



Local Programs Procedures

LPP 17-01 Manual Update
Subject: Technical Changes

Original Signature By

Effective Date: January 2018

Approved: _____

Ray Zhang, Chief
Division of Local Assistance

Reference: Local Assistance Procedures Manual (LAPM)

Chapter 3 Project Authorization

Chapter 5 Invoicing

Chapter 6 Environmental Procedures

Chapter 9 Civil Rights & Disadvantaged Business Enterprise

Chapter 10 Consultant Selection

Chapter 12 Plans, Specifications & Estimate

Chapter 13 Right of Way

Chapter 14 Utility Relocation

Chapter 15 Advertise and Award Project

Chapter 16 Administer Construction Contracts

Chapter 17 Project Completion

Chapter 19 Oversight and Process Review

Chapter 20 Deficiencies and Sanctions

Reference: Local Assistance Procedures Manual (LAPM) Exhibits

Exhibits 3-A, 3-B, 3-C, 3-D, 3-L, 3-Q

Exhibit 5-E

Exhibits 6-A, 6-J, 6-K

Exhibits 7-B, 7-C

Exhibits 9-D, 9-F

Exhibits 10-A, 10-C, 10-H1, 10-H2, 10-H3, 10-H4, 10-K, 10-R, 10-U

Exhibits 12-B, 12-D, 12-G

Exhibits 15-D

*Exhibits 16-A, 16-B, 16-C, 16-I, 16-N, 16-S, 16-T, 16-UI, 16-UF, 16-US,
16-Y, 16-Z1, 16-Z2*

Exhibits 17-C, 17-D, 17-H, 17-K, 17-L

Reference: Local Assistance Program Guidelines (LAPG)

Chapter 6 Highway Bridge Replacement and Rehabilitation

The following Division of Local Assistance Office Bulletins (DLA-OB) have been incorporated into the LAPM and expire upon issuance of this LPP.

DLA-OB	TITLE
17-01	FHWA Approval of Architectural and Engineering (A&E) Consultants in a Management Support Role
17-02	Consultant Contract Review

WHAT IS AN LPP?

LPPs are Local Programs Procedures. These documents are used to deploy policy and procedure updates to the LAPM/LAPG. They are numbered according to calendar year and in order for which they were released.

PURPOSE

The purpose of this LPP is to incorporate DLA-OB 17-01 and DLA-OB 17-02, along with other technical changes, into the LAPM/LAPG. Technical changes may also include clarifications or corrections to portions of the LAPM/LAPG brought to our attention by the Federal Highway Administration, the Districts, Local Agencies, or others.

POLICY AND PROCEDURES

This LPP impacts all local assistance projects. Significant changes to the LAPM/LAPG are noted in the summary table below and on the attached chapter pages using a border in the right margin. Minor typo and grammatical changes were made throughout the LAPM/LAPG, but are not documented in the summary table. Attached chapters will only consist of the impacted section or paragraph, while attached exhibits are included in their entirety, regardless of change.

Below is a summary of the significant revisions:

Chapter 3, Project Authorization	
3.10 Toll Credit in Lieu of Non-Federal Match	Added language to specify that toll credits can be applied to each federal fund in the project to increase the federal reimbursement rate.

Chapter 3, Project Authorization	
Exhibit 3-A: Request for Authorization To Proceed With Preliminary Engineering	Incorporated A&E Consultant Contracts section to be consistent with policy and procedures from DLA-OB 17-02, FHWA Approval of Architectural and Engineering (A&E) Consultants in a Management Support Role.

Exhibit 3-B: Request for Authorization To Proceed with Right Of Way	Incorporated A&E Consultant Contracts section to be consistent with policy and procedures from DLA-OB 17-02, FHWA Approval of Architectural and Engineering (A&E) Consultants in a Management Support Role.
Exhibit 3-C: Request for Authorization to Proceed with Utility Relocation	Incorporated A&E Consultant Contracts section to be consistent with policy and procedures from DLA-OB 17-02, FHWA Approval of Architectural and Engineering (A&E) Consultants in a Management Support Role.
Exhibit 3-D: Request for Authorization to Proceed with Construction	Incorporated A&E Consultant Contracts section to be consistent with policy and procedures from DLA-OB 17-02, FHWA Approval of Architectural and Engineering (A&E) Consultants in a Management Support Role.
Exhibit 3-L: Local Assistance Project Prefixes	
Exhibit 3-Q: Request for Authorization to Proceed with Non-Infrastructure Project (Construction Phase)	Incorporated A&E Consultant Contracts section to be consistent with policy and procedures from DLA-OB 17-02, FHWA Approval of Architectural and Engineering (A&E) Consultants in a Management Support Role.

Chapter 5, Invoicing

5.3: Reimbursable Project Costs Subtitle: Direct Cost	Updated section to be consistent with Title 2 of the Code of Federal Regulations (CFR), Part 200.412, Classification of Costs, and 2 CFR, Part 200.413, Direct Costs.
5.3: Reimbursable Project Costs Subtitle: Period of Performance End	Updated section to clarify the definition and estimation of the Period of Performance End.

Chapter 5, Invoicing

Exhibit 5-E: Sample “STIP or ATP Projects” Federal Invoice	Formatting changes made.
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Chapter 6, Environmental Procedures

Entire Chapter	Chapter was updated to correct non-working links, and to insure consistency with the FAST Act and current 326 and 327 MOUs.
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Chapter 6, Environmental Procedures

Exhibit 6-A: Preliminary Environmental Study	The “Required Attachments” Section of Exhibit 6-A was modified to be consistent with Exhibit 6-B PES Instructions, and Exhibit 6-K Section 7 and Section 106 Memos were replaced with updated versions.
Exhibit 6-J: Preliminary Environmental Screening for Non- Infrastructure Projects PES (NI)	The “Preliminary NEPA Class Action” Section of Exhibit 6-J was modified to be consistent with Exhibit 6-B PES Instructions, and Exhibit 6-K.
Exhibit 6-K: Instructions for Completing Preliminary Environmental Screening for Non- Infrastructure Projects PES (NI) Form	The “Preliminary NEPA Class Action” Section of Exhibit 6-K was modified to be consistent with Exhibit 6-B PES Instructions, and Exhibit 6-J.

Chapter 7, Field Review

Exhibit 7-B: Field Review Form	Added bike/ped for functional classification off-the Federal-aid system.
Exhibit 7-C: Roadway Data	Added federal project number field.

Chapter 9 , Civil Rights & Disadvantaged Business Enterprise

9.1: Introduction	Chapter 9 was updated to be consistent 23CFR200, 28CFR35, 49CFR27, and the Americans with Disabilities Act of 1990 and associated federal regulations. Section was updated to be consistent with 23 CFR Part 200, 28 CFR Part 35, 49 CFR Part 27, the ADA, and Section 504.
9.2: Title VI of Civil Rights Act of 1964 and Related Statutes	Section was updated to be in compliance with 23 CFR Part 200, and related nondiscrimination statutes.
9.3: Accessibility; Americans with Disabilities Act (ADA)/Section 504	Section was updated to be consistent with the ADA, Section 504, 28 CFR Part 35, and 49 CFR Part 27.

Chapter 9 , Civil Rights & Disadvantaged Business Enterprise

Exhibit 9-D: DBE Contract Goal Methodology	Includes a comprehensive example of DBE contract goals.
Exhibit 9-F: Monthly Disadvantaged Business Enterprise (DBE) Payment	Optional best practices form.

Chapter 10, Consultant Selection

10.3: A&E Consultant Audit and Review Process	Audits and Investigation (A&I) incorporated language for Risk-Base approach with financial review.
10.5: Consultant Selection Using the One-Step RFP Methods	Incorporated policy and procedures from DLA-OB 17-01 and DLA-OB 17-02.
10.6: Consultant Selection Using the One-Step RFQ Methods	Incorporated policy and procedures from DLA-OB 17-01 and DLA-OB 17-02.
10.8: Completing the Project	Updated language to reflect A&I's Procedures.
10.9: Miscellaneous Considerations	Incorporated policy and procedures from DLA-OB 17-01.
10.10: Non-A&E Consultants	Non-A&E Consultant section was added to be consistent with the Consultant Procurement Manual (CPM). CPM will be discontinued upon release of LPP 17-01.

Chapter 10, Consultant Selection

Exhibit 10-A: A&E Consultant Financial Review Request Letter	Revised form per Division of Audits & Investigation.
Exhibit 10-C: A&E Consultant Contract Reviewers Checklist	Incorporated policy and procedures from DLA-OB 17-02, Consultant Contract Review.
Exhibit 10-H1: Cost Proposal	Revised form per Division of Audits & Investigation.
Exhibit 10-H4: Cost Proposal for Contracts with Prevailing Wages	Revised form per Division of Audits & Investigation.

Exhibit 10-K: Consultant Annual Certification of Indirect Costs and Financial Management System	Revised form per Division of Audits & Investigation.
Exhibit 10-R: A&E Sample Contract Language	Revised form per Division of Audits & Investigation.
Exhibit 10-U: Consultants in a Management Support Role Conflict of Interest	Incorporated policy and procedures from DLA-OB 17-01, Consultant Contract Review.

Chapter 12, Plans, Specifications & Estimate

12.8: Federal Contract Requirement Subtitle: Federal Trainee Program	Section was updated to be consistent with Table 12-2: Federal Trainee Schedule and federal language (FHWA 1273).
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Chapter 12, Plans, Specifications & Estimate

Exhibit 12-B: Bidders List of Subcontractors	Updated exhibit and exhibit title (Exhibit 12-B Subcontractor List/Bidders List) to be consistent with section 4104 of Public Contract Code and 49 CFR, Part 26.11 (c).
Exhibit 12-D: PS&E Checklist	Exhibit was updated to be consistent with LAPM Chapter 12, Section Item 15 Federal Trainee and federal language (FHWA 1273, Section II Non-Discrimination).
Exhibit 12-G: Required Federal-Aid Contract Language	Exhibit was updated to be consistent with LAPM Chapter 12, Section 12.8 Federal Trainee and federal language (FHWA 1273, Section II Non-Discrimination).

Chapter 13, Right of Way

13.8: Appraisal Review	Added clarifying language to appraisal review section.
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Chapter 14, Utility Relocation

14.4: Utility Facilities	The terminology “High and Low Risk Underground Facilities” is out of date. Utilities that were historically referred to as “high risk” are now referred to as “Utility Facilities” per Project Development Procedures Manual (PDPM) Chapter 17. Section was updated to be consistent with PDPM Chapter 17.
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Chapter 15, Advertise and Award Project

15.5: Contract Bid Opening Subtitle: Procedures	This section refers to FHWA’s Technical Advisory T 5080.4 (December 29, 1980) and T 5080.6 (December 17, 1982). Both technical advisories were cancelled in 2004. FHWA’s “Contract Administration Core Curriculum, October 2014” does not include these in the appendix as stated, but does include a section called “Guidelines”. Section was updated to remove both technical advisories, and provide a reference to the guidelines on Preparing Engineer’s Estimate, Bid Review and Evaluation, dated January 20, 2004.
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Chapter 15, Advertise and Award Project

Exhibit 15-D: Bid Tabulation Summary (Sample)	Added a total bid row at bottom of cost columns.
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Chapter 16, Administer Construction Contracts

Entire Chapter	Entire chapter was updated to be consistent with the Caltrans Construction Manual.
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Chapter 16, Administer Construction Contracts

Exhibits 16-A,16-B, 16-C, 16-I, 16-N, 16-S, 16-T, 16-UI, 16-UF, 16-US, 16-Y, 16-Z1, 16-Z2	Exhibits were updated to be consistent with the Caltrans Construction Manual and the updated version of LAPM Chapter 16.
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Chapter 17, Project Completion

17.3: Final Inspection Procedures for Federal-aid Projects Subtitle: Delegated Projects	This section refers to Final Inspection Form FIF-6/05. The section should be consistent and use Exhibit 17-C Final Inspection Form. FIF-6/05 was deleted to be consistent with Exhibit 17-C.
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Chapter 17, Project Completion

Exhibit 17-C: Final Inspection Form	This exhibit references Form FIF-6/05. This reference should be deleted to be consistent with the update made to Chapter 17, section 17.3: Final Inspection Procedures for Federal-aid Projects.
Exhibit 17-D: Sample Federal-Aid Final Invoice	Removed District Director and replaced with District Local Assistance Engineer
Exhibit 17-H: Cover Letter and Final Report of Expenditures Checklist (PE Only)	Removed District Director and replaced with District Local Assistance Engineer
Exhibit 17-K: Sample Report of Completion of Right of way Expenditures	Removed District Director and replaced with District Local Assistance Engineer
Exhibit 17-LSample Report of Expenditures for Forces Account Projects	Removed District Director and replaced with District Local Assistance Engineer

Chapter 19, Oversight and Process Review

19.7: A&E Oversight Program	A&E Oversight Program is a new branch that has established a process. Incorporated section on A&E Oversight Program (Section 19.7) to be consistent with 23 CFR 172 and 23 U.S code 112.
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Chapter 20, Deficiencies and Sanctions

20.2: Deficiencies	Included section that provides items that are considered unrecoverable deficiencies on A&E consultant contracts.
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LAPG Chapter 6 , Highway Bridge Program

Entire Chapter	Chapter was updated to communicate changes in policies, added clarification, and to be consistent with federal law. LAPG Chapters 6 and 7 (Seismic Safety Retrofit) were combined to be Chapter 6.
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The LAPM can be found on the Division of Local Assistance website at <http://www.dot.ca.gov/hq/LocalPrograms/lam/lapm.htm>.

To receive notifications of updates, please subscribe to the DLA email list at <http://www.dot.ca.gov/hq/LocalPrograms/sub.htm>.

Comments and suggestions for improvement to the LAPM may be submitted to Kamal Sah, Publications Manager, Division of Local Assistance, at Kamal.Sah@dot.ca.gov.

written taper match plan to the DLA for review. The project sponsor shall also show that they have their matching pro rata share available and are committed to providing it as applicable. The request must include the justification and a tapered match schedule.

The FHWA may approve cases where tapered match would:

- Expedite project completion.
- Reduce the project's overall cost.
- Provide incentive to attract additional nonfederal funds to the project.

3.9 FLEXIBLE MATCH

Federal flexible match provisions allow a wide variety of public and private contributions to be credited toward the nonfederal match for federal-aid projects. Eligible contributions include donations of public and private cash, R/W (Acquisition) and in certain cases, public and private materials or services rendered.

The use of flexible match also is subject to review and approval by both Caltrans (Office of Federal Resources) and the FHWA (California Division). The project sponsor must submit a written flexible match plan to the DLAE for review. The plan must specify the appraised value (fair market value) of donated property, materials, and/or services.

Eligibility of flexible match for credit against nonfederal match is subject to the following:

- **Cash** – Private, state, and local entity funds must be received during the period between project approval/authorization and submittal of the project final voucher.
- **Right of Way** – Private, state, local agency property may be donated any time during the project development process. The property must be appraised to determine the fair market value and must be included in the total project cost. The donation of the property shall not influence the NEPA process.
- **Materials** – Private and local entity donation of materials must be appraised to determine fair market value. Credit for state donated materials is not permitted.
- **Services** – State and local entity services may only be credited toward the nonfederal match for Transportation Enhancements (TE) projects. Private donation of services must be documented as to fair market value.

In addition to the referenced flexible match opportunities above, certain sources of federal grant funds may be eligible to match certain categories of highway projects. For more information refer to FHWA's Innovative Finance Primer Chapter 2 Innovative Management of Federal Funds, located at: <http://www.fhwa.dot.gov/innovativefinance/ifp/innoman.htm>.

3.10 TOLL CREDIT IN LIEU OF NON-FEDERAL MATCH

Section 1508 of the Moving Ahead for Progress in the 21st Century Act (MAP-21) as established under Section 120(i) of the Title 23 of the United States Code (USC) authorizes states to use

certain toll revenue expenditures as a credit toward the non-federal matching share of programs authorized by Title 23 (except for the Emergency Relief (ER) Program) and for transit programs authorized by Chapter 53 of Title 49 of the USC.

Federal-aid highway projects typically require the project sponsors to provide a certain percentage of non-federal funds as match to the federal funds. For example, Surface Transportation Program (STP) funded projects require a minimum of 11.47% of non-federal match funds. Through the use of toll credits, the non-federal share match requirement can be met by applying an equal amount of toll credits and therefore allow a project to be funded at 100% federal for federally participating costs. Toll credits can be used on all federal-aid highway funding programs EXCEPT for the ER Program.

Caltrans policies limit the use of toll credits for On-System Local Highway Bridge Program (HBP) projects and Highway Safety Improvement Program (HSIP) projects because all available funds have been programmed and there are more needs than funding capacity. However, local agencies may use other federal funding to dual-fund both On-System Local HBP Projects and HSIP Projects, and apply toll credits to each federal fund in the project to increase the federal reimbursement rate to 100%. See example Scenario C.

Two websites have been added to the policy to assist local agencies that wish to use toll credits for the federal Planning and Federal Transit Administration (FTA) funds:

- http://www.dot.ca.gov/hq/tpp/offices/orip/owp/index_files/Final_2011_RPH.pdf
- <http://www.dot.ca.gov/hq/MassTrans/Docs-Pdfs/5311/transittollcreditsrev012611.pdf>

One of the conditions for FHWA's approval of the toll credits is that its use does not reduce the state's non-federal transportation capital expenditures. To conform to this policy, California must demonstrate continued efforts to maintain its non-federal transportation expenditures. Therefore, project sponsors that have savings of transportation dollars due to toll credit match of federal funds shall spend that savings on other transportation related projects.

In addition, it needs to be noted that the use of toll credits does not generate any additional federal funding. Its use is merely to meet the non-federal match requirement of the federal participating cost. The amount of toll credit available each year is limited by the amount of annual Federal Obligation Authority (OA).

Caltrans policy does not allow the retroactive use of toll credits for funds that have already been obligated. However, subsequent obligations can be authorized to use toll credits.

In order to use toll credit, the following requirements MUST be met:

- The intended use of toll credits is explicitly expressed in the Request for Authorization (RFA) by marking the appropriate toll credit use area;
- Indicate the use of toll credits in the Remarks section of the Finance Letter;
- Federal reimbursement rate of those funds utilizing toll credits must be 100%, excluding federally non-participating costs;

- Programmed in the current Federal Statewide Transportation Improvement Program (FSTIP), or post-programmed, as using toll credits;
- The project is funded from one of the programs listed in Caltrans' Statewide Toll Credit Use Policy.

The following examples demonstrate how the use of toll credits is different than the normal federal/non-federal match funding.

Scenario A – Traditional Project Funding with Match

For a project with a total cost of \$120,000 including \$20,000 of federally non-participating costs (\$100,000 federally participating) using a federal reimbursement rate of 88.53%, the funding plan would normally be as indicated in the following Table 1.

Prog Code	Total Cost	Participating Cost	Federal Funds	Non-Federal Funds	Toll Credit
M240	\$120,000	\$100,000	\$88,530	\$31,470	\$0

The federal fund amount required in this scenario is \$88,530 (88.53%) of the participating cost and the non-federal funding amount is equal to the non-participating amount \$20,000 plus the required \$11,470 (11.47%) non-federal match for a total amount of \$31,470.

Scenario B – Toll Credit Funding

When toll credit is being applied to the project, it will be used as a credit toward the non-federal share or \$11,470. Since toll credits are not federal funds, federal share must be increased to accommodate the reduction of Non-Federal funds resulting from the toll credit being used as indicated in the following Table 2.

Prog Code	Total Cost	Participating Cost	Federal Funds	Non-Federal Funds	Toll Credit
M240	\$120,000	\$100,000	\$100,000	\$20,000	\$11,470

The federal fund amount required is changed from \$88,530 (88.53%) to \$100,000, the total Participating Cost, and the non-federal funding amount is equal to the non-participating amount. This option is not applicable for Local HBP projects on the State Highway System and Highway Safety Improvement Program (HSIP) projects (see Scenario C below).

Scenario C – Toll Credit with Dual Federal Funding

This scenario is for an HSIP project using STP funds as a match. When other types of federal funding are being applied as a match to the project, each fund must be treated as a separate funding component with 100% federal funding and a corresponding toll credit. A toll credit

EXHIBIT 3-A REQUEST FOR AUTHORIZATION TO PROCEED WITH PRELIMINARY ENGINEERING

[Place this form on Local Agency Letterhead]

To: (DLAE Name) _____ Date: _____

District Local Assistance Engineer FTIP/FSTIP ID: _____

Caltrans, Office of Local Assistance Federal Project No: _____

(District Address) Project ID/Advantage ID: _____

PPNO (For STIP Projects only): _____

Project Description: _____

Dear (DLAE Name):

In order to begin federally reimbursable preliminary engineering work for the above-referenced project, we request that you secure federal “*Authorization to Proceed*” (E-76) and Obligation of Funds. The federal funds requested will not exceed those provided to this agency in the federally approved Federal Transportation Improvement Program (FTIP)/Federal Statewide Transportation Improvement Program (FSTIP).

