

Urban Construction Initiative Certification Program



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October 5, 2009

Certification Program

1. Introduction

Localities that are participating in the VDOT Urban Construction Initiative (UCI) Program may apply to be certified under the following process to deliver projects with streamlined oversight from VDOT. Certification with streamlined oversight applies to all projects except for those that are located on the National Highway System (NHS), that have been noted as requiring Federal Oversight (FO) or that have been identified by the Commissioner as requiring VDOT oversight.

This document describes the application, evaluation and qualification requirements for localities to become certified to deliver their program and projects with Federal funding with less oversight from VDOT. This document should be read in conjunction with the Certification and Compliance flowchart included as Exhibit A.

The major steps in the flowchart are explained below along with details of the submission requirements that Localities will be required to meet, what information must be submitted and how VDOT will evaluate that information.

2. Initiation of Certification Process and Eligibility Requirements

Certification is voluntary and each Locality must decide for themselves if it fits their needs or not. VDOT is responsible to FHWA for projects that receive Federal funding so VDOT must ensure that only eligible and suitably qualified Localities are allowed to deliver projects via a streamlined process with limited VDOT oversight.

Eligibility will be determined by VDOT as the first step in the evaluation process. In summary, the eligibility requirements are:

- 1) The Locality has demonstrated their ability to administer and deliver federally funded projects via a combination of projects from different federal funding sources (i.e. not solely Urban), and has accomplished this through the use of local or contracted resources. Experience must be demonstrated in the following areas at a minimum:
 - a. Preliminary and final engineering
 - b. Meeting NEPA requirements
 - c. Undertaking Land Acquisition
 - d. Procuring Consultants
 - e. Undertaking Construction Project Management
- 2) The Locality has participated in the UCI Program for a minimum of one (1) year and must have demonstrated programmatic responsibilities, such as fiscal management.
- 3) The Locality must have not had any unresolved compliance issues arising from Office of Management Budget (OMB) Audits, VDOT findings of non-compliance or FHWA findings of non-compliance or non-participation.

Before progressing further, it is recommended that the Locality discuss the eligibility requirements with their local VDOT contact and Local Assistance Division (LAD) to decide if they can meet them. If the Locality has any concerns regarding previous VDOT and/or FHWA compliance issues these should be raised with the LAD Director and discussed prior to expressing interest in becoming certified.

Localities that believe they are eligible must formally express interest in Certification via a Letter of Intent from a Locality Administrative Official to the LAD Director. In no more than two pages, the Locality should state the reasons why it is pursuing certification and how it meets the eligibility criteria. In responding to the criteria on demonstrated ability to administer and deliver projects, the Locality is required to include within their Letter of Intent a brief list of projects that support their eligibility. The list should include the project description and UPC reference code.

VDOT will review the Letter of Intent with assistance from the Home District Administrator and his or her staff. The LAD Director will carry out the final evaluation and respond within 30 days. A positive response will include confirmation that the eligibility criteria have been met and will request a formal detailed submission based on the requirements outlined below. In this response, VDOT will inform the Locality who will be on the Certification Evaluation Panel and therefore to whom they should submit their detailed submissions to. If the eligibility requirements have not been met the reasons will be listed in VDOT's response.

3. Certification Submission Requirements

For a Locality to achieve certification status, VDOT needs to be confident that the Locality:

- 1) has appropriate program delivery systems in place;
- 2) has appropriate project delivery processes in place;
- 3) has an organization structure in place to support program and project delivery;
and
- 4) has experience in program and project delivery.

VDOT will evaluate the above and approve or deny certification based on the detailed submission document from the Locality. In this document, the Locality is required to address program and project processes and explain how they act together within their own specific organization to meet Federal requirements. In addition the Locality is required to describe its experience in these specific areas.

To guide the Locality in the development of the detailed submission and to standardize evaluations, the Locality should respond to the questions below. The Locality must submit their narrative no more than 90 days after receiving confirmation of eligibility. If this period expires, the Locality may need to re-submit their Letter of Intent for a new eligibility review.

In the questions below, program and project delivery have been split into various sub-headings that match the minimum Federal requirements.

Sub-headings for program management (Section 3.1) are addressed first as these apply to all projects that receive Federal funding through VDOT. VDOT needs to have

information on these functions to have confidence in the Locality's performance without needing to continually check each aspect in detail.

Sub-headings for project delivery (Section 3.2) relate to the stages of project development and construction that still require VDOT approval. VDOT will continue to be involved at these stages as they are required to do so by Federal regulations; however a Certified Locality will be able to work towards each approval without additional oversight or detailed interim checks. In order to be comfortable with this streamlined process, VDOT needs to know how the Locality will carry out the steps needed to meet each approval point.

In answering the questions below, the Locality may use a format of their choosing. If a Locality already has a project implementation plan or other form of process manual it may reference that in its answers and append the appropriate sections.

