in design that affect the level of impacts to waters of the U.S. The checkpoints are described below.

#### **3.1 Checkpoint 1 – Early Coordination/Project Need and Purpose**

As GDOT conducts its Project Team Initiation Process (PTIP) for a project, the GDOT project team will confirm project details such as basic justification and general location along with a preliminary schedule and budget. Once GDOT develops the preliminary need & purpose and the project location, the project will be ready to introduce into the LCP. Details of Checkpoint 1 include the following:

- The primary goals of Checkpoint 1 include introduction of the project, identification of the preliminary need & purpose, and the project termini within the context of readily available constraint data.
- Additional project details required include the funding source so that LFA can be confirmed (FHWA or Corps), the project team and schedule, the NEPA class of action for federal-aid projects, and the proposed approach for identifying alternatives.
- Representative(s) of GDOT and the Corps will attend the scheduled meeting to discuss project based on the Checkpoint 1 requirements and determine the next LCP step. Representative(s) of FHWA will be notified of federally funded projects on the agenda and invited as LFA for federal-aid projects.

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- The outcome of Checkpoint 1 will be written documentation of any agency concerns (red flags) regarding the proposed project and potentially affected resources. Commenting Resource Agencies will provide concerns on the project termini and the proposal to proceed with Checkpoint 2. The Key Agencies will provide agreement (or disagreement) with the project termini as well as a decision on the need to advance to Checkpoint 2.

Following the meeting, GDOT will prepare a letter to document the findings in Checkpoint 1 and request agencies to agree with those findings, along with confirmation of the need for Checkpoint 2.

Following the PDP, the project milestones will continue until data is available for Checkpoint 2. Prior to this second step, GDOT will apply conceptual engineering data and desktop research to identify alternative(s) being advanced.

### **3.2 Checkpoint 2 – Pre-Application/Alternatives**

Checkpoint 2 provides an opportunity to describe the alternative(s) being advanced and any relative comparisons based on desktop level of analysis. No fieldwork is yet required. In advance of Checkpoint 2, GDOT will prepare and submit a pre-application package. The purpose of the pre-application meeting is for GDOT to solicit additional information and feedback from the resource agencies regarding potentially affected resources, alternatives considered to date, and field data collection. As part of Checkpoint 2, GDOT will propose the level of field work along with the environmental survey boundaries for each alternative and the level and timing of aquatic resource verification required by the Corps. Details of Checkpoint 2 include the following:

- The primary purpose of Checkpoint 2 include confirmation of the alternative(s) being carried forward and the methodology to be used in evaluating alternatives.
- Commenting Resource Agencies will review GDOT's proposed narrowed range of alternatives and methodology to assess impacts, including environmental survey boundary(ies), the level of any field work required and the desire to proceed to Checkpoint 3. Key Agencies will agree (or disagree) with the alternative(s) being carried forward and a decision on the need to advance to Checkpoint 3. If the project advances to Checkpoint 3, a decision also will be made on the level of field work required prior to Checkpoint 3 and if it will be an office meeting or project site meeting.
- A pre-application package will include maps and drawings depicting the proposed project alignment(s) and known resources that may be affected. Materials supporting the Checkpoint 2 discussion will submitted by GDOT at least 15 business days in advance of the meeting for agency review.
- Resource agencies can submit questions/comments in advance or discuss them during the meeting for inclusion in the meeting minutes.

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- The Corps will consider the project details and comments received to determine whether the project will require a Practicable Alternatives Review (PAR) report. A PAR report will be needed if project impacts may require Corps authorization for a Regional General Permit (RGP) 35 or an Individual Permit.
- The outcome of Checkpoint 2 will be input from Commenting Resource Agencies and Key Agencies on the alternative(s) being carried forward, and a Corps decision on whether a PAR is required at Checkpoint 3. If the project advances to Checkpoint 3, a decision also will be made regarding the level of field work required prior to Checkpoint 3 and if the meeting will be held in an office or at the project site

Within 20 business days of the Checkpoint 2 pre-application meeting, participating Key and Commenting Resource Agencies will provide written, project-specific comments to GDOT. As the outcome of Checkpoint 2, GDOT will prepare and distribute a letter to summarize findings and agreement by the agencies on the alternatives, level of field work, survey boundaries, and the need for Checkpoint 3.

### **3.3 Checkpoint 3 – PAR Presentation / Preliminary LEDPA**

Checkpoint 3 consists of the steps to present and submit a PAR report. The PAR report will describe the range of alternatives and selection process proposed by GDOT based on the surveyed resources and estimated impacts. The PAR report is required only for those projects estimated to require RGP 35 or an IP.

The two major activities by GDOT for Checkpoint 3 are to prepare a PAR report and to present it to the Key and Commenting Resource Agencies. The PAR report will be provided prior to the meeting.