Attached are the following documents required to authorize this phase of work:

Request for Authorization Package

- Completed Exhibit 3-E *Request for Authorization to Proceed Data Sheet(s)*
- Copy of FTIP/FSTIP Reference
- Completed Exhibit 3-O *Sample Local Federal-aid Project Finance Letter*
- For High-Risk Intelligent Transportation System (ITS) Projects: Federal Highway Administration (FHWA) approved Systems Engineering Management Plan (SEMP). (Federal approval of the SEMP is contingent on prior federal approval of the Systems Engineering Review Form [SERF])
- Copy of Executed Cooperative Agreement (only for projects on State Highway System)

Period of Performance End Date (PPED)

The project PPED must be identified on Exhibit 3-O *Sample Local Federal-aid Project Finance Letter*. Check which of the following applies:

- The PPED will be established with this submittal. Date: _____
- No revision to the PPED is requested with this submittal.
- A revised PPED is requested with this submittal. Date: _____

Toll Credit Usage

- This project will use Toll Credit. It is fully funded.
- This project will NOT use Toll Credit.

Field Review Form (Exhibit 7-B)

Completed Exhibit 7-B “*Field Review Form*”

Environmental Document

- Type of NEPA Document. Approval Date: _____
- Categorical Exclusion (CE)
- Findings of No Significant Impact (FONSI)
- Record of Decision (ROD)
- Revalidation Approval Date: _____
- This agency has not completed the environmental process. The NEPA Document will be submitted at a later date, prior to beginning of final design (PS&E).

Disadvantaged Business Enterprise (DBE) Contract Goal Methodology Form (Exhibit 9-D)

- Completed Exhibit 9-D and the DBE goal is _____.
- Exhibit 9-D *DBE Contract Goal Methodology* is not required as the A&E consultant contract was executed prior to October 1, 2014, and the A&E consultant contract has a DBE contract goal, which is a percentage of the entire A&E consultant contract.
- The DBE goal is 0% because there are no sub consulting opportunities for DBE participation. Documentation verifying this determination is attached to this exhibit, on file with the local agency and has been approved by the DLAE.
- DBE is not applicable because work is to be performed by the local agency.

A&E Consultant Contracts

Consultant contract(s) already executed.

Acceptance date of Exhibit 10-C by Caltrans	Name of Consultant

- Consultant contract will be procured after authorization. Exhibit 10-C will be sent to Caltrans for acceptance **prior to contract award**.
- Work is being done by Local Agency staff.
- Not applicable. Explain: _____

California Transportation Commission (CTC) Allocation

Check which of the following applies:

- A CTC allocation is not required, or
- A CTC allocation of \$ _____ (federal/state) funds for the PA/ED and/or PS&E component(s) of work was made at the _____ meeting of the CTC, or

[] A CTC allocation of funds has been scheduled for the _____ meeting of the CTC. It is understood that the authorization/obligation of any federal STIP funds will not be made until after the CTC allocation.

Project Agreement and Liquidation of Funds

Upon issuance of Authorization to Proceed (E-76) by the Federal Highway Administration (FHWA), a Program Supplement Agreement (PSA) and state approved project Finance Letter will be prepared to encumber the federal and/or state funds for the project. This Agency understands that any federal and/or state funds encumbered for the project are available for reimbursement until the applicable fund reversion date(s) shown on the state approved project Finance Letter (unless an extension is granted by the Department of Finance).

Invoice Submittal

This Agency understands that only work performed after federal “Authorization to Proceed” (E-76) is eligible for reimbursement. Invoices for reimbursement will not be submitted until after the federal and state (if applicable) funds are encumbered via an executed PSA and/or state approved “Finance Letter”. In addition, it is also understood that an invoice must be submitted at least once every six (6) months for each project phase until all funds are expended.

CERTIFICATION

I certify that the facts and statements in this Request for Authorization Package are accurate and correct. This Agency agrees to comply with the applicable terms and conditions set forth in Title 23, U.S. Code, Highways, and the policies and procedures promulgated by the FHWA and California Department of Transportation (Caltrans) relative to the above-designated project.

I understand that this Agency is responsible for all costs in excess of the federal and/or state funds obligated/encumbered as well as for all costs it incurred prior to receiving the FHWA issued “Authorization to Proceed”(E-76). I further understand that all subsequent phases of the project will require a separate “Federal Authorization to Proceed”.

For High-Risk and Low-Risk Intelligent Transportation Systems (ITS) projects, I understand that our project shall be consistent with the Regional ITS Architecture, adhere to ITS Standards, and undergo Systems Engineering analysis. A SERF will be included in the Field Review Package. For High-Risk ITS projects, I understand that this Agency shall not proceed with component detailed design until after FHWA approval of the SEMP and receipt of “Authorization to Proceed.”

Please advise us as soon as the “Authorization to Proceed” has been issued. You may direct any questions to: (Name of Local Agency Contact) at (phone Number and E-mail Address).

Signature of Full-time Local Agency Employee in Responsible Charge

Print Name

Title

Agency

Distribution: DLAE

EXHIBIT 3-B REQUEST FOR AUTHORIZATION TO PROCEED WITH RIGHT OF WAY

[Place this form on Local Agency Letterhead]

To: (DLAE Name) _____ Date: _____
District Local Assistance Engineer FTIP/FSTIP ID: _____
Caltrans, Office of Local Assistance Federal Project No: _____
(District Address) Project ID/Advantage ID: _____
PPNO (For STIP Projects only): _____
Project Description: _____

Dear (DLAE Name):

In order to proceed with the Right of Way phase of work for the above-referenced project, we request that you secure Federal “*Authorization to Proceed*” (E-76) and Obligation of funds. The federal funds requested will not exceed those provided to this agency in the federally approved Federal Transportation Improvement Program (FTIP)/Federal Statewide Transportation Improvement Program (FSTIP).

Attached are the following documents required to authorize this phase of work:

Request for Authorization Package

- Completed Exhibit 3-E *Request for Authorization to Proceed Data Sheet(s)*
- Copy of FTIP/FSTIP Reference Sheet
- Completed Exhibit 3-O *Sample Local Federal-aid Project Finance Letter*
- Copy of Executed Cooperative Agreement, if not previously submitted (only for projects on the State Highway System)
- Completed Exhibit 3-H *Request for Capital Subvention Reimbursement Allocation* (only for projects on the State Highway System with “Capital-Outlay” costs funded with local assistance subvention funds and administered by the State)

Period of Performance End Date (PPED)

The project PPED must be identified on Exhibit 3-O *Sample Local Federal-aid Project Finance Letter*. Check which of the following applies:

- The PPED will be established with this submittal. Date: _____
- No revision to the PPED is requested with this submittal.
- A revised PPED is requested with this submittal. Date: _____

Toll Credit Usage

- This project will use Toll Credit. It is fully funded.
- This project will NOT use Toll Credit.

Field Review Form (Exhibit 7-B)

- Completed Exhibit 7-B *Field Review Form*, or
- Exhibit 7-B was submitted previously on _____

Environmental Requirements

- Type of NEPA Document. Approval Date: _____
- Categorical Exclusion (CE) Form
- Findings of No Significant Impact (FONSI)
- Record of Decision (ROD)

- Revalidation. Approval Date: _____

Disadvantaged Business Enterprise Contract Goal Methodology Form (Exhibit 9-D)

- Completed Exhibit 9-D *DBE Contract Goal Methodology* and the DBE goal is _____
- Exhibit 9-D *DBE Contract Goal Methodology* is not required as the A&E consultant contract was executed prior to October 1, 2014, and the A&E consultant contract has a DBE contract goal, which is a percentage of the entire A&E consultant contract.
- The DBE goal is 0% because there are no sub consulting opportunities for DBE participation. Documentation verifying this determination is attached to this exhibit, on file with the local agency and has been approved by the DLAE.
- DBE is not applicable because work is to be performed by the local agency.

A&E Consultant Contracts

- Consultant contract(s) already executed.

Acceptance date of Exhibit 10-C by Caltrans	Name of Consultant

- Consultant contract will be procured after authorization. Exhibit 10-C will be sent to Caltrans for acceptance **prior to contract award**.
- Work is being done by Local Agency staff.
- Not applicable. Explain: _____

California Transportation Commission (CTC) Allocation

Check which of the following applies:

- A CTC allocation is not required, or
- A CTC allocation of funds for the right of way component of work was made at the _____ meeting of the CTC, or

[] A CTC allocation of funds has been scheduled for the _____ meeting of the CTC. It is understood that the authorization/obligation of any federal STIP funds will not be made until after the CTC allocation.

Project Agreement and Liquidation of Funds

Upon issuance of Authorization to Proceed (E-76) by the Federal Highway Administration (FHWA), a Program Supplement Agreement (PSA) and state approved project Finance Letter will be prepared to encumber the federal and/or state funds for the project. This Agency understands that any federal and/or state funds encumbered for the project are available for reimbursement until the applicable fund reversion date(s) shown on the state approved project Finance Letter (unless an extension is granted by the Department of Finance).

Invoice Submittal

This Agency understands that only work performed after federal "Authorization to Proceed" (E-76) is eligible for reimbursement. Invoices for reimbursement will not be submitted until after the federal and state (if applicable) funds are encumbered via an executed PSA and/or state approved Finance Letter. In addition, it is also understood that an invoice must be submitted at least once every six (6) months for each project phase until all funds are expended.

CERTIFICATION

I certify that the facts and statements in this Request for Authorization Package are accurate and correct. This Agency agrees to comply with the applicable terms and conditions set forth in Title 23, U.S. Code, Highways, and the policies and procedures promulgated by the Federal Highway Administration (FHWA) and California Department of Transportation (Caltrans) relative to the above-designated project.

I understand that this Agency is responsible for all costs in excess of the federal and/or state funds obligated/encumbered as well as for all costs it incurred prior to receiving the FHWA issued federal "Authorization to Proceed" (E-76).

Please advise us as soon as the "Authorization to Proceed" has been issued. You may direct any questions to: _____
(Name of Local Agency Contact) at _____
(Phone Number and E-mail Address)

Signature of Full-time Local Agency Employee in Responsible Charge

Print Name

Title

Agency

Distribution: DLAE

EXHIBIT 3-C REQUEST FOR AUTHORIZATION TO PROCEED WITH UTILITY RELOCATION

[Place this form on Local Agency Letterhead]

To: (DLAE Name) District Local Assistance Engineer Caltrans, Office of Local Assistance (District Address)	Date: _____ FTIP/FSTIP ID: _____ Federal Project No: _____ Project ID/Advantage ID: _____ PPNO (For STIP Projects only): _____ Project Description: _____ _____
---	---

Dear (DLAE Name):

In order to proceed with the Utility Relocation phase of work for the above-referenced project, we request that you secure Federal “*Authorization to Proceed*” (E-76) and Obligation of funds. The federal funds requested will not exceed those provided to this agency in the federally approved Federal Transportation Improvement Program (FTIP)/Federal Statewide Transportation Improvement Program (FSTIP).

Attached are the following documents required to authorize this phase of work:

Request for Authorization Package

- Completed Exhibit 3-B *Request for Authorization to Proceed with Right of Way of*
- Completed Exhibit 3-E *Request for Authorization to Proceed Data Sheet(s)*
- Copy of FTIP/FSTIP Reference Sheet
- Completed Exhibit 3-O *Sample Local Federal-aid Project Finance Letter*
- Copy of Executed Cooperative Agreement, if not previously submitted (only for projects on State Highway System)
- Exhibit 3-H *Request for Capital Subvention Reimbursement Allocation* (only for projects on State Highway System) with “Capital-Outlay” cost funded with local assistance subvention funds and administered by the state)

Period of Performance End Date (PPED)

The project PPED must be identified on Exhibit 3-O *Sample Local Federal-aid Project Finance Letter*. Check which of the following applies:

- The PPED will be established with submittal. Date: _____
- No revision to the PPED is requested with this Submittal.
- A revised PPED is requested with this submittal. Date: _____

Toll Credit Usage

- This project will use Toll Credit. It is fully funded.
- This project will NOT use Toll Credit.

Field Review Form (Exhibit 7-B)

- Completed Exhibit 7-B *Field Review Form*, or
- The Exhibit 7-B was submitted previously on _____

Environmental Requirements

- Type of NEPA Document. Approval Date: _____
 - Categorical Exclusion (CE) Form
 - Findings of No Significant Impact (FONSI)
 - Record of Decision (ROD)
- Revalidation. Approval Date: _____

Disadvantaged Business Enterprise (DBE) Contract Goal Methodology Form (Exhibit 9-D)

- Completed Exhibit 9-D *DBE Contract Goal Methodology* and the DBE goal is _____
- Exhibit 9-D *DBE Contract Goal Methodology* is not required as the contract was executed prior to October 1, 2014, and the contract has a DBE contract goal, which is a percentage of the entire contract.
- The DBE goal is 0% because there are no subcontracting opportunities for DBE participation. Documentation verifying this determination is attached to this exhibit, on file with the local agency and has been approved by the DLAE.
- There is no goal because work is to be performed by the local agency. A Cost-Effectiveness Determination (Exhibit 12-F) is attached.

A&E Consultant Contracts

- Consultant contract(s) already executed.

Acceptance date of Exhibit 10-C by Caltrans	Name of Consultant

- Consultant contract will be procured after authorization. Exhibit 10-C will be sent to Caltrans for acceptance **prior to contract award**.
- Work is being done by Local Agency staff.
- Not applicable. Explain: _____

Utility Relocation

- This Agency agrees to comply with 23 CFR 645.119 “Alternate Procedure” (as explained in Chapter 13 *Right of Way*, and Chapter 14 *Utility Relocations*, of the LAPM). This alternate procedure is provided to simplify the processing of utility relocations or adjustments under the provisions of 23 CFR 645. Under this procedure, the Federal Highway Administration (FHWA) authorized the California Department of Transportation (Caltrans) to act in relative position of the FHWA for review and approval of the arrangements, fees, estimates, plans, utility agreements, and other related matters required by such regulation as prerequisites for authorizing the utility owner to proceed with and complete the work.

It is understood that the scope of the Department’s approval authority under the Alternate Procedure includes all actions necessary to advance and complete all types of utility work under the provisions of

such regulation, except Section 645.119 (B)(1) and 645.119 (b)(2). Two of such documents that need the Department’s approval are FHWA Specific Authorization and FHWA Approval of the Utility Agreement(s). See Chapter 14 “Utility Relocations”, of the LAPM for more information on the activities necessary for federal participation in utility relocations. The approval authority has been delegated to the Right of Way District Utility Coordinators.

California Transportation Commission (CTC) Allocation

Check which of the following applies:

- A CTC allocation is not required, or
- A CTC allocation of funds for the right of way component of work was made at the _____ meeting of the CTC, or
- A CTC allocation of funds has been scheduled for the _____ meeting of the CTC. It is understood that the authorization/obligation of any federal STIP funds will not be made until after the CTC allocation.

Project Agreement and Liquidation of Funds

Upon issuance of Authorization to Proceed (E-76) by the Federal Highway Administration (FHWA), a Program Supplement Agreement (PSA) and state approved project Finance Letter will be prepared to encumber the federal and/or state funds for the project. This Agency understands that any federal and/or state funds encumbered for the project are available for reimbursement until the applicable fund reversion date(s) shown on the state approved project Finance Letter (unless an extension is granted by the Department of Finance).

Invoice Submittal

This Agency understands that only relocation work performed after federal “Authorization to Proceed” (E-76), approval of the Specific Authorization, and appropriate Utility Agreement is eligible for reimbursement. Invoices for reimbursement will not be submitted until after the federal and state (if applicable) funds are encumbered via an executed “Program Supplement Agreement” and/or state approved Finance Letter. In addition, it is also understood that an invoice must be submitted at least once every six (6) months for each project phase until all funds are expended.

CERTIFICATION

I certify that the facts and statements in this Request for Authorization Package are accurate and correct. This Agency agrees to comply with the applicable terms and conditions set forth in Title 23, U.S. Code, Highways, and policies and procedures promulgated by the FHWA and Caltrans relative to the above-designated project. I understand that this Agency is responsible for all costs in excess of the federal and/or state funds obligated/encumbered, as well as, for all costs it incurred prior to receiving the FHWA issued “Authorization to Proceed” (E-76).

Please advise us as soon as the “Authorization to Proceed” has been issued. You may direct any questions to: (Name of Local Agency Contact) _____ at (Phone Number and E-mail Address) _____.

Signature of Full-time Local Agency Employee in Responsible Charge

_____ *Print Name*

_____ *Title*

_____ *Agency*

Distribution: DLAE

EXHIBIT 3-D REQUEST FOR AUTHORIZATION TO PROCEED WITH CONSTRUCTION

[Place this form on Local Agency Letterhead]

To: (DLAE Name) _____ Date: _____
District Local Assistance Engineer FTIP/FSTIP ID: _____
Caltrans, Office of Local Assistance Federal Project No: _____
(District Address) Project ID/Advantage ID: _____
PPNO (For STIP Projects only): _____
Project Description: _____

Dear (DLAE Name):

In order to advertise, award and administer the construction contract for the above-referenced project, we request that you secure Federal “*Authorization to Proceed*” (E-76) and Obligation of funds. The federal funds requested will not exceed those provided to this agency in the federally approved Federal Transportation Improvement Program (FTIP)/Federal Statewide Transportation Improvement Program (FSTIP).

Attached are the following documents required to authorize this phase of work:

Request for Authorization Package

- Completed Exhibit 3-E *Request for Authorization to Proceed with Data Sheet(s)*
- Copy of FTIP/FSTIP Reference Sheet
- Completed Exhibit 3-O *Sample Local Federal-aid Project Finance Letter*
- Copy of Executed Cooperative Agreement (only for projects on State Highway System)
- Exhibit 3-H *Request for Capital Subvention Reimbursement Allocation* (only for projects on State Highway System with Capital-Outlay” cost funded with local assistance subvention funds and administered by the state

Period of Performance End Date (PPED)

The project PPED must be identified on Exhibit 3-O *Sample Local Federal-aid Project Finance Letter*. Check which of the following applies:

- The PPED will be established with this submittal. Date: _____
- No revision to the PPED is requested with this submittal.
- A revised PPED is requested with this Submittal. Date: _____

Toll Credit Usage

- This project will use Toll Credit. It is fully funded.
- This project will NOT use Toll Credit.

Field Review Form (Exhibit 7-B)

- Completed Exhibit 7-B *Field Review Form*, or
- The Exhibit 7-B previously was submitted on _____.

Environmental Requirements

- Type of NEPA Document. Approval Date: _____.
- Categorical Exclusion (CE) Forms
- Findings of No Significant Impact (FONSI)
- Record of Decision (ROD)
- Revalidation. Approval Date: _____.

Disadvantaged Business Enterprise (DBE) Contract Goal Methodology Form (Exhibit 9-D)

- Anticipated Construction Contract Award Date: _____.
- Completed Exhibit 9-D *DBE Contract Goal Methodology* and the DBE goal is _____.
- The DBE goal is 0% because there are no subcontracting opportunities for DBE participation. Documentation verifying this determination is attached to this exhibit, on file with the local agency and has been approved by the DLAE.
- There is no goal because it is an emergency project, a “nonprofit,” uses force account, or other. A Cost-Effectiveness Determination (Exhibit 12-F) is attached.

A&E Consultant Contracts

- Consultant contract(s) already executed.

Acceptance date of Exhibit 10-C by Caltrans	Name of Consultant

- Consultant contract will be procured after authorization. Exhibit 10-C will be sent to Caltrans for acceptance **prior to contract award**.
- Work is being done by Local Agency staff.
- Not applicable. Explain: _____

Right of Way Certification (Exhibit 13-A or 13-B)

Right of Way Certification # _____ which was approved on _____ is:

- Attached, or
- Previously submitted.

Utility Relocations performed and reimbursed under the Construction phase

- Not Applicable
- This Agency agrees to comply with 23 CFR 645.119 “Alternate Procedure” (as explained in Chapter 13, “*Right of Way*”, and Chapter 14, “*Utility Relocation*” of the LAPM). This alternate procedure is provided

to simplify the processing of Utility Relocations or adjustments under the provisions of 23 CFR 645. Under this procedure, the Federal Highway Administration (FHWA) authorized the California Department of Transportation (Caltrans) to act in relative position of the FHWA for review and approval of the arrangements, fees, estimates, plans, utility agreements, and other related matters required by such regulation as prerequisites for authorizing the utility owner to proceed with and complete the work.

It is understood that the scope of Caltrans approval authority under the Alternate Procedure includes all actions necessary to advance and complete all types of utility work under the provisions of such regulation, except Section 645.119 (b)(1) and 645.119 (b)(2). Two such documents requiring the Department's approval are FHWA Specific Authorization and FHWA Approval of the Utility Agreement (Exhibit 14-C). See Chapter 14, "Utility Relocation", of the LAPM for more information on the activities necessary for federal participation in Utility Relocations. Approval authority has been delegated to the District Right of Way Utility Coordinators.

