# Chapter 6
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Chapter 6
PUBLIC INVOLVEMENT PROCESS

6.1 REGULATIONS & GUIDANCE

Acting under the authority of NRS 408.245, which provides for the acceptance of Federal Acts, NDOT accepts, as a continuing obligation, the responsibility for complying with the provisions of 23 USC 128 “Public Hearings” and 23 CFR 771.111 “Early Coordination, Public Involvement and Project Development” for NDOT projects involving funding or approval from the FHWA. The procedures for accomplishing compliance apply to the development of Federal-aid projects, other than projects of an emergency nature that will necessitate immediate repair of a highway facility. Public Meetings and Hearings conducted in support of the NEPA process will also conform to the NDOT Public Involvement/Public Hearings Procedures Policy and the NDOT Environmental Services Division Public Involvement/Public Hearing Procedures on National Environmental Policy Act (NEPA) Projects Policy.

6.2 PUBLIC INVOLVEMENT PROCEDURES

6.2.1 General

Public involvement for NDOT projects involving funding or approval from the FHWA will be accomplished through a variety of methods, as suited to the scope, potential socio-economic, environmental impacts, and potential for controversy and anticipated level of public interest. It will be initiated early in project development and will continue throughout the project development process. (See 23 USC 139, “Efficient environmental reviews for project decision-making” and associated implementation guidance for information on the requirements for involving “participating agencies” in the project development process.)

6.2.2 Intent-To-Study Letter

For projects requiring the preparation of an Environmental Assessment (EA) (see Chapter 4) or an Environmental Impact Statement (EIS) (see Chapter 5), the public and interested/affected agencies and organizations will be notified by an Intent-To-Study Letter. This letter contains the details of scheduled informational meetings (see Section 6.3.2), a request for expressions of concern or special knowledge from the addressee and may contain a location map or sketch of the project area. These letters are sent to affected Federal, State, and local agencies; political leaders; Indian Tribes; recognized special interest groups and known concerned/affected citizens, adjacent property owners (at a minimum within ¼ mile of either side of the project), and agencies serving as “cooperating” and “participating agencies” in the environmental review process.

6.2.3 Notice of Intent (NOI)

For projects involving the preparation of an EIS (see Chapter 5), the initial action to notify the public and interested/affected agencies and organizations of the project’s preliminary concept will
be the publication of a Notice of Intent (NOI) in the *Federal Register*. The CEQ regulations and 23 CFR 771 “Environmental Impact and Related Procedures” require the publication of a NOI in the *Federal Register* as soon as practicable after the decision is made to prepare an EIS and before the scoping process begins (40 CFR 1501.7). A NOI will also be published when a decision is made to supplement a Final EIS, but will not be necessary when preparing a supplement to a Draft EIS (23 CFR 771.130(d)). See the FHWA Technical Advisory T6640.8A for guidance on preparing a NOI, including recommended format, content and processing. In general, the NOI will:

- describe the proposed action and possible alternatives to accomplish the goals of the proposed action;
- describe the proposed scoping process for the action, including when and where any scoping meetings will be held; and
- provide the names and addresses of one or more FHWA contacts and one or more NDOT contacts who can answer questions about the proposed project and the EIS.

The draft NOI will be prepared and submitted to FHWA. FHWA will finalize the NOI and submit it to the Federal Register for publication.

### 6.2.4 Transportation Notice

NDOT provides additional public notice in the form of Transportation Notices. Transportation Notices are issued for public meetings and hearings. Transportation Notices are published in general circulation adjudicated newspapers of local, regional and/or ethnic distribution in the project area not less than 15 days prior to the meeting and, when newspapers are available and published on a suitable schedule, again on the day before and the day of the meeting. They are also posted on the NDOT website and may be posted at State and local government buildings, libraries, NDOT offices and other public or private locations as needed.

### 6.2.5 Scoping

Scoping is a study management technique described in 40 CFR 1500 et seq. to provide “an early and open process for determining the scope of issue to be addressed and for identifying the significant issues related to a proposed action.” For NDOT projects that do not require preparation of an EIS, the use of a widely distributed Intent-to-Study Letter, together with one or more informational meetings (see Section 6.3.2) constitutes the NDOT Scoping Process. For projects requiring an EIS, NDOT will schedule a formal scoping meeting with affected Federal, State and local agencies, including agencies serving as “participating agencies,” and will hold one or more informational meetings to accomplish scoping objectives with the public and interested organizations.

