

## **NOTICE OF PROPOSED GUIDANCE DOCUMENT**

DTIM-BPED31

Pursuant to Wis. Stat. s. 227.112, the Wisconsin Department of Transportation is hereby seeking comment on DTIM-BPED31, 23 CFR 450, a proposed guidance document.

### **PUBLIC COMMENTS AND DEADLINE FOR SUBMISSION**

Comments may be submitted to the Wisconsin Department of Transportation for 21 days by:

1. Department's website: <https://appengine.egov.com/apps/wi/dot/guidance-docs?guidDocId=DTIM-BPED31>

2. Mailing written comments to:

Division of Transportation Investment Management  
Wisconsin Department of Transportation  
4822 Madison Yards Way  
PO Box 7913  
Madison, WI 53707-7913

### **WEBSITE LOCATION OF FINAL GUIDANCE DOCUMENT**

The final version of this guidance document will be posted at [wisconsin.dot.gov](https://wisconsin.dot.gov) to allow for ongoing comment.

### **AGENCY CONTACT**

Kaleb Vander Wiele  
DOTDTIMGuidanceDocs@DOT.WI.GOV

**Documentation of the Wisconsin Department of  
Transportation's Process for Cooperation and  
Consultation with Local Officials and Tribal  
Governments in  
Non-Metropolitan Areas**

**March 2016**

## Introduction

The Wisconsin Department of Transportation (WisDOT) cooperates and consults continuously with local officials in all areas of Wisconsin, including those not served by Metropolitan Planning Organizations (MPOs). WisDOT's central office in Madison and each of the five transportation region offices and their personnel maintain strong relationships with local and tribal governments throughout Wisconsin.

This document has been written in response to Federal Highway Administration's (FHWA) regulations<sup>1</sup> for cooperation and consultation with local officials and tribal governments in areas not served by MPOs. It also highlights some of WisDOT's successful practices and reviews the steps in the local cooperation and consultation processes for select planning and programming efforts. Lastly, it describes the review process for local cooperation and consultation documentation and outlines the steps WisDOT will take to ensure that the process is reevaluated in the future.

## WisDOT's Non-Metropolitan Cooperation and Consultation Process

WisDOT's non-metropolitan cooperation and consultation process is built upon a strong tradition of proactively working with local officials and tribal governments. WisDOT continues to incorporate tribal governments and local officials into the transportation planning and programming decision-making processes. The Department has always been committed to working closely with local officials and tribes to understand and meet their transportation needs. WisDOT advises, but does not set local priorities.

WisDOT's existing planning process provides opportunities for statewide public input and review. For example, the public outreach efforts for Wisconsin's multimodal plan, *Connections 2030*, were extensive. These outreach efforts continued during the development of the *Wisconsin State Airport System Plan 2030* and *Wisconsin Rail Plan 2030*. Information regarding WisDOT's multimodal transportation plans are available online at: <http://wisconsindot.gov/Pages/projects/multimodal/default.aspx>.

Outreach and public participation is a central focus in WisDOT's current development of the *Wisconsin State Freight Plan* and update to the *Wisconsin State Highway Plan*. Attributes of the public participation plans include:

- coordination and input from tribal governments
- cooperation with local and county officials
- outreach to industry and business owners/representatives
- input from the general public

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<sup>1</sup> Title 23 CFR 450.210(b)

Moving Ahead for Progress in the 21st Century Act (MAP-21) legislation<sup>2</sup> enacted in 2012 has placed an emphasis on increased cooperation with local officials in non-metropolitan areas. Cooperation being defined as “the parties involved in carrying out the transportation planning and programming processes work together to achieve a common goal or objective”.<sup>3</sup> WisDOT has a long standing practice of going beyond mere consultation but rather working with officials in reaching shared goals and objectives.

Information regarding previous planning efforts and the State Transportation Improvement Program (STIP) is also available by contacting the Bureau of Planning and Economic Development at [bop.dtim@dot.wi.gov](mailto:bop.dtim@dot.wi.gov). Current STIP information is available online:<http://wisconsin.dot.gov/Pages/doing-bus/local-gov/astnce-pgms/highway/stip.aspx>.