3.1 Program Management Requirements

The Locality is required to demonstrate that it has systems in place to support project development and construction, and that it can carry out associated roles and responsibilities required by Federal regulations. These are defined as program management systems and roles. Therefore each request shall address the following in their description of the systems in place:

- 1) What processes (documentation, systems, and controls) are in place to ensure successful program delivery?
- 2) How does your organizational structure support/ ensure success?
- 3) What combinations of in-house/out-sourced resources are to be utilized to achieve program delivery?
- 4) What experience demonstrates the Locality's ability to deliver Federal programs?

The systems or programs that the Locality is required to describe include, but are not limited to:

1. Fiscal, audit and budget systems
 - Federal Aid Payment requirements
 - Project documentation
 - Audit requirements according to OMB Circular A-133 (CAFR)
2. Civil Rights program
 - DBE Program Plan
 - DBE goals (establishing and attaining)
 - DBE requirements in contracts
3. Internal QA/QC processes
 - Management of external consultants/ resources
 - Design quality control plan
 - Constructability and bidability review
 - Construction quality control requirements

- Construction quality assurance program (including independent materials testing where required)
4. Public outreach program
 - Outreach plan
 - Public involvement at appropriate stages
 5. Consultant procurement process
 - Virginia Public Procurement Act/Brooks Act
 - Ensuring fairness and transparency
 6. Project controls for cost and schedule
 - Baseline schedule preparation
 - Engineering, construction, administration and project management cost estimating and budget preparation
 - Project controls methodology & systems

The program management roles and responsibilities are also shown in a table in Exhibit C.

3.2 Project Delivery Requirements

VDOT can only be assured that Federal requirements will be met, and be able to award certification, if it is confident that the Locality has documented delivery processes in place to meet the requirements. The project delivery flowchart in Exhibits B1 and B2 is presented as a guide to demonstrate typical project flow but not all steps are needed for all projects, and the steps are not necessarily sequential. Emphasis should be placed on processes that are federally required and that require VDOT interaction or approval whether a Locality is certified or not. The boxes highlighted in red are key points requiring VDOT/ FHWA coordination/ approval and are to be addressed in the certification submission as described below.

Each Locality shall address their internal knowledge of the requirements, processes in place, their internal and /or external resource utilization and experiences for each key point during project development. Below are the key points and suggested topics for each.

1. Preliminary Engineering Authorization
 - Local Council Approval
2. NEPA & Permitting

Preparation of NEPA documentation and associated permits including:

 - Coordination with appropriate resource agencies
 - Development of environmental document
 - Federal permits including Virginia State required permits
 - Final environmental approvals
 - Environmental re-evaluations
3. Right of Way

Preparation of R/W and utility plans including:

- R/W total parcel acquisition plans
 - R/W special negotiations identification
 - R/W and Utilities agreement and authorization
4. Sole Source or Proprietary Procurement
- Sole source justification
5. Construction Authorization
- Bridge/ structures special details
 - AASHTO design standards
 - Value Engineering
 - Design exceptions, documentation and justification
 - Final PS&E and contract documents preparation
6. Award of Construction Contract
- Project advertisement
 - Contract award and package
 - Contractor Value Engineering review
 - Administration of construction contracts including project controls
7. Project Final Inspection and Acceptance
- Acceptance procedures
 - Report of expenditures

The project management roles and responsibilities are also shown in a table in Exhibit D and are referenced to the UCI Guide.

The Locality may refer to VDOT processes (including the LAP Manual) if these are adopted for project delivery. If VDOT processes are used, the Locality is required to state how they use them and what modifications are applied.

3.3 Organization Chart

An organization chart is required to assure VDOT that qualified staff are either employed or retained to demonstrate knowledge of the processes requirements and to implement the delivery processes and use the delivery systems. The organization chart must show the 'chain of command' with lines identifying the participants who are responsible for major functions to be performed and their reporting relationships showing key roles and interaction between roles. The Locality also needs to clearly identify responsibility for interaction with VDOT.

The Locality is also required to submit a narrative describing the functional relationships among participants for the organizational chart. The Locality must indicate whether positions are filled in-house or outsourced. There should be alignment between the processes and the organization chart.

Note that VDOT does not require all roles to be in one department. The Locality should explain how it manages its own processes, whether that involves links to other departments for certain functions (e.g. payment) or whether it is all in one department. Lines of authority need to be clear and the Locality needs to assure VDOT that those in

responsible charge have internal support for processes that have to be carried out to meet Federal requirements.

3.4 Experience

When addressing experience the localities shall demonstrate that it has previously delivered projects with Federal funding. The size or type of project does not matter because certification will apply to all sizes and types of project, i.e. there will not be tiered certification. If a Locality has not delivered one entire project all the way through but feels it can demonstrate its experience via multiple projects it may do so. Experience gained prior to participation in UCI may be included if it clearly is relevant to the program and project delivery headings above.

The Locality submits their narrative directly to the VDOT Evaluation Panel members.

4. Certification Evaluation

Evaluation will be carried out by a VDOT Evaluation Panel. This panel will include Local Assistance Division Administrator (or designate), the Home District Administrator (or designate) and an Independent District Administrator (or designate). The Home District is the District in which the Locality is situated. The Independent District is any other District in the Commonwealth. A representative from the FHWA will be invited to participate as a non-voting member.

