



Department of Transportation

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MEMORANDUM

TO: Kellie Beck

FROM: Karla L. Engle

DATE: August 17, 2016

RE: August 24, 2016, Commission Meeting

The Department of Transportation requests that the Transportation Commission consider approval of amendments to Administrative Rules of South Dakota ch. 70:13:01 – Local bridge improvement grant requirements.

Enclosed with this memo is a copy of the rules with proposed amendments.

KLE
Enclosures

CHAPTER 70:13:01

LOCAL BRIDGE IMPROVEMENT GRANT REQUIREMENTS

Section

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70:13:01:01. Definitions. Terms used in this chapter mean:

- (1) "ADT," average daily traffic;
- (2) "BIG," bridge improvement grant;
- (3) "Bridge," as defined in SDCL 31-14-1, a structure, including supports, erected over a depression or an obstruction, as water, highway, or railway, the structure having a length measured along the center of the roadway of more than twenty feet between undercopings of abutments or extreme ends of openings for multiple boxes and pipes where the clear distance between openings is less than half of the smaller contiguous opening;

(4) "Bridge condition," an engineering analysis of the structural components of a bridge as ~~per~~ pursuant to national bridge inspection guidelines;

(5) "Commission," the South Dakota Transportation Commission;

(6) "Department," the South Dakota Department of Transportation;

(7) "Local participation," based on the level of wheel tax as implemented by county and determination of ability to let project to bid within six months of grant award;

(8) "LPA," any local public agency authorized by statute to own, maintain, and govern the use of a bridge;

(9) "User impact," factors considered to analyze ADT and detour length for a bridge.

Source: 42 SDR 52, effective October 13, 2015.

General Authority: SDCL 32-11-39.

Law Implemented: SDCL 32-11-38, 32-11-39.

70:13:01:02. Eligibility and compliance. Any LPA of this state may apply for a BIG pursuant to this chapter for the purposes described in SDCL 32-11-38. To be eligible to apply to the department and to receive a grant from the BIG fund, a county shall have a department approved county highway and bridge improvement plan as specified in chapter 70:12:02.

The LPA shall file the application with the department as required by §§70:13:01:03 and 70:13:01:04 and shall comply with the procedures, requirements, conditions, restrictions, and limitations ~~imposed by~~ contained in this chapter.

Source: 42 SDR 52, effective October 13, 2015.

General Authority: SDCL 32-11-39.

Law Implemented: SDCL 32-11-38, 32-11-39.

70:13:01:03. Application. Each application shall be ~~made~~ submitted on the forms provided by the department, ~~be signed by an authorized representative of~~ and must be accompanied by a resolution from the governing body making application, and be submitted to the department of the

LPA. The resolution shall authorize the application and any funding commitments made by the

LPA. The application shall be executed under penalties of perjury.

Source: 42 SDR 52, effective October 13, 2015.

General Authority: SDCL 32-11-39.

Law Implemented: SDCL 32-11-38, 32-11-39.

70:13:01:04. Application and approval periods. The commission shall consider applications annually by April 30 of each year. ~~The commission may consider applications more frequently.~~ A LPA shall ~~file any~~ submit annual applications ~~by the close of business on no later than January 31, 2016, and by January 2 of each subsequent year., except that after January 2, 2017, applications for preliminary engineering grants shall be submitted no later than August 1~~ The commission shall consider and act upon applications by April 30 of each year.

Source: 42 SDR 52, effective October 13, 2015.

General Authority: SDCL 32-11-39.

Law Implemented: SDCL 32-11-38, 32-11-39.

70:13:01:06. Criteria. When considering an application, the commission shall receive a recommendations from the department based on an engineering analysis.

~~For preservation work or any engineering study considered necessary by the department, the commission may use the department's recommendation as a criteria for award.~~

On or before July 1 of each year, the department shall propose comprehensive program procedures for commission approval. These procedures shall include, but are not limited to, application requirements, project qualifications, objective scoring criteria, and project development and construction management procedures. The qualification criteria shall include, but are not limited to, the sufficiency rating and structural deficiency of the bridge. Factors to be considered in the scoring criteria shall include ~~For bridge rehabilitation or replacement, the department shall use an objective scoring procedure as developed by the department. The scoring is based on bridge~~

condition, user impact, and local participation. ~~The scoring is based on a 100 point system. The bridges receiving the most points will receive the department's recommendation for approval.~~ Bridge condition factors ~~will~~ may include whether the bridge is posted for load capacity, the sufficiency rating, the substructure condition, the superstructure condition, the box culvert condition, and whether the bridge is fracture critical or scour critical, ~~and if it is an emergency.~~ The user impact factors may include the amount of traffic the bridge carries and the detour length needed if the bridge is closed. The local participation factors may include points for the amount of wheel tax, and whether the ~~project plans are complete and ready to be let to bids~~ for preservation, rehabilitation and replacement projects.

