

# Chapter 4 Agreements

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## Exhibits

[Exhibit 4-B: Local Agency Agreement Execution Checklist](#)

[Exhibit 4-C: Master Agreement - Administering Agency-State Agreement for Federal-Aid Projects](#)

[Exhibit 4-D: Sample - Program Supplement Agreement](#)

[Exhibit 4-E: Master Agreement - Administering Agency-State Agreement for State-Funded Projects](#)

All LAPM Exhibits are located at:

<https://dot.ca.gov/programs/local-assistance/forms/local-assistance-procedures-manual-forms>

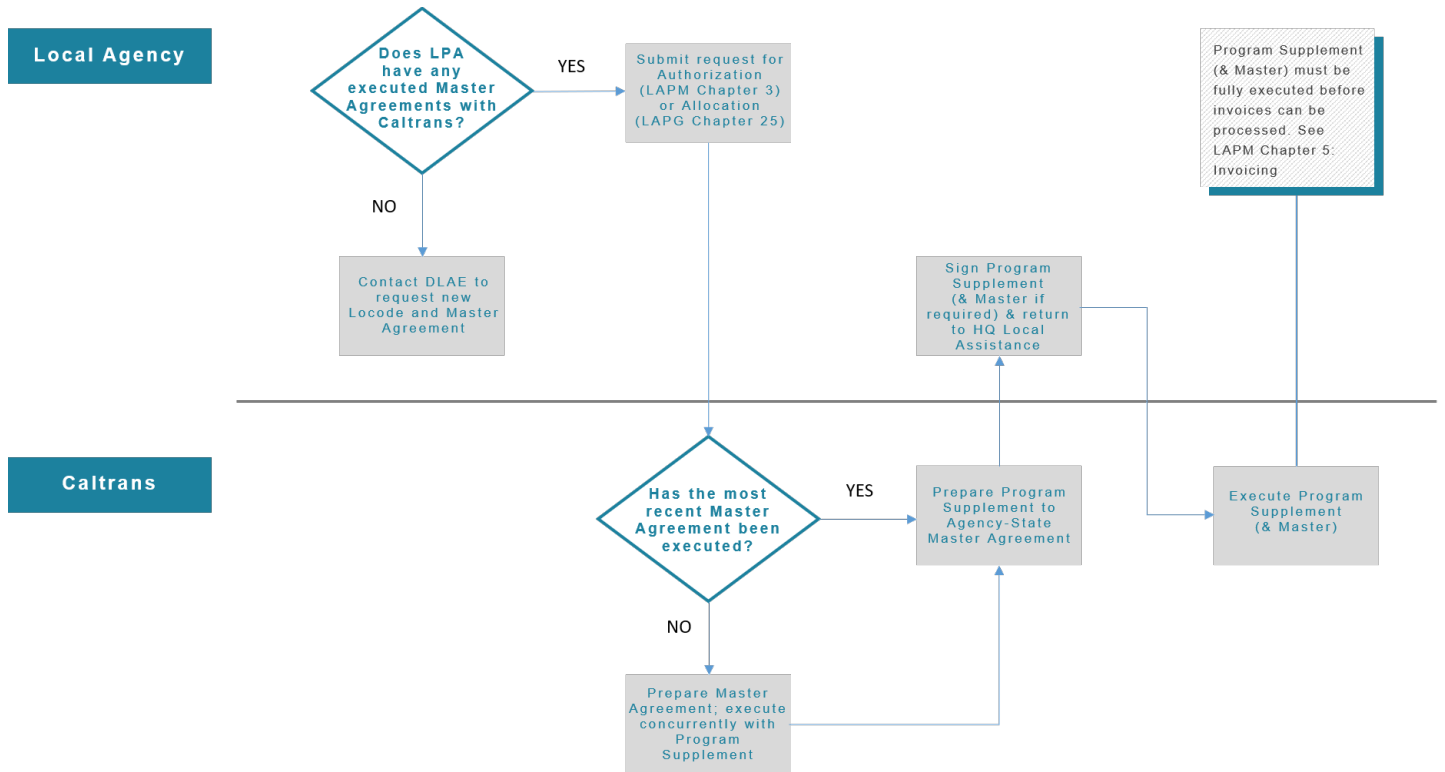


Figure 4-1: Developing Local Federal-aid and State-funded Projects

## Chapter 4 Agreements

### 4.1 Introduction

The Federal-aid Highway Program (FAHP) and most Local Assistance programs funded with state-only funds are reimbursable programs. Agreements (contracts) must be executed in order to pay funds to a Local Public Agency (LPA). The Division of Local Assistance (DLA) prepares and sends these agreements directly to the LPA. The agreements must be executed before any invoices for payment can be processed.

This discussion applies to all LPA projects receiving federal-aid highway project funds administered by the Federal Highway Administration (FHWA) and state-only funds administered by DLA as discussed in this chapter.

### 4.2 General Agreements

Local (Administering) Agency-State Master Agreement (Master Agreement) – An agreement between a city, county, or other LPA and the State defining the general terms and conditions which must be met to receive federal-aid or state funds from the following programs:

- Federal-aid Highway Program
- State-only Funded Programs

#### Master Agreement

A Master Agreement is required with the LPA whenever federal or state funds are to be used on a local project funded from the programs noted above. Respectively, there are two primary types of Master Agreements:

1. Federal-aid Highway Program

Administering Agency-State Agreement for Federal-Aid Projects, or Federal-aid Master Agreement

2. State-only Funded Programs

Administering Agency-State Agreement for State-Funded Projects (with no federal funds), or State-only Master Agreement

In the Master Agreement, the LPA agrees to comply with all federal and state laws, regulations, policies, and procedures relative to the design, right of way acquisition, environmental compliance, construction, and maintenance of the completed facility. It is normally processed once with the LPA when it begins its first federal-aid or state-funded project. The Local Agency-State Master