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<sup>2</sup> Title 23 CFR 450.210(b)

<http://www.gpo.gov/fdsys/pkg/PLAW-112publ141/pdf/PLAW-112publ141.pdf>

<sup>3</sup> Statewide and Nonmetropolitan Transportation Planning; Metropolitan Transportation Planning; Proposed Rule (p. 31813). *To be updated based on final rule publication.*

<http://www.gpo.gov/fdsys/pkg/FR-2014-06-02/pdf/2014-12155.pdf>

The map below indicates the non-metropolitan areas in Wisconsin. The areas shaded in gray are not included within this document, as they are covered by MPO planning processes.



## Consultation with Indian Tribal Governments

The Wisconsin Department of Transportation has a unique and robust consultation relationship with its eleven federally-recognized tribes. In fact, in 2013 the Federal Highway Administration (FHWA) recognized Wisconsin's tribal consultation efforts in a case study, titled Wisconsin - Tribal Consultation Process.<sup>4</sup>

Following an executive order (EO 39) issued in 2004, WisDOT, the Wisconsin Division of FHWA and the eleven tribes entered into a partnership agreement in May 2005. The purpose of the agreement (revised in 2010) was to,

"create and define processes by which WisDOT and FHWA will work in collaboration with Wisconsin's eleven sovereign Indian Nations. The agreement acknowledges and supports the government-to-government relationship between tribes and state and federal agencies and supports American Indian sovereignty."

As part of the partnership agreement, WisDOT established the WisDOT Tribal Task Force that includes representatives from each tribe, WisDOT, and FHWA. Part of the Task Force's goal is to define tribal consultation for transportation-related projects and planning efforts.

WisDOT consults with tribes that have ancestral homelands within the state boundaries on all decisions that may affect tribal rights and interests in regard to long- and short-range transportation planning. WisDOT is committed to government-to-government consultation with tribes on actions that affect identified tribal rights and issues.

Consultation means respectful, effective communication in a cooperative process that works toward a consensus before a decision is made or an action is taken. Consultation means more than simply informing affected tribes about what the Department is planning to do. WisDOT acknowledges that consultation is a process, not a guarantee of agreement on outcomes. While dedicated to implementing constructive consultation practices, the Department's hopes are to go beyond issue-specific consultation. The goal is to achieve mutually beneficial priorities, programs and interests.

Given the number of tribes, the extent of tribally reserved rights, and the size and complexity of the Department, WisDOT may not be able to identify in advance all issues that may be appropriate subjects for tribal consultation. However, WisDOT has implemented a multi-faceted approach to establish clear and effective communications. Those efforts include the following:

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<sup>4</sup> Link to Wisconsin -Tribal Consultation Process Case Study  
[https://www.fhwa.dot.gov/planning/processes/tribal/case\\_studies/wisconsin.cfm](https://www.fhwa.dot.gov/planning/processes/tribal/case_studies/wisconsin.cfm).

### Annual Consultation Meeting with Tribes

The Secretary of WisDOT hosts an annual consultation meeting with tribes which provides an opportunity for tribal leaders and representatives to express concerns, highlight issues and make recommendation regarding statewide and local transportation issues. WisDOT's annual tribal consultation meeting ensures that Department leadership is aware of tribal transportation needs and priorities.

In addition to the annual consultation meeting, WisDOT and Wisconsin's Tribal Nations have formed special groups to solicit input on projects, programs and policies that may affect the state's tribal communities. These groups include the Inter-Tribal Task Force, the Tribal Historic Preservation Project, and the Tribal Labor Advisory Committee.

### Inter-Tribal Task Force

This group was established through the partnership agreement to serve as a policy advisory group regarding transportation related matters that have the potential to impact tribal communities. Task Force members consist of WisDOT statewide and regional tribal liaisons and other WisDOT agency employees, the FHWA, the Bureau of Indian Affairs and representatives appointed by each respective tribal government. The Task Force meets on a bi-monthly basis and has developed numerous tribal initiatives. The Task Force also serves as a forum to discuss projects within the state and the individual tribes' transportation improvement programs. Consultation on long-term transportation planning also occurs.

