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Issue Number 84, June 2018

# State Aid E-Scene

## BUILD Transportation Program

By: Merry Daher, State Aid Project Delivery Engineer

Better Utilizing Investments to Leverage Development (BUILD) transportation grants replace the Transportation Investment Generating Economic Recovery (TIGER) grant program through September 30, 2020. FY 2018 BUILD transportation grants are for investments in surface transportation infrastructure and are to be awarded on a competitive basis for projects that will have a significant local or regional impact. BUILD funding can support roads, bridges, transit, rail, ports or intermodal transportation.

Projects for BUILD will be evaluated based on merit criteria that include: safety, economic competitiveness, quality of life, environmental protection, state of good repair, innovation, partnership, and additional non-federal revenue for future transportation infrastructure investments.

The U.S. Department of Transportation (DOT) intends to award a greater share of BUILD Transportation grant funding to projects located in rural areas that



align well with the selection criteria than to such projects in urban areas. Rural needs in several of the evaluation criteria, include support for rural broadband deployment where it is part of an eligible transportation project. For this round of BUILD Transportation grants, the maximum grant award is \$25 million, and no more than \$150 million can be awarded to a single state. At least 30 percent of funds must be awarded to projects located in rural areas.

The DOT offered a series of special

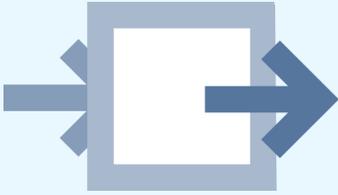
topic webinars that gave more details on the BUILD application process. The webinars were in May and June but recordings of the webinars can be found on the [DOT 2018 Webinar Series webpage](#).

The deadline to submit an application is July 19, 2018.

For more information, visit the [DOT BUILD webpage](#).

# SAAS Report update

You may have noticed that the report names are looking a little different. We have updated the State Aid Accounting Reports to exclude the words SAAS and FCRB from the beginning of the report name. This will make it easier when searching for reports.



# LRIP update

By: Patti Loken, State Aid Programs Engineer

The 2018 Minnesota legislature has appropriated \$78.6 million for the Local Road Improvement Program (LRIP) through the passage of the recent bonding bill. The local road funding is broken into two components; \$35 million will be available for consideration of undesignated local projects statewide and \$43.6 million was appropriated for specific projects earmarked by the legislature.

State Aid anticipates the \$35 million will be used to fund a combination of unfunded projects from the 2017 solicitation, as

well as new projects from a future solicitation in the fall/winter of 2018. The LRIP Advisory Committee will be consulted to re-evaluate the program guidance. State Aid will announce more details on the program within the next two months anticipating an announcement of additional projects selected from the 2017 solicitation.

More information will be posted to the website and sent through our email lists as it becomes available.

# PIFs and certificates

By: Gary Reihl, Federal Aid Project Development

Public Interest Findings (PIFs) or certifications are tools to be used to demonstrate the need for a product to take precedence over the benefit derived from competitive bidding. Justification demonstrating this need is required prior to specifying a product for use on a project. Justification for need is defined in one of four ways: Certification for Synchronization, Certification of Proprietary Products (i.e. sole source), PIF for Proprietary Products, and PIF for Local Agency (city or county) Furnished Item (s) or Labor.

A project may require all, some, or none of these depending on those construction items specified and methods used. All requests require sufficient justification to determine if it is in the public's best interest to incorporate the item(s) into a project. In cases where federal funding will be utilized on a project, Buy America requirements will need to be met. The following outlines the features of each certification/justification, use-case examples and specific considerations.

**Justification for need - project requests.** Note: all requests should be submitted as a signed PDF to the State Aid Engineer.

1. [Certification for Synchronization](#) (Word)
  - For synchronization (consistency) with in-place or future roadway features based on maintenance, inventory or defined corridor aesthetics (city lighting, city utilities, etc.).
2. [Certification for Proprietary Products](#) (Word)
  - For use when only one product/material will work due to technical reasoning.
3. [Public Interest Finding for Proprietary Products](#) (Word)
  - For use when multiple products are available but choosing one for specific reasoning (i.e. specific impact attenuator for ease of maintenance and increased worker safety during repair).