PS&E Package and PS&E Certification

- Completed PS&E package including Exhibit 12-C *PS&E Certification*, and Exhibit 12-D *PS&E Checklist*, or
- The PS&E package including Exhibit 12-C *PS&E Certification*, and Exhibit 12-D *PS&E Checklist* submitted and accepted on _____.

Local Agency Construction Contract Administration Checklist

- Exhibit 15-A *Local Agency Construction Contract Administration Checklist*, or
- The *Local Agency Construction Contract Administration Checklist* was submitted previously and our procedures have not changed.

California Transportation Commission (CTC) Allocation

Check which of the following applies:

- A CTC allocation is not required, or
- A CTC allocation of funds for the construction component of work was made at the _____ meeting of the CTC, or
- A CTC allocation of funds has been scheduled for the _____ meeting of the CTC. It is understood that the authorization/obligation of any federal STIP funds will not be made until after the CTC allocation.

Project Agreement and Liquidation of Funds

Upon issuance of Authorization to Proceed (E-76) by the Federal Highway Administration (FHWA), a Program Supplement Agreement (PSA) and state approved project Finance Letter will be prepared to encumber the federal and/or state funds for the project. This Agency understands that any federal and/or state funds encumbered for the project are available for reimbursement until the applicable fund reversion date(s) shown on the state approved project Finance Letter (unless an extension is granted by the Department of Finance).

Invoice Submittal

This Agency understands that project construction contracts advertised prior to federal authorization are NOT eligible for reimbursement. It is also understood that Construction Engineering (CE) cost must be specifically included and authorized in the federal Authorization to Proceed with Construction to be eligible for reimbursement. If CE is authorized after construction begins, only those CE costs incurred after the date the CE is authorized are eligible for reimbursement.

Invoices for reimbursement will not be submitted until after the federal and state (if applicable) funds are encumbered via an executed “*Program Supplement Agreement*” and/or state approved “*Finance Letter*”, and the DLAE has received the Construction contract award package. It is understood that an invoice must be submitted at least once every six months for each project phase until all funds are expended.

CERTIFICATION

I certify that the facts and statements in this “*Request for Authorization Package*” are accurate and correct. This Agency agrees to comply with the applicable terms and conditions set forth in Title 23, U.S. Code, Highways, and the policies and procedures promulgated by the Federal Highway Administration and the California Department of Transportation (Caltrans) relative to the above-designated project.

I understand that upon submittal of this request and a completed Exhibit 7-B “*Field Review Form*”, the federal and/or state funds will be encumbered via a “*Program Supplement Agreement*” and /or state approved “*Finance Letter*”. This Agency will comply with the liquidation deadlines as explained in Government Code 16304.

I understand that this Agency is responsible for all costs in excess of the federal and/or state funds obligated/encumbered and all costs it incurred prior to receiving the FHWA issued “*Authorization to Proceed*” (E-76) for this phase of the project.

Please advise us as soon as the “*Authorization to Proceed*” has been issued. You may direct any questions to: (Name of Local Agency Contact) at (Phone Number and E-Mail Address).

Signature of Full-time Local Agency Employee in Responsible Charge

Print Name

Title

Agency

Distribution: DLAE

EXHIBIT 3-L LOCAL ASSISTANCE PROJECT PREFIXES**Federal Program Prefixes**

BPMP	Bridge Preventive Maintenance Program
BRLO	Highway Bridge Program (HBP) - Off Federal-aid System
BRLS	HBP – On Federal-aid System
CML	Congestion Mitigation & Air Quality Improvement Program
ER	Emergency Relief Program
HSIPL	Highway Safety Improvement Program (HSIP)
HRRRL	High Risk Rural Road Eligible Projects in HSIP
NBIL	National Bridge Inventory Local
NBISL	National Bridge Inspection System
SRTSL	Safe Routes to School (Infrastructure or Non-infrastructure; Federal USC Sec. 1404)
STPL	Surface Transportation Program

State Program Prefixes

ATPL	Active Transportation Program
FSPxx	Freeway Service Patrol (State-only)
PPMxx	STIP Funded Planning Programming and Monitoring (State-only)
RPL	STIP Regional Improvement Program (State-only)
RPSTPL	STIP Regional Improvement Program (Federalized)
SR2SL	State Safe Routes to School
SSARPL	Systemic Safety Analysis Report Program
ATPSB1L	Active Transportation Program (State SB1 funds)
CCPSB1L	Congested Corridors Program (State SB1 funds)
LPPSB1L	Local Partnership Program (State SB1 funds)
RPSB1L	STIP Regional Improvement Program (State SB1 funds)
TCESB1L	Trade Corridor Enhancement (State SB1 funds)

Discretionary Program Prefixes

BDLxx	Bridge Discretionary
BDSLxx	Bridge Discretionary, Seismic
CASBLxx	California Scenic Byways

CBILxx	Coordinated Border Infrastructure
DEMxxL	Appropriations Act Funding
FBDLxx	Ferry Boat Discretionary
FERPLxx	Federal Earmark Repurposing
FLHLxx	Federal Lands Highways
FTA___	Federal Transit Administration Transfers (___: Fund Program)
FBDxx	Ferry Boat Discretionary
FLHxx	Federal Lands Highways
HPLUL	SAFETEA-LU High Priority
IBRCLxx	Innovative Bridge Research and Construction
IRLxx	Indian Roads
ITSLxx	Intelligent Transportation Systems
LTAPxx	Technical Deployment, local Technical Assistance Program
NCIPL	SAFETEA-LU National Corridors Infrastructure Improvement Program
NCPDLxx	National Corridor Planning and Development
PLHLxx	Public Lands Highways
PRNSL	SAFETEA-LU Projects of Regional and National Significance
RTLxx	Recreational Trails
TCSELxx	Transportation Community and System Preservation, Earmarked
TCSPLxx	Transportation Community and System Preservation, Competitive
TILUL	SAFETEA-LU Transportation Improvement
VPPLxx	Value Pricing Pilot Program

xx – Indicate second year of FFY of allocation (e.g. FY 2004/05 = 05)

Sub-Level Identifier “N” to prefix of projects on the National Highway System

Sub-Level Identifier “NI” to Prefix of Non-Infrastructure Projects

**EXHIBIT 3-Q REQUEST FOR AUTHORIZATION TO PROCEED
WITH NON-INFRASTRUCTURE PROJECT (CONSTRUCTION PHASE)**

[Place this form on Local Agency Letterhead]

To: (DLAE Name) District Local Assistance Engineer Caltrans, Office of Local Assistance (District Address)	Date: _____ FTIP/FSTIP ID: _____ Federal Project No: _____ Project ID/Advantage ID: _____ PPNO (For STIP Projects only): _____ Project Description: _____ _____
---	---

Dear (DLAE Name):

In order to begin federally reimbursable work for the above-referenced non-infrastructure project, we request that you secure Federal Authorization to Proceed and the obligation of funds. The federal funds requested will not exceed those provided to this agency in the federally approved Federal Transportation Improvement Program (FTIP)/Federal Statewide Transportation Improvement Program (FSTIP).

Attached are the following documents required to authorize this phase of work:

Request for Authorization Package

- Completed Exhibit 3-E *Request for Authorization to Proceed Data Sheet*
- Copy of FTIP/FSTIP Reference
- Completed Exhibit 3-O *Finance Letter*
- NI project work plan, budget, schedule and deliverables

Period of Performance End Date (PPED)

The project PPED must be identified on Exhibit 3-O *Sample Local Federal-aid Project Finance Letter*. Check which of the following applies:

- The PPED will be established with this submittal. Date: _____
- No revision to the PPED is requested with this submittal.
- A revised PPED is requested with this submittal. Date: _____

Toll Credit Usage

- This project will use Toll Credit. It is fully funded.
- This project will NOT use Toll Credit.

Field Review Form (Exhibit 7-B)

- Completed Exhibit 7-B *Field Review Form*, or
- Project Application for SRTS-NI, or TE

Environmental Document

- Categorical Exclusion (CE). Approval Date: _____.
- Preliminary Environmental Screening Form for Non-Infrastructure Projects (PES-NI)

Disadvantaged Business Enterprise (DBE)

- All work for this phase of the project will be performed by local agency staff.
- For consultant contracts a Disadvantaged Business Enterprise (DBE) goal will be established for each contract and Exhibit 10-O1 *Consultant Proposal DBE Commitment* will be submitted with each proposal. Within 30 days of contract execution, Exhibit 10-O2 *Consultant Contract DBE Information* shall be forwarded to the DLAE.

A&E Consultant Contracts

- Consultant contract(s) already executed.

Acceptance date of Exhibit 10-C by Caltrans	Name of Consultant

- Consultant contract will be procured after authorization. Exhibit 10-C will be sent to Caltrans for acceptance **prior to contract award**.
- Work is being done by Local Agency staff.
- Not applicable. Explain: _____

California Transportation Commission (CTC) Allocation

- A CTC allocation is not required, or
- A CTC allocation of \$ _____ (federal/state) funds was made at the _____ meeting of the CTC, or
- A CTC allocation of funds has been scheduled for the _____ meeting of the CTC. It is understood that the authorization/obligation of any federal STIP funds will not be made until after the CTC allocation.

Project Agreement and Liquidation of Funds

Upon issuance of Authorization to Proceed (E-76) by the Federal Highway Administration (FHWA), a Program Supplement Agreement (PSA) and state approved project Finance Letter will be prepared to encumber the federal and/or state funds for the project. This Agency understands that any federal and/or state funds encumbered for the project are available for reimbursement until the applicable fund reversion date(s) shown on the state approved project Finance Letter (unless an extension is granted by the Department of Finance).

Invoice Submittal

This Agency understands that only work performed after federal “Authorization to Proceed” (E-76) is eligible for reimbursement. Invoices for reimbursement will not be submitted until after the federal and state (if applicable) funds are encumbered via an executed “Program Supplement Agreement” and/or State approval Finance Letter. In addition, it is also understood that an invoice must be submitted at least once every six (6) months for each project phase until all funds are expended.

CERTIFICATION

I certify that the facts and statements in this Request for Authorization Package are accurate and correct. This Agency agrees to comply with the applicable terms and conditions set forth in Title 23, U.S. Code, Highways, and the policies and procedures promulgated by the FHWA and California Department of Transportation (Caltrans) relative to the above-designated project.

I understand that this Agency is responsible for all costs in excess of the federal and/or state funds obligated encumbered as well as for all costs it incurred prior to receiving the FHWA issued “Authorization to Proceed.” I further understand that all subsequent phases of the project will require a separate “Federal Authorization to Proceed.”

Please advise us as soon as the “*Authorization to Proceed*” has been issued. You may direct any questions to: (Name of Local Agency Contact) at (Phone Number and E-mail Address).

Signature of Full-time Local Agency Employee in Responsible Charge

Print Name

Title

Agency

Distribution: DLAE

that is a part of the physical construction of the project; and administrative settlement cost of contract claims.

5. **Administrative Settlement Costs:** These are service costs related to contract claims related to the review and defense of claims against federal-aid-projects. See [LAPM Chapter 16: Administer Construction Contracts](#).

Direct Costs

Direct costs are costs incurred solely for a specific state/federal-aid funded transportation project direct costs must be reasonable and allowable per 2 CFR 200. These costs include contractor payments, Right of Way acquisition, direct materials, salaries, wages, fringe benefits and related costs, approved equipment and other capital expenditures, contracted services and other items of expense furnished specifically for the federal-aid project. Refer to [2CFR Subpart E - Cost Principles](#) and [2CFR 439 - Equipment and other capital expenditures](#) for additional information regarding reasonable and allowable costs and equipment thresholds.

Indirect Costs

With the enactment of the Transportation Equity Act for the 21st Century (TEA-21) on June 9, 1998, indirect costs are eligible for federal reimbursement. Should any department, division or other organization unit within the local agency seek reimbursement of their indirect costs, they must receive an Approval/Acceptance Letter of the local agency's Indirect Cost Rate Proposal (ICRP)/Indirect Cost Allocation Plan (ICAP) for the fiscal year(s) involved from Caltrans Division of Audits & Investigations (A&I) prior to billing for any indirect costs. If a project involves more than one fiscal year, approval of the indirect cost rate(s) for each fiscal year for each unit of the government wishing to bill indirect costs are required prior to claiming reimbursement. The Indirect Cost Calculation section on the invoice must be completed and the summary data transferred to the first page of the invoice. Indirect costs must not be combined with direct costs on invoices. See [Section 5.13: Obtaining Approval for Indirect Costs](#) in this chapter for details on obtaining approval/acceptance of ICRP/ICAP.

After obtaining approval/acceptance, and at the discretion of the local agencies, indirect costs may be included when seeking reimbursement. However, any completed project with a Final Report of Expenditures will not be eligible for retroactive indirect cost reimbursement.

Note: Some programs may have special requirements or restrictions for indirect costs. As examples; the Environmental Enhancement and Mitigation (EEM) program does not allow reimbursement for indirect costs, and the Freeway Service Patrol

program does not allow the use of state funds for administrative purposes pursuant to Streets and Highways Code Section 2564.

The sample invoice exhibits in the back of this chapter ([Exhibits 5-A: Sample Federal-Aid Invoice \(Except for STIP and ATP projects\)](#) to [Exhibit 5-G: Sample Alternative Payment Procedure](#) shows how the indirect costs should be billed.

Underfunded Projects

When local agency personnel request federal funding for a project, it is either:

Period of Performance

In accordance with FHWA 2 CFR 200 Implementation Guidance, the Period of Performance (dates when federally reimbursable costs can be incurred) must be established for each federal-aid project. To comply with reporting requirements, local agencies must identify the Period of Performance End Date and Agreement End Date for each project when federal authorization is requested.

Period of Performance End Date (PPED)

The PPED is defined as the date after which no additional costs may be incurred for a project. Any costs incurred after this date will not be eligible for federal reimbursement. The PPED of a project is established by adding twelve (12) months to the local agency's estimated date of completing the current authorized phase of work. The completion of the Preliminary Engineering and Right of Way phases of work is estimated as the anticipated advertising date for construction. For the Construction phase of work, completion is estimated as board/council acceptance of construction contract completion. Upon adding a future phase of work, the local agency must also revise the PPED. Revisions to the PPED require Caltrans concurrence and FHWA approval. If the PPED is revised after the authorized PPED has passed, any costs incurred between the expiration of the authorized PPED and the date that FHWA approves an E76 to revise the PPED are ineligible for reimbursement.

Local agencies are required to estimate the PPED and establish it at the time of their authorization request. The PPED is required to be shown on [Exhibit 3-O: Local Federal-Aid Project Finance Letter](#) and submitted with every authorization request package for the project. After Caltrans concurrence and FHWA approval, Caltrans will notify the local agency of the established PPED along with the project authorization.

To request a revision to the PPED, the local agency must submit an updated Local Federal-Aid Project Finance Letter and adequate justification to the District Local Assistance Engineer (DLAE). Examples of situations which may justify a revision to the PPED include, but are not limited to: litigation, major changes in design, environmental or permit issues, construction claims, differing site conditions, significant additional work, area-wide material shortages, labor strikes, unusually severe weather, or other events which are outside the control of the local agency. This documentation must be included with authorization requests of subsequent phases of work. If occurring at other stages of the project's development, this documentation must be submitted as a separate request to the DLAE.

Agreement End Date (AED)

The AED is defined as the date when the project will be final vouchered by Local Programs Accounting and closed in FMIS by FHWA. It is calculated as twenty-one (21) months from the PPED (i.e. $AED = PPED + 21$ months).

When preparing the E-76, the DLAE will calculate the AED by adding twenty-one (21) months to the local agency's PPED and enter this date into the Agreement End Date field in the Caltrans Federal Aid Data System. After FHWA approval, Caltrans will notify the local agency of the established AED along with the project authorization.

EXHIBIT 5-E SAMPLE "STIP OR ATP PROJECT" FEDERAL INVOICE

(Prepare on Letterhead of Local Agency)

Date of Invoice:
 Name, District Local Assistance Engineer:
 Department of Transportation
 District Local Assistance
 Street/P.O. Box:
 City, CA, Zip Code:
 Billing Number:
 Invoice Number: **1, 2....., or Final**
 Federal-Aid Project Number: **Local Agency's Invoice Number**
 Tax Identification Number: **Prefix Project Number (Fed. Agreement #)**
 Date Project Accepted by City/County: **Agency IRS ID Number**
 Project Location: **Final Date or "Ongoing" if not Final**
 Expenditure Authorization or Advantage Project Number: **Project Limits**

Reimbursement for Federal funds is claimed pursuant to Local Agency-State Agreement No. _____, Program Supplement No. _____, executed on date _____.

	Environmental Studies & Permits	PS&E	Construction Engineering	Construction & Non-Infrastructure	Total
Federal Appropriations Code	Q24/33D	Q24/33D	Q24/33D	Q24/33D	Q24/33D
Federal Authorization Date	5/12/14	5/12/14	6/10/14	6/10/14	
Federal/State Participating Costs From	5/15/14	6/15/14	6/15/14	6/15/14	
To	8/15/14	8/15/14	8/15/14	8/15/14	
Total Indirect Costs to Date	\$825.00****	\$1,865.50****	\$2,690.50****	\$3,640.50****	\$9,032.50
Total Direct Costs to Date	\$4,000.60	\$8,400.30	\$8,290.00	\$150,652.00	\$171,342.90
Less Retention				(\$20,000.00)*	(\$20,000.00)
Liquidated Damages				\$0.00**	\$0.00
Nonparticipating Costs	(\$350.00)	(\$840.00)	(\$1,200.00)	(\$16,000.00)	(\$18,390.00)
Total Federal Participating Costs to date	\$4,475.60	\$9,425.80	\$9,780.50	\$114,652.00	\$138,333.90
Less Participating Costs on Previous Invoice	\$2,120.95	\$6,350.20	\$0.00	\$98,231.00	\$106,702.15
Change in Participating Costs	\$2,354.65	\$3,075.60	\$9,780.50	\$16,421.00	\$31,631.75
Federal Reimbursement Ratio	88.53	88.53	88.53	88.53	
State Reimbursement Ratio	0.00	0.00	11.47	11.47	
Amount of this Claim	\$2,084.57***	\$2,722.82***	\$9,780.50***	\$16,421.00***	\$31,008.89
TOTAL INVOICE AMOUNT					\$31,008.89

INDIRECT COST CALCULATIONS****

Environmental Studies & Permits Indirect Costs:

	Fiscal Year 2012-2013	Fiscal Year 2013-2014
Direct Cost Base Expense	\$1,944.00	\$673.82
Approved Indirect Cost Rate	31%	33%
Subtotal****	\$602.64	\$222.36

Total Indirect Costs to Date for Environmental Studies & Permits **\$825.00** (this Amount is carried to the front of the invoice under the Environmental Studies & Permits column)

PS&E Indirect Costs:

	Fiscal Year 2012-2013	Fiscal Year 2013-2014
Direct Cost Base Expense	\$4,756.23	\$1,185.07
Approved Indirect Cost Rate	31%	33%
Subtotal****	\$1,474.43	\$391.07

Total Indirect Costs to Date for PS&E **\$1,865.50** (this Amount is carried to the front of the invoice under the PS&E column)

Construction Engineering Indirect Costs:

	Fiscal Year 2012-2013	Fiscal Year 2013-2014
Direct Cost Base Expense	\$6,000.00	\$2,516.67
Approved Indirect Cost Rate	31%	33%
Subtotal****	\$1,860.00	\$830.50

Total Indirect Costs to Date for Construction Engineering **\$2,690.50** (this Amount is carried to the front of the invoice under the Construction Engineering column)

Non-Infrastructure Indirect Costs:

	Fiscal Year 2012-2013	Fiscal Year 2013-2014
Direct Cost Base Expense	\$8,000.00	\$3,516.67
Approved Indirect Cost Rate	31%	33%
Subtotal****	\$2,480.00	\$1160.50

Total Indirect Costs to Date for Non-Infrastructure (Only) **\$3,640.50** (this Amount is carried to the front of the invoice under the Construction column)

I certify that the work covered by this invoice has been completed in accordance with approved plans and specifications; the costs shown in this invoice are true and correct; and the amount claimed, including retention as reflected above, is due and payable in accordance with the terms of the agreement.

Signature, Title and Unit of Local Agency Representative Phone No.

For questions regarding this invoice, please contact:

Name Phone No.

- * Total retention amount withheld from contractor. At the end of the project and after all retention has been released, this amount should be zero.
- ** Show "liquidated damages" amount on final invoice.
- *** Please round down the figures to the lowest cent. Federal rules do not allow rounding up.
- ****
 - Indirect cost for this project equals the direct cost base expense (i.e., direct salaries & wages plus fringe benefits) for this project multiplied by the approved indirect cost rate.
 - Indirect cost reimbursement will not apply to direct costs, i.e., payment of construction contracts and right of way purchases, not included in the direct cost base.
 - An indirect rate must be approved by Caltrans every fiscal year to be used for only those costs incurred for that year.
 - Non-Infrastructure Indirect Costs (only) are shown under the Construction cost column.
All other Indirect Costs are shown under their respective cost column for the phase of work, i.e. Environmental Studies & Permits, PS&E, and Construction Engineering.

