

## **NOTICE OF PROPOSED GUIDANCE DOCUMENT**

### **Multimodal Local Supplement: Guidelines**

Pursuant to Wis. Stat. s. 227.112, the Wisconsin Department of Transportation is hereby seeking comment on the Multimodal Local Supplement Guidelines, Wis. Stat. Ch.20.395(2)(fc), 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=MLS Guidelines>

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 [wisconsindot.gov](http://wisconsindot.gov) to allow for ongoing comment.

### **AGENCY CONTACT**

Kaleb Vander Wiele  
DOTDTIMGuidanceDocs@DOT.WI.GOV



## Wisconsin Department of Transportation 2020-2021 Multimodal Local Supplement (MLS) Guidelines

November 5, 2019

### Purpose and Description

The Wisconsin 2019-21 budget provides \$75 million in one-time general-purpose revenue funding (GPR) for multimodal transportation projects on the local system through the Multimodal Local Supplement (MLS). The MLS program mirrors aspects of the Local Roads Improvement Program (LRIP, Wis. Stats. § 86.31) but is not subject to the same restrictions and is available to an expanded range of project improvement types. The program pays up to 90% of total eligible costs with local governments providing a minimum 10% cost share.

While the MLS program is not governed by the specific statutory parameters that apply to other local programs, there are no exemptions from laws that generally apply to specific types of expenditures. Laws and statutory requirements that ordinarily apply to certain projects or expenditures will continue to apply.

The MLS program is targeted for new projects that may or may not qualify for funding in other WisDOT local programs. Eligible improvement types include:

- Roads
- Bridges
- Transit vehicle purchase and facility projects
- Bicycle and pedestrian accommodations
- Railroads
- Harbors

Additional detail on project eligibility for each of these transportation improvement modal types can be found on pages 4-5 of this guidance document.

Local and tribal governments are eligible to apply for MLS funding. A six-year project completion, i.e., project sunset, is required for approved projects, similar to project completion deadlines in other Local Programs (e.g., Local Bridge, LRIP). Each approved project will be issued a State Municipal Agreement (SMA) prior to project commencement.

The MLS program is focused on local project administration and delivery. Local units of government can apply for design and construction or construction only; design only funding is not eligible through this program. Projects on the National Highway System (NHS) or complex projects with a federal interest may require departmental oversight to assist with environmental documents. Additional departmental oversight is available upon local sponsor request, regardless of project complexity. A local project sponsor may contract with a county for administrative oversight. County and state administrative oversight costs are eligible for MLS funding. Local staff resource time is not eligible for funding through this program.

MLS projects can be locally let, must be advertised for competitive bid for a minimum of 15 days, and contracts awarded to the lowest responsible bid.

### Application Materials & Deadline

MLS application materials are posted on the WisDOT website: <https://wisconsindot.gov/Pages/doing-bus/local-gov/astnce-pgms/default.aspx>. MLS project applications are submitted to WisDOT DTIM Local Programs & Finance using the e-mail address provided in the application instructions: [DOTLocalPrograms@dot.wi.gov](mailto:DOTLocalPrograms@dot.wi.gov).

The MLS project application deadline is **5:00pm on Friday, December 6, 2019**. Applications received after 5:00pm will not be forwarded to the committees for funding consideration. Submitting applications prior to

the deadline allows WisDOT additional time to review project applications for eligibility, completeness, and to communicate with local sponsors regarding outstanding questions and the potential need for oversight. Sponsors should submit a complete application with all attachments in a one email. A single pdf is preferred when submitting attachments. Project site photos and data spreadsheets do not count toward the one-page narrative and can be submitted as attached documents. Only email submissions are accepted. There is no limit to the number of applications that a municipality can submit. When submitting multiple applications, the municipality should rank projects in order of municipal priority; failure to do so indicates no funding preference between applications.