Evaluation will focus on the program management requirements, project delivery processes, organizational structure, and experience. The panel members will independently evaluate the Locality's entire submission but focus on the areas described below.

- 1) The Local Assistance Division (LAD) Director will focus on policy and programmatic issues. LAD will review the program management processes presented by the Locality and evaluate whether they fit with the current UCI program and with the aims and objectives of streamlining. From a policy perspective, LAD will evaluate whether all Federal requirements will be satisfied by the program management processes. LAD will also bring experience and knowledge of Locality's key staff and use that to contribute to the evaluation of organizational structure. LAD will also guide the evaluation process itself.
- 2) The Home District Administrator (or designate) will focus on three areas: project delivery processes, experience, and provide an overall view of information presented, including organizational structure. The Home DA will use their experience of working with the Locality to evaluate the processes put forward and the extent to which they have been carried out successfully. Home District staff may be consulted for feedback on technical aspects of evaluation and past performance.
- 3) The Independent District Administrator (or designate) will provide a third view of overall narrative and policy issues presented in the submission. Independence promotes objectivity when compared to the evaluations by the other panel members.

A simple evaluation result will be deployed allowing each panel member to determine that each component is either 'Demonstrated' or 'Non Demonstrated.' These results will be applied by each panel member to each of the six program management components and each of the seven project delivery components. Comments must be provided on any area identified as 'Non Demonstrated.' Organizational structure and experience are not separate evaluations as they apply to each of the 13 components.

Local Assistance Division will summarize the panel's comments on the Locality's submission. Feedback will be provided to the Locality in written form. This phase will be the Intermediate Review and will not confirm that Certification has been awarded or not.

The feedback will list the components that were evaluated as Non Demonstrated and ask the Locality to address these areas in a follow up interview presentation. The Locality will have an opportunity to revise its narrative and prepare for the interview, which will be held in a Home District location. New information that addresses Non Demonstrated areas must be resubmitted in narrative form at the interview.

The Locality is required to achieve a Demonstrated result in all 13 component areas in order to achieve certification.

Following the interview, the panel will reconvene and reach a consensus determination on whether the non demonstrated areas have been addressed or not. The LAD Director will provide the panel's recommendation to the VDOT Chief Engineer who will then make the final decision. The result will be communicated to the Locality in written form.

If the Locality is not approved for Certification, VDOT will provide detailed feedback for improvement allowing the Locality to resubmit its submission.

An Agreement and a formal Certificate will be signed by the Locality and VDOT if the Locality is successful in achieving Certification. The Locality may begin the transition to Certified status immediately however ongoing coordination with LAD will be required.

5. Certification Evaluation Timeline

The timeline described below relates to the entire application and evaluation process. Please refer to Exhibit E for a diagrammatic summary.

- 1) A Locality that believes it is eligible for certification must initiate the process by submitting a Letter of Intent to the LAD Director.
- 2) Within 30 days VDOT will advise the Locality in writing whether or not they have successfully met the eligibility criteria. If successful, VDOT will respond with confirmation that the eligibility criteria has been met and ask for a formal detailed submission based upon the requirements detailed in Section 3. The Locality will also be informed of the members of the Certification Evaluation Panel.
- 3) The Locality will then have up to 90 days to submit its application to the Evaluation Panel. As soon as the submission is received, VDOT will arrange a tentative date for the evaluation presentation/ interviews, which should be held approximately 90 days from the submission date.

- 4) The Evaluation Panel will complete its review of the submission over a 60 day period. At the end of the 60 day period, the panel will identify any non demonstrated areas and LAD will provide summary comments to the Locality.
- 5) The Locality's interview/presentation to the panel shall be held 30 days after VDOT has provided the Locality its summary comments. The Evaluation Panel will discuss the application after the interview and document its final recommendation.
- 6) The LAD Director will schedule a briefing with the VDOT Chief Engineer over the next 30 days after which he or she will inform the Locality of the result of their application.