The department shall report its scoring calculations to the commission. The department shall also make recommendations regarding project feasibility and constructability and whether the proposed project addresses the deficiencies of the bridge. The department may add bonus points for any increase in local financial obligations beyond the program requirements. ~~The department may adjust the points assigned to each factor annually to achieve a fair and balanced system so that one demographic area of the state does not receive a disproportionate share of the grant funds.~~

Source: 42 SDR 52, effective October 13, 2015.

General Authority: SDCL 32-11-39.

Law Implemented: SDCL 32-11-38, 32-11-39.

70:13:01:07. Conditions of bridge improvement grants. The department may recommend and the commission may place a conditions on any BIG issued under this chapter to ensure substantial conformity with the representations contained in the application and criteria described in § 70:13:01:06 under which the grant was awarded award.

Source: 42 SDR 52, effective October 13, 2015.

General Authority: SDCL 32-11-39.

Law Implemented: SDCL 32-11-38, 32-11-39.

70:13:01:08. Financial Project agreement. The department shall enter into a financial project agreement with the LPA that details eligible expenses, conditions, and responsibilities for any BIG awarded under this chapter.

Source: 42 SDR 52, effective October 13, 2015.

General Authority: SDCL 32-11-39.

Law Implemented: SDCL 32-11-38, 32-11-39.

70:13:01:09. Delegation of administrative functions. The department shall perform the administrative functions of the creation, processing, and review of BIG applications; the creation, processing, and review of documentation necessary to show compliance with the terms, and conditions, and legal requirements of the BIG ~~and the requirements of this chapter~~; disbursement of BIG funds in accordance with conditions imposed ~~pursuant to this chapter~~ on the BIG; and other tasks necessary to expedite and assist the commission. ~~Only the commission has the authority to approve a BIG project application.~~

Source: 42 SDR 52, effective October 13, 2015.

General Authority: SDCL 32-11-39.

Law Implemented: SDCL 32-11-38, 32-11-39.

70:13:01:10. Project ~~fund availability~~ deadlines. For preservation, rehabilitation or and replacement projects, the department shall review plans and provide letting authorization prior to bid letting. These projects shall be let to bids under construction within four three years from the date of commission approval of the project notice of BIG award. For preliminary engineering projects, all reimbursable expenses shall be incurred within two years from the date of notice of BIG award. The department may ~~grant time extensions,~~ extend the deadline for any BIG, before or after the expiration of the deadline. Any LPA's request for a time deadline extension shall be made prior to the four-year expiration date to be considered deadline.

Source: 42 SDR 52, effective October 13, 2015.

General Authority: SDCL 32-11-39.

Law Implemented: SDCL 32-11-38, 32-11-39.

70:13:01:12. BIG Default. The commission may determine an LPA to be in default under the BIG conditions or requirements. The department will notify an LPA at least ten calendar days prior to the commission's consideration of default by the LPA, and the LPA will be afforded an opportunity to address the commission. The commission may consider any of the following to be a default under the conditions or requirements of a local BIG:

(1) If the LPA knowingly makes any material false statement or report ~~in the application;~~

(2) Failure of the LPA to adhere to conditions of the BIG;

(3) Failure of the LPA to provide the department access to documents, reports, or other information required by this chapter; ~~or~~

(4) If funds are not used by the LPA for the bridge project specified in the application; ~~or~~

(5) Failure of the LPA to comply with the deadlines set under § 70:13:01:10.

Source: 42 SDR 52, effective October 13, 2015.

General Authority: SDCL 32-11-39.

Law Implemented: SDCL 32-11-38, 32-11-39.

70:13:01:13. Remedies. If the commission determines that a LPA ~~has~~ is in defaulted pursuant to § 70:13:01:12, the department shall provide written notice of the default to the LPA. The LPA shall repay, within forty-five days of the ~~receipt of the written~~ default notice, all the BIG funds ~~disbursed for the BIG and all costs incurred by the department for that project.~~

Source: 42 SDR 52, effective, October 13, 2015.

General Authority: SDCL 32-11-39.

Law Implemented: SDCL 32-11-38, 32-11-39.