NOTE: For R/W Acquisition use Exhibit 5-D

Distribution: Original & 2 copies to DLAE

Chapter 6 **Environmental Procedures** (includes FAST Act updates)

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Exhibits

Exhibits applicable to this chapter can be found at:

<http://www.dot.ca.gov/hq/LocalPrograms/lam/forms/lapmforms.htm#goHere8>

[Exhibit 6-A: Preliminary Environmental Study \(PES\)](#)

[Exhibit 6-B: Instructions for Completing the Preliminary Environmental Study \(PES\) Form](#)

[Exhibit 6-C: Table 2-Exempt Projects](#)

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[Exhibit 6-E: Categorical Exclusion Checklist](#)

[Exhibit 6-F: Categorical Exemption/Categorical Exclusion Determination Form](#)

[Exhibit 6-G: NEPA/CEQA Revalidation Form](#)

[Exhibit 6-H: External Certifications Environmental Document Quality Control Reviews](#)

[Exhibit 6-I: Instructions for Completing the External Certifications \(Environmental Document Quality Control Review Certification\) Form](#)

[Exhibit 6-J: Preliminary Environmental Screening for Non-Infrastructure Projects PES \(NI\)](#)

[Exhibit 6-K: Instructions for Completing the Preliminary Environmental Screening for Non-Infrastructure Projects \(PES \[NI\]\) Form](#)

Chapter 6 Environmental Procedures

6.1 INTRODUCTION

One of the most important phases of the project development process is full and early compliance with the National Environmental Policy Act (NEPA) and other applicable federal environmentally related laws. Local agencies may not proceed with the final design of a project, or request “Authorization to Proceed with Right of Way,” or “Authorization to Proceed with Construction” until California Department of Transportation (Caltrans) has signed a Categorical Exclusion (CE), a Finding of No Significant Impact (FONSI), or a Record of Decision (ROD). Failure to follow this requirement will make the project ineligible for federal funds reimbursement. Upon final environmental approval, it is incumbent upon the District Local Assistance Engineer (DLAE) to provide the local agency with immediate notification and a copy of the signed CE, FONSI, or ROD, so the local agency can commence with final design.

This chapter provides an overview of the NEPA process and contains procedural guidance for preparing and processing CEs, routine Environmental Assessments (EAs), complex EAs and Environmental Impact Statements (EISs) in support of local assistance projects (local agency federal-aid transportation projects “off” the State Highway System [SHS]). The local agency is required to complete the Preliminary Environmental Study (PES) Form, or the Preliminary Environmental Screening Non-Infrastructure (PES[NI]) form, if applicable, first, and then follow the step-by-step procedures beginning at Section 6.4 (if applicable) or Section 6.5 of this manual.

Local agency projects proposed on the SHS are called “locally sponsored” projects. For locally sponsored projects, the local agency is required to prepare a Preliminary Environmental Analysis Report (PEAR) first, and then follow the procedures set forth in the Project Development Procedures Manual (PDPM). The content and format requirements of environmental technical studies/reports and NEPA documents prepared in support of either a local assistance project or a locally sponsored project must follow the guidance set forth in the Caltrans Standard Environmental Reference (SER) at: <http://www.dot.ca.gov/ser/>.

Authority

National Environmental Policy Act (NEPA) and its supporting federal regulations establish certain requirements that must be adhered to for any project “...financed, assisted, conducted or approved by a federal agency....” In short, federal regulations require that a federal agency “...determine whether the proposed action may significantly affect the quality of the human environment.”

<http://www.dot.ca.gov/ser/vol1/sec1/ch1fedlaw/chap1.htm#Ch1NEPA1969>

Fixing America’s Surface Transportation Act (FAST Act). On December 4, 2015, President Barack Obama signed the Fixing America’s Surface Transportation Act (the FAST Act, P.L. 114–094). The Fixing America’s Surface Transportation (FAST) Act is a five-year legislation to improve the Nation’s surface transportation infrastructure, including our roads, bridges, transit systems, and rail transportation network. The act reforms and strengthens transportation programs, refocuses on national priorities, provides long-term certainty and more flexibility for states and local governments, streamlines project approval processes, and maintains a strong commitment to safety. Furthermore, Section 1304 of the FAST Act made a number of changes to the Efficient Environmental Review Process codified at 23 United States Code Section 139 (23 U.S.C. 139). Some of these changes are summarized below. The changes apply to projects that have a notice of intent to develop an environmental impact statement (EIS) published after December 4, 2015. (Note: the requirements of 23 U.S.C. 139 remain mandatory only for EISs (23 U.S.C. 139 (b)(1)). The requirements listed in 23 U.S.C. 139 would only apply to environmental assessments (EAs) if FHWA, or Caltrans as assigned, chose to apply the Efficient Environmental Review Process to a project for which an EA was being prepared).

The FAST Act makes the following changes to the 23 U.S.C. 139 Efficient Environmental Review Process:

- The lead agency must now identify participating agencies no later than 45 days after the date of publication of a notice of intent (NOI) to prepare an environmental impact statement (EIS) or the initiation of an environmental assessment (EA).
- A coordination plan must now be established no later than 90 days after the date of publication of an NOI or the initiation of an environmental assessment.
- A schedule is now REQUIRED as part of the coordination plan.
- The lead agency now has the responsibility to consider and respond to comments received from participating agencies on matters within the special expertise or jurisdiction of those agencies.
- To the maximum extent practicable and consistent with federal law, all federal permits and reviews for a project shall rely on a single environmental document prepared under the National Environmental Policy Act (NEPA) under the leadership of the lead agency.
- The lead agency for a project, in consultation with participating agencies, must develop, as appropriate, a checklist to help project sponsors identify potential natural, cultural, and historic resources in the project area.

Note: FHWA is developing a checklist for projects subject to 23 U.S.C. 139. Until this checklist is available, this requirement can be met through the completion of a PES Form (for Local Assistance projects).

- To the maximum extent practicable and consistent with federal law, the range of alternatives determined for the project shall be used for all federal environmental reviews and permit processes required for the project unless the alternatives must be modified to address significant new information or circumstances or for the lead agency or participating agency to fulfill the responsibilities of the agency under NEPA in a timely manner.
- The lead agency may eliminate from detail consideration an alternative proposed in an EIS if, as determined by the lead agency, it meets one of the criteria listed in 23 U.S.C. 139 (f)(4)(E)(ii).
- The FAST Act reiterates that errata sheets can be attached to a Draft EIS (DEIS) in-lieu of preparing a traditional Final EIS (FEIS) when the comments received on a DEIS are minor and are confined to factual corrections or explanations of why the comments do not warrant additional agency response.
- The FAST Act reiterates that to the maximum extent practicable, the lead agency should develop a single document that combines a FEIS and Record of Decision (ROD)(23U.S.C.139(n)(2)), unless:
 - The FEIS makes substantial changes to the proposed action that are relevant to environmental or safety concerns; or
 - There is a significant new circumstance or information relevant to environmental concerns that bears on the proposed action or the impacts of the proposed action.

Moving Ahead for Progress in the 21st Century (MAP-21). On July 6, 2012, President Barack Obama signed into law the new Federal Transportation Act with an effective date of October 1, 2012. MAP-21, a two-year funding bill, is the first long-term highway authorization enacted since 2005.

MAP-21 promotes accelerating project delivery and encourages innovation through the increased use of CE, programmatic approaches, and planning and environmental linkage (<http://www.fhwa.dot.gov/map21/legislation.cfm>).

Two provisions in particular, “Section 1312 State Assumption of Responsibility for CEs” and “Section 1313 Surface Transportation Project Delivery Program” provide for the continuation of the formal assignment from FHWA to any qualified State Department of Transportation responsibility and authority for the federal environmental review process, thus eliminating the need for separate FHWA review of environmental documents. These processes together are referred to in Caltrans as “NEPA Assignment,” (formerly called NEPA Delegation).

Memorandum of Understanding (MOU) between FHWA, California Division and the California Department of Transportation State Assumption of Responsibility for Categorical Exclusions (effective June 7, 2007, June 7, 2010, and June 7, 2013). On May 31, 2016, the Federal Highway Administration (FHWA) renewed the 23 U.S.C. 326 CE MOU for another 3 year term. No comments related to the MOU were received during the public comment period.

Section 1312 of MAP-21, codified in Title 23 United States Code 326, allows the USDOT Secretary acting through FHWA to assign responsibilities for CE determinations to Caltrans through a MOU (326 MOU). A copy of the 326 MOU is available at:

http://www.dot.ca.gov/ser/downloads/MOUs/nepa_delegation/23_U.S.C._326_ce_mou_final_signed_5_31_16.pdf

The 326 MOU stipulates that the CE responsibilities assigned to the state by FHWA include:

- Activities listed in 23 CFR 771.117(c)
- The example activities listed in 23 CFR 771.117(d)
- Additional actions listed in Appendix A of the MOU

The 326 MOU transfers to Caltrans all responsibilities for approving the CEs designated in Stipulation I(B) and any required reevaluations of CEs under 23 CFR 771.129. The Renewed 326 MOU supersedes the original June 7, 2007, 326 MOU.

Memorandum of Understanding between the Federal Highway Administration and the California Department of Transportation Concerning the State of California's Participation in the Surface Transportation Project Delivery Pilot Program (effective October 1, 2012). Section 1313 of MAP-21, codified in Title 23 U.S.C. 327, allows FHWA and Caltrans to make permanent, but renewable through a MOU (327 MOU), the Surface Transportation Project Delivery Pilot Program (NEPA assignment program) established by SAFETEA-LU Section 6005. It also had provisions that allow any state to apply for and assume (if assigned) USDOT Secretary responsibilities for NEPA and all or part of the USDOT Secretary's responsibilities for environmental review, consultation, or other action required under any federal environmental law and regulation for highway projects within that state. A copy of the 327 MOU is available at: http://www.dot.ca.gov/ser/downloads/MOUs/nepa_delegation/nepa_mou.pdf

The Moving Ahead for Progress in the 21st Century Act (MAP-21) amended 23 U.S.C. 327 to establish a revised and permanent Surface Transportation Project Delivery Program. As a result, on October 1, 2012, the Department entered into a memorandum of understanding pursuant to 23 U.S.C. 327 (NEPA Assignment MOU) with FHWA. On April 1, 2016, that MOU was approved by FHWA for extension to December 31, 2016, and on December 23, 2016, the MOU was renewed for a 5-year term.

A list of applicable federal environmental statutes, regulations, policy, and guidance are provided below:

- 40 CFR 1500, "Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act," (CEQ, November 29, 1978)
- USDOT Order 5610.1C, (September 18, 1979)
- 23 CFR 771, "Environmental Impact and Related Procedures"
- Technical Advisory T6640.8A

- Clean Air Act (CAA) (42 U.S.C.7401-7671(q), except for Conformity Determinations required under CAA (42 U.S.C.7506, Section 176)
- Compliance with the Noise Regulations under 23 CFR 772
- Section 7 of the Endangered Species Act of 1973, 16 U.S.C. 1531-1544 and Section 1536
- Marine Mammal Protection Act, 16 U.S.C. 1361
- Anadromous Fish Conservation Act, 16 U.S.C. 757(a)-757(g)
- Fish and Wildlife Coordination Act, 16 U.S.C. 661-667(d)
- Migratory Bird Treaty Act, 16 U.S.C. 703-712
- Magnuson-Stevens Fishery Conservation and Management Act of 1976, as amended, 16 U.S.C. 1801 et seq.
- National Historic Preservation Act of 1966, Section 106 as amended, 16 U.S.C. 470(f) et seq.
- Archeological Resources Protection Act of 1977, 16 U.S.C. 470(aa)-11
- Archeological and Historic Preservation Act, 16 U.S.C. 469-469(c)
- Native American Grave Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3001-3013
- American Indian Religious Freedom Act, 42 U.S.C. 1996
- Farmland Protection Policy Act (FPPA), 7 U.S.C. 4201-4209
- Clean Water Act, 33 U.S.C. 1251-1377: Section 404, Section 401, and Section 319
- Coastal Barrier Resources Act, 16 U.S.C. 3501-3510
- Coastal Zone Management Act, 16 U.S.C. 1451-1465
- Land and Water Conservation Fund Act (LWCF), 16 U.S.C. 4601-4604
- Safe Drinking Water Act (SDWA), 42 U.S.C. 300(f)-300(j)(6)
- Wild and Scenic Rivers Act, 16 U.S.C. 1271-1287
- Emergency Wetlands Resources Act, 16 U.S.C. 3921, 3931
- Mitigation of Impacts to Wetlands and Natural Habitat, 23 CFR 777
- TEA-21 Wetlands Mitigation, 23 U.S.C. 103(b)(6)(m), 133(b)(11)
- Flood Disaster Protection Act, 42 U.S.C. 4001-4128
- 23 U.S.C. 138 and Section 4(f) of the Department of Transportation Act of 1966
- 49 U.S.C. 303 and implementing regulations at 23 CFR 774
- Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. 9601-9675
- Superfund Amendments and Reauthorization Act of 1986 (SARA)
- Resource Conservation and Recovery Act (RCRA), 42 U.S.C. 6901-6992(k)

- Executive Order 11990 - Protection of Wetlands
- Executive Order 11988 - Floodplain Management
- Executive Order 12898 - Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations
- Executive Order 13112 - Invasive Species

Refer to the [SER](#), Chapter 1 for a description of each of the above statutes, regulations, policy and guidance.

Roles and Responsibilities

Local Agency

1. Programs project in current federally approved Federal Statewide Transportation Improvement Program (FSTIP).
2. Develops complete Project Description consistent with the FSTIP. Defines project limits and purpose and need. For EAs or EISs, justifies logical termini and independent utility. Prepares project area maps and cross-sections showing existing and proposed project.
3. For non-infrastructure projects, completes Preliminary Environmental Screening form- Non-Infrastructure projects (PES [NI]) according to the instructions.
4. For all other projects, completes the PES form according to the instructions.
5. Submits the PES or PES (NI) to the DLAE according to the Step-by-Step Procedures provided at Section 6.4 of this chapter.
6. Waits to initiate required technical studies until the PES Form has been signed by Caltrans DLAE and senior environmental planner (SEP).
7. Waits to proceed with final Design, property acquisition or construction until after Caltrans has approved the CE, FONSI, or Final EIS/ROD.
8. Prepares a draft Area of Potential Effect (APE) map, and once the APE map is signed by Caltrans Professionally Qualified Staff (PQS) and DLAE, identifies historic properties.
9. Ensures that consultants preparing technical studies meet the preparer qualifications identified in the SER for the appropriate discipline.
10. Ensures that consultant contracts and scopes of work direct the development of technical studies and reports consistent with the fully signed PES form, and that the format and content of all technical reports and the NEPA document is consistent with SER templates and annotated outlines.
11. Utilizes the NEPA-Only EA or EIS Annotated Outline, or the Joint EIR/EIS, Joint EIR/EA, or Joint IS/EA Annotated Outlines.
12. Performs the External Quality Control Review on all Draft and Final EAs and EISs and their supporting technical studies.

13. Completes the Environmental Document Review Checklist and the External Certifications Environmental Document Quality Control Reviews form for all EAs and EISs.
14. Prepares the Notice of Availability (NOA) of EAs and EISs and provides copy of the Draft EA and EIS to the state and area wide clearinghouses.
15. Prepares and places Notice of Public Hearing or Notice of Opportunity for Public Hearing in local newspaper, and provides a copy to Caltrans.
16. Attends and supports public hearings on EAs and EISs.
17. Is responsible for complying with applicable Federal, state and local laws, obtaining necessary permits, and ensuring that mitigation commitments are fully incorporated into Final Plans, Specifications and Estimates (PS&E), and fully implemented during construction.
18. Provides Caltrans with a list of mitigation commitments required to comply with NEPA.
Note: Reference to mitigation is in a NEPA context, not CEQA.
19. Provides Caltrans with a copy of all environmental permits, approvals and agreements from resource and regulatory agencies, including all terms and conditions of the permits, agreements and approvals.
20. Maintains copies of NEPA documentation and supporting technical reports for a period of 3 years following FHWA reimbursement for final project costs. When mitigation is required, environmental documentation must be maintained until all terms of required mitigation have been fully implemented. This includes any required monitoring period. The 327 MOU stipulates the following specific record retention requirements (327 MOU 8.3.2): <http://www.dot.ca.gov/env/nepa/docs/23-usc-327-mou.pdf>
21. For major projects exceeding \$500 million, a draft Project Management Plan (PMP) shall be submitted by the local agency to the DLAE prior to the ROD, FONSI, or CE determination. A final PMP must be submitted within 90 days after the environmental determination which determines the scope of the project. See [LAPM Chapter 2: Roles and Responsibilities](#) for details.
22. Notifies the DLAE of changes in project scope, cost, schedule, or project limits, and requests NEPA Reevaluation.

Caltrans

1. District Local Assistance

1.1. District Local Assistance Engineer (DLAE) or designee when applicable

- 1.1.1. Reviews the PES form or PES (NI) form, if applicable, and supporting documentation for all projects.
- 1.1.2. Verifies that project is properly listed in the Regional Transportation Program (RTP) and FSTIP prior to signing PES and CE form.

- 1.1.3. Reviews and signs PES form, indicating concurrence with Preliminary NEPA Class of Action (CE, EA, EIS) and required technical studies.
- 1.1.4. Reviews and signs PES (NI) form, if applicable, indicating concurrence with Preliminary NEPA Class of Action and non-infrastructure nature of project.
- 1.1.5. Ensures that, where the PES form indicates that no technical studies are required, the continuation sheet of the PES form summarizes how the requirements of relevant federal environmentally related laws have been met.
- 1.1.6. Arranges and attends Early Coordination Meeting.
- 1.1.7. Jointly approves CE Determinations (with district SEP).
- 1.1.8. Informs the district SEP (or designee) of the local agency project delivery schedule, tracks review of local agency technical reports and NEPA documents, and notifies the district SEP (or designee) when issues arise or any changes occur that may affect the NEPA process.
- 1.1.9. Reviews and signs APE map [in coordination with district Professionally Qualified Staff (PQS)] for undertakings, when applicable.
- 1.1.10. Immediately notifies local agency in writing of NEPA approval so that they may commence with final design.
- 1.1.11. Serves as the focal point (unless otherwise designated) between the local agency and Caltrans.
- 1.1.12. Serves as the focal point for coordination with FHWA regarding engineering decisions and design exceptions.
- 1.1.13. Transmits (unless otherwise delegated) all correspondence and documentation between local agency and Caltrans.
- 1.1.14. Transmits (unless otherwise delegated) all correspondence and documentation between Caltrans and FHWA.
- 1.1.15. Determines and approves Reasonable and Feasible Noise Abatement Measures.
- 1.1.16. Jointly approves Summary of Floodplain Encroachment Form (with district SEP).
- 1.1.17. Makes Only Practicable Alternative Finding (for significant Floodplain encroachments).

Note: If a significant floodplain encroachment is identified as a result of floodplains studies, FHWA will need to approve the encroachment and concur in the Only Practicable Alternative Finding. See Chapter 17 of the [SER](#) for additional information regarding floodplains.
- 1.1.18. Attends and supports public hearings on EAs and EISs.

- 1.1.19. Determines in coordination with the district SEP (or designee) whether mitigation represents a reasonable public expenditure after considering the impacts of the action and the benefits of the proposed mitigation measures. [[23 CFR 771.105\(d\)\(2\)](#)]
- 1.1.20. Maintains project files and general administrative files.
- 1.1.21. Ensures project files and general administrative files are available for inspection by FHWA staff upon reasonable notice.
- 1.1.22. Assists, as needed, with the self-assessment of the Caltrans Quality Control and Quality Assurance process in the identification of areas needing improvement and the implementation of corrective actions necessary to address areas needing improvement.
- 1.1.23. Assists, as needed, in the development of the 23 U.S.C. 326 and 327 Quarterly Reports to FHWA.
- 1.1.24. Assists, as needed, with any monitoring or process reviews pursuant to 23 U.S.C. 326 and 327.
- 1.1.25. Maintains adequate organizational resources and sufficient staff capability and expertise to carry out the responsibilities assigned under the 23 U.S.C. 326 and 23 U.S.C. 327 MOUs effectively.

1.2. District Senior Environmental Planner (SEP) or Designee

- 1.2.1. Reviews the PES form or PES (NI) form, if applicable, and supporting documentation.
- 1.2.2. Ensures that where the PES form indicates that no technical studies are required, the continuation sheet of the PES form summarizes how the requirements of relevant federal environmentally related laws have been met.
- 1.2.3. Signs PES form indicating concurrence with Preliminary NEPA Class of Action (CE, EA, EIS) and required technical studies.
- 1.2.4. Ensures that clarification of each "TBD" response, identified under Section A of the PES (NI) form, is provided on the PES (NI) Continuation Sheet.
- 1.2.5. Signs PES (NI) form, if applicable, indicating concurrence with NEPA Class of Action and non-infrastructure nature of project.
- 1.2.6. Attends Early Coordination Meeting when requested.
- 1.2.7. After review of CE Checklist and Air Quality Conformity Findings Checklist, determines if the CE/CE Determination Form is ready for signature. Jointly signs the NEPA section of the CE/CE Determination Form with DLAE.