During the meeting, GDOT will present a summary of Checkpoints 1 and 2; discuss how any FHWA (if acting as LFA), the Corps, and Commenting Resource Agency project-specific comments or recommendations were addressed; discuss how and why alternatives were considered and eliminated; and discuss how and why the preferred alternative was identified and proposed as the preliminary LEDPA.

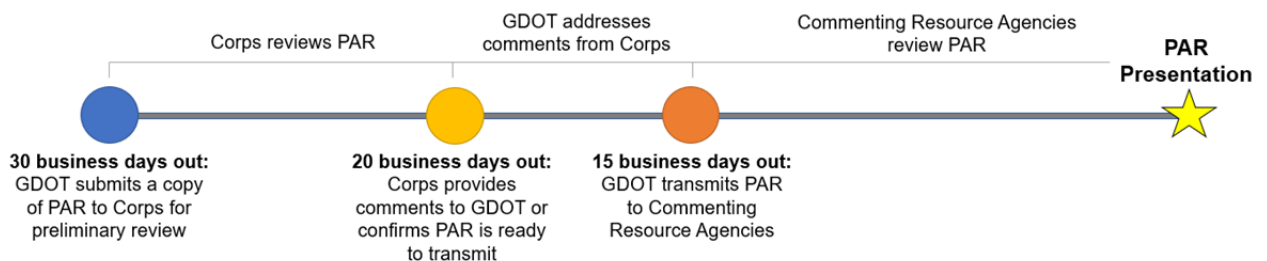
Details of Checkpoint 3 include the following:

- The primary goal of Checkpoint 3 is to obtain resource agency input and Corps agreement on the preferred alternative being the preliminary LEDPA
- The outcome of Checkpoint 3 will be agreement on preliminary LEDPA and type of permit likely required, with documentation to comply with Section 404(b)(1).
- The PAR should include additional details beyond the pre-application package, with estimates of preliminary impacts and relevant maps.
- The GDOT will prepare a draft PAR report and submit to FHWA (only for federal-aid projects) and Corps 30 business days in advance for initial review

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for completeness of the package. The Corps will provide review comments or confirmation of the PAR being complete within 10 business days.

- After the Key Agencies' review for completeness, GDOT will submit the PAR report to Commenting Resource Agencies at least 15 business days in advance of the IRT meeting.
- GDOT will be responsible for deciding the priority of project(s) to request PAR meetings and site visits.
- Commenting Resource Agencies can provide comments on the PAR and preliminary LEDPA discussion during the PAR presentation for inclusion in the Corps' meeting minutes; or otherwise, agency comments will be due in writing within 10 business days of receiving PAR package.



If agreement is reached among the agencies at the outcome of Checkpoint 3, within 10 business days of the meeting the Corps will provide a letter to GDOT stating agreement on the preferred alternative being the preliminary LEDPA. However, if the Corps disagrees with the preferred alternative as the preliminary LEDPA, the Corps will conduct an independent analysis of the proposed project pursuant to the Guidelines and notify GDOT of its findings within 20 business days of the meeting.

#### **4.0 OTHER PROCEDURES**

##### **4.1 Projects Determined by the Corps to be Non-Compliant**

Should the Corps determine that a proposed project does not comply with the Guidelines, and/or is not the preliminary LEDPA, GDOT has the following options: revise the project and re-initiate the LCP process at Checkpoint 2 Pre-Application or submit an application for an IP for the project, as proposed.

##### **4.2 New Rules, Regulation, Guidance or Procedures**

Procedures are subject to change after the receipt of any additional guidance, policy, or changes in applicable federal/state laws and/or implementing regulations. If such changes occur, GDOT, FHWA, and the Corps will discuss how the new

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necessary, the Key Agencies may revise this LCP following coordination and signature by the Key Agencies.


**4.3 Periodic Reviews**

After the first year of this LCP, GDOT, FHWA, and the Corps will conduct an initial review of procedures for adequacy, applicability and/or acceptability. Any proposed modifications, additions or deletions to these procedures will be drafted, reviewed, and agreed upon by these agencies. Updates will be shared with the resource agencies as applicable. Within the first three years of implementation, GDOT, FHWA, and the Corps will determine a periodic schedule for agency reviews of the LCP.


**4.4 Expiration**

The LCP will remain in effect until such time that written notification by any party is desiring to withdraw, is received and agreed to by all parties. The initial agreement will be valid for five years from the date of the last signature, with an option to renew afterward. Nothing in this guidance is intended to affect the statutory or regulatory authorities of the agencies involved.

**U.S. Army Corps of Engineers**

By:  \_\_\_\_\_ Date: 28 AUG 2019  
Daniel H. Hibner, PMP  
Colonel, U.S. Army  
Commander and District Engineer

**Georgia Department of Transportation**

By:  \_\_\_\_\_ Date: 28 Aug 2019  
Russell McMurry, P.E.  
Commissioner

**Federal Highway Administration**

By:  \_\_\_\_\_ Date: 28 Aug 2019  
Moises Marrero  
Division Administrator