4. Public Interest Finding for Local Agency [Furnished Item\(s\)](#) (Word) or [Furnished Labor](#) (Word).

- For use when supplying the contractor with products or materials to complete their work on a project (early bridge steel, TMS cabinets, etc.). **NOTE: for projects that are furnishing project specific features (bridge steel, etc.), the NEPA process and documentation must be complete prior to PIF request and subsequent contract or purchase. If federal reimbursement is desired for city or county furnished items, then a separate memo requesting reimbursement for those items must be submitted at the same time as the PIF request.**

Other general items for consideration regarding PIFs and certificates.

- Requests for Certification of Synchronization from MnDOT or other state agencies to the project.

(continue on page 3)

## continued...PIFs and certificates

- Projects with temporary work requiring the use of specific items will require a PIF.
- A PIF/certification is **not needed if two or more items are listed as alternatives.**
- Defining products based on a specification that only one product has the ability to meet will require a PIF. Justification will be needed to determine that specifications are valid and not too restrictive.
- The need for PIFs and certifications are relevant regardless of funding (local, state or federal).
- City or county furnished items are eligible for federal reimbursement when installed on subsequent contract, not at time of purchase.

## Federal report reminder

By: Lee Zutz, Contract Compliance Supervisor

It's that time of year again to submit to the 1392 report to the FHWA, which identifies all employees who are actively working on a federal aid project during **July 22 – July 28, 2018.**

For all federal aid projects, please report all contractors who are onsite to the appropriate contract compliance specialist assigned to the geographic location no later than **August 3, 2018:**

- Districts 1 - 2: [Lee Zutz](#)
- Districts 3 - 4: [Joseph Castillo](#)
- Metro: [Byron Millea](#)
- Districts: 6, 7 & 8: [Reginald Cook](#)

## Highway-Railroad Grade Crossing Program project selection

By: Merry Daher, State Aid Project Delivery Engineer

The Railway-Highway Crossings (Section 130) Program provides funds for the elimination of hazards at railway-highway crossings. The Section 130 Program has been correlated with a significant decrease in fatalities at railway-highway grade crossings. Since the program's inception in 1987 through 2014, it is estimated that fatalities have decreased by 57 percent at these crossings. The overall reductions in fatalities come despite an increase in the vehicle miles traveled on roadways and an increase in the passenger and freight traffic on the railways.

### **Funding categories and goals**

Approximately \$6 million per year, split between the following categories.

- Consolidation/closure of crossings: up to 50 percent
- Antiquated equipment: between 25-50 percent
- Grade crossing control criteria: between 25-50 percent

### **Criteria used in project selection**

#### **Closures/consolidation criteria**

##### Screening

- Meet criteria Minnesota Rules 8830.2740
- Project readiness

##### Scoring

- Number of crossings (net no. x 5)
- Risk/cost factor
- Deficient Geometry (3 point scale)

#### **Antiquated equipment criteria**

##### Screening

- Minimum 15 year in operation
- Goal to balance funding 50/50

- Between class 1 & 3 railroads

##### Scoring

- Railroad priority (up to 10 points)
- Exposure AADT x trains (up to 5 points)
- Cost participation >10 percent (up to 2 points)

#### **Grade crossing control criteria**

##### Screening

- Risk factors = seven or more (158/167 passives + 110 active meet this criteria)

##### Scoring

- Local Road Authority funding priority
- Magnitude of clearing sight distance
- Restriction (4 points/ one for each quadrant)
- Exposure factor
- Non-redundant crossings (up to 3 points)
- Cost participation >10 percent (up to 2 points)

#### **Preliminary timeline**

- May-June: Office of Freight and Commercial Vehicle Operations (OFCVO) prescreens eligible locations list
- July-August: solicitation is open
- September-October: OFCVO performs field diagnostics
- November: project scoring
- December: initial project recommendations made
- January: Metropolitan Planning Organizations comment period
- February: final project recommendations

# Minnesota Indian Affairs Council and Office of State Archaeologist review on local projects

By: Kristen Zschomler, Historian and RPA-Registered Archaeologist

## **Background**

- Several locally lead and MnDOT lead projects have unknowingly impacted American Indian cemeteries. In an effort to greatly reduce the likelihood of such an impact in the future, MnDOT is working to improve the consultation process with the Minnesota Indian Affairs Council (MIAC), the Office of the State Archaeologist (OSA), and Minnesota resident tribes.
- Minnesota statute requires that the agency, including political subdivisions, that controls the lands where a project will occur is responsible for compliance with the Minnesota Field Archaeology Act and the Private Cemeteries Act (Minnesota Statutes [138](#) and [307.08](#)). These acts focus on providing protection to archaeological sites and unplatted cemeteries, respectively. In other words, each city or county is responsible for complying with these laws in their right of way.
- MIAC is the responsible state entity for all aspects of the Private Cemeteries Act for American Indian cemeteries; OSA for non-American Indian cemeteries.
- The Minnesota statutes are in addition to any federal law regarding historic properties, namely Section 106 of the National Historic Preservation Act. In other words, just because a project is cleared under Section 106, that does not mean it is cleared under the state statutes.
  - ◇ For example, cemeteries are often not considered “historic properties” under Section 106. Therefore, a Section 106 review may not treat a cemetery as historic, but [Minnesota Statutes 307.08](#) protects unplatted cemeteries out of respect for