Note: District SEP's signature on CE/CE Determination Form may not be delegated below the level of the district SEP.

- 1.2.8. Reviews NEPA documents and supporting technical reports and determines if they are complete and sufficient according to the guidance set forth in the SER.
- 1.2.9. Jointly signs the Summary of Floodplain Encroachment form with DLAE.
- 1.2.10. Initiates Section 7 Conference Opinion for Endangered Species Act (ESA) Proposed Species or Proposed Critical Habitat.
- 1.2.11. Initiates Section 7 Formal and Informal Consultation with USFWS or NMFS for ESA listed species or their critical habitat and NMFS essential fish habitat (EFH) consultations.
- 1.2.12. Ensures establishment of the environmental project file utilizing the Caltrans Uniform Environmental File System as soon as environmental studies begin.
- 1.2.13. Ensures completion of all environmental fields in the LP2000 database in support of all reporting requirements and compliance with performance measures.
- 1.2.14. Monitors District Local Assistance environmental process relating to project determinations, environmental analysis and project file documentation, checks for errors and omissions, and takes corrective action as needed.
- 1.2.15. Provides training to both internal and external partners on environmentally related topics, as requested or as resources allow.
- 1.2.16. Cooperates in monitoring performance under the 23 U.S.C. 326 MOU and modifies practices as needed to assure quality performance.
- 1.2.17. Assists, as needed, with any Monitoring or Process Reviews pursuant to 23 U.S.C. 327.
- 1.2.18. Assists with the development of the 23 U.S.C. 327 Quarterly Reports and the Quarterly Performance Reports under 23 U.S.C. 326.
- 1.2.19. Cooperates fully with FHWA in all quality assurance activities.
- 1.2.20. Provides FHWA with any information necessary in order for the FHWA to carry out its government-to-government consultation.
- 1.2.21. Ensures that the NEPA compliance and any other environmental responsibilities assigned under the 23 U.S.C. 326 and 327 MOUs have been completed according to the MOUs.
- 1.2.22. Carries out assigned consultation, review, and coordination activities in a timely and proactive manner.
- 1.2.23. Makes all reasonable and good faith efforts to identify and resolve conflicts with federal, state, and local agencies.

- 1.2.24. Performs Document Quality Control Review and signs Certification forms for EAs and EISs.
- 1.2.25. Makes Wetlands Only Practicable Alternative Finding (WOPAF) and Least Environmentally Damaging Practicable Alternative (LEDPA) Finding.
- 1.2.26. Makes determination that proposed action includes all Practicable Measures to Minimize Harm.
- 1.2.27. Approves Wetlands Only Practicable Alternative Finding (WOPAF) .
- 1.2.28. Coordinates with the U.S. Army Corps of Engineers (USACE), Environmental Protection Agency (EPA), USFWS, and NMFS prior to making Wetland Determination.
- 1.2.29. Approves Section 4(f) de minimis and Programmatic Section 4(f) Evaluations.
- 1.2.30. Jointly approves Draft Section 4(f) Evaluations for Public Circulation with HQ District Environmental Coordinator and Legal.
- 1.2.31.
- 1.2.32. Determines validity of approved CEs, EAs, and EISs for FHWA NEPA Reevaluations ([23 CFR 771.129](#)) and Caltrans NEPA/CEQA Revalidation Form.
- 1.2.33. Approves Notice of Intent (NOI) to prepare an EIS, and sends to FHWA for publication in the Federal Register (FR).
Note: Only a federal agency can post in the FR.
- 1.2.34. Attends public hearing on EAs and EISs.

1.3. District Professionally Qualified Staff (PQS)

- 1.3.1. Reviews the PES Form and supporting documentation for all projects.
Note: PQS does not review PES (NI) form.
- 1.3.2. Reviews the PES form and indicates the results of their review in the PQS signature block of the PES form, and prepares screening memo if applicable.
- 1.3.3. Indicates appropriate response to Question #35 under Section A of the PES form, completes Sections B, C, and D (regarding Section 106), and signs the Section G of the PES form for all projects.
- 1.3.4. Reviews and signs (with the DLAE) the local agency-prepared APE maps, indicating approval.
- 1.3.5. Attends Early Coordination Meetings when requested and provides the local agency with guidance on proper procedures and required format and content of all cultural reports.

- 1.3.6. Reviews and approves cultural resource reports and transmits them to the State Historic Preservation Officer (SHPO) or Caltrans Cultural Studies Office (CSO) when required.
- 1.3.7. Provides the DLAE and project Generalist with periodic updates and copies of all transmittals to the SHPO.

1.4. District Local Assistance NEPA Assignment Coordinator/QC Reviewer

- 1.4.1. Assists as needed with the district review of EISs and routine and complex EAs.
- 1.4.2. Assists with record-keeping and reporting to document Caltrans' performance, and measures how 23 U.S.C. 326 and 327 streamline the project delivery process.
- 1.4.3. Participates in 327 Monitoring Review and reviews of 326 CEs of Local Assistance projects.
- 1.4.4. Assists with FHWA Process Reviews.
- 1.4.5. Assists with training internal staff and local agencies on required forms and procedures needed to implement 23 U.S.C. 326 and 23 U.S.C. 327.
- 1.4.6. Provides training to local agencies and internal staff on procedures under NEPA Assignment and assists them through the processes.
- 1.4.7. Assists in maintaining consistency in document review, reporting, and training between cross-district allocations.
- 1.4.8. Reviews Draft and Final EISs, routine EAs, Complex EAs, and technical reports as needed.
- 1.4.9. Signs Internal Certifications (Environmental Document Quality Control Reviews form).

1.5. Deputy District Director (DDD) for Environmental or Designee

- 1.5.1. Approves stand alone Individual Section 4(f) Evaluation
- 1.5.2. Signs EA (NEPA-only) title page, FONSI, and Supplemental EIS.

1.6. District Director (DD) or Designee

- 1.6.1 Signs EIS title page and ROD.
- 1.6.2 Signs Section 106 MOAs as concurring party.

2. Division of Environmental Analysis (DEA)

2.1. HQ Division of Environmental Analysis Environmental Coordinator (HQ EC)

- 2.1.1. Provides guidance and assistance to resolve disputes on environmental findings according to the protocols in the SER.

- 2.1.2. Reviews and comments on EISs, complex EAs, and routine EAs (when requested) and Individual Section 4(f) Evaluations for compliance per Quality Control/Quality Assurance procedures set forth in the 327 MOU.
- 2.1.3. Provides expertise as needed.
- 2.1.4. Provides concurrence with NEPA Class of Action (via email) or on PES form for EAs, Complex EAs, and EISs.

2.2. Chief, HQ Division of Environmental Analysis

- 2.2.1. As the Caltrans designated Preservation Officer, signs Section 106 MOAs as signatory for Caltrans.

3. Division of Legal

- 3.1. Reviews local assistance Draft and Final EISs and Complex EAs (if requested) to ensure their legal sufficiency in final document.
- 3.2. Defends local assistance NEPA documents in federal court.
- 3.3. Reviews Individual Section 4(f) Evaluations to ensure they are legally sufficient.
- 3.4. Reviews local assistance Draft and Final routine EAs if requested, to ensure their legal sufficiency in final document.

4. Division of Local Assistance (DLA)

4.1. Statewide Local Assistance NEPA Assignment and Environmental Compliance Office Chief

- 4.1.1. Manages the implementation of the NEPA Assignment Program for the Local Assistance Program.
- 4.1.2. Ensures the questions and concerns of Caltrans District Local Assistance offices, cities, counties, Regional Transportation Planning Associations (RTPAs), Metropolitan Planning Organizations (MPOs), other Headquarters units, and FHWA are addressed in Caltrans DEA policies and procedures.
- 4.1.3. Serves on or leads statewide and corporate teams regarding NEPA Assignment and other federal environmental requirements.
- 4.1.4. Participates in FHWA Process Reviews as requested.
- 4.1.5. Ensures statewide quality control of local assistance environmental reporting
- 4.1.6. Ensures statewide consistency and quality in NEPA compliance for the Local Assistance Program by informing District Local Assistance SEPs and DLAEs of changes in policy and procedures, and by providing training.

- 4.1.7. Monitors Local Assistance Program environmental resources and takes appropriate action to obtain the additional resources as needed to implement the requirements set forth in 23 U.S.C. 326 and 327 and respective MOUs.

4.2. Statewide NEPA Compliance Coordinators (Policy and Reporting)

- 4.2.1. Maintains and updates the NEPA compliance components of the LAPM, LAPG, relevant components of the SER, and DLA Environmental webpage.
- 4.2.2. Serves on or leads statewide and corporate teams to ensure Local Assistance Program environmental needs and issues are addressed.
- 4.2.3. Maintains environmental screens in LP2000 database, coordinates with districts regarding data completeness and accuracy, and produces environmental reports required for NEPA Assignment, Workload Norms, and as needed to satisfy other federal environmental requirements.
- 4.2.4. Develops and provides training to DLAEs, district local assistance environmental staff, and local agencies as needed.
- 4.2.5. Performs process reviews to assess compliance with federal requirements.
- 4.2.6. Assists with or coordinates the resolution of issues that cannot be resolved in the district.
- 4.2.7. Assists as needed with FHWA's Process Reviews, Risk Assessments, and Compliance Assessment Program (CAP) reviews.

5. FHWA

- 5.1. Posts Notices of Intent (NOI), Records of Decision (ROD) and Statute of Limitation (SOL) Notices in the Federal Register (FR).
- 5.2. Performs environmental review, consultation or other related action for the following types of projects not assigned to Caltrans pursuant to 23 U.S.C. 326 and 327:
 - projects requiring FTA funding or approval
 - projects involving international and state border crossings
 - high priority projects under E.O. 13274
 - projects funded by Federal Lands Highway Program unless Caltrans or local agency designs and constructs
- 5.3. Performs all government-to-government consultation with Indian Tribes as defined in 36 CFR Part 800.16(m).
- 5.4. Makes Air Quality Conformity Determinations for 327 CEs, EAs, and EISs.

- 5.5. Approves Significant Floodplain Encroachments, and concurs in Only Practicable Alternative Findings.
- 5.7. Performs USDOT responsibilities for statewide and metropolitan planning.
- 5.8. Provides and assists with training as necessary.

6. Other State and Federal Responsible and Regulatory Agencies

- 6.1. Determine whether the local agency's action complies with the provisions of law germane to their statutory responsibility.

Applicability

Pursuant to 40 CFR Part 1508.18[a], any local assistance project, "... financed, assisted, conducted, regulated or approved by federal agencies..." is subject to compliance with the provisions of the NEPA.

Any amount of federal involvement in a project requires that the entire project be included in the process, regardless of phases or segments not funded by FHWA. The scope of NEPA responsibility is not determined based on funding alone.

<https://www.gpo.gov/fdsys/pkg/CFR-2015-title40-vol33/pdf/CFR-2015-title40-vol33-sec1508-18.pdf>.

Scientific and Commercial Data

NEPA requires that environmental information be "... of high quality based on accurate scientific analysis and expert agency comment..." (40 CFR Part 1500.1[b] found at

<https://www.gpo.gov/fdsys/pkg/CFR-2015-title40-vol33/pdf/CFR-2015-title40-vol33-sec1500-1.pdf>).

Local agencies are required to follow Caltrans policy and guidance set forth in the SER to ensure that NEPA determinations and documents reflect the most current scientific methodologies, and that analysis is of the highest quality.

Scope

Pursuant to 40 CFR Part 1500.1[b], NEPA further and most importantly requires that the "... NEPA document concentrate on the issues that are truly significant to the action in question, rather than amassing needless detail". (<https://www.gpo.gov/fdsys/pkg/CFR-2015-title40-vol33/pdf/CFR-2015-title40-vol33-sec1500-1.pdf>).

6.2 AN OVERVIEW OF THE ENVIRONMENTAL PROCESS

This section provides a general overview of the NEPA process and the three classes of actions possible to achieve compliance with the requirements of NEPA. A brief overview of other applicable federal environmental requirements and general procedures for demonstrating compliance with these requirements is also provided.

A list of MOUs intended to expedite compliance with NEPA and other federal environmental requirements are provided later in this section. Information on the integration of CEQA and NEPA time frames for achieving environmental compliance, general information on permits, mitigation, scope change, and reevaluations are also discussed in this section.

NEPA

As discussed in Section 6-1, the NEPA process is guided by the Act and its implementing regulations, 23 CFR Part 771 (<https://www.gpo.gov/fdsys/pkg/CFR-2015-title23-vol1/pdf/CFR-2015-title23-vol1-sec771-101.pdf>).

The process helps determine the appropriate class of action (EIS, EA, or CE) based on the potential for “significant” impact as defined in 40 CFR 1508.27

(<https://www.gpo.gov/fdsys/pkg/CFR-2015-title40-vol33/pdf/CFR-2015-title40-vol33-sec1508-27.pdf>).

Other federal environmentally related laws are intended to protect a specific element of the environment. These include, but are not limited to, Section 4(f) (Protection of Publicly Owned Park, Recreation Area, Wildlife or Waterfowl Refuge or Land from Historic Sites), Section 106 (Protection of Cultural Resources & Historic Properties), Section 7 (Protection of Endangered Species), E.O. 11990 (Protection of Wetlands), E.O. 11998 (Protection of Floodplains), and E.O. 13112 (Invasive Species). These laws and others are discussed in additional detail later in the chapter.

Federal actions must comply with the provisions of NEPA and all applicable federal environmentally related laws. The NEPA document is a summary of the findings made and conclusions reached during the environmental analysis of a proposed federal action. Therefore, when other federal environmentally related laws are involved, it is expected that compliance with these laws will be completed prior to completion of the NEPA process.

Early Scoping

Preliminary Environmental Study (PES) Form

The PES form is designed to provide the early coordination needed to determine required technical studies, level of analysis and NEPA Class of Action (CE, EA or EIS) pursuant to 23 CFR 771.111.

Preliminary Environmental Screening Form for Non-Infrastructure (PES [NI]) Projects

On November 8, 2011, in response to legislation allowing or mandating that a percentage of program funds (for example, Active Transportation Program [ATP], Transportation Enhancement [TE], and Congestion Mitigation and Air Quality [CMAQ]) be used for non-infrastructure projects, it was decided that a lower level of analysis may be appropriate for non-infrastructure projects, resulting in the development of the PES (NI) form.

Non-infrastructure projects are those transportation-related projects that will not involve engineering design, right of way acquisition, or physical construction of transportation facilities.

Examples of non-infrastructure projects include but are not limited to: public awareness campaigns and outreach, traffic education and enforcement in the vicinity of schools, student sessions on bicycle and pedestrian safety, freeway service patrol, ridesharing activities, and purchase of vehicles. The eligibility of non-infrastructure projects for federal participation is governed by the various federal funding program guidelines, that is, , ATP, and CMAQ Programs.

While non-infrastructure projects will not involve engineering design, right of way, ground disturbance or construction, review by Caltrans is still necessary to ensure none of the activities would affect the environment in unanticipated ways. A copy of the PES (NI) form is provided at [Exhibit 6-J: PES \(NI\) Form](#) , and the Instructions for Completing the PES (NI) form are provided at [Exhibit 6-K: PES \(NI\) Form Instructions](#), and Attachments A and B to [Exhibit 6-K](#).

The checklist on the PES (NI) form enables local agencies and Caltrans staff to document that no environmental studies would be needed and that the normal PES form is not required.

Both the PES form and the PES (NI) form identify the Preliminary NEPA Class of Action CE, EA, or EIS. Each of these Classes of Action are discussed below.

NEPA Class of Action

Categorical Exclusion (CE)

CEs are actions that, as defined in 40 CFR 1508.4, do not have a significant environmental impacts (<https://www.gpo.gov/fdsys/pkg/CFR-2013-title40-vol34/pdf/CFR-2013-title40-vol34-sec1508-4.pdf>). 23 CFR Part 771.117(a) further defines CEs as actions that do not: (a) induce significant impacts to plan growth or land use for the area, (b) require the relocation of significant numbers of people, (c) have a significant impact on any natural, cultural, recreational, historical or other resources, d) involve significant air, noise, or water quality impacts, and e) have significant impacts on travel patterns, or do not otherwise, either individually or cumulatively, have any significant environmental impacts.

A CE determination may be made when environmental documentation supports the conclusion that no significant environmental impacts will occur as a result of the action. Refer to the [SER](#), Chapter 30 for details on preparing CEs and [Section 6.6: Step by Step Procedures - Categorical Exclusion with no Technical Studies](#) and [Section 6.7: Step by Step Procedures - Categorical Exclusion with Technical Studies](#) (in this chapter) for local assistance procedures on processing CEs.

23 CFR Part 771.117[b], states that any action that normally would be classified as a CE, but would involve unusual circumstances will require further technical studies prior to determining if the CE classification is appropriate.

(<https://www.gpo.gov/fdsys/pkg/CFR-2015-title23-vol1/pdf/CFR-2015-title23-vol1-sec771-117.pdf>).

Unusual circumstances include:

- a. significant environmental impacts
- b. substantial controversy on environmental grounds
- c. significant impacts on properties protected by Section 4(f) of the DOT Act
- d. significant impacts on properties protected by Section 106 of the National Historic Preservation Act
- e. inconsistencies with any federal, state, or local law, requirement or administrative determination relating to the environmental aspects of the action

Lists of actions meeting the criteria for a CE according to the 40 CFR 1508.4 and 23 CFR 771.117(a) are provided at 23 CFR 771.117(c), 23 CFR 771.117(d) and in Appendix A of the 326 MOU. For a quick reference, these lists have been incorporated into [Exhibit 6-E: Categorical Exclusion Checklist \(SER Forms Website\)](#).

For projects that are not on the 'c' or 'd' list, or the Appendix A list, but for which a CE determination is appropriate under 23 CFR 771.117 'a' and 'b', Caltrans will assume CE responsibility under NEPA Assignment (23 U.S.C. 327).

http://www.dot.ca.gov/hq/env/nepa/pdf/23_U.S.C._327/mou.pdf

Environmental Assessment (EA)

An EA is an analysis of the impacts of a project and is used to determine if the project will have significant environmental impacts. When a project cannot be designated as a CE by Caltrans and yet does not clearly require preparation of an EIS, preparation of an EA will assist in determining whether an EIS is needed.

The requirement to prepare an EA may come about through one or more of the following situations:

- a. Based on information gathered during PES, where it is clear that the proposed project will not qualify for a CE, or where it is likely to have unusual circumstances. The local agency identifies the potential for significance under Sections A and B of the PES Form and recommends the development of an EA (under Section E of the PES form). The DLAE and district SEP determine that an EA is the appropriate NEPA Class of Action by signing the PES Form, and the HQ EC will concur via e-mail to the district SEP.
- b. During or upon completion of technical studies when it becomes apparent that the proposed project will not qualify for a CE, or that unusual circumstances exist, the decision to prepare an EA is made by the district SEP in collaboration with the DLAE and with the written concurrence by email of the HQ EC.

Depending upon the complexity of issues involved in the project, Caltrans may determine that the Draft EA be reviewed and processed as a "Complex EA." Complex EAs are projects that typically involved one or more of the following:

- multiple location alternatives
- debate related to purpose and need
- strong public controversy
- issues of logical termini or independent utility
- individual Section 4(f) determinations
- complex Endangered Species Act issues
- numerous cumulative impacts
- high mitigation costs

The DLAE and district SEP with concurrence of the HQ EC shall determine if the EA should be processed as a complex EA.

The local agency is responsible for conducting all required technical studies and for preparing the technical reports and the Draft EA according to the guidance set forth in the SER. The EA is a summary of the findings and conclusions of technical reports and the results of regulatory and resource agency coordination, and should accurately reflect the outcome of both. Local agencies are required to use one of the following Caltrans annotated outlines, which can be found at <http://www.dot.ca.gov/ser/forms.htm>:

- Initial Study/Environmental Assessment
- Environmental Impact Report/Environmental Assessment
- NEPA-Only Environmental Assessment

The local agency is also responsible for performing the initial Quality Control Review of their Draft EA and supporting technical studies and documenting their Quality Control Review on the External Certifications (Environmental Document Quality Control Review Certification) form before submitting their Draft and Final EAs to Caltrans for review and approval. The form is provided at:

http://www.dot.ca.gov/ser/vol1/sec6/ch38nepa/External_QC_Certification.doc or
<http://www.dot.ca.gov/ser/forms.htm>

The district SEP (or designee) and district technical specialists are responsible for performing the Internal Quality Control Review of the Draft EA, supporting technical studies, and documenting their Quality Control Review on the Internal Certifications (Environmental Document Quality Control Review Certification) form provided at:

<http://www.dot.ca.gov/ser/forms.htm>

For additional information about the NEPA QC program, please refer to

<http://www.dot.ca.gov/ser/vol1/sec6/ch38nepa/chap38.htm#qc>

Approval of the Draft EA may be subject to revisions being made by the local agency prior to circulation. When district environmental staff determines that deficiencies exist, the DLAE notifies the local agency.