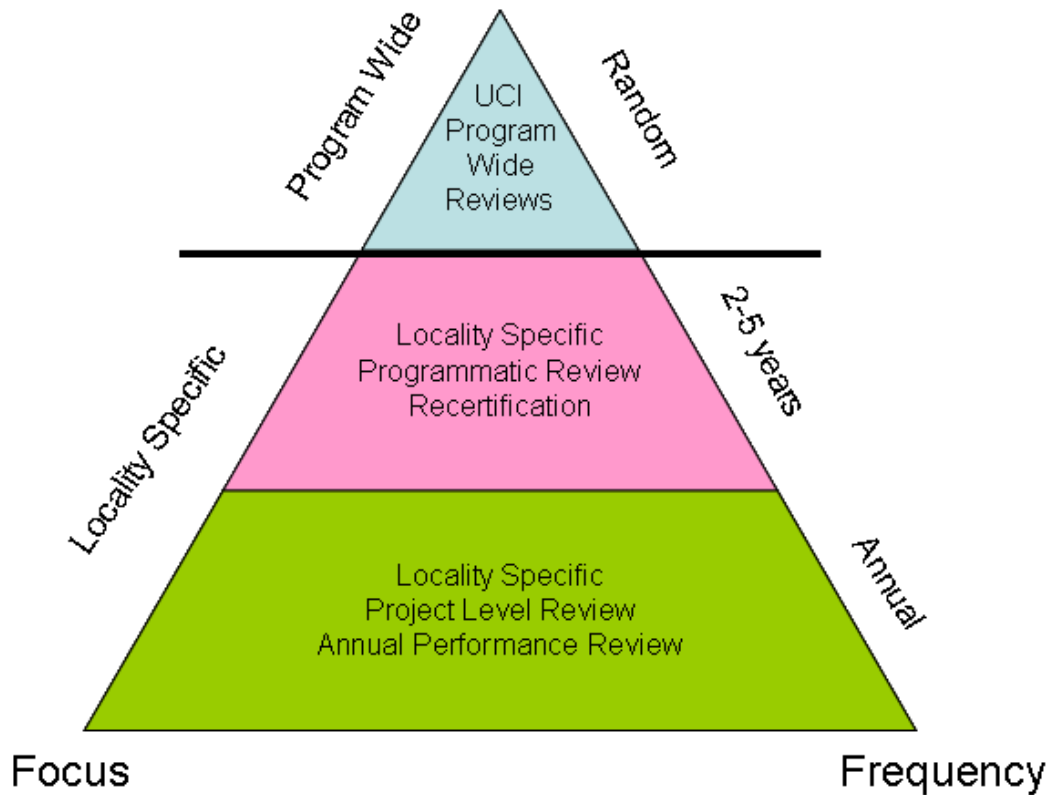
6. Certification Compliance

6.1 Introduction

Once a Locality has been certified it is important that performance is monitored and improved. This is achieved through a compliance assessment regime as described below. Compliance is an important component of the Certification process to ensure that FHWA and VDOT requirements are continually met and that the Locality is given necessary feedback to improve. The Local Assistance Division is responsible for executing the compliance program, with support from the Districts and Central Office policy divisions.

6.2 Project and Program Reviews

The certification program includes three levels of review as shown on the diagram below:



6.2.1 Project Level Reviews

The first level of review is called the Project Level Review performed on an annual basis. This is comprised of reviewing specific projects. Although this review does not directly relate to re-certification it is important for performance improvement purposes and will provide VDOT with information that may be included in the re-certification review.

The number of projects selected for annual review will be dependent upon the number of federally funded projects being carried out under the program in the relevant Locality, with a minimum number of one, and a maximum of three projects being reviewed.

The projects selected for compliance review will provide a representative sample from the Locality's various fund sources utilizing federal and state funds and identified in the SYIP and/or Year End Report. The review will consider the following but will not be limited to:

- 1) previous review findings;
- 2) complexity/risk;
- 3) projects underway; and,
- 4) phase completion.

The projects shall be selected by LAD with input from the District Urban Program Manager. Focus for the review will be on activities that have occurred following certification. The intended schedule for compliance reviews is outlined below:

<u>Timeframe</u>	<u>Event</u>	<u>Details</u>
August	Identify pool of projects	Projects chosen from SYIP and/ or Year End Report
September	Project review team established	Review visits are scheduled
October – December	Review process	~ Conduct project reviews ~ Summarize findings (compliance/noncompliance) ~ Send summary to Locality
January - March	Correction/resolution	90 days to provide correction action plan and/or dispute deficiencies if necessary
April – May	LAD review	LAD review of response and coordination of further corrective action (as needed)

The schedule above may be modified at the discretion of the LAD Director. The actual timeframe will depend to some extent on the number of projects reviewed, the complexity and risk involved in those projects and the number / significance of Locality’s correction actions.

6.2.2 Re-Certification

A re-certification review will be conducted by LAD and specified compliance team members two (2) years after the Locality is initially certified. This review will be focused on programmatic responsibilities to check that all key areas are being delivered in accordance with accepted processes. Any changes in the Locality from the original application must be brought to the attention of LAD before the re-certification process begins. The review will also include an evaluation of the annual performance (project-level) reviews.

Assuming continual program success and compliance, re-certification reviews will take place every 5 years thereafter.

6.2.3 Program Wide Reviews

Program wide reviews will be conducted periodically to ensure that the whole program is on track. This level of review may include random spot checks during various stages of project development and/or areas identified with consultation with the FHWA and Localities.

Each year, FHWA and VDOT will evaluate the status of the entire local administration program as part of an annual risk assessment. This discussion will include consideration of the timing and scope of Program Wide Reviews for the UCI Certification Program.