Agreements are periodically updated and re-executed to account for changes in laws and policies. An example of when a Master Agreement will be updated is after a new Transportation Act has been passed that correspondingly results in broad changes that need to be made in the agreement provisions. After the Master Agreement has been updated, for LPAs that already have a prior executed Master Agreement, Caltrans will normally send the newer agreement for signature to the LPA as part of the implementation process for its next Local Assistance project. New projects to be implemented will be tied to the newer Master Agreement, while prior projects will continue to be tied to the version of the Master Agreement that they were originally associated with. During periods between Master Agreement updates, changes or

updates may be addressed via the special covenants in individual project Program Supplement Agreements.

### **Program Supplement Agreement (PSA)**

The supplement to the Master Agreement is a project-specific agreement that formalizes the financial responsibilities and provisions for a specific federal-aid or state-only funded project in the categories defined above. This program supplement identifies the types and amounts of federal, state, and local funds used to finance the locally sponsored project. It is the contractual basis for the state to pay the LPA for work done.

Special covenants or clauses in the agreement define the LPA's specific responsibilities in implementing and maintaining the project. Others define state or local responsibilities for providing project funds.

No reimbursement payments can be made until the PSA has been fully executed. Invoices must not be submitted prior to this execution.

## **4.3 Special Program Agreements**

Agreements are required for several programs which are prepared on a programmatic or project-by-project basis and do not follow the Master Agreement/Program Supplement process. These are briefly described below. Refer to the [Local Assistance Program Guidelines](#) for full details of the agreement processes and conditions for these programs.

### **Federal Apportionment Exchange Program and State Match Program Agreement**

This program is commonly called the Exchange/Match or Match and Exchange Program. Under the provisions of Streets and Highways Code 182.6 et seq., MPOs, RTPAs and counties are allowed to exchange certain portions of their federal-aid funds for State Highway Account funds (see [LAPG Chapter 18: Optional Federal Exchange and State Match Programs](#) for details).