Technical reports and Draft EAs that do not comply with FHWA policies and guidance, requirements of all applicable federal laws, executive orders and regulations, are not internally consistent, or are not prepared using the applicable SER annotated outlines will be returned to the local agency by the DLAE or designee with guidance on revisions needed for a compliance and sufficiency determination.

Technical reports and Draft EAs that comply with FHWA policies and guidance and the requirements of all applicable federal laws, executive orders and regulations, and are found to be internally consistent and prepared using with the applicable SER annotated environmental document outlines are approved for public availability by the Caltrans district director or deputy district director (Environmental) or the Environmental Office chief, if designated by district director.

NEPA encourages public participation; however, because there is no formal scoping requirement for an EA, the degree of public participation and the means of soliciting public input are determined on a case-specific-basis, taking into consideration the level of public interest or controversy. The local agency initiates public circulation of the draft EA following approval by Caltrans and following public involvement, responds to comments as necessary, and prepares the Final EA. Local agencies are responsible for performing the initial Quality Control Review on Final EAs. When an EA does not identify any significant impacts, and no significant impacts are identified during the period of public availability, the local agency submits the record of public comments, responses to those comments, and a request for a FONSI to the DLAE.

In accordance with the 327 MOU, Caltrans is responsible for making the official “finding” that a proposed project will not significantly impact the environment. The Caltrans district director or deputy district director (Environmental) or Environmental Office chief, if designated by district director, signs the FONSI making this “finding.”

The DLAE notifies the local agency immediately upon Caltrans approval of the FONSI so that they may commence with final design.

When an EA indicates that the project has the potential to result in a significant impact, an EIS must be prepared. An EA is not required when a decision has already been made to prepare an EIS. For details on preparing and processing an EA refer to the [SER](#), Chapter 31.

Prior to submitting a “Request for Authorization” for new phases of work, the local agency will enter the appropriate coding and the date Caltrans signed the FONSI, under “Environmental Data on the Request for Authorization to Proceed Data Sheets.” Refer to [LAPM Chapter 3: Project Authorization](#), [Exhibit 3-E: Request for Authorization to Proceed Data Sheets](#), and [Exhibit 3-F: Instructions for Request for Authorization Data Sheets](#).

The district SEP (or designee) completes appropriate environmental fields in LP2000 for tracking, reporting, and performance monitoring.

Environmental Impact Statement (EIS)

An EIS is a full disclosure document and is the highest level of analysis required by NEPA. The determination to prepare an EIS may result from one or more of the following situations:

- Based on information gathered during the PES, where it is clear that the proposed project will have significant impacts. The local agency indicates the potential for significance under Sections A and B of the PES Form, and the DLAE and district SEP (with written concurrence of HQ EC in email) determine that an EIS is the appropriate NEPA Class of Action, by signing the PES form.
- Based on the conclusions of the Draft EA where the potential for cumulative or significant adverse impacts are shown.

When it is determined that a proposed project may have a significant environmental impact, the local agency drafts the NOI to prepare an EIS in collaboration with the DLAE and district SEP (or designee) and arranges for the Early Scoping Meeting.

The local agency conducts the Early Coordination Meeting, undertakes all required technical studies, and prepares the required technical reports and the Draft EIS according to the guidance set forth in the SER.

An EIS is a summary of the findings and conclusions of technical reports, the results of regulatory and resource agency coordination and should accurately reflect the outcome of both. The local agency is required to use the NEPA only Environmental Impact Statement Annotated Outline but may use the joint Environmental Impact Report/Environmental Impact Statement Annotated Outline which are both provided at: <http://www.dot.ca.gov/ser/forms.htm>.

The local agency is responsible for performing a quality control review of their EIS and supporting technical studies and completing the External Certifications (Environmental Document Quality Control Review Certification) form.

Details on preparing and processing EISs are provided in [Section 6.10: Step by Step Procedures – Environmental Impacts Statement \(EIS\)](#) in this chapter. The district SEP (or designee) tracks the review and processing of the EIS and records relevant dates and information in LP2000. The DLAE provides notification to the local agency of environmental document status and approval.

Prior to submitting a “Request for Authorization” for new phases of work, the local agency enters the appropriate coding and date of Caltrans district director signature on the ROD under “Environmental Data.” Refer to the [LAPM Chapter 3: Project Authorization, Exhibit 3-E: Request for Authorization to Proceed Data Sheets](#) and [Exhibit 3-F: Instructions for Request for Authorization Data Sheets](#).

Other Federal Environmentally Related Processes

Every action that has federal involvement must comply with laws that protect particular elements of the environment. Although NEPA requirements have remained relatively

unchanged over the years, environmentally related processes have increased in number and importance.

Following is a summary of those federal environmentally related laws processes most commonly required on local assistance transportation projects. Local agencies are required to comply with the provisions of these laws prior to finalizing NEPA documentation.

- **Section 4(f) - (Protection of Publicly Owned Park, Recreation Area, Wildlife or Waterfowl Refuge, or Land from Historic Sites)** - The Section 4(f) process was established in the U.S. Department of Transportation Act of 1966 to give certain protections to publicly owned public parks, recreational areas, wildlife and waterfowl refuges, and land from historic sites of national, state or local significance. Section 4(f) requires that the agency must show that there are no feasible or prudent alternatives to the use of these areas. If Section 4(f) land is required, a Section 4(f) avoidance alternative is required. If Section 4(f) land is still required, all possible planning must be taken to minimize the impact. Guidance on compliance with the provisions of Section 4(f) is provided in the [SER](#), Chapter 20.
- **De Minimis Impacts to Section 4(f) Resources**-When it is determined that a transportation use of Section 4(f) property, after consideration of any impact avoidance, minimization, and mitigation or enhancement measures, result in a *de minimis* impact on that property, no further Section 4(f) evaluation is required. Local agencies must work with the district/region Senior Environmental Planner to complete the analysis. The Senior Environmental Planner is responsible for making the *de minimis* impact finding.
- **Section 106 - (Protection of Cultural Archaeological Resources & Historic Properties)** The National Historic Preservation Act of 1966 declares a national policy of historic preservation and encourages preservation. It established the Advisory Council on Historic Preservation (ACHP) and required that federal agencies take into account the effect of their undertakings on historic properties and to afford the Advisory Council on Historic Preservation a reasonable opportunity to comment on the undertaking. ACHP promulgated procedures, codified in 36 CFR 800, et seq. that must be followed on any federal project or action. Caltrans and FHWA entered into a Programmatic Agreement (PA) on how to implement 36 CFR Part 800 for California's federal-aid highway program. Guidance for compliance with the provisions of 36 CFR Part 800 and the PA is provided in the [SER](#), Chapter 28 and the Environmental Handbook, Volume II.
- **Section 7 of the Endangered Species Act - (Protection of Endangered Species)** - The federal Endangered Species Act (ESA) provides a means to conserve the ecosystems upon which federally listed threatened and endangered species depend and provide a program for the conservation of those species.

The ESA requires federal agencies consult with the USFWS and NMFS to ensure that actions approved or funded by federal agencies such as FHWA are not likely to jeopardize the

continued existence of threatened or endangered species, or result in the destruction or adverse modification of the critical habitat of such species. Compliance with Section 10 (Section 10 allows for permitting take of threatened or endangered species for scientific research, or purposes of propagation or survival of the species) of the ESA does not meet Section 7 requirements. Guidance on compliance with the provisions of Section 7 of the U.S. ESA is provided in the [SER](#), Chapter 14.

- **Presidential Executive Order 11990 (E.O. 11990) - Protection of Wetlands** – EO 11990 requires that when a construction project involves wetlands, a finding must be made: (1) that there is no practicable alternative to such construction, and (2) that the proposed action includes all practicable measures to minimize impacts to wetlands resulting from such use. The FHWA division administrator or Caltrans, where assigned under 23 U.S.C. 326 or 23 U.S.C. 327 makes the finding required by Executive Order 11990. Guidance on compliance with the provisions of E.O. 11990 is provided in the [SER](#), Chapter 15.
- **Presidential Executive Order 11988 (E.O. 11988) - Floodplain Management** – In response to E.O. 11988, FHWA or Caltrans, where assigned under 23 U.S.C. 326 or 23 U.S.C. 327 requires a formal “Floodplain Finding” be made for federal actions involving significant encroachments in floodplains. The formal Floodplain Finding is based on information contained in the Location Hydraulic Report. The formal Floodplain Finding is included as part of the supporting documentation for the Final Environmental Impact Study (FEIS) and Final EA. Guidance on compliance with the provisions of E.O. 11988 is provided in the [SER](#), Chapter 17.
- **Presidential Executive Order 12898 (E.O. 12898) - “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations”** – This E.O., issued on February 11, 1994, emphasizes the intent of Title VI of the Civil Rights Act of 1964. The E.O. requires federal agencies to ensure that their programs, policies and activities do not have the effects of: 1) excluding persons and populations from participation, 2) denying persons and populations the benefits of federal programs, or 3) subjecting persons and populations to discrimination because of race, color or national origin. Consideration of environmental justice impacts must be addressed in all NEPA classes of action. When preparing an EIS and EA, local agencies must disclose disproportionate impacts on minority or low-income communities. Guidance on compliance with the provisions of E.O. 12898 which directs each federal agency to develop a strategy to address environmental justice concerns in programs, policies, and regulations. The intent of the order is to avoid disproportionately high and adverse impacts on minority and low-income populations with respect to human health and the environment. Additional information on E.O. 12898 is provided in the [SER](#), Chapter 25.
- **Presidential Executive Order 13112 (E.O. 13112) - Invasive Species, issued on February 3, 1999 (effective November 15, 1999)** – This E.O. prohibits the use of federal-aid for construction, re-vegetation, or landscaping activities that purposely

include the use of known invasive plant species. Until an approved national list of invasive plants is defined by the National Invasive Species Council, “known invasive plants,” shall be consistent with the official noxious weed list of the State in which the activity occurs. FHWA recommends use of federal-aid for new and expanded invasive species control efforts under each state’s Department of Transportation roadside vegetation management program. Where the potential exists for the introduction or spread of invasive species, the environmental document should include a discussion of the potential impact of these species and any anticipated prevention or control measures to be taken. Guidance on compliance with the provisions of E.O. 13112 is available in the [SER](#), Chapter 1.

- **Clean Air Act, as amended (42 U.S.C. 7401 et seq.)** – This Act requires that federally supported activities must conform to the State Implementation Plan (SIP), whose purpose is that of attaining and maintaining the National Ambient Air Quality Standards (NAAQS). Section 176(c) of the Clean Air Act as amended in 1990, established the criteria and procedures by which FHWA (Title 23 U.S.C.) and MPOs determine the conformity of federally funded or approved highway and transit plans, programs, and projects to SIPs. The provisions of 40 CFR Part 51 and Part 93 (Final Rule effective November 24, 1993) shall apply in all nonattainment and maintenance areas for transportation-related criteria pollutants for which the area is designated nonattainment or has a maintenance plan. For additional information refer to the [SER, Volume 1](#); Chapter 11.
- **Clean Water Act of 1977 & 1987 (33 U.S.C. 1251-1359)** – This Act protects the chemical, physical and biological integrity of the Nation’s waters by regulating discharges of pollutants into waters of the U.S. Section 401 of the Clean Water Act (CWA) requires a water quality certification from the State or Regional Water Quality Control Board when a project requires a federal license or permit and will result in a discharge into waters of the U.S. Section 402 of the CWA establishes a permitting system for the discharge of any pollutant into waters of the U.S. A National Pollutant Discharge Elimination System (NPDES) permit is required for all point discharges of pollutants to surface waters. Section 404 of the CWA establishes a permit program administered by the USACE regulating the discharge of dredged or fill material into waters of the U.S. (including wetlands). For additional information refer to the [SER, Volume 1](#); Chapter 9.

General Procedures for Demonstrating Compliance with These Processes

The general procedures for demonstrating compliance with these Acts are provided below:

- For Non-Infrastructure Projects only, the local agency confirms the project is in the FTSIP; project does not involve right of way acquisition or physical construction; and all questions on the PES (NI) can be answered “No”. If this criteria can be met, then the District DLAE and SEP jointly sign the PES (NI) form concurring with the NEPA Class of Action, and that the project will involve no disturbance to the ground or

natural environment. The DLAE and district SEP (or designee) jointly signs the PES(NI) form and the CE/CE Determination form. No other documentation is required.

- For all other projects, the local agency, after reviewing relevant databases, literature and maps, completes the PES form and submits the PES form with all supporting documentation to the DLAE. The DLAE and district SEP (or designee) jointly concurs with the NEPA Class of Action (CE, EA, EIS) and the required technical studies by signing the PES form.

The district PQS determines applicability of Section 106 and the need for APE map. Prior to initiation of technical studies, the local agency prepares a draft APE map for Section 106 studies according to the guidance in the SER (and preferably with the assistance of the district PQS) and, if necessary, requests the DLAE to schedule a Coordination Meeting. The Coordination Meeting is the appropriate forum to meet the Caltrans district staff responsible for reviewing and determining the adequacy of the technical reports, obtain district PQS and DLAE signatures on the APE map, and discuss the format and content requirements for each technical report.

- Local agency completes the required technical studies, prepares the technical reports and submits the reports to the DLAE for review and processing. To ensure timely project delivery, local agency and consultants are responsible for ensuring that the format and content of required technical reports and environmental documents are consistent with guidance and annotated outlines set forth in the SER and have passed external quality control reviews.
- District SEP (or designee) reviews the reports, facilitates consultation under regulation or interagency agreement (or makes the appropriate finding or determination required by law, regulation or E.O.), and forwards the results of their action to the DLAE for transmittal to the local agency.
- District SEP (or designee) logs transmittal date in LP2000 and tracks Caltrans and resource and regulatory agency review time and various other milestones.
- Local agency prepares the appropriate NEPA document based on the results of Caltrans consultation and provides the document to the DLAE for review and approval.

Interagency Agreements and Memorandums of Understanding

Several Agreements have been developed to expedite compliance with NEPA. These Agreements require full documentation and demonstration that the required conditions have been met.

First Amended Programmatic Agreement among the FHWA, the Advisory Council on Historic Preservation, the California State Historic Preservation Officer, and the California Department of Transportation Regarding Compliance with Section 106 of the National Historic Preservation Act, as it Pertains to the Administration of the Federal-Aid Highway

Program in California (Section 106 PA), effective January 1, 2014. The Section 106 Programmatic Agreement (PA) implements Section 106 of the NEPA for the Federal-aid Highway Program in California, except when the undertaking is on Native American Tribal Trust Land, in which case the 36 CFR Part 800 procedures must be followed, unless an Indian tribe elects to become a party to the Section 106 PA. This Agreement allows Caltrans to consult directly with the SHPO for all steps of the Section 106 process on projects assigned under NEPA Assignment and for most steps on projects exempted from assignment. The Agreement exempts certain property types from evaluation and exempts certain types of projects from any 106 involvements. It re-emphasizes the use of Environmentally Sensitive Areas (ESAs) to avoid site excavations for evaluation, defines APE guidelines, and sets out qualifications for decision-making staff. Any project must be screened by the district PQS to determine applicability of Section 106. A copy of the Agreement and guidance on compliance with the terms of the Agreement are provided in the SER, Volume 2, Exhibit 1.1 at:

http://www.dot.ca.gov/ser/vol2/106pa_14.pdf

Memorandum of Understanding Among the Federal Highway Administration, California Department of Transportation, U.S. EPA, U.S. USACE, USFWS and the NMFS. National Environmental Policy Act and Clean Water Act Section 404 Integration Process for Federal Aid Surface Transportation Projects in California.

http://www.dot.ca.gov/ser/downloads/MOUs/NEPA404/nepa404_2006_final_mou.pdf

The Memorandum of Understanding (MOU) merges the National Environmental Policy Act (NEPA) and the Clean Water Act (CWA) Section 404 processes. It applies to federal aid surface transportation projects that have five or more acres of permanent impacts to waters of the United States and that require a NEPA Environmental Impact Statement (EIS). The USACE, USFWS, FHWA, EPA, NMFS and Caltrans agree on early and ongoing coordination for issues pertaining to waters of the U.S. and for projects that require an EIS. . The MOU specifies written concurrences that must be obtained from the resource agencies.

If it is anticipated that the project will permanently impact more than 5 acres of other waters of the U.S. and is being processed with an EIS, the local agency, DLAE, and district SEP (or designee) shall meet as early as possible to discuss MOU procedures and ensure conformity. A copy of the MOU and procedures for its use are provided in the SER at:

http://www.dot.ca.gov/ser/downloads/MOUs/NEPA404/nepa404_2006_final_mou.pdf

FHWA Section 4(f) Nationwide Programmatic Evaluations

The Federal Highway Administration developed five programmatic evaluations below. Each of the five programmatic evaluations has its own applicability criteria, alternatives, findings and coordination requirements. The advantage of using a programmatic evaluation is that there is no requirement to circulate the evaluation to the Department of the Interior, the Department of Agriculture or the Department of Housing and Urban Development. There is also no need for legal sufficiency review. However, coordination with the official with jurisdiction over the Section 4(f) property is required.

- **Independent Bikeway and Walkway Construction Projects, May 23, 1977**
For independent bikeway and pedestrian walkway projects that require the use of recreation and park areas.
<http://environment.fhwa.dot.gov/projdev/4fbikeways.asp>
- **FHWA Projects that Necessitate the Use of Historic Bridges, July 5, 1983**
For historic bridge replacement projects. Full historic evaluation to meet Section 106 requirements are still required.
<http://environment.fhwa.dot.gov/projdev/4fbridge.asp>
- **Federally aided Highway Projects with Minor Involvements with Public Parks, Recreation lands and Wildlife and Waterfowl Refuges, December 23, 1986**
This is for federal-aid projects that use minor amounts of land from publicly owned public parks, recreation areas, and wildlife and waterfowl refuges.
<http://environment.fhwa.dot.gov/projdev/4fmparks.asp>
- **Federally aided Highway Projects with Minor Involvements with Historic Sites, December 23, 1986**
This is for federal-aid projects which use minor amounts of land from historic sites, which are eligible for inclusion on the National Register of Historic Places. This only applies when the use of the land does not constitute an adverse effect to the historic property. <http://environment.fhwa.dot.gov/projdev/4fmhist.asp>
- **Projects that have a Net Benefit to a Section 4(f) Property**
For any project, regardless of NEPA Class of Action (CE, EA or EIS), where a net benefit, or overall enhancement is achieved to the Section 4(f) property. A project does not achieve a net benefit if it will result in a substantial diminishment of the function or value that made the property eligible for Section 4(f) protection.
<http://www.dot.ca.gov/ser/vol1/sec3/special/ch204f/chap20.htm>
- **De Minimis Impacts to Section 4(f) Resources**
When it is determined that a transportation use of Section 4(f) property, after consideration of any impact avoidance, minimization, and mitigation or enhancement measures, results in a *de minimis* impact on that property, no further Section 4(f) evaluation is required. Although *de minimis* is not a programmatic evaluation, *de minimis* is often applied more often now than programmatic. Local agencies must work with the district/region Senior Environmental Planner to complete the analysis. The Senior Environmental Planner is responsible for making the *de minimis* impact finding. Consultation with the HQ District Environmental Coordinator is strongly

recommended. Additional guidance can be found in the Standard Environmental Reference website.

SAFETEA-LU Section 6009(a) amended 49 U.S.C. 303 and 23 U.S.C. 138, modified Section 4(f) legislation to allow the U.S. DOT to determine that certain uses of Section 4(f) land will have no adverse effect on the protected resource. Under the NEPA assignment, Caltrans determines if a transportation use of Section 4(f) property results in a de minimis impact on that property.

<http://www.dot.ca.gov/ser/vol1/sec3/special/ch204f/chap20.htm#deminimis>

Integrating CEQA and NEPA

While this chapter deals exclusively with federal environmental requirements, local agencies are responsible for ensuring full compliance with other state and local environmental laws, and to the fullest extent possible, integrating the NEPA process with the review processes established by these laws. Because state and federal requirements are similar, it is possible to perform only one environmental process that satisfies both state and federal requirements simultaneously when federal approval is required. The environmental document types for CEQA/NEPA (that is, CE/CE, IS/EA, EIR/EIS) do not necessarily need to match up with each other. An EA may be the appropriate document to prepare under NEPA when an EIR is appropriate under CEQA. Guidance on developing Joint CEQA/NEPA documents is available in the [SER](#), Chapter 37.

Following are some of the basic similarities and differences between the NEPA and CEQA.