6.3 Compliance Assessment Team

LAD will coordinate the reviews and identify the appropriate team members based on the type of review being done and disciplines involved. Typical team members for reviews are identified below:

- 1) The LAD Compliance Coordinator will be responsible for initiation, planning, coordination, implementation and provision of feedback related to each compliance review. The Coordinator will facilitate the selection of the projects to be reviewed and the review team. The coordinator will also participate in the review itself.
- 2) The District Coordinator/Urban Program Manager will be responsible for technical aspects of compliance with program and project requirements. This member will also review the efficiency of the Locality in areas such as the timeliness of submissions to VDOT.
- 3) Central Office Policy Division Representatives will be responsible for supporting the review of their technical areas. In most cases, these review team members are members of the Local Partnership Team.

6.4 Findings and Deficiencies

Three levels of deficiency are described below. Each requires a different form of correction or resolution and, when identified by VDOT, the Locality will be required to provide a correction action plan. The LAD compliance team may need to further investigate preliminary findings to determine if the infraction(s) may jeopardize the Locality's certification.

- 1) A programmatic deficiency is defined as a finding that a Locality's programmatic approach, practices, or procedures do not sufficiently demonstrate their ability to ensure compliance with federal or state requirements or their own stated policies and procedures. Continued certification may be conditioned, or certification may be removed until the deficiencies are corrected. Examples of programmatic deficiencies include: failure to demonstrate sufficient understanding of federal-aid processes, failure to maintain updated processes/procedures, failure to implement Civil Rights policies, failure to audit or budget correctly, failure to carry out adequate QA/QC, and significant deviation from organizational structure.
- 2) A project deficiency is defined as an error or omission that violates federal or state regulations, or mandated policies. If uncorrected, they may jeopardize federal or state participation in all or a portion of the project. Examples of project deficiencies include: failure to require specific Civil Rights information from contractors, failure to meet agreed-upon materials acceptance testing procedures, and failure to submit adequate information for approvals. This level of deficiency may result in loss of all or part of the federal and/or state funding for the project.
- 3) An "unrecoverable" project deficiency is one that has proceeded beyond the ability to correct and is of such magnitude as to create doubt that the policies and

objectives of Title 23 of the USC (or other applicable federal codes) will be accomplished by the project. Examples of unrecoverable project deficiencies include: failure to meet NEPA stakeholder involvement requirements, violations of Brooks Act requirements when hiring of professional consultants, failure to obtain a design exception prior to construction, and award of a contract to a suspended or debarred contractor. This level of deficiency may result in the withdrawal of all or a portion of the federal and/or state funds from the project.

6.5 Resolution of Findings

6.5.1 Introduction

During the compliance review process it is possible that differences of opinion will arise when non compliance findings are identified and when closing out corrective actions. The following resolution process is intended as a guide to the action that a Locality can take should this occur. The goal is for issues to be resolved constructively and at the lowest possible level.

6.5.2 Resolution Process

The first level of discussion should be between the compliance review team and the Locality. The Locality must fully describe the project issues where there is a disagreement and include the following information:

- A detailed statement of Locality's position on the issue.
- Any backup for the position statement, including maps, plans, invoices, agreement(s) (draft and/or executed), pictures, and other material needed to give a full picture of the disputed issue.

Upon receiving the request the Compliance Coordinator shall prepare a response in the form of a memorandum to include the following:

- A detailed discussion of the items that are in dispute with references to sections in the manuals and policy memos that support VDOT's position.
- An overview of the issue, including any additional maps, plans, invoices, agreement(s) (draft and/or executed), pictures, and other material needed to give a full picture of the disputed issue that was not included in the Locality's request.

In preparing the above information, the Compliance Coordinator will consult the other members of the compliance review team including the Urban Program Manager and Central Office advisor(s). The District Administrator or delegate may also be included.

The above exchange of information is to be provided in a timely manner so as not to impede the ongoing delivery of projects by the Locality. The Compliance Coordinator will invite the Locality to a meeting to discuss its response memorandum.

Should an agreement not be achieved, the matter may be escalated to the LAD Director for resolution. The information described above will be made available to the LAD Director along with the minutes of relevant meetings held between the Locality and the compliance review team. The LAD Director's decision will be final.

If the issues identified are such that continued certification may not be possible, the LAD Director shall brief the VDOT Chief Engineer. The Chief Engineer will make the final decision regarding certification of the locality. The Chief Engineer's decision will be final.