for those buried there and their descendants. Therefore, the federal process is not adequate to address requirements under state laws.

## **The review process**

The overlap between federal and state, and even between state laws, can be maddeningly unclear, even to Cultural Resources Unit (CRU) staff, let alone local agencies who do not deal with it often. The bullets below try to recognize those issues, without getting into the bureaucratic mire, and to request a decision by the County Engineers Board of Directors on how they would like to proceed.

- Local agencies that submit FHWA funded projects to MnDOT CRU
  - ◇ CRU will review for Section 106
  - ◇ Since March, we have also been sending the project information to MIAC and OSA on any project that includes ground-disturbing activities at their request. This includes in cases where there is a reported cemetery, but also cases where no cemetery is included in our database. We simply are notifying them of the project, and then connecting them with the local agency representative so they can coordinate directly.

Since the agency controlling said lands is responsible, it's up to each city and county to determine if they will follow MIAC and OSA's recommendations and to have the survey and/or monitoring work performed. It is a risk-based decision that each agency will need to make—pay for the survey and take the additional

project time to complete it, or proceed without survey, but if something is impacted, then deal with the political and legal ramifications.

- Please note, for non-FHWA funded local agency projects, since those are not submitted to MnDOT CRU for a Section 106 review, there would be no coordination by our office between the local agency and MIAC and OSA. Any consultant on such projects would be solely up to the local agency.

CRU does not have to send the consultation letters on behalf of the local agencies. We have been doing it to help aid them in their compliance with state statutes, since we are doing other reviews, but a decision should be made by the County Engineers Board of Directors on if they want CRU to continue this coordination on the behalf of local agencies or not. If not, then each political subdivision can either do their own consultation with MIAC and OSA, or they can choose not to consult and assume any risks associated with that decision.



# Paving Quality Initiatives Assistance

By: Joel Ullring, Pavement Engineer

Are you thinking of implementing Paving Quality Initiatives in your HMA contracts? Brad Canaday has been hired to assist local agencies with implementation of the new Paving Quality Initiatives. These initiatives being implemented by MnDOT are having a positive impact by providing more information about how HMA pavements are being constructed. The two initiatives currently being implemented are Paver Mounted Thermal Profiling (PMTP) and Intelligent Compaction (IC). A few counties have taken advantage of these technologies and are implementing them on their projects this season. State Aid sees the benefit these technologies have in improving the quality of HMA pavements. To assure adequate support is available for local agencies who desire



to implement these technologies, State Aid has partnered with the Office of Materials and Road Research to hire Brad. More information will be forthcoming on Brad's contact information. In the meantime, please contact Rebecca Embacher at 651-366-5525 or [rebecca.embacher@state.mn.us](mailto:rebecca.embacher@state.mn.us) or Joel Ullring at 651-366-3831 or [joel.ullring@state.mn.us](mailto:joel.ullring@state.mn.us).



## OCR Update

By: Angela Murphy, Federal Plans Engineer

At the MCEA summer conference last week, questions developed from the Office of Civil Rights (OCR) presentation. In particular, we are working through questions regarding On-the-Job Training and Tribal Employment Rights Ordinance.

Please be aware that we are working

through the questions/concerns from the presentation and will be sending out important information soon. Meanwhile, if there are any OCR related questions please contact Angela Murphy at [angela.murphy@state.mn.us](mailto:angela.murphy@state.mn.us) or 651-366-3826.

## Retainage & finaling projects when you can't get an IC-134

By: Merry Daher, State Aid Project Delivery Engineer

According to [federal guidance](#) (PDF) local agencies in Minnesota may not hold retainage on federally funded contracts because MnDOT has chosen not to hold retainage on contracts.

