

**APPENDIX B -
KYTC
Guidance with Virtual
Component
2020**



U.S. Department
of Transportation
**Federal Highway
Administration**

Kentucky Division

September 9, 2020

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In Reply Refer To:
HDA-KY

Mr. Jim Gray
Secretary
Kentucky Transportation Cabinet
200 Mero Street, Room 613
Frankfort, KY 40622

Dear Secretary Gray:

We received the KYTC Division of Environmental Analysis' August 28 letter requesting our concurrence with its KYTC Public Hearing Guidance with a Virtual Component during Emergencies or Other Times in which the Public is Best Served (enclosed). It provides additional guidance to allow public hearings to occur during emergencies and at other times when the KYTC and FHWA agree that it is in the best interest of the public.

After reviewing the guidance, we concur that this guidance document complies with 23 CFR 771.111(h) and can be used in conjunction with the previously approved public involvement procedures outlined in the KYTC Design Manual. Public hearings may use virtual components in addition to providing the opportunity for in-person public hearings. If you have any questions, please contact Eric Rothermel at Eric.Rothermel@dot.gov or at 502-223-6742.

Sincerely,

**TODD A
JETTER**

Digitally signed by TODD

A JETER

Date: 2020.09.14

12:49:48 -04'00'

Todd Jeter
Kentucky Division Administrator

Enclosure: KYTC Public Hearing Guidance

cc: Daniel Peak KYTC DEA



COMMONWEALTH OF KENTUCKY
TRANSPORTATION CABINET
transportation.ky.gov

Andy Beshear
GOVERNOR

Jim Gray
SECRETARY

August 28, 2020

Todd Jeter
Division Administrator
Federal Highway Administration – Kentucky Division
John C. Watts Federal Building
330 West Broadway
Frankfort, Kentucky 40601

Subject: Public hearings with a virtual component

Mr. Jeter,

Following discussions with your staff, KYTC respectfully requests concurrence from FHWA regarding interim virtual public involvement guidance effective as soon as the state of Kentucky's guidance allow gatherings of at least 50 people. The Kentucky Transportation Cabinet has developed guidance for Project-Level Public Hearings during specific cases where virtual options to supplement public involvement requirements may be considered. These virtual components may be used to supplement or enhance an in-person Public Hearing but may also supplement a smaller in-person Public Hearing when the President, Governor, or local government jurisdiction declares an emergency.

When the Project Team determines that a Public Hearing is to be held (after input from the public) and in consideration of these special circumstances, Project Teams will be required to develop a Public Involvement Plan proposal containing specific elements identified in the attached guidance which will be reviewed and approved by both KYTC and FHWA. The purpose of this guidance is to encourage the use of virtual public involvement methods to broaden public participation and promote safe practices, particularly during emergencies, but also at times when a virtual component may enhance the entire process, in a manner that meets all federal and state public involvement requirements. The attachment outlines KYTC's guidance. Please respond in writing if your office concurs with these proposed policy changes.

If you have questions related to this revised policy, please contact me at Danny.Peake@ky.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Daniel R. Peake".

Daniel R. Peake
Director, Division of Environmental Analysis
Kentucky Transportation Cabinet



KYTC Public Hearing Guidance with a Virtual Component during Emergencies or at Other Times in which the Public is Best Served

For projects where a Public Hearing is required to be held, or when holding a Public Hearing is in the best interest of the public, virtual options to supplement public involvement requirements may be considered by FHWA and KYTC:

- To supplement a Public Hearing and/or enhance the in-person event
- A Public Hearing can be supplemented with a virtual component to allow more stakeholders an opportunity to participate:
 - o The Governor and/or President declares a health or other emergency and/or a local government jurisdiction determines that a Public Hearing should not be held out of concerns for public health and/or safety.

In the event of such consideration, Project Teams shall develop a Public Involvement Plan proposal, to be reviewed and approved by KYTC Division of Design, Division of Environmental Analysis (DEA), and FHWA.

The Public Hearing Plan must:

- Ensure the public has an opportunity to view project documents prior to, during, and following the Public Hearing utilizing in-person and online resources.
 - o Project offices, local libraries, municipal offices, and any other publically accessible building meeting KYTC requirements may be utilized.
 - o Project Managers must coordinate with local municipality to adhere to emergency-related guidelines
- Ensure the public can submit comments (via testimony during the comment session of the Public Hearing)
- Implement protocol for in-person, over the phone and on-line submission of comment comments; the intent is for the public to submit comments but also receive information
- Ensure comments are documented. Verbal comments submitted as part of the Public Hearing must be recorded and transcribed; options might include a toll-free telephone number to receive comments
- Written comments submitted via comment station, mail and on-line repository
- Ensure public can have access to Public Hearing materials (presentation, displays, other) on-line and in-person. Appointment only and office hours following any emergency executive orders and/or safety protocols may be implemented to meet with the public. Options might also include a public drive-thru where project information could be distributed. For instance, project team members could work the "drive thru" to answer questions and share project information.
- If a Public Hearing venue is available for use, describe safety protocols to be taken.

Americans with Disabilities Act (ADA) and Limited English Proficiency (LEP)

Continue to include your ADA statements in the notice and materials. Project Teams may list the Consultant or the Project Manager as the ADA contact in the notice. If an ADA-related request is received, please forward a copy of the request to the Division of Design, Division of Environmental Analysis and Office of Public Affairs for tracking and reporting purposes.

Limited English Proficiency (LEP) statements shall also be include in the notices (when applicable). For projects involving impacts to Environmental Justice (EJ) populations, LEP support service statements must be part of the notice. Project Teams may list the Consultant or Project Manager as the LEP contact in their notice. If the PM or Consultant are listed and an ADA-related request is received, please forward a copy of the request to the Division of Design, Division of Environmental Analysis and Office of Public Affairs for tracking and reporting purposes.

If you have questions related to this guidance, please contact Danny Peake by email at Danny.Peake@ky.gov.