Exhibit A: Certification and Compliance Process Visual Outline

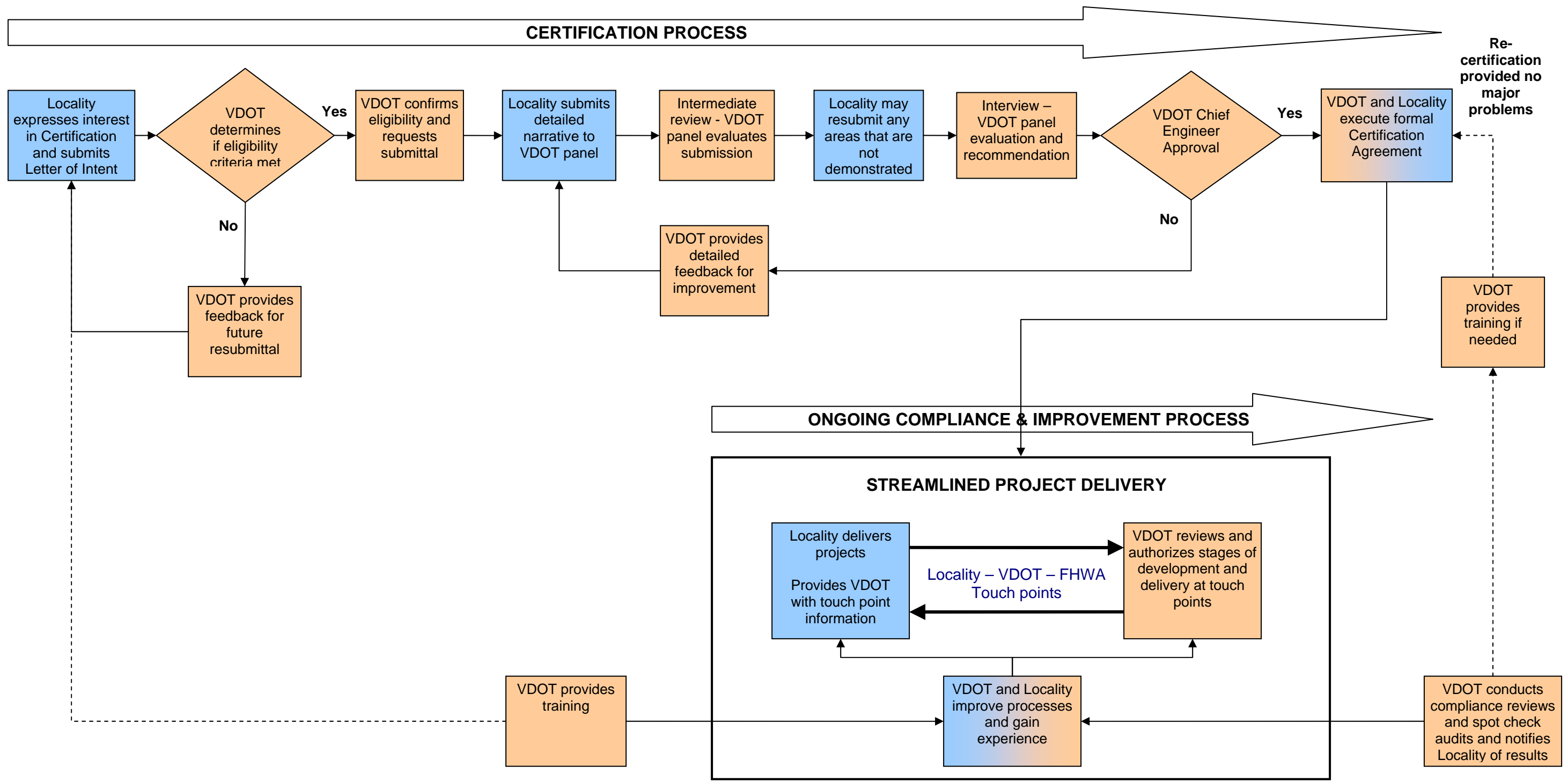
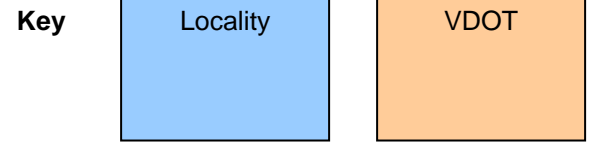