### 6.2.6 Guidelines for Planning Ongoing Public Involvement

After issuance of the Intent-to-Study Letter or NOI and completion of the scoping process for a project, the project study group will plan ongoing public involvement activities based on consideration of the following guidelines:
1. **Meeting Type.** Select the appropriate meeting type for the situation (see Section 6.3). As practicable, use the open-house with formal presentation format. This format allows enhanced opportunities for the public to drop-in, when convenient, to individually discuss the project and tends to be more successful in eliciting feedback from participants. Formats may be varied, as needed, to accommodate specific needs. A court reporter will be present to record the presentation and Q&A portions of the meeting and to accept individual verbal comment submittals.

2. **Time & Location.** Schedule public meetings or hearings at a convenient time and location for those expected to attend. Generally accepted times for meetings or hearings would be Tuesday, Wednesday, or Thursday evenings between 4:00 p.m. and 7:00 p.m. (although the hours and days for meetings and hearings are flexible and will be tailored to the needs of the intended audience). All NEPA-related public hearings or meetings should be conducted in a public building, such as a school, or other state, county, or city facility. The location will be convenient and as close to the project as practicable. Accessibility needs of persons with disabilities also will be considered in selecting the facility for a public meeting or hearing.

3. **Attendees.** Appropriate NDOT personnel as determined by the project manager and the Environmental Services Division project coordinator will participate in the public meetings or hearings, and the FHWA will be invited for Federal-aid projects.

4. **Information.** Large display boards, large plan sets, and other media will be available for viewing. Handouts with project specific information and other information needed to achieve the goal of the meeting will be prepared (see Section 6.3.3.6). Comment forms will be provided at public meetings and hearings (see Section 6.3.1).

5. **Roles & Responsibilities.** NDOT personnel will be available at public meetings and hearings to explain the project, answer questions and encourage individuals to provide comments on the project. The Project Manager will be responsible for ensuring that substantive comments received at public hearings and informational meetings are documented in the project file and responded to. When a public meeting or hearing is held for a Federal-aid project, the Environmental Services Division will submit a transcript of the meeting or hearing to the FHWA along with a certification that a required hearing was held or a hearing opportunity was offered. The Environmental Services Division will ensure the transcript is accompanied by copies of written statements from the public, both submitted at the public meeting or hearing or during the comment period.

NDOT, in cooperation with the FHWA, will develop a coordination plan for public and agency participation on projects requiring an EIS. The plan will be developed early in the environmental review process after project initiation and will identify coordination points. The following are example coordination points for a project involving the preparation of an EIS:

- NOI publication and scoping activities;
- development of purpose and need;
- identification of the range of alternatives;
- collaboration on impact assessment methodologies;
- completion of the Draft EIS;
- identification of the preferred alternative and the level of design detail;
- completion of the Final EIS;
• completion of the Record of Decision (ROD); and
• completion of permits or approvals after the ROD.

In addition, the coordination plan will establish a schedule of regular Project Management Team meetings and identify which persons, organizations or agencies will be included for each coordination point, as well as timeframes for input by those persons, organizations and agencies. FHWA policy requires a negotiated schedule for the NEPA process for EIS projects. If the negotiated schedule will be included in the coordination plan, that schedule will be prepared in consultation with each participating agency and will include the timing of coordination with those agencies and the public.

6.3 PUBLIC INVOLVEMENT METHODS

6.3.1 Overview

NDOT may use the most appropriate means and methods available to ensure meaningful public involvement. These include electronic and print media as well as the use of social media and in-person live meetings. Current policy intends that NDOT meetings and hearings utilize an open-house format with a formal presentation followed by a brief question and answer session. In-person meetings should afford participants the opportunity to informally interact with NDOT, FHWA, and project consultant personnel before and after the presentation. The question and answer portion of the meeting will be conducted according to the ground rules presented at the end of the formal presentation and comments received will be documented for the public record. NDOT generally conducts two types of in-person meetings:

• informational meetings; and
• public hearings.

The following principles apply to all public meetings and hearings:

1. Public meetings or hearings will be held to provide an opportunity for interested persons to participate in the project development and delivery process.
2. NDOT representatives will ensure the objectives of the public meeting or hearing are clearly communicated. Depending on the type of meeting, this may include:

   • stating that the purpose of the meeting is to discuss the purpose and need for a project;
   • presenting information on project alternatives;
   • providing an opportunity for public discussion of the project major features, including the social, economic and/or environmental effects of the project; and
   • Discussing construction impacts and scheduling.

3. NDOT representatives will ensure that materials intended for review by the public are available upon request for public review and copying. Any graphic depicting proposed
plans or design elements must be labeled “All information presented is preliminary subject to revision”.