Since this leverage is not an option, I have been looking for a way for local agencies to entice contractors or subcontractors to submit IC-134's or anything else required, so that projects may be finalized in a timely manner to avoid becoming inactive. Although MnDOT has a "list" they may add an uncooperative contractor to, this is not available to local agencies, so I spoke with Cathy Clark from the Minnesota Department of Revenue (DOR) and she gave me the following advice.

When a Prime cannot get a subcontractor to submit their IC-134, the Prime may fill out a paper copy on behalf of the sub, but not sign for the sub then send it along with a letter stating the circumstances they are submitting on behalf of the sub, to the address on the [IC-134 form](#) (PDF). The DOR will follow up with the subcontractor.

If the Prime Contractor will not submit their IC-134, you may contact Cathy Clark at 651-556-6630 for assistance.



# Employee News

Mark Vizecky has been named our new Operations Engineer. As most of you already know, Mark started working for MnDOT in 2005 as a graduate engineer and since has had several years of experience leading a variety of programs in State Aid, some of those include: MnCMAT crash mapping tool, township signing program, handbooks and publications on a variety of traffic safety initiatives, County Road Safety Plans and Emergency Relief Program. Mark has a Bachelor of Science in Civil Engineering from North Dakota State University. His experience to provide strong customer service, ability to communicate well and solve problems will continue to shine in his new role.

As Mark transitions into his new position, he will be less focused on the traffic safety elements and actively working on the Turnback Program and Local Partnership Program (formerly known as the Cooperative Agreement Process). He will continue to be the contact for MnCMAT because of his previous involvement and specialized experience. State Aid is actively working to find some temporary help with the current program to update the County Road Safety Plans. We are also working on filling three current vacancies, two in our programs section and one in the operations section. Contact us if you need any assistance or have questions as we transition duties and activities of the State Aid Office. Please see our update [org chart](#) (PDF) for the most up-to-date information.



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[mndot.gov/stateaid](http://mndot.gov/stateaid)

The State Aid Finance Unit has had some further changes. Please see the outlined changes below. Updated contact information and staff responsibilities by area are available on the [Contact Us webpage](#).

Mike Ayers has accepted the State Aid Finance Special Fund and Bond Program Administrator position. Mike is replacing Sandra Martinez who moved to the MnDOT Aeronautics Office in March. Mike has been with MnDOT since 2015 in the Office of Financial Management where he was a financial/economic analyst, accounting officer, and financial analyst. Mike graduated from the University of Wisconsin—Madison with a bachelor's in economics with an emphasis in macroeconomics and statistics.

Candy Harding's mobility has been extended, she will continue to serve as the acting State Aid Finance Supervisor through February 2019.

Congratulations to Gordy Regenscheid, District 7 DSAE on his upcoming retirement on July 6th. Gordy has worked with MnDOT for 18 years, the last six with State Aid and 12 in the Maintenance Office. Previous to this he worked 20 years with the county, including Meeker, Clay and Nicollet. We wish Gordy well in his retirement and thank him for his many years of service to MnDOT.

*Farewell from Gordy -*

*Farewell to my friends! It's with mixed emotions that I am writing my retirement summary. There have many good friends and memories made over the years, it will be hard to let go. You should have received a copy of my celebration announcement, and if you can attend the event on July 13th, it would be great. If not, I still appreciate the friendship and camaraderie we had*

*through the years. My wife Renee and I will also be at the summer event if that would be a better opportunity to talk.*

*Looking back, I recall starting my working career as a summer student employee in 1972. Going rate at the time was \$1.67/hour. My job was a rear chainman on the survey crew, which as most of you know, is only slightly above a "dead man," because I could move from station to station by myself. But it planted the engineering seed, and I guess the rest is history.*

*For those wondering what my plans are, they are purposefully vague. To start with, I plan on decompressing from 40 years of work, finish the many projects I started at home through the years, chase grandkids, go fishing, hunting, talk smart at the coffee shop, other retirement stuff. I will become a grandpa again in October and will "have to go" to Montana during Elk season; great planning by my son and daughter-in-law.*

*Thinking about all the changes over my career, it has been a wild, wonderful run. Mostly going from manual to electronic everything. No more "plowing" cross sections, or manually computing dirt quantities until we got "close enough," no carbon copies, "green, blue, and pink sheets," ledger books, or a multitude of other things to help us do our jobs (for those of you youngsters not familiar with the terms, talk to us old people). Our first State Aid computers had a 40MB hard drive which was considered more space than could be filled in a lifetime.*

*Carry on with the progress and innovations. I'll be watching the headlines for all the great things you will accomplish in the future and thinking of you.*

*- Best wishes, Gordy*