Exhibit B1: Project Development

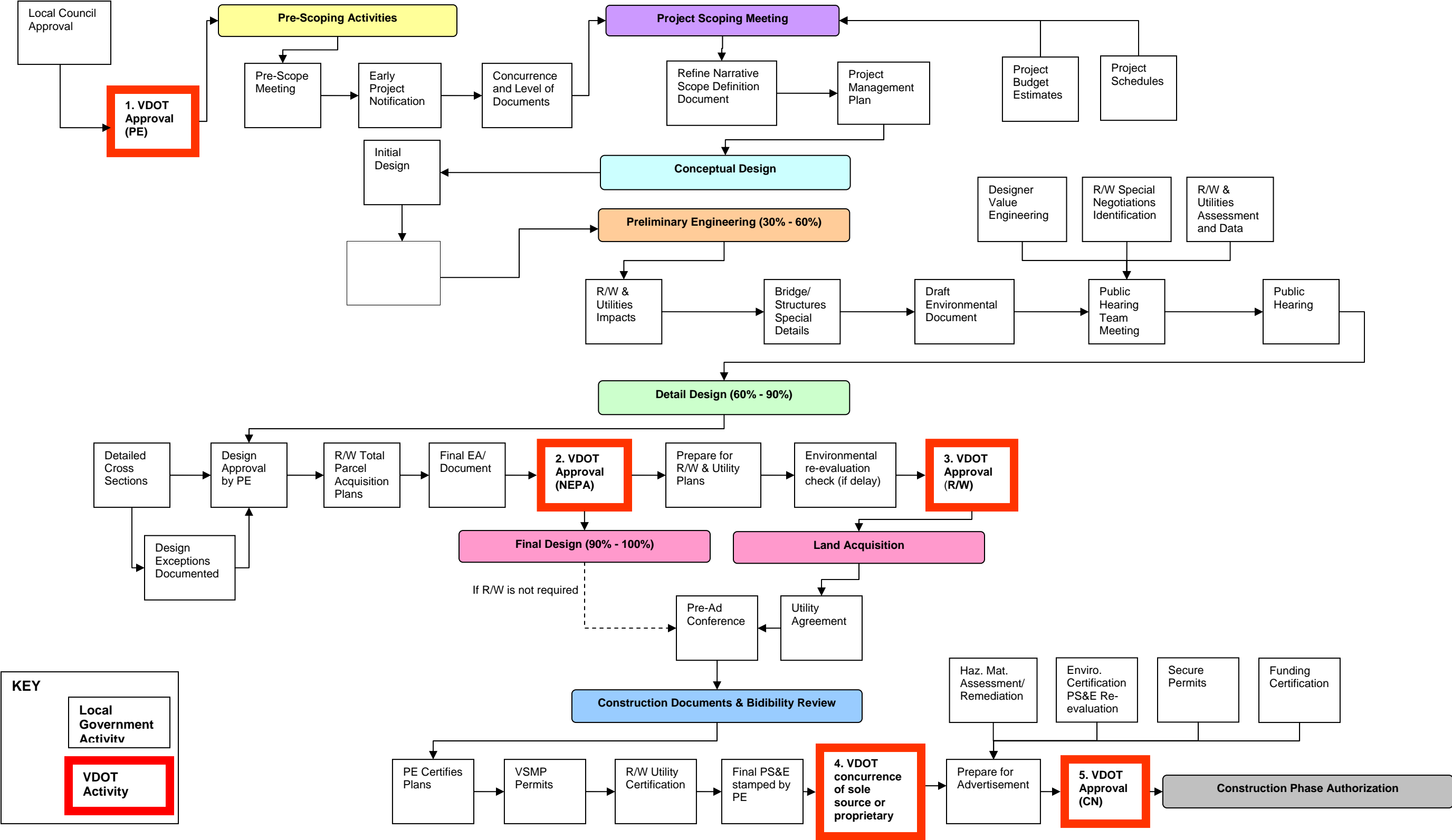


Exhibit B2: Project Construction

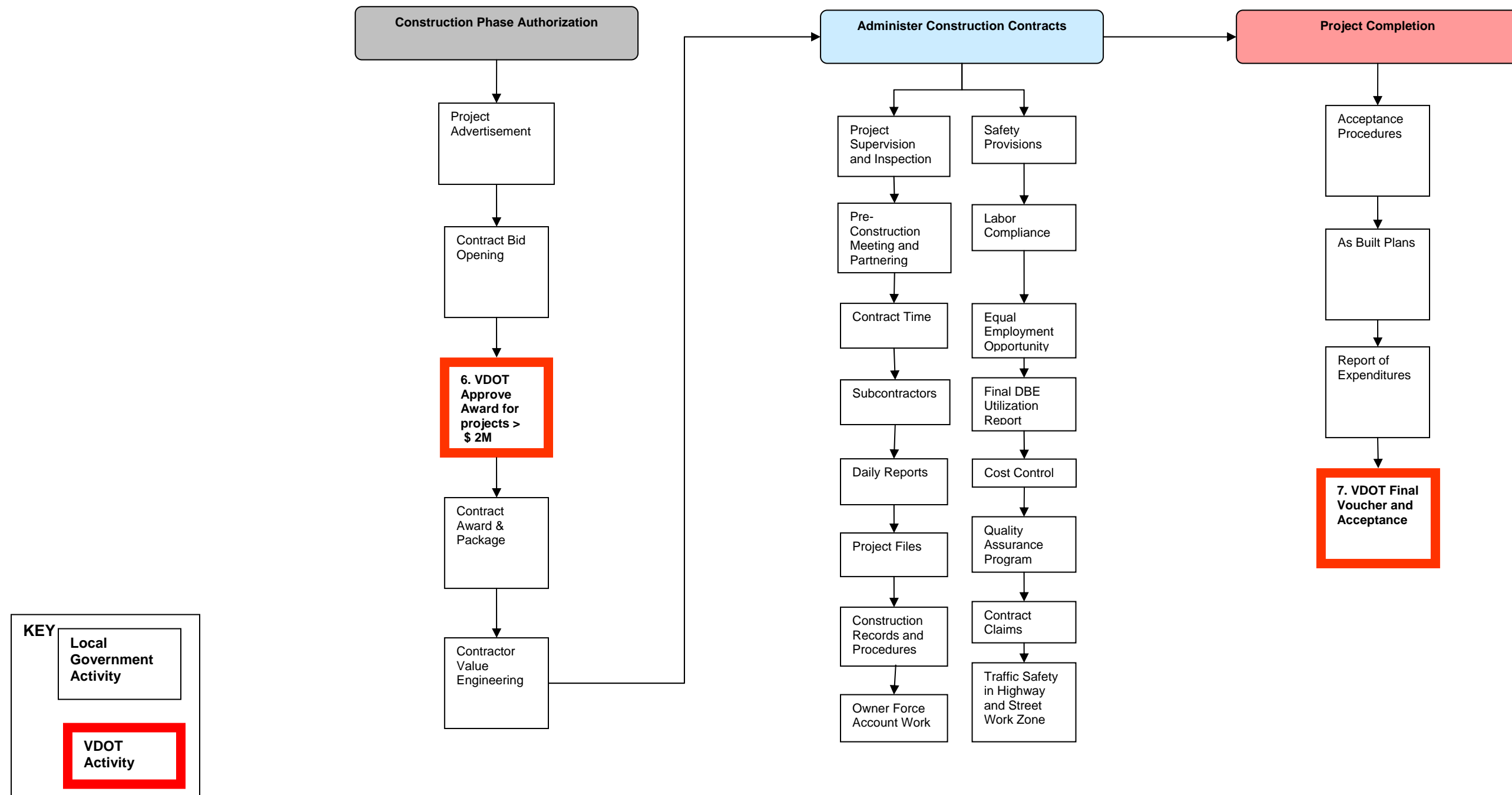


Exhibit C: Program Management Roles and Responsibilities

Topic		Locality	VDOT
1	Fiscal, Audit and Budget	<p>Ensure that project meets Federal-Aid Payment requirements</p> <p>Maintain project documentation</p> <p>Conduct annual independent audit of expenditure according to OMB Circular A-133</p> <p>Submit invoices at least quarterly</p>	<p>Carry out random audits, notify findings and request appropriate and timely corrective action</p>
2	Civil Rights	<p>Comply with VDOT's DBE Program Plan unless the Locality has a DBE Program Plan approved by USDOT</p> <p>Establish a DBE availability goal and include in bid document</p> <p>Use DBEs certified by VDOT</p>	<p>Obtain approval of the USDOT approval letter for the DBE Program Plan for highways</p>
3	Compliance & Improvement (Quality Assurance and Control)	<p>Develop and implement a QA/QC system to meet VDOT compliance including design QC plan and construction QC/QA requirements</p> <p>Provide information to VDOT that is requested as part of reviews</p>	<p>Lead the Certification Compliance and Improvement process</p> <p>Carry out spot checks on delivery process and communicate findings to Locality</p>
4	Public Affairs and Outreach Plan	<p>Prepare a project specific outreach plan and comply with it</p>	
5	Consultant Procurement	<p>Demonstrate method for acquiring suitably qualified consultants according to Virginia Public Procurement Act</p>	
6	Project Controls	<p>Prepare and update initial baseline schedule</p> <p>Prepare progress schedule</p> <p>Issue recovery schedules where applicable</p> <p>Plan and monitor costs</p>	

Exhibit D: Project Delivery Roles and Responsibilities

Topic		Locality	VDOT
1	Preliminary Engineering (PE) Authorization	Contact Urban Program Manager to request that VDOT obtain federal agreement to authorize preliminary engineering	Obtain PE Authorization from FHWA
2	NEPA documentation	Ensure that all federal requirements under NEPA have been completed	Liaise with FHWA Review and approve