- **Categorical Exclusion (NEPA)/Categorical Exemption (CEQA) Determination**

The list of projects exempt from the federal legislation is quite different from that of the State of California. NEPA requires that each federal agency identify its own list of CEs; therefore, the list of projects exempt from NEPA used for Caltrans purposes is specific to FHWA. CEQA guidelines list 33 standard categories for all state agencies to use. Thus, a careful reading of 23 CFR 771.117 and the FHWA/Caltrans MOUs prepared pursuant to 23 U.S.C. 326 and 327 is necessary to determine which actions are CEs. Caltrans may use a CE for a project not listed if it meets the criteria for CE under 23 CFR 771.117 (a) and (b). Separate determinations must be made for the NEPA and CEQA. Section 6.5 “Categorical Exclusions,” in this chapter describes this phase of the process.

- **Environmental Assessment/Initial Study**

The required contents of an EA are similar to that of an Initial Study (IS). However, NEPA requires that an EA discuss at least one build alternative and the no build alternative, whereas CEQA does not require a discussion of alternatives in an IS. Guidance on the development of Joint IS/EAs is available in the [SER](#), Chapter 37.

- **Integrating Other Environmentally Related Processes (NEPA/CEQA)**

One of the more complex aspects of the EA or EIS preparation is the requirement for integrating NEPA with other federal environmental requirements. The local agency must identify and list in the EA or EIS all other federal environmental requirements that may be applicable to the proposed action and, to the fullest extent possible, integrate the NEPA process with the review processes established by these laws. See [Section 6.2: An Overview of the Environmental Process](#) for a brief overview of the other federal environmental requirements. This degree of integration of state and local environmental review is not required under CEQA.

- **Significant Impact (NEPA) vs. Significant Effect (CEQA)**

NEPA requires the identification of any impacts and the avoidance and minimization of them, with compensation considered when reasonable. NEPA does not focus on assessment of whether each and every adverse impact is significant or not. Presence or absence of “**significant impacts**” as defined by NEPA is the determining factor for what type of environmental document is appropriate. NEPA’s definition of a significant impact does not necessarily correlate with CEQA identified “**significant effects.**” Further, CEQA requires mitigation only when an impact is designated as “**significant.**” This can result in measures to avoid or reduce impacts being identified under NEPA that would not be identified under CEQA.

In cases where the local agency project is processed with no federal involvement, the project will only require compliance with the CEQA.

Timing for Environmental Processes

Estimating the time required for preparing and processing technical studies and environmental documents is very important when establishing a project delivery schedule. The amount of time needed to demonstrate full compliance with the provisions of NEPA and other federal environmental requirements varies depending upon project scope and the presence of federally protected environmental resources within and immediately adjacent to the project area (direct), indirect (secondary), and cumulative impacts.

Compliance with the environmental requirements may occur simultaneously with Preliminary Engineering. However, the local agency may not commence with final design prior to obtaining NEPA approval (a Caltrans signed (CE, FONSI, or ROD). It is incumbent upon the DLAE to notify the local agency as soon as NEPA approval is obtained and to forward a copy of the Caltrans signed CE, FONSI, or ROD.

The following time frames reflect best case scenarios and do not take into account the time involved in consultant selection, correction of inadequate studies, regulatory or advisory agency review and comment, projects involving large numbers of very complex, unusual environmental issues or controversy. The time frames also assume the various environmental studies and documents are performed and written simultaneously.

Below are some examples for estimating time frames:

- A project that meets the criteria for a CE with “no required technical studies” can be processed in one month, assuming the PES Form or PES (NI), if applicable, and supporting information are complete and sufficient.
- A CE “with required technical studies” may take from six months to two years depending upon the required technical studies that must be completed and the time of year the studies are initiated. It is important to identify and plan for critical survey periods when determining a project schedule. For example, surveys for certain plant species may have to be performed in spring or during their appropriate blooming/identifiable period.
- It is also important to factor in sufficient time for potentially lengthy processes such as Section 106 of the NHPA. Depending upon the nature of the undertaking and its effects to historic properties, the Section 106 process can take less than one week for screened undertakings to more than 20 months for very complex projects involving multiple resources or requiring archaeological excavation.
- An EA that results in a FONSI may take between two to three years. At a minimum, the Draft EA must consider the build alternative and the no build. Complex Draft EAs must undergo a separate review by Caltrans HQ environmental coordinator and Legal Office. The Complex Draft EAs go through a thirty (30) day public review period. The Routine Draft EAs also go through 30 day review period. Processing an EA which results in a FONSI with an Historic Property Survey Report (HSPR), or any other environmentally related process may require additional time because these environmentally related processes require separate studies and separate regulatory reviews. For example, a preliminary Finding of Effect for cultural or archaeological resources must be completed before a draft EA or an EIS can be circulated for public review. Section 106 requirements and Section 7 or other technical requirements must be completed before the final EA or an EIS can be approved.
- An EIS may take between three to four years. Draft EISs require consideration of multiple alternatives and separate reviews by Caltrans HQ environmental coordinator and Legal Office.
- The local agency should begin “required technical studies” as soon as possible after the PES form is fully signed.

Note: The local agency shall not begin “required technical studies” before obtaining the DLAE and district SEP (or designee) signatures on the PES Form. Section 106 studies should not begin until the district PQS and the DLAE give verbal approval of the APE map. This will minimize the potential for investing in studies that may not be required.

6.3 OTHER CONSIDERATIONS

Permits

The local agency is responsible for obtaining all necessary permits, agreements, and approvals from resource and regulatory agencies (401/404, Encroachment, and Coast Guard Bridge Permit, etc.) before advertisement for construction. With the exception of Emergency Opening projects, construction should not proceed before permits have been obtained and submitted to the DLAE. If work occurs prior to permits being obtained, the local agency is assuming the risk that elements of work may not be fully reimbursable. Any work performed before the date on the permit will not be federally reimbursable. The local agency must transmit one copy of each permit (with conditions) to the DLAE for submittal to the district SEP (or designee) prior to the first invoice. The district SEP (or designee) must enter permit data (as required) into the LP2000.

Mitigation Commitments and Plans, Specifications, and Estimate

The local agency is also responsible for developing a list of all mitigation as related to NEPA and providing it along with the technical reports and draft environmental document to the DLAE. The DLAE forwards list to district SEP (or designee) who in turn enters this mitigation data into the LP2000 data base.

The local agency must certify that all required mitigation has been completed or is included in the Final Plans, Specifications and Estimate (PS&E) and that any required ongoing maintenance of mitigation is implemented [23 CFR 771.109(b)]. The DLAE (in coordination with the district SEP) ensures that mitigation is a reasonable expenditure of federal funds. Caltrans assures that mitigation measures and any required ongoing maintenance of mitigation are implemented by conducting periodic process reviews. [23 CFR 771.105(d)(2)]

Mitigation Commitments and Construction

The local agency is responsible for ensuring that all required mitigation is included in the construction contract. The local agency checks plans in the field and certifies that all mitigation commitments have been completed and documentation to this effect has been prepared for inclusion in the project's final record/voucher.

Scope Change

In advance of any mitigation commitment, the local agency must notify the DLAE of any changes in the project scope or project limits. Major changes may require a Transportation Improvement Program (TIP) amendment or air quality re determination.

The DLAE notifies the district SEP (or designee) of the changes, and the district SEP (or designee) determines if additional environmental studies will be required. When the project scope changes after NEPA approval, and the permits, approval/agreements from resource and regulatory agencies require modifications, the DLAE notifies the district SEP of the change and the district SEP conducts a reevaluation [(23 CFR 771.129(c)]. The DLAE will request the

district SEP (or designee) initiate re-consultation/reevaluation immediately. Scope changes must be documented and appended to the PES form.

Reevaluation

There are three triggers that necessitate the initiation of the consultation or reevaluation process:

1. Project is proceeding to the next major federal approval
2. Project changes
3. Three year timeline for an EIS

Reevaluations may include a site visit and evaluation by a qualified environmental planner and any technical specialists deemed necessary. Assessments by technical specialists should be prepared for any topical areas affected by a change in the project, its surroundings, new information or requirements, or other factors that may cause the original evaluation to no longer be valid. Additional studies or coordination with other agencies should be conducted as appropriate.

The local agency is responsible for informing the DLAE of any changes in the project so that these changes can be evaluated, and the validity of the environmental document or CE Determination can be reevaluated.

The local agency, DLAE, and district SEP (or designee) will consult and depending on the circumstances, there will be one of three possible conclusions: (1) the original environmental document or CE remains valid, (2) the original environmental document or CE is in need of updating (in this case, additional documentation and/or public review might be required), or (3) the original document or CE is no longer valid and requires public review, supplemental documentation, or new document is needed. Documentation of the decision and supporting information as appropriate shall be prepared and signed by the DLAE and the district SEP and placed in the project file.

A copy of the Caltrans NEPA/CEQA Revalidation form is available at:

<http://www.dot.ca.gov/ser/forms.htm>.

The FHWA/Caltrans policy memo regarding Reevaluations is available at:

<http://www.dot.ca.gov/ser/downloads/memos/nepa/Signed%20Ltr-FHWA-NEPA-21June07.pdf>.

Process Review

FHWA and Caltrans periodically conduct reviews to determine the adequacy of existing processes and monitor the process for compliance with applicable laws, regulations and procedures. This includes, but is not limited to, monitoring compliance with the assurances stated in the NEPA Pilot Program application; stipulations of the FHWA/Caltrans 326 and 327 MOUs; monitoring the quality of NEPA documents and supporting technical reports; and monitoring PS&E and project construction to ensure mitigation commitments are included in PS&E, constructed, and (in the case of long-term commitments) monitored by the local agency.

Training

The DLAE and district training coordinator are responsible for notifying the local agency of available training and for assisting them with training registration. Training opportunities available through external agencies or other federal/state agencies are posted at:

<http://www.dot.ca.gov/hq/LocalPrograms/training.html>

Record Keeping

The district SEP (or designee) is responsible for establishing the environmental project file as soon as environmental studies begin and for converting existing environmental project files to the Uniform Environmental File System. Instructions for using the Uniform Environmental Filing System are provided at:

<http://www.dot.ca.gov/ser/forms.htm>

The district SEP (or designee) is also responsible for updating the environmental fields in the local assistance data base (LP2000) as soon as an action occurs.

Consultant Contracts for Technical Studies

Locally administered environmental consultant contracts for NEPA documents and technical studies must comply with the provisions of the Brooks Act (40 U.S.C. 1101-1104), and the scope of services agreement negotiated between the local agency and its consultant must be based on information contained in the complete and fully signed PES form. Furthermore, the local agency should reference the LAPM Consultant Selection Chapter 10 which provides more detail information on consultant contracting and selection procedures.

<http://www.dot.ca.gov/hq/LocalPrograms/lam/LAPM/ch10.pdf>

Environmental consultant's qualifications and the format and content of the environmental technical reports shall be consistent with guidance set forth in the SER, and the processing of technical reports shall be in accordance with procedures set forth in LAPM Chapter 6: Environmental Procedures.

Quarterly Reporting Requirement

According to Stipulation IV.E.1 of the FHWA/Caltrans 326 MOU pertaining to performance monitoring and quality assurance, Caltrans must submit to FHWA a list of all CE determinations made each fiscal quarter. Quarterly reporting is required under both [326](#) and [327](#) MOUs. The DLA will provide the DEA with a Discoverer Report on quarterly local assistance CE determinations based on information contained in LP2000. The DLAE and district SEP (or designee), with assistance from the Local Assistance NEPA Assignment coordinators, are required to maintain all environmental fields in LP2000 consistent with the DLA July 20, 2007, Memo, Subject: [Tracking Local Assistance NEPA Compliance Milestones](#), to ensure that information provided in the report is accurate and complete. A copy of the memo can be found at:

<http://localassistance.onramp.dot.ca.gov/downloads/localassistance/files/LP2000/Tracking-Local-Assistance-NEPA-Compliance-Milestones-2007-07-20.pdf>

Record Retention

The District Local Assistance environmental office shall maintain all NEPA documentation and supporting technical reports for a period of three (3) years following FHWA reimbursement for final project costs. When mitigation is required, environmental documentation must be maintained until all terms of required mitigation have been fully implemented. This includes any required monitoring period. Per the 327 MOU records retention requirements (8.3.2), records forwarded to FHWA will be stored at the Federal Records Center.

6.4 STEP-BY-STEP PROCEDURES – PES (NI) FORM

Following are step-by-step procedures for completing the PES (NI) form, [Exhibit 6-K: Instruction for Completing the Preliminary Environmental Screening for Non-Infrastructure Project \(PES {NI}\) Form](#).

It is important that the local agency carefully follow and complete each step to avoid unexpected project costs or delays in project development and to ensure a “complete and sufficient” submittal. The local agencies shall not commence with Authorization to Proceed until the funds are appropriated in the Construction Phase. However, there is no formal physical construction. The PES (NI) projects do not involve physical construction. The local agency shall not commence with Authorization to Proceed until after the PES(NI) Form has been fully signed by all signatories.

1. Local agency (LA) confirms project is programmed in federally approved FTIP/FSTIP.
2. Local agency confirms project will not involve right of way (R/W) acquisition or the physical construction of any facilities.
3. Local agency is ready to request federal Authorization to Proceed for the project.
4. Local agency completes Section A of the PES (NI) form [Exhibit 6-J: Preliminary Environmental Screening for Non-Infrastructure Project PSE \(NI\)](#), indicating “Yes,” “No” or “To Be Determined” as appropriate for questions 1-29.
5. Local agency provides additional information on PES (NI) Continuation Sheet for all “TBD” responses.
6. Local agency completes Section B of PES (NI) form, signs and submits form to DLAE.
7. DLAE verifies project is in FSTIP and forwards PES (NI) form to district SEP.
8. District SEP (or designee) reviews PES (NI) form and additional information provided for ‘TBD’ responses and coordinates with local agency as needed.

Are all responses justifiably “NO”? If “Yes,” GO TO STEP #10. If “No,” GO TO STEP #9.

9. District SEP (for designee) informs local agency that PES is required.

10. District SEP (or designee) confirms project is type of action included in [Exhibit 6-K, Attachment A \(Undertakings Exempt from Further Review Memo\)](#), and [Exhibit 6-K, Attachment B \(Amendment Non-Infrastructure Project NES – No Effect Memo\)](#).

Is action included in Memos? If “Yes,” GO TO STEP #12. If “No,” GO TO STEP #11 first and then CONTINUE TO STEP #12.

11. If all responses to questions 1-29 on the PES(NI) are justifiably “NO,” District SEP (or designee) informs HQ of action not included in [Exhibit 6-K: Instruction for Completing the Preliminary Environmental Screening for Non-Infrastructure Project \(PES {NI}\) Form](#), Attachments A & B, in order for HQ to consider adding the action to the memos. Additional review by District PQS will be required if the undertaking involves any activities that are not listed, including those listed as screened activities in Attachment 2 of the PA.
12. District SEP signs the PES (NI) form and prepares and signs the CE form.
13. DLAE signs the PES (NI) form and the CE form.

6.5 STEP-BY-STEP PROCEDURES – PES FORM

Following are step-by-step procedures for conducting a preliminary environmental investigation and completing the PES form. It is important that the local agency carefully follow and complete each step to avoid unexpected project costs or delays in project development and to ensure a “complete and sufficient” submittal. Local agency(ies) shall not commence with any required technical study until after the PES form has been fully signed by all signatories.

The PES/Categorical Exclusion (CE) process is shown in Figure 6-1: PES Form and Categorical Exclusion (CE) Process Flowchart. The numbers on the flowchart correlate with the step-by-step procedures within this section through Section 6.7.

1. Local agency (LA) develops complete project description and project maps.
2. LA reviews relevant literature, maps and inventories.
3. LA requests technical information from resource and regulatory agencies.
4. LA verifies research findings in the field (site visit).
5. LA completes PES Form ([Exhibit 6-A: Preliminary Environmental Study \(PES\) Form](#)), according to [Exhibit 6-B: Instructions for Completing the Preliminary Environmental Study \(PES\) Form](#). On the PES Continuation Sheet, the LA provides: (1) additional information on project description, (2) a summary of how the requirements of federal laws have been satisfied for all “No” answers (such as, identify the steps that were taken to determine a “No” response), and (3) specific information for all “Yes” and “To Be Determined” answers (such as, if question #15 regarding Federally Listed Threatened and Endangered Species is checked “Yes,” identify the specific plant or animal species observed or that could potentially occur within the project area).
6. LA signs PES Form and submits to DLAE with all supporting documentation.

7. DLAE date stamps the PES form on day received and verifies that project is in the RTP and FSTIP, and that the scope of work described on the PES Form is consistent with the project description in the FSTIP.
8. DLAE reviews PES form and maps to ensure that the project description matches what is programmed and that the packet is complete and sufficient. If the packet is incomplete, the DLAE returns the packet to the local agency and if necessary, schedules a meeting or field review to assist the local agency with completion of the PES form.

DLAE invites the district SEP (or designee) and appropriate CT technical specialists to the meeting or field review. For complex projects, the DLAE may also want to invite the Local Assistance NEPA Assignment Coordinator and the HQ Environmental Coordinator.

9. District SEP identifies which district PQS, biologist, and other technical specialist(s) will assist with project review and circulates the PES form to assigned staff.
10. The district biologist reviews the PES form, maps and results of general reconnaissance surveys, and indicates the required technical study type in Sections B, and completes applicable Section C and D of the PES form. If appropriate, the district biologist prepares a "Finding of No Effect" memo for compliance with Section 7.
11. District PQS reviews the PES form, completes questions #35 & #36 in Section A; indicates the required technical study type in Section B, completes applicable Sections C, D; indicates results of preliminary review in Section G; signs the PES form and returns the signed PES form to the district SEP (or designee). If appropriate, the PQS prepares a Screened Undertaking memo for compliance with Section 106.
12. If the district SEP concurs with the recommended NEPA Class of Action and the required technical studies as proposed by the Caltrans specialists, the district SEP signs the PES form.

6.6 STEP-BY-STEP PROCEDURES – CATEGORICAL EXCLUSION WITH NO TECHNICAL STUDIES

Are further technical studies required? If "Yes," GO TO STEP # 18. If "No," GO TO STEP #13.

13. The district SEP (or designee) completes [Exhibit 6-E: Categorical Exclusion Checklist \(SER Forms\)](#) and [Exhibit 6-F: Categorical Exemption/Categorical Exclusion Determination Form \(CE/CE\)](#). For 23 U.S.C. §326 CEs, the district SEP (or designee) makes the project-level air quality conformity determination) following guidance provided in Chapter 38 of the [SER](#). by completing the Transportation Air Quality Conformity Findings Checklist <http://www.dot.ca.gov/ser/forms.htm>.

Note: Projects meeting the criteria for a 23 U.S.C. §326 are processed using certain NEPA CE categories only, and the conformity determination is made along with NEPA approval by Caltrans.

Does project meet the criteria for a CE with No Technical Studies? If "Yes," GO TO STEP # 14. If "No," GO TO STEP #18.

14. District SEP signs the CE form.
15. District SEP (or designee) forwards the signed PES form and signed CE form to the DLAE, and updates LP2000 as referenced in the LP2000 instructions Tracking Local Assistance NEPA Compliance Milestones.
16. DLAE signs the PES form and the CE form. The DLAE retains the original PES form and the original CE form for the project files. The DLAE sends a copy of signed CE and a copy of the fully signed PES form to the LA, and informs the LA that compliance with NEPA is complete.
17. LA begins final design.

6.7 STEP-BY-STEP PROCEDURES – CATEGORICAL EXCLUSION WITH TECHNICAL STUDIES

18. When PES indicates that the project meets the criteria for a CE however further technical studies are required, district SEP (or designee) prepares transmittal letter or email to the LA or documents telephone conversation or meeting with LA (if applicable), outlining:
 - All technical studies/reports required.
 - A SER link for each of the technical studies.
 - The LA's responsibility for ensuring that all required technical reports are prepared according to the guidance set forth in the SER.
 - The LA's responsibility for ensuring that the conclusions of all technical reports are clearly stated and consistently summarized in the continuation of the CE form.
 - How the project-level conformity determination will be made. (See Step #31.)
 - The LA's responsibility for preparing a summary/list of mitigation commitments (avoidance, minimization and mitigation measures) identified in each required technical report and providing said list to DLAE along with each technical report.
 - The LA's responsibility to incorporate all of the mitigation commitments (avoidance, minimization and mitigation measures) included on the list into their PS&E and be able to demonstrate that they have been incorporated into the project design.
 - The LA's responsibility to provide a copy of all permits, when available, to the DLAE.
 - The preliminary NEPA CE determination.

The district SEP (or designee) forwards the signed PES form and the transmittal letter to the DLAE, and updates LP2000 in accordance with instructions on the DLA July 20, 2007 Memo, Subject: [Tracking Local Assistance NEPA Compliance Milestone](#) memo.