When WisDOT is developing a long-range transportation plan, the Task Force will facilitate consultation with the WisDOT Bureau of Planning and Economic Development. Consultation includes:

- An initial meeting inviting tribal leadership and representatives from the tribal planning, roads, environmental and historic preservation departments of all 11 tribal nations in Wisconsin, planning representatives from each WisDOT region, regional WisDOT tribal liaisons, the Bureau of Indian Affairs, and the FHWA, to discuss the transportation issues and needs
- A statewide follow-up meeting to discuss the draft plan
- A meeting at any other time as requested by individual tribes or WisDOT

As WisDOT Regions develop their six year transportation improvement program, WisDOT regional liaisons bring the short-range planning goals within WisDOT's six-year highway program and plans to the Task Force to provide tribes an opportunity to discuss issues and needs. If requested, the regional liaisons facilitate follow-up meetings between WisDOT staff and individual tribes to discuss specific projects or planning goals.

### Tribal Historic Preservation Project

This group was created to strengthen tribal participation in WisDOT programming and project development. Its focuses on historic preservation and environmental issues. The members include the Tribal Historic Preservation Officers from the federally recognized tribes of Wisconsin, federal agencies, and WisDOT staff. Project meetings occur on a bi-monthly basis. In these meetings WisDOT seeks guidance on the care and treatment of

historic properties, sacred sites, burials and traditional cultural properties.

Project highlights include:

- Redrafting of the WisDOT's Facilities Development Manual (FDM) chapter 26, which deals with the Section 106 process
- A draft environmental/cultural resource consultation policy
- An annual listening session between all stakeholders in WisDOT project efforts
- Direct involvement with tribes in state plans, projects and other specific initiatives, including regular preservation training opportunities for both tribes and WisDOT employees

#### Business and Labor Development

To ensure that tribes and tribal members receive all the employment, training, business, and economic opportunities for Indian-owned businesses afforded by law, WisDOT and the eleven Tribes created a Tribal Labor Advisory Committee (TLAC). TLAC was established in December 2011 and meets quarterly to develop strategies to enhance Native American labor opportunities on state and federal projects.

#### WisDOT Tribal Liaisons

WisDOT has created two statewide tribal liaisons who implement the government-to-government relationship with tribes at the state level. The statewide tribal liaisons also serves as a primary point of contact for tribal elected officials, regional tribal liaisons, and the Great Lakes Intertribal Council (GLITC).

The regional tribal liaisons are assigned to the five region offices (North Central, Northeast, Northwest, Southeast and Southwest). The regional tribal liaisons serve as a primary points of contact for the tribes located in their respective regions in regards to transportation projects that are on or near tribal lands.

The regional liaisons meet regularly with tribes to maintain an open dialogue on transportation issues and ensure that each Tribe has a close, personal relationship with their main point of contact for transportation issues.

With its Tribal consultation programs firmly in place, WisDOT is able to continuously receive and share accurate information on upcoming projects, programs and policies to maintain WisDOT's consistent and positive relationships with Tribal Nations.



## Highlights from the Local Cooperation Process in WisDOT Regions

WisDOT's central office and five transportation regions<sup>5</sup> have been very successful in cooperating with local officials in areas not served by MPOs. The following section highlights some examples of these local cooperative efforts. Not all of the listed functions are performed in every region as the level of cooperation can vary depending on region size, number of local officials, and proximity to an MPO.

Also presented are brief overviews of WisDOT's *Local Program Advisory Forum*, a collaboration of state, regional and local transportation officials, transportation builders, and the consulting industry focused on delivery issues and processes along with the *Local Programs Peer Review Committee* with Department and FHWA Wisconsin Division staff.

### Planning Studies and Land Use Issues:

- Creating advisory committees (committees include professional staff, municipal representatives, local leaders, and other interested parties), work groups, expert panels, web sites, newsletters, and brochures
- Assisting local officials in updating long-range comprehensive plans, including discussion of local and regional land use, transportation, and access management
- Working with consultants on public involvement issues, including organizing meetings and focus groups
- All regions hold Local Program Symposiums to provide information and answer questions. Local and county officials are invited to the symposiums to discuss project requirements within the local programs. Various local programs (STP, TAP, TEA etc.) are presented along with practical project delivery requirements and best practices (i.e. consultant contracting, right of way acquisition, and design processes).