3	Right of Way (RW) Authorization	Submit a request for Right of Way Authorization along with certification letter certifying to VDOT that all activities necessary to obtain R/W or relocate utilities have been complete and all documents have been signed by person of responsible charge	Obtain RW Authorization from FHWA
4	Sole source or proprietary procurement	Provide relevant justification information and documentation to VDOT	Obtain concurrence from FHWA
5	Construction (CN) Authorization	Submit a request for Construction Authorization along with certification letter certifying to VDOT that all activities necessary to advertise the project for construction have been completed and all documents have been signed by person of responsible charge	Obtain CN Authorization from FHWA
6	Award of Construction Contract	Provide results of award to VDOT with supporting documentation for projects > \$2m	Approve the award >\$2m
7	Project Final Inspection and Acceptance	Inform VDOT that project is complete and provide final invoice for processing	Process federal financial closure

Exhibit E: Certification Evaluation Timeline

No. Days	Event	Details
30	Letter of Intent	Locality initiates process with Letter of Intent. Letter contains Locality's reasons for believing that it meets eligibility criteria. Letter is brief, 2 pages max.
Up to 90	VDOT Response	VDOT-LAD advises Locality in writing if they have met eligibility criteria or not. If not, feedback is provided for future re-submittal. If eligible, VDOT advises Locality of panel members and requests full submittal.
60	Submittal	Locality submits detailed information based on Certification Requirements.
30	Intermediate Review	VDOT completes review and identifies any concerns, known as Non Demonstrated areas. Summary comments communicated to Locality by LAD.
30	Interview/ Presentation	Locality presentation to panel should focus on identified Non Demonstrated areas. Locality resubmits documents at interview on areas of concern.
30	Recommendation	Panel makes recommendation to Chief Engineer.
	Result	Chief Engineer makes decision. LAD notifies Locality of result.

Max schedule = 240 days = 8 months