19. DLAE reviews project description, project maps, and PES form to determine if the project is technically sound (adequate and feasible) from an engineering perspective. DLAE and the district SEP (or designee) meet to discuss the following:

- Is the project technically sound from an engineering perspective?
 - Can the city or county get the project done in the amount of time indicated on the PES Form (such as, have they missed any survey windows, or are the issues more complex than they anticipated)?
 - Will the funding need to be moved out to adjust for the schedule?
 - Do the technical studies/reports identified in the PES form indicate that the LA may need to budget more money for NEPA compliance?
 - Is the LA's preliminary design on track?
 - Do the project maps make sense? Are the maps correct? Is the project footprint map consistent with the project, as identified in the FSTIP? Are the engineering drawings consistent with the project, as identified in the FSTIP?
 - Is the project likely to include mitigation commitments or mitigation that would warrant environmental review of the PS&E and project during/after construction?
20. DLAE signs the PES form. DLAE or District SEP (or designee) sends a copy of the fully signed PES form and transmittal letter, hardcopy or electronically (if preferred) to the LA, outlining the requirements of each required technical study and report.
- Note: If DLAE authorizes the district SEP (or designee) to perform this step, a copy of the letter or email shall be provided to the DLAE.
21. LA may request an Early Coordination Meeting with the DLAE, district SEP (or designee) and others as needed, to discuss the specific requirements of each required technical report, and so forth. The district SEP (or designee), district PQS, and applicable technical specialists should be invited to participate in the meeting as needed, based on the environmental issues and the complexity of the project, and so forth.

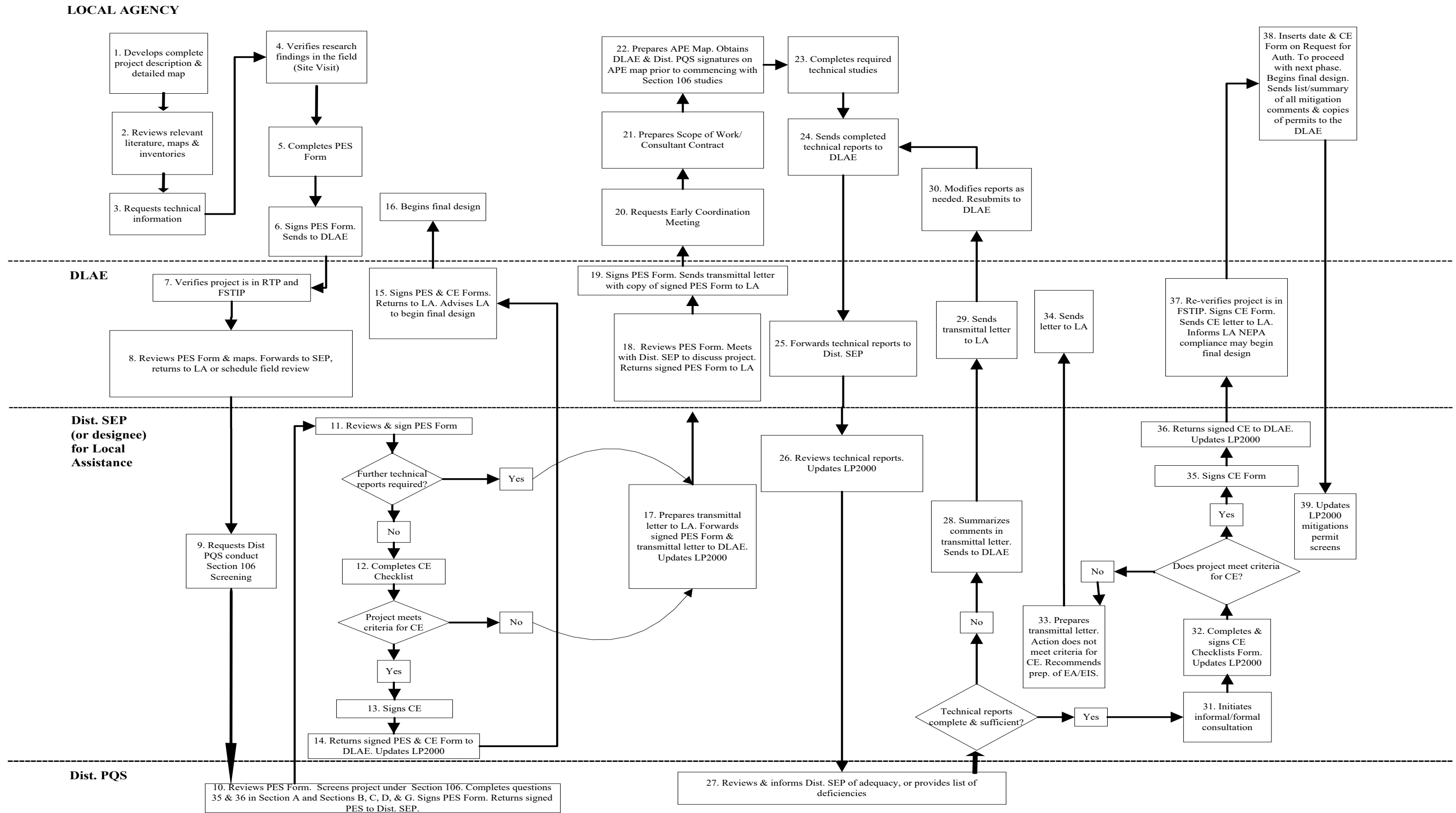


Figure 6-1: PES Form and Categorical Exclusion (CE) Process Flowchart

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LA prepares scope of work/consultant contract (if necessary) according to [LAPM Chapter 10: Consultant Selection](#), and the requirements contained in the PES form and retains environmental consultant to undertake required technical studies. (Note: Environmental Consultant scope of work must reference the SER and the LAPM.) The district SEP (or designee) is available to review the environmental scope of work to ensure that it accurately reflects Caltrans requirements.

22. LA prepares a draft APE Map (if applicable) according to the guidance in the SER and preferably after consultation with district PQS and obtains DLAE and district PQS approval of the APE map prior to commencing with any Section 106 studies.
23. LA/Consultant completes required technical studies according to the guidance in SER.
Note: The LA is responsible for performing a quality assurance and quality control review of all technical reports, before submittal to the DLAE, to ensure that the format and content of each technical report is consistent with guidance prescribed in the SER.
24. LA sends the completed technical report(s) to the DLAE.
25. DLAE date stamps the report on the date received and forwards the technical report(s) to the district SEP (or designee).
26. District SEP (or designee) requests (in writing) appropriate district technical specialists review the technical report and determine whether the report is complete and sufficient according to the format and content requirements outlined in the SER. The district SEP (or designee) updates LP2000 according to the instructions provided in July 20, 2007 DLA memo, Subject: [Tracking Local Assistance NEPA Compliance Milestones](#). On Environmental Studies – Environmental Study Milestones Screen, (1) enter the date each study/technical report was received by the DLAE, (2) enter the date each study/technical report was received by the district SEP (or designee), (3) using the agency drop-down arrow, select Caltrans as the agency, and indicate the date that each technical report is sent to the district technical specialist for review.
27. District technical specialists review technical reports and determine whether technical reports are complete and ready for resource/regulatory agency review (if applicable). (Note: This service does not relieve LA’s responsibility for quality assurance and quality control.) If district technical specialists determine that the technical reports are not complete, they must document all noted deficiencies in writing and submit them to the district SEP (or designee). When district technical specialists determine that the technical reports are complete and ready for resource/regulatory review (if applicable), they inform the district SEP (or designee).

Note #1: Under NEPA Assignment, this can no longer be an “informal” or verbal process. All deficiencies must be documented in writing and project files must contain a documented record of deficiencies and demonstrate that any and all deficiencies have been corrected.

Note #2: When there are no district technical specialists available to review a particular technical report, or when other priorities delay the

review of technical reports in support of local assistance projects, the district SEP [or designee] must inform the Environmental Branch Chief and request their assistance in resolving the issue.

District SEP (or designee) considers: Are technical reports complete and sufficient? If "No," GO TO STEP #28. If "Yes," GO TO STEP #31.

28. District SEP (or designee) prepares a transmittal letter, email, or documentation of meeting (if applicable) with LA summarizing all comments received from district technical specialists and provides a copy to the DLAE.
29. DLAE sends transmittal letter, outlining any deficiencies to the LA.
30. LA modifies the technical reports according to the comments and resubmits the report(s) to the DLAE, beginning at Step #24.
31. Some technical studies require review by resource or regulatory agencies (e.g. USFWS, NMFS, SHPO, FHWA), or Caltrans divisions outside the district (e.g. HQ or Legal). If this is the case, when the applicable study is deemed complete and sufficient by the district SEP, the SEP will initiate the required consultation with the agency.

Note: For 23 U.S.C. §327 CEs, as soon as the Air Quality staff determine that the Air Quality Report is complete and sufficient, the district SEP [or designee] sends a request for Air Quality Conformity Determination to FHWA.

District SEP (or designee) updates LP2000 according to the instructions provided in the July 20, 2007 DLA memo, Subject: [Tracking Local Assistance NEPA Compliance Milestones](#). On Environmental Studies – Environmental Studies Milestones Screen, (1) using the "Agency" drop-down arrow, select the agency that the particular technical study/report was sent to for action, and (2) indicate the "Date Sent to Agency" (Note: This will be the date on the district SEP's action request correspondence to the agency). When the same document will be sent to multiple agencies (i.e. BA to USFWS and NMFS), list Study Type (BA) twice in the Study Type column and then under Agency, select USFWS for one and NMFS for the second.

32. When other agency action is complete, the district SEP (or designee) updates LP2000 according to the instructions provided in July 20, 2007 DLA memo, Subject: [Tracking Local Assistance NEPA Compliance Milestones](#). On the Environmental Studies-Environmental Studies Milestone Screen, (1) locate the entry for the agency that the particular technical report was sent to for actions, (2) enter the date of agency letter documenting their final opinion, concurrence, agreement, etc., (3) use the Delay drop-down arrow to indicate "Yes" or "No." Enter "Yes" if USFWS or NMFS exceeded 135 days in issuing a Biological Opinion; if USFWS or NMFS exceeded 30 days in issuing a Concurrence Letter; if the SHPO exceeds 30 days in issuing concurrence on the HPSR or Finding of Effect (FOE) (if PA requires SHPO review); or if excessive delays occurred during any other agency review, (4) use the comments field to document number of iterations needed between Caltrans and LA to produce a complete and sufficient report or number of iterations needed between Caltrans and resource and regulatory agency to produce an acceptable report.

When all technical studies and consultations are deemed complete, the district SEP (or designee) completes the CE Checklist and determines whether conclusions of the technical studies and the results of consultation indicate that the action still qualifies for the CE.

Does project still meet criteria for the CE? If "No," continue with STEP #33. If "Yes," GO TO STEP #35.

33. When the CE Checklist indicates that the action does not meet the criteria for a CE, the district SEP (or designee) prepares a transmittal letter, email, or documentation of meeting (if applicable) with the LA explaining why the action does not meet the criteria for a CE, and recommends preparation of an EA or an EIS, as appropriate. The district SEP forwards a copy of the letter, email, or documentation of telephone conversation with LA to the DLAE and updates LP2000 accordingly.
34. District SEP (or designee) sends the letter, email, or documentation of telephone conversation to the LA.
35. District SEP (or designee) verifies: (1) that there are no scope changes, or (2) that technical studies address areas where all project scope changes will occur. District SEP signs CE form.
36. District SEP (or designee) prepares a transmittal letter, email, or documentation of meeting (if applicable) informing the LA that:
 - NEPA compliance is complete.
 - LA may commence with final design.
 - LA is responsible for incorporating all minimization, avoidance and mitigation measures, and the conditions of all permits agreements and approvals into final design.
 - LA is responsible for fully implementing all minimization, avoidance and mitigation measures, and the conditions of all permits during project construction.
 - Documentation of mitigation commitments completion and a copy of all permits shall be sent to the DLAE prior to advertisement for construction.
 - LA is responsible for notifying the DLAE of any changes in project scope.

The district SEP forwards the signed CE and transmittal, (letter, email, or documentation of telephone conversation or meeting), to the DLAE, and updates LP2000 for tracking compliance and annual reporting, as follows: On Project Environmental Process Milestones screen (1) enter date the CE is received in the district, or date a CE is prepared by Caltrans, and use comments field to capture external/internal delays associated with the development of the NEPA determination, (2) enter the dates district SEP and DLAE sign the CE form, and use comments fields to note any delays and if changes in project scope from what was described in PES form.

37. DLAE re-verifies that project is in the FSTIP, and that there are no changes in project scope description, footprint; signs the CE form; district SEP (or designee) sends the signed CE form and transmittal (letter, email, or documentation of telephone conversation or meeting) to the LA informing them that the NEPA process is complete.
38. LA inserts the date the DLAE signed the CE/CE Determination form in the LA/State Comments field when completing the Request for Authorization for the next phase of the project (see [LAPM Chapter 3: Project Authorization](#)). LA begins final design. Prior to advertisement for construction, LA sends the DLAE a copy of all permits (that is, Coastal, 401, 404, 1602 Series, Sec 10, State or Federal Encroachment or Right of Entry) and documentation that the LA has fulfilled all mitigation commitments.
39. Upon receipt of list of mitigation commitments and permits, the district SEP (or designee) updates LP2000 Environmental-Permits Screen and Mitigation Commitments Screens according to the instructions provided in July 20, 2007 DLA memo, Subject: Tracking Local Assistance NEPA Compliance Milestones.

6.8 STEP-BY-STEP PROCEDURES – ROUTINE ENVIRONMENTAL ASSESSMENT (EA)

The requirement to prepare an EA may come about through one or more of the following situations:

- Based on information gathered during PES, where it is clear that the proposed project will not qualify for a CE or where unusual circumstances are likely. The LA identifies the potential for significance under Section A of the PES form and recommends the development of an EA (under Section E of the PES form). The DLAE and district SEP determine (with email concurrence from HQ EC) that an EA is the appropriate NEPA Class of Action by signing the PES form.
- During or upon completion of technical studies, when it becomes apparent that the proposed project will not qualify for a CE or that unusual circumstances exist. The decision to prepare an EA is made by the district SEP in collaboration with the DLAE (with email concurrence from HQ EC) and must be clearly documented for the project file.

The Routine Environmental Assessment (EA) process is shown in Figure 6-2: Routine Environmental Assessment (EA) Process Flowchart. The numbers on the flowchart correlate with the step-by-step procedures within this section.

1. LA receives signed PES form recommending an EA as the NEPA Class of Action.
2. LA coordinates with interested agencies and others to advise them of the scope of the project and potential social, economic, or environmental impacts identified in the PES form.
3. LA identifies alternatives and measures which might mitigate adverse environmental impacts.
4. LA (or consultant) completes technical studies and prepares technical reports and Administrative Draft EA according to appropriate Caltrans Annotated Outline,

provided at: <http://www.dot.ca.gov/ser/forms.htm>. LA (or consultant) completes the Environmental Document Review Checklist (ED Checklist), provided at: <http://www.dot.ca.gov/ser/forms.htm>, cross-referencing items on the checklist with the corresponding page numbers found in the Draft EA.

5. LA performs Quality Control Review of all technical reports and Draft EA according to Caltrans Environmental Document Quality Control Program under NEPA Assignment (October 2012) provided at: http://www.dot.ca.gov/ser/downloads/memos/nepa/map21/memo_naqualctrl.pdf, and completes and signs the "External Certifications - Environmental Document Quality Control Reviews" (External QC Reviews) form provided at: <http://www.dot.ca.gov/ser/forms.htm> prior to submitting the Draft EA and technical studies to DLAE.
6. LA submits 5 copies of technical reports (or other number agreed upon by SEP) and Draft EA, original ED Checklist, and signed External QC Reviews form to the DLAE.
7. DLAE date stamps the Draft EA on date received, re-verifies that project is in the RTP and FSTIP, and provides a review of packet to ensure that the original fully signed External QC Reviews form, and the appropriate number of copies of the Draft EA and technical reports have been provided. If the signed External QC Reviews form is not present, the DLAE should return packet to the LA and request Quality Control Review. If signed External QC Reviews form is present, the DLAE forwards packet to the district SEP (or designee). The DLAE submits packet (or CD, if acceptable by district) to the district SEP (or designee) and requests review.
8. District SEP (or designee) completes appropriate fields in LP2000 according to the instructions provided in July 20, 2007 DLA [memo](#), Subject: Tracking Local Assistance NEPA Compliance Milestones.
9. District SEP (or designee) initiates the 3 step Quality Control Review process found in Chapter 38 of the [SER](#).
10. Resource/Technical Specialists review technical report(s) in their specialty area and respective sections of Draft EA for technical accuracy and consistency between technical report and EA, and sign the "Internal Certifications - Environmental Document Quality Control Reviews" (Internal QC Reviews) form.

Note: The purpose of the Resource/Technical Specialist Review is to ensure consistency between the conclusions of the specific technical study and the information summarized in the ED. A Resource/Technical Specialist Review will be completed for each resource topic discussed in the ED as necessary.

The review will be conducted for those sections in each chapter that contain information about the individual resource or technical area under consideration (for example, Summary, Affected

Environment, Environmental Consequences, and Avoidance, Minimization and/or Mitigation Measures, Cumulative Impacts), and will provide comments to ensure the following:

- Accuracy of the information in the ED,
- Consistency between the technical study and the information as summarized in the ED,
- All avoidance, minimization or mitigation measures are appropriately characterized and are feasible to implement,
- All anticipated permit or approval actions have been accurately identified within the ED.

The last district environmental technical specialist to review the Draft EA forwards the signed Internal Certifications (Environmental Document Quality Control Reviews) form or list of deficiencies (if applicable) to the district SEP (or designee).

11. District SEP (or designee) checks to ensure that all of the Resource/Technical Specialists have signed the Internal QC Reviews form. SEP then forwards the Draft ED and technical studies to the NEPA Quality Control Reviewer.
12. NEPA Quality Control Reviewer reviews Draft EA for compliance with FHWA's NEPA standards, requirements and policies, and signs the Internal QC Reviews form, or prepares list of deficiencies, then provides comments to the district Environmental Branch Chief/SEP (or designee). The purpose of the NEPA Quality Control Review is to ensure that the project complies with the Council on Environmental Quality NEPA regulations and FHWA regulations, policies and standards for the implementation of NEPA and all other applicable federal environmental laws. The NEPA Quality Control Review will provide comments to ensure the following:
 - Adequacy of the project's purpose and need statement, logical termini, independent utility and project description;
 - Completeness of the alternatives analysis, including information supporting the range of alternatives selected for study in the ED;
 - All proposed avoidance, minimization and mitigation measures are properly identified, characterized and are reasonable and practicable to implement.
 - Evidence of coordination with any federal, state and local agencies necessary to comply with federal regulatory requirements;
 - Compliance with FHWA Environmental Impact and Related Procedures (23 CFR 771) and FHWA environmental policies and applicable guidance;
 - Compliance with other federal laws and regulations such as Section 7 of the Endangered Species Act, Section 106 of the National Historic Preservation Act, Section 404 of the Clean Water Act, Executive Order 11990-Protection of Wetlands,

Executive Order 11988-Floodplain Management, and Section 4(f) of the Department of Transportation Act.

Note: The NEPA Quality Control reviewer must have the following qualifications:

- (1) At least 2 years of experience leading the development of, or performing consultant oversight for transportation environmental documents in California,
- (2) Demonstrated experience in preparing complex environmental documents or supervisory experience in a unit that reviews Environmental Impact Statements or Environmental Assessments, and
- (3) Certificate of Completion in the Caltrans NEPA Compliance Training.

13. The SEP reviews the environmental document to ensure that all NEPA QC Program standards are being met for the project, that the document is technically accurate and consistent with the SER, the annotated outlines and other applicable guidance. The SEP review shall provide comments to ensure:

- The adequacy of the purpose and need statement, logical termini, independent utility, and project description;
- All project alternatives are adequately described to support anticipated project impacts and proposed avoidance, minimization and mitigation measures;
- All applicable State and federal laws, regulations and guidance documents have been adhered to relative to resource issues addressed in the ED;
- All resource discussions derived from technical studies and memoranda are accurately summarized in the ED.

The SEP shall ensure that all required appropriate staff members have completed quality control reviews. If Individual Section 4(f) Evaluation is required, district SEP also requests HQ EC and Legal Office review the draft Individual Section 4(f) Evaluation, if applicable. Once reviewed and accepted by HQ EC, and Legal Office, the SEP recommends to DDD (Environmental) that title sheet is ready for signature.

Note: Under NEPA Assignment the DDD for Environmental is authorized to approve Individual Section 4(f) Evaluations. A stand-alone Individual Section 4(f) Evaluation and an Individual Section 4(f) Evaluation that is included with a Routine EA must be submitted to the appropriate HQ EC and Legal Office for review. No Individual Section 4(f) Evaluation may be approved until it has been reviewed and accepted by the HQ EC and a Legal review has been completed (for draft evaluation) or legal sufficiency determined (for final evaluation) by the appropriate Legal Office. Caltrans will coordinate with the FHWA prior to determining that any action constitutes a constructive use of land from a publicly owned park, public recreation area, wildlife refuge, waterfowl refuge, or historic site (MOU 3.2.9).