### Six-Year Highway Improvement Program:

- Organizing meetings with county highway committees to review program additions, and any changes in the project schedules
- Discussing potential candidate projects with cities, counties and tribes
- Staffing local meetings to answer any questions regarding process or projects
- Maintaining a Six-Year Highway Improvement Program website providing region projects and contacts for questions regarding the program  
<http://wisconsindot.gov/Pages/projects/6yr-hwy-impr/proj-info/default.aspx>

### Additional Online Resources:

Wisconsin's local programs and related processes are outlined on the WisDOT website <http://wisconsindot.gov/Pages/home.aspx>. The front page of the website has a link to Local Government/Assistance programs in the dropdown under the Doing Business

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<sup>5</sup> Region Contact Information

<http://wisconsindot.gov/Pages/about-wisdot/who-we-are/dtsd/dtsd-region-offices.aspx>

button. This site provides information of interest to local governments and their associations, regional entities and the general public in an up-to-date format <http://wisconsindot.gov/Pages/doing-bus/local-gov/astnce-pgms/default.aspx>.

Local transportation programs and related key processes are explained in high level policy terms, down to explicit rules and deadlines. Related information is included, such as WisDOT central office and region contacts, program guidelines, timelines, applications, policies and procedures, and approved program lists.

#### Local Program Notification:

- Providing Surface Transportation Program-Urban (STP-U) notification and statewide eligibility criteria for all eligible municipalities with populations between 5,000 and 50,000 vying for statewide projects
- Providing Local Bridge Improvement Assistance Program and Surface Transportation Program-Rural (STP-R) notification and statewide eligibility criteria to county highway commissioners, who set priorities within their regions and vie for projects statewide
- Notifying local jurisdictions of Congestion Mitigation and Air Quality Improvement (CMAQ) program funding availability in eligible non-attainment areas of the state (southeast Wisconsin)
- Notifying local jurisdictions of local Transportation Alternative Program (TAP) program funding availability
- Targeted outreach to non-metropolitan officials is part of both the TAP and CMAQ programs
- Conducting local program meetings and ongoing communication and technical assistance throughout the state to provide information on various state and federal programs at the local level
- Participating in statewide local association conferences, conventions, meetings and training sessions to provide information on various state and federal programs available to local communities
- After project approval, regional project development staff and management consultants coordinate with local officials to ensure completion of the project, from design through construction

#### Other Local Cooperation Practices:

- Working with the state's local associations (Wisconsin Counties Association, Wisconsin County Highway Association, League of Wisconsin Municipalities and Wisconsin Towns Association) on major policy issues, funding formulas and related topics for federal and state funded local improvement and assistance programs
- Involving local officials in the project development process
- Working with the regional planning commissions (RPCs), cities and counties to stay informed on local issues
- Responding to requests by local governments to attend various meetings
- Participating in quarterly safety commission meetings
- Holding meetings with county highway commissioners to discuss topics such as programming and schedules for state trunk highway improvement and maintenance projects

- Holding meetings on corridor planning projects, access management issues, or major highway development issues that ultimately could impact program delivery
- Cooperating with local officials during the enumeration and scheduling of projects ahead of letting
- Partnering with, educating and training county highway commissioners and other local officials with regard to state funded Local Roads Improvement Program guidelines, policies, applications and other key information
- Working cooperatively with DTSD Regions, FHWA, local municipalities, and local associations to facilitate, review, and update state and local systems that affect improvement and maintenance project scheduling, programing, and funding of roadways:<http://wisconsin.dot.gov/Pages/projects/data-plan/plan-res/default.aspx>
- Cooperating with local officials with regard to state funded Transportation Economic Assistance (TEA) projects during initial application and construction
- Coordinating access management and local road connection issues with various municipalities; this includes direct contact or attendance at public meetings
- Keep Wisconsin Moving initiative conducted by Wisconsin Commission on Transportation Finance and Policy; meetings were open to the public

#### Local Program Advisory Forum:

The forum was created with the stated goals of clarifying federal aid requirements and improving and streamlining project delivery processes, this group is comprised of local government representatives, the Wisconsin Transportation Builders Association (WTBA), the Wisconsin Chapter of the American Consulting Engineers Association (ACEC) and Wisconsin's FHWA Office. The group is chaired by the Division of Transportation System Development, and meets bi-monthly.

#### Peer Review Committee Meetings:

This group was created to ensure statewide consistency in application of WisDOT policies, guidelines, processes and standards for local improvement programs. The Review Committee develops and supports common approaches to assist local officials for informed decision-making on the local roads, bridges and multi-modal (bike and pedestrian) networks throughout Wisconsin. Committee members include Section Chiefs from the Division of Transportation System Development (DTSD) and Division of Transportation Investment Management (DTIM) along with FHWA representatives and local road staff from the Bureau of Transit, Local Roads, Rails and Harbors (BTLRH).

## Local Cooperation Process for Select WisDOT Programs and Plans

The following section briefly lays out the steps in the local cooperation processes for some of WisDOT's programs and statewide transportation plans.

### State Transportation Improvement Program (STIP):

WisDOT's public involvement activities for the STIP are extensive. Opportunities for the public to comment on local projects and programs before they become part of the final STIP are promoted and maximized. Public outreach for the STIP contains the following major components:

1. Publication of official public notice of the statewide 30-day public comment period
2. Host state highway system program local Public Involvement Meetings (PIM) for the Six-Year Highway Improvement Program including:
  - Meetings with local officials and the public in their communities, to obtain project requests, understand local needs, and address local concerns
  - Meetings to inform the public of the proposed Six-Year Highway Improvement Program and the range of modal alternatives that were explored in its formation, and to receive comments on its projects
  - Each WisDOT Region conducts ongoing and continuous outreach to non-metropolitan official on the projects, programs and a range of modal alternatives
3. Conduct small urban center and rural transit program and project PIMs
4. Facilitate local project PIMs

WisDOT notifies stakeholders, the general public, county highway officials, tribal leaders, MPOs and RPCs that the draft STIP is available on our web site. They are notified of the 30-day public comment period for incorporation in the final STIP. This outreach is conducted on an annual basis.

### Transit Programs:

There are many opportunities for public involvement in transit projects. WisDOT notifies potential applicants of eligibility and funding availability through a variety of means:

- Posting notifications of transit funding opportunities for various state and federally funded transit programs on our website at <http://wisconsindot.gov/Pages/doing-bus/local-gov/astnce-pgms/transit/default.aspx>.
- Participating in regional or statewide local association conferences or conventions to provide information on various state and federal funding opportunities available at the local level.
- Examples of Conferences and Meetings:
  - Participated in meetings/conferences include: YMCA, We are HOPE, American Planning Association-Wisconsin (APA)-Partnering for Healthy Communities conference, etc.
  - Participated in Wisconsin Association of Mobility Managers (WAMM) annual meeting and ad hoc meetings related to FTA compliance issues such as Transportation Coordination, Title VI, transit funding opportunities, etc.

- Participated in Wisconsin Urban and Rural Transit Association (WURTA) annual conference
- Conducting individual meetings with potential applicants to discuss the availability of state and federal funding, and the application process; and offering technical assistance.

Numerous opportunities are available at the local level for the public to participate in the review, prioritization, and selection of transit projects:

- Local communities are required to hold public hearings when a federally funded transit capital project affects significant economic, social or environmental interests and sub recipients must consider the economic, social and environmental effects of the project.
- Local communities receiving state operating assistance must offer opportunities for public hearings if new services or major service changes (e.g., fare increases, substantive service hour changes or service area changes) are planned.
- Public participation is required, and especially encouraged, from target populations, including individuals with disabilities, older adults and people with low incomes in the development of a locally developed, coordinated public transit - human services transportation plan.

#### Local Roads Improvement Program (LRIP):

The Local Roads Improvement Program (LRIP) is a state-funded entitlement and discretionary program provided by WisDOT to aid local units of government with improvements to their existing local roads. The program is managed by WisDOT's central office with assistance from Wisconsin's 72 highway commissioners. It includes the following six programs:

- County Highway Improvement Program (CHI)
- Town Road Improvement Program (TRI)
- Municipal Street Improvement Program for Cities and Villages with a Population of Less Than 20,000 (MSILT) Municipal Street Improvement Program for Cities and Villages with a Population of 20,000 or More (MSIGT)
- County Highway Improvement Discretionary Program (CHID) for high-cost county projects
- Town Road Improvement Discretionary Program (TRID) for high-cost town projects
- Municipal Street Discretionary Improvement Program (MSID) for high-cost municipal projects

In general, the steps in the local consultation process include:

1. Working with local association leadership on understanding program policies and elements
2. Notifying local jurisdictions of program eligibility and funding availability. This is provided by WisDOT's central office and coordinated statewide with the county highway commissioners
3. Local review, prioritization and selection of projects
4. Selecting projects by groups represented by:
  - Town road committees and municipal street committees for municipalities with

populations less than 20,000 (TRI and MSILT). Counties and municipalities with populations over 20,000 select their own projects (CHI and MSIGT)

- Statewide committee consisting of six Wisconsin Towns Association district directors and six members at large (TRID)
- Statewide advisory committee consisting of members of the League of Wisconsin Municipalities (MSID)
- Committees established in the eight Wisconsin County Highway Association Districts (that roll up into WisDOT's five transportation regions) made up of all county highway commissioners within the district (CHID)

The discretionary programs each have distinct regional and statewide processes for project review, selection and recommendation for approval. Eligibility is based on community type.

The Local Transportation Programs and Finance Section of WisDOT's Bureau of Transit, Local Roads, Railroads and Harbors manages all local highway, bridge and multi-modal programs other than Scenic Byways, Highway Safety Improvement Program (HSIP) and state-funded TEA.

#### Modal and Multimodal Long-range Transportation Plan Development:

WisDOT has been actively engaged in long range system planning for many years. The Department published the state's multimodal transportation plan, *Connections 2030, in 2009*. Previous efforts included the publication of modal plans including the *Wisconsin Rail Plan 2030, Wisconsin State Airport System Plan 2030, State Highway Plan 2020, the Wisconsin Bicycle Transportation Plan 2020 and the State Pedestrian Policy Plan 2020*. Currently, the Department is developing the *Wisconsin State Freight Plan* and update to the *Wisconsin State Highway Plan*. Throughout the development of these plans, WisDOT is working with local jurisdictions to ensure that their input is sought and included in the plan development process. In brief, the steps in the planning process included:

- Extensive public outreach, including informational meetings and presentations to groups such as:
  - Chambers of Commerce
  - Towns associations
  - MPOs and RPCs
  - Environmental advocacy groups
  - Local governments
  - Tribal governments
  - General public
- Development of the draft plan
- Draft plan outreach meetings throughout state
- Development of final plan, incorporation of comments as appropriate
- Public hearing on final plan, incorporation of comments as appropriate
- Adoption by WisDOT Secretary

## **Review of WisDOT Local Cooperation and Consultation Process Documentation**

Similar to the 2011 effort, this document will be distributed to numerous associations, agencies, commissions and organizations throughout the state. Revisions will be made based on comments received. The list of organizations includes:

- Internal WisDOT management and staff
- WisDOT regions
- Wisconsin Towns Association
- Wisconsin Counties Association
- Wisconsin County Highway Association
- League of Wisconsin Municipalities
- MPOs and RPCs serving affected areas of the state
- Wisconsin tribal governments

## **Future Evaluation Process**

WisDOT will continue to review and improve processes for cooperation with local officials and tribal governments. This effort is not intended to be a one-time occurrence. The Department is committed to continue working to improve and update its process to achieve its goal of ensuring that all local entities in areas not served by MPOs have sufficient input in the transportation planning process. To make sure the local cooperation processes remains current and effective, WisDOT will:

- Periodically request comments on the process from towns and counties associations, municipal leagues, MPOs, RPCs, and local and tribal governments
- Internally assess the success of various tools and techniques used to acquire input. Assessments may address the level of input, the type of input received and/or the role the input had in the process
- Continue to monitor best practice activities developed in Wisconsin and around the country.
- WisDOT will implement best practices that are applicable and relevant for our activities
- Review and solicit comments for at least 60 days at least once every five years
- Apply the process to both statewide planning and the STIP, and integrate questions about the cooperation and consultation processes into our current outreach efforts with transportation stakeholders, community groups, tribal governments and the general public in order to periodically reevaluate the process

## **Summary**

This report documents the Department's processes for cooperation and consultation with local officials and tribal governments in non-metropolitan areas and meets the requirements of the FHWA rule. WisDOT's practices have been very successful over the years, and will remain in place. As mentioned, WisDOT will continually monitor its local cooperation and consultation activities to ensure that the processes remain current and successful.