4. The public will be afforded multiple methods to provide comments either in-person or at any point within the formal comment period. The procedure for these submissions will be described in the Transportation Notice, the Intent to Study Letter, and included in the meeting handout, and must include the final date for receipt of comments.

6.3.2 Informational Meetings

An informational meeting is a meeting in either a formal or informal setting, depending on its intended audience, at which NDOT and FHWA personnel present, receive and/or exchange information with the public. “Scoping” meetings (see Section 6.2.5) will be conducted under the title of Informational meeting. At a minimum, notice of informational meetings is provided in general circulation adjudicated newspapers of local, regional and/or ethnic distribution in the project area not less than 15 days prior to the meeting and, when newspapers are available and published on a suitable schedule, again on the day before and the day of the meeting. The meeting will be held in conjunction with a 30 calendar-day comment period beginning no later than the first date of advertisement in the newspaper. NDOT informational meetings are noticed and conducted in accordance with the methods and processes for public hearings (see Section 6.3.3).

6.3.3 Public Hearings

6.3.3.1 Legal Basis

For certain projects, a public hearing, or the opportunity for a public hearing, is required by Federal statute, Federal regulation, and/or Department policy (see NDOT Policy for Public Involvement/Public Hearing Procedures). EISs require that a public hearing be held (see Chapter 5), and EAs (see Chapter 4) require a public hearing or opportunity for such hearings. 23 USC 128 states that “Any State highway department which submits plans for a Federal-aid highway project involving the bypassing of, or going through, any city, town, or village, either incorporated or unincorporated, shall certify to the Secretary that it has had public hearings, or has afforded the opportunity for such hearings...” Furthermore, 23 CFR 771 FHWA “Environmental Impact and Related Procedures”, requires the “State highway agency” to hold one or more public hearings or offer the opportunity for public hearing(s) to be held at a convenient time and place for Federal-aid projects that:

- require significant amounts of right-of-way;
- substantially change the layout or function of connecting roadways, or of the facility being improved;
- have a substantial adverse impact on adjacent property;
- have a significant social, economic, environmental or other impact; or
- for which the FHWA and NDOT determine a public hearing is in the public interest.
6.3.3.2 Types of Public Hearings

When a public hearing is held for a project, the Project Manager will conduct the hearing in coordination with the Environmental Services Division and the FHWA. Project location, project design and associated impacts typically are the primary focus of public hearings. The project location and design may be addressed at one or more types of public hearings as follows:

1. **Location Public Hearing.** A Location Public Hearing is held when a project involves a new location where feasible alternatives can be developed before the route location is approved and before the Department is committed to a specific proposal. These are used very infrequently by NDOT.

2. **Design Public Hearing.** A Design Public Hearing is held for a project after a Location Public Hearing has been conducted and location approval has been issued, but before NDOT is committed to a specific design proposal. These are used very infrequently by NDOT.

3. **Location/Design Public Hearing.** A Location/Design Public Hearing combines the elements identified in both a Location and Design Public Hearing and is held prior to the Department committing to a specific location and design for a project. This is the most common hearing for NEPA projects.

If a hearing is being held as part of the public review of an EA or EIS document, then copies of that document will be available at the hearing for review. Environmental Services Division representatives will be present to explain and answer questions on the document and its contents.

6.3.3.3 Scheduling of Public Hearings

Public hearings will be held after the release of the draft environmental document and before NEPA approval. For projects requiring an EIS, the public hearing will be scheduled after the FHWA approves the Draft EIS. For projects involving an EA, the hearing will be scheduled after FHWA approval to circulate the EA. The location of a hearing and the number of hearings to be held will be determined by NDOT Environmental Services Division, FHWA, and the Project manager to ensure reasonable availability to attend by potentially affected individuals and organizations.

6.3.3.4 Notice of Public Hearing

The Department will provide advance notice of public hearings through advertisements that will appear in general circulation adjudicated newspapers of local, regional and/or ethnic distribution in the project area. The first notice must appear a minimum of 15 days prior to the hearing. Additional advertisements will be published before the hearing, including, if newspapers are available and published on a suitable schedule, the day before and the day of the hearing. News releases, notification on social media platforms, and bulk emailings may be utilized to further publicize the public hearing and encourage attendance.

Additionally, notice will be provided through direct mail to individuals, agencies and organizations, including Federal, State, and local officials, listed on a mailing roster kept current by NDOT.
Anyone wishing to receive notice of transportation public meetings or public hearings will be placed on this list upon request.