The DLA prepares the agreement for the maximum allowable amount that each LPA can exchange and sends it to the LPA for signature. The signed agreement is sent back to DLA. The agreement takes effect upon signature by appropriate DLA staff. If the LPA does not wish to participate, they will send the agreement back with a letter notifying DLA to cancel the agreement.

## **4.4 Process and Procedure**

A new Locode and Master Agreement will normally be requested by the LPA soon after their first Local Assistance project is selected and programmed for inclusion or amended into a federal or state programming document. Neither a Master Agreement nor project-specific requests or agreements will be processed until after the associated pre-award audit process is completed and Caltrans has determined that findings (if any) have been addressed satisfactorily; see [LAPM Chapter 3: Project Authorization](#) (Section 3.2: Prior to Federal Authorization).

Federal-aid projects must be authorized and have funds obligated, and projects requiring a vote by the California Transportation Commission (CTC) must have received an allocation by CTC, before a project-specific agreement is prepared. All project-specific agreements are contingent on budget actions by the federal and state governments.

A project-specific agreement is normally prepared only once for each project after the initial authorization/obligation or CTC allocation. In certain cases, an agreement will need to be revised upon a subsequent authorization/obligation or CTC allocation for a project. This typically occurs because of pertinent requirements having changed since the initial authorization, or as a result of funds having been added from a new Program for which additional requirements are applicable and need to be reflected in the agreement. In such instances, the DLA will identify the need and prepare a revised agreement.

### Processing

After the funds have been allocated and/or obligated, the DLA prepares the agreement. Once the requested funds have been encumbered by Caltrans Local Programs Accounting (CLPA), the DLA sends the agreement to the LPA for signature. The agreement must be signed by the LPA and returned to the DLA along with a signed and dated authorizing resolution as soon as possible. [Exhibit 4-B: Local Agency Agreement Execution Checklist](#), identifies key actions to be taken in the agreement execution process. Any changes in funding or agreement language made by the LPA will void the agreement.

The LPA may pass a resolution for each agreement as it is presented or may pass a resolution authorizing an individual, e.g., public works director, to execute specific types of agreements as they occur. The latter method may reduce significant amounts of effort and time and should be considered by any LPA that administers a large number of federal-aid or state-funded projects. In either case, the resolution should clearly indicate the title of the person who is authorized to sign and for which agreement(s) or agreement types.

Upon receipt of the signed agreement and resolution, the DLA must review and sign the agreement before it can be conformed and executed. A copy of the executed agreement is then sent to the LPA and CLPA at which time invoices may then be submitted for payment.

## 4.5 Federal-aid Project Authorization to Proceed (E-76)

In accordance with Section 106(a) of Title 23 of the United States Code (U.S.C.), the project authorization, obligation of funds, and execution of the federal-aid project agreement between Caltrans and FHWA are accomplished in a single action in FHWA's Financial Management Information System (FMIS) utilizing an electronic form titled Authorization to Proceed (E-76).

## 4.6 State Highway System and Other Agreements

Various types of agreements are required when working within the State Highway right of way or with other state agencies. Included are: Grade Separation Fund, Cooperative, Joint Powers, Highway Powers, Highway Improvement, Escrow, Maintenance, Petroleum Violation Escrow Account (PVEA), and Contribution Agreements and Service contracts. These are not processed with LPAs by DLA but are developed and processed as defined in other Caltrans manuals and documents. The LPA should not overlook the need for one or more of these agreements during project development.

### Railroad Service Contracts

These contracts are required when a railroad company will perform work on a project. When the work is funded with Grade Crossing funds, the contracts are made between Caltrans and a railroad company and are directly processed with the railroad.

The PSAs for these federal-aid projects are processed as described previously.

## **4.7 References**

23 U.S.C. Section 106

<https://www.govinfo.gov/content/pkg/USCODE-2010-title23/html/USCODE-2010-title23-chap1-sec106.htm>