### Funding and Project Selection

MLS funding is split between the following local government types:

Allocation	County	City/Village	Town	Total
<b>Multimodal Local Supplement (MLS)</b>	\$26,669,333	\$19,039,500	\$29,291,167	\$75,000,000
<b>After Kaukauna Bridge Set Aside<sup>1</sup></b>	\$26,082,667	\$18,452,832	\$28,704,501	\$73,240,000

MLS is a reimbursement program, allowing for partial reimbursement throughout key project milestone points, as the local sponsor incurs costs. Local sponsors are responsible for any project cost overages beyond the award amount.

The 2020-2021 MLS program will award improvement projects up to the amounts listed in the table above. The project selection process is competitive, with an emphasis on measurable economic benefits, and involves stakeholder input. There is no set-aside funding amount per individual county, municipality or modal type. Equitable geographic distribution<sup>2</sup> is a consideration in the formation of project selection committees and for the final project selections. Projects may be recommended for funding at less than 90% state cost share based on committee deliberations, the merits of the individual projects, and the total number of applications received.

The following table illustrates the MLS committee structure:

MLS Committee Structure <sup>3</sup>		
Counties	Towns	Cities/Villages
Statewide committee comprised of 8 County Highway Commissioners, one from each of the 8 established WCHA districts, as well as 4 county-level executive officials from across the state.	Statewide committee comprised of up to 12 town officials, 2 from each WTA district. The committee will also include industry representatives from timber, dairy and agriculture.	Statewide committee comprised of up to 14 city/village local officials.

Each committee will be comprised of local stakeholders. Submitting an MLS application does not preclude that municipality from sitting on that review committee. Committee members are prevented from scoring any application in which they have an interest. If a tribal government application is received for the MLS program, a tribal government representative will be appointed by the WisDOT Secretary’s office to sit on the committee

<sup>1</sup> Consistent with biennial budgetary discussions, \$1.76M of MLS funding is reserved for the Kaukauna Veterans Memorial Lift Bridge (\$2.2M project cost reimbursed with 80% state funding). This reserved amount is split between the three funding categories (\$586,666 from each category).

<sup>2</sup> Each committee will be comprised of local officials from geographic areas that ensure statewide representation. Committees will only review applications that pertain to their municipality type. In the case of multijurisdictional applications, the application will be forwarded to the appropriate primary sponsor committee. Final project award selections from each committee will represent a distribution of funding to urban and rural areas across the state.

<sup>3</sup> MLS Committee members are recommended by the Wisconsin County Highway Association (WCHA) and Wisconsin Counties Association (WCA); Wisconsin Towns Association (WTA); and League of Wisconsin Municipalities (LWM), respectively, and are approved by the WisDOT Secretary. WisDOT staff or other designees may serve on each committee.

that reviews the application. WisDOT staff will facilitate committee meetings but will not score any of the applications.

MLS has a minimum project total cost of \$250,000 for counties, cities and villages and a minimum project total cost of \$50,000 for towns. The maximum MLS project award amount is \$3,500,000.

The committees will use a scoring rubric as follows:

<b>A. Project Type Scoring Evaluation – All Project Applications Score Under Only One Criteria</b>		
<b>Project Type</b>	<b>Score</b>	<b>Evaluation Criteria</b>
Road/Bridge	0-25	Safety, serviceability, project type, e.g., reconstruction, traffic
Transit	0-25	Increases ridership, asset management
Railroad	0-25	Asset management, increase capacity, safety
Bicycle Pedestrian	0-25	Safety, modal shift, accessibility
Harbor	0-25	Increases capacity, infrastructure improvements
Multiple*	0-25	Equalized score based on multiple project types
<b>B. Universal Evaluation - All Projects Scored Under Each Criteria</b>		
<b>Category</b>	<b>Score</b>	<b>Evaluation Criteria</b>
Economic Impact	0-10	Transportation importance to community
Connectivity	0-5	Connections to or accommodations for other modes
Cost Effectiveness	0-5	Viability of proposed solution compared to other treatment alternatives
Other	0-5	Additional considerations, such as regional significance
<b>Total Score = Project Type Score (A) + Universal Evaluation Score (B)</b>		

\*Projects with more than one mode are limited to a total of 25 points in the Project Type Scoring Evaluation (Section A).

MLS applications can score a maximum of 50 points, up to 25 points in Section A and up to 25 points in Section B. No preferential scoring is given to a modal type. Applications are evaluated and awarded based on the defined scope and benefits of the improvement project. Final project selections are forwarded by the statewide MLS committees to the WisDOT Secretary for final award.

A municipality can concurrently apply for funding through the MLS and another local program. The project application must meet the eligibility rules in each program. Applying for other programs concurrently will not negatively impact an MLS application score. MLS project awards will be announced in early 2020 before the award announcements of other Local Programs. Local sponsors who apply to both the MLS and another Local Program will know the outcome of their MLS application prior to the announcement of other Local Program awards. Sponsors cannot simultaneously accept an MLS award and funding through another state or federal program (e.g., STP or Local Bridge) for the same project.

### **Local Sponsor Eligibility**

Project applications must be submitted by an eligible sponsor. Local units of government with the taxing authority to guarantee the availability of local match funds are eligible project sponsors. These local units of government can be either primary or secondary project sponsors. The primary sponsor must be a local unit of government or a tribal government. A secondary sponsor may be a local unit of government, a tribal government, a public entity (e.g., a school district), or a private organization with funding or project delivery obligations. Private entities are eligible only as secondary project sponsors. Municipalities can be the secondary sponsor for more than one MLS application.

Wisconsin’s eleven federally recognized tribal governments are eligible to apply for project funding as primary or secondary project sponsors. If a tribal government application is related to a specific county or municipal facility, the application will be forwarded to that selection committee. If the application is not related to a facility,

WisDOT will determine the appropriate committee to review the tribal government application.

An application can have only one primary sponsor as the point of contact for the project and holder of the State/Municipal Agreement (SMA). Secondary sponsors with funding or project obligations should be indicated on the MLS application, but the primary sponsor retains responsibility for the project. MLS SMAs are agreements between the primary sponsor and the state. The primary sponsor may enter into a legal agreement with the secondary sponsor to ensure that the secondary sponsor complies with any desired contractual requirements related to the MLS project. WisDOT is not party to agreements between primary and secondary sponsors. However, if a primary sponsor's project passes through another municipality, the municipality with ownership must be included on the application as a secondary sponsor and must sign the application. Letters of support from secondary sponsors may accompany MLS applications.

### **Project Eligibility**

Project funding is available for new projects. For MLS purposes, a new project is defined as a project that does not have any previously dedicated state, federal, or local funding assigned to it. A project can be eligible for MLS funding even if it is included in a municipal improvement plan. Projects that have committed funding or that have been advertised for bid are ineligible. MLS funding cannot be added to existing WisDOT state or federally funded projects.

Design-only projects and planning studies are ineligible regardless of modal type. Airport runways and facilities are ineligible for MLS funding, but public roads and bridges, or railroads servicing an airport could be eligible. MLS project applications are not subject to the eligibility rules of other WisDOT local improvement programs. Operations and maintenance costs are not eligible for MLS funding.

- Project funding is available for road and bridge replacement, reconstruction, rehabilitation, or widening. Construction of new roads or bridges are eligible for funding. Multiple non-connected road segments or bridges grouped in a single overarching improvement project are potentially eligible for funding as a single application. Low bid procurement of asphaltic hot-mix only is eligible for funding as part of an eligible MLS project. Equipment purchases (e.g., snow plows) are not eligible for funding through this program. Connecting highways are not eligible. Road/bridge design standards are governed by Trans Code 205 (counties); FDM 11-20-1 (cities/villages); and Trans Code 204 (towns).
- Project funding is available for transit vehicle purchase, transit equipment and transit facility construction projects. Operations costs are not eligible for funding through this program. The purchase of human service vehicles is governed by Trans Code 301.
- Project funding is available for bicycle and pedestrian on-road and off-road trail facilities, rails to trails and historic transportation facilities. All-Terrain Vehicle (ATV) and snowmobile non-mixed-use trails (i.e., trails for ATV and/or snowmobile use only) are eligible for funding. Mixed-use trails that combine ATV or snowmobile use with bicycle and pedestrian use are ineligible for funding. Supportive features along a trail (e.g., park shelters, restrooms) are potentially eligible for funding; however, utility costs associated with these supportive features are ineligible. Outdoor advertising and vegetation management practices are not eligible through this program. Bicycle and pedestrian improvements are governed by Wis. Stats. § 84.01(35).
- Project funding is available for railroad/rail line rehabilitation, passenger rail and intermodal freight facilities. New at-grade railroad crossings are eligible for MLS funding. Converting the existing railroad crossing to improve traffic flow is eligible for funding. The purchase of new railroad crossing signal equipment is eligible for funding. Operations costs are not eligible for funding through this program. Maintenance of existing railroad crossing equipment is ineligible for funding. Railcar acquisitions are not eligible for funding through this program. Railroad bidding and advertising is governed by Wis. Stats. § 85.077. Railroad crossing alterations are governed by Wis. Stats. § 195.29.

- Project funding is available for harbor dredging, port infrastructure expansion and repair of dock walls. Buoy installation is eligible for funding. Maintenance of existing buoys is ineligible for funding. Operations costs are not eligible for funding through this program. Ferry boat equipment is eligible for MLS funding, but ferry boat acquisition is not eligible. The bidding and advertising of ports/harbors are governed by Wis. Stats. § 30.32.

### **Real Estate and Utilities**

Real estate project costs under \$100,000 must be entirely locally funded. If real estate costs exceed \$100,000, all real estate costs are eligible for MLS funding. Purchase of an existing facility as part of a larger improvement project may be eligible for funding. Stand-alone real estate purchases, or purchases unrelated to surface transportation, are not eligible for funding. Local project sponsors should be aware of federal Uniform Act guidelines (42 U.S.C. § 61), state eminent domain guidelines (Wis. Stats. § 32), and state condemnation guidelines (Wis. Stats. § 27.01) when purchasing real estate for an MLS project. Utility costs related to relocation, removal or new utilities are ineligible for funding through this program. Storm sewers, stormwater ponds, and culverts are eligible as components of an MLS project but may not constitute the majority of eligible project costs.

### **Historical, Natural and Archeological Resources**

All state and federal environmental regulations need to be coordinated through the appropriate regulatory agency. Departmental project oversight may be required or requested due to project complexity or federal interest. The acquisition of Department of Natural Resources (DNR) and Wisconsin Historical Society (WHS) permits are the responsibility of the project sponsor. Fees paid for environmental permitting are eligible project costs provided that the costs occur after authorization to incur costs.

### **Post-Approval Process**

MLS projects may not commence until a State Municipal Agreement (SMA) has been fully executed. Sponsors are responsible for all project costs incurred prior to notification that project authorization has occurred. Sponsors must not begin work on any phase of the project for which they will seek reimbursement until receipt of notification from WisDOT that this work can begin to incur costs.

### **Project Delivery**

MLS projects will be primarily locally let and locally administered. In most cases, projects will not require state oversight; however, the following project characteristics may trigger the need for state oversight:

- Project complexity (e.g., time constraints, environmental factors, etc.)
- Federal interest in the project (e.g., environmental factors, real estate, etc.)
- The improvement lies in an urbanized planning area and/or is regionally significant

These characteristics may not mandate a state let or state oversight, but if the project has any of these characteristics, WisDOT will review the application and determine if a state let or state administrative oversight is required. If state administrative oversight is required, WisDOT will contact the project sponsor and assess state administrative costs based on a percentage of project costs. The local municipality may request county oversight, subject to county approval. Oversight costs are eligible for MLS funding.

Any exception to standards should be indicated in the project application narrative and must follow the exception to standards process, as outlined in the Transportation Code. Bridge replacement and rehabilitation improvement projects are not subject to WisDOT's replace-in-kind (i.e., performance-based practical design) policy.

Projects must be advertised, competitively bid, awarded to the lowest responsible bidder, and done so as a single advertisement. Qualifications Based Selection (QBS) rules do not apply to MLS locally administered projects. Consultants who complete the MLS application on behalf of the sponsor are eligible to respond to the design

solicitation. Projects must be advertised for a minimum of 15 days (i.e., two consecutive weeks). Advertisement and low bid award documentation must be submitted with request for reimbursement. Project sponsors are subject to the following Wisconsin State Statutes, governing advertising and bidding:

- Wis. Stats. § 16.855
- Wis. Stats. § 66.0901
- Wis. Stats. § 985.01(1m)
- Wis. Stats. § 985.07

Counties are eligible to bid on MLS projects, but are not subject to the LRIP program rule (Wis. Stats. § 86.31(6)(h)(3)) which requires the county to be 10% below the other responsible bids received. Counties are subject to all other county bidding and work rule restrictions as noted in Wis. Stats. § 59.52(30).

### **Project Changes**

Project awards are based on the submitted scope of work in the application. The scope and funding request should be well-defined. Sponsors must contact WisDOT if a project cannot be implemented as outlined in an original application. MLS funding is both limited and competitive, and initial award levels cannot be increased.

### **Project Completion/Reimbursement**

Project reimbursement documents may be submitted to WisDOT for partial reimbursement at key milestone dates prior to the completion of the project. MLS reimbursement request forms will be provided with the signed SMA and the authorization to incur costs form. Projects may not be advertised prior to execution of the SMA, and expenditures incurred prior to authorization (e.g., preliminary engineering work to prepare a project cost estimate) are not eligible for reimbursement. Project reimbursement documents may also be submitted to WisDOT at time of project completion for one-time reimbursement. Total project reimbursement amounts cannot exceed initial program award amounts. MLS funds not expended may not be used on another project.

The local match on an MLS project must be comprised of local funds. Funds from another state or federal source do not constitute a local match. Ineligible (non-participating) costs are the responsibility of the local sponsor and do not count as part of the local match.

Project reimbursements will be issued to the primary sponsor. The primary sponsor is responsible for delivering the project and for providing all relevant documentation for reimbursement. Required documentation that must be submitted to WisDOT by the primary sponsor prior to project reimbursement includes, but is not limited to, the following:

- A copy of the advertisement to bid – ideally an Affidavit of Publication – identifying the text of the ad, the name of the publication in which it was placed and the dates it was advertised. MLS projects can be locally let, but must be advertised for bid for a minimum of 15 days.
- Lowest responsible bid award and rejection notices or dated board minutes, including action taken.
- An Exception to Standards, if applicable to the project.
- Proof of permits (e.g., DNR permits).
- Documentation to confirm contractor(s) payment.

WisDOT requires appropriate documentation for each item included in all reimbursement requests. WisDOT processes requests for reimbursement within 30 days of receipt. In order to receive complete reimbursement, the project must be complete within the six-year sunset window.

### **Records Retention**

Documentation for each project must be kept for 12 years from date of project completion. WisDOT expects MLS sponsors to keep accurate records and reports, such as payroll documents and material specifications pertaining to construction activities, in the event of an audit. When WisDOT performs project reviews, the sponsor is required

to supply copies of all project documentation.

### **WisDOT Statewide Program Contacts for Multimodal Local Supplement**

Merrill Mechler-Hickson

DOT Program Officer

[merrill.mechlerhickson@dot.wi.gov](mailto:merrill.mechlerhickson@dot.wi.gov)

Phone: (608) 261-8977

Ryan Spaight

MLS Program Manager

[ryan.spaight@dot.wi.gov](mailto:ryan.spaight@dot.wi.gov)

Phone: (608) 266-1322

### **MLS Informational Webinars:**

- Monday, September 30, 2019: 9:00 am to 10:30 am
- Wednesday, October 2, 2019: 1:00 pm to 2:30 pm
- Thursday, October 10, 2019: 2:00 pm to 3:30 pm

WisDOT conducted a series of informational webinars on the Multimodal Local Supplement program. A [replay of this webinar](#) is available on the [WisDOT Multimodal Local Supplement webpage](#).