Published notices will include schematic map(s) depicting the proposed project limits and sufficient details of the project area to enable the reader to easily identify the proposed improvement. Alternatives under consideration will be described in the text of the notice. The notice will state that:

- project information will be on display at the hearing location;
- Department personnel will be available to explain the project and answer questions;
- maps, drawings, EA or Draft EIS and other pertinent information will be available for review and copying by the public at the nearest District Office and/or some other location convenient to the hearing; and
- NDOT’s policy and procedures for oral and written statements (i.e., written statements must be submitted no later than 30 days following the hearing).

When residential and/or business structures are to be acquired, the notice will also indicate that the Relocation Assistance Program will be discussed. The Department will furnish the FHWA Division Administrator with a copy of the Notice of Public Hearing at the time of first publication.

6.3.3.5 Public Hearing Format

Unless otherwise determined, all public hearings will be conducted in the open-house format with a formal presentation. The open-house format allows for a continuous flow of visitors over a period of hours. The open-house format facilitates a higher level of personalized service through NDOT personnel interaction with attendees and is less intimidating to the public. During the open-house portion of the hearing, NDOT representatives will be in attendance to provide explanatory project information and answer questions. In addition, the NDOT Public Hearing Officer or their representative will be present. FHWA has recognized the benefits of this format and encourages its use as an effective public involvement method that meets the public hearing requirements of 23 CFR 771.111 “Early Coordination, Public Involvement and Project Development.”

At the hearing, aerial photos will be displayed showing the proposed project, property lines, existing and proposed right-of-way, and proposed easements for each alternative being studied. Duplicate displays may be provided, depending on the expected attendance. Any graphic depicting proposed plans or design elements be labeled “All information presented is preliminary subject to revision”. Right-of-way plans also may be provided for viewing, if available. In addition, a handout will be prepared to describe and explain the location, design and alternatives for the project and will include maps depicting the project location/alternatives.

The formal presentation component of the hearing requires a moderator to preside over the public hearing. An NDOT representative will serve as moderator for formal presentation public hearings, but NDOT may arrange for local public officials to conduct the required public hearing for some projects. In these instances, NDOT will ensure that appropriate Department representatives are in attendance to fulfill NDOT’s responsibilities for public hearing requirements.
The moderator will open with a brief explanation of the format, which will make presentations and how public comments will be received. In areas where a project may affect large non-English speaking groups, NDOT will provide interpreters.

NDOT Right-of-Way Survey Services Division representatives will be at the hearing for projects involving property acquisition and will be available to explain and discuss the Relocation Assistance Program. The Right-of-Way Survey Services Division will be responsible for determining what relocation materials will be available at the meeting.

Representatives of the Environmental Services Division will be in attendance at each hearing to explain the environmental study and process and to answer questions. Copies of the environmental study will be available for review at the hearing. A written summary of the environmental study will be included in the public hearing handout package. In addition, the Environmental Services Division will make hard copy or electronic copies of the environmental document available upon request.

Provisions will be made for submitting written and oral statements at the hearing and entering them into the official hearing transcript. The procedure for submitting written statements will be described in the Transportation Notice (see Section 6.2.4), the Intent-to-Study Letter (see Section 6.2.2), and at the public hearing, including the final date for receipt of comments.

6.3.3.6 Public Hearing Handouts

As discussed previously, a handout will be provided at each public hearing or information meeting. Handouts shall include:

- Cover sheet
- Welcome letter
  - Identify all the ways comments can be submitted
  - Identify the closing date for receipt of comments
- Copy of the presentation
- Copies of display boards (if a display board graphic was included in the presentation or if it conveys the same information as a slide form the presentation, it does not need to be reproduced here again)
- Comment form (this should be the very last sheet of the handout so it can be easily removed for submittal at the time of the meeting)

6.3.3.7 Hearing Transcript/Documentation

All public hearings and information meetings will be attended by a court reporter who will prepare a verbatim written transcript of the oral proceedings. These transcripts will be available for public review and copying at NDOT Headquarters. A copy of the transcripts also will be forwarded to the FHWA along with copies of written statements from the public, both submitted at the public hearing or during the announced comment period.
The final transcript also may include exhibit photos, attendance roster, public notices, listings of agencies, organizations and individuals notified of the hearing, and a copy of written material submitted by these groups or individuals.

6.4 INTERAGENCY COORDINATION

During the development of a proposed project, NDOT coordinates with a variety of regulatory and resource agencies and Native American Tribes/Groups. Many of these contacts are informal and can cover a wide range of topics specific to those agencies. Notices of upcoming public involvement activities (see Section 6.3) afford another method for agencies to obtain information or provide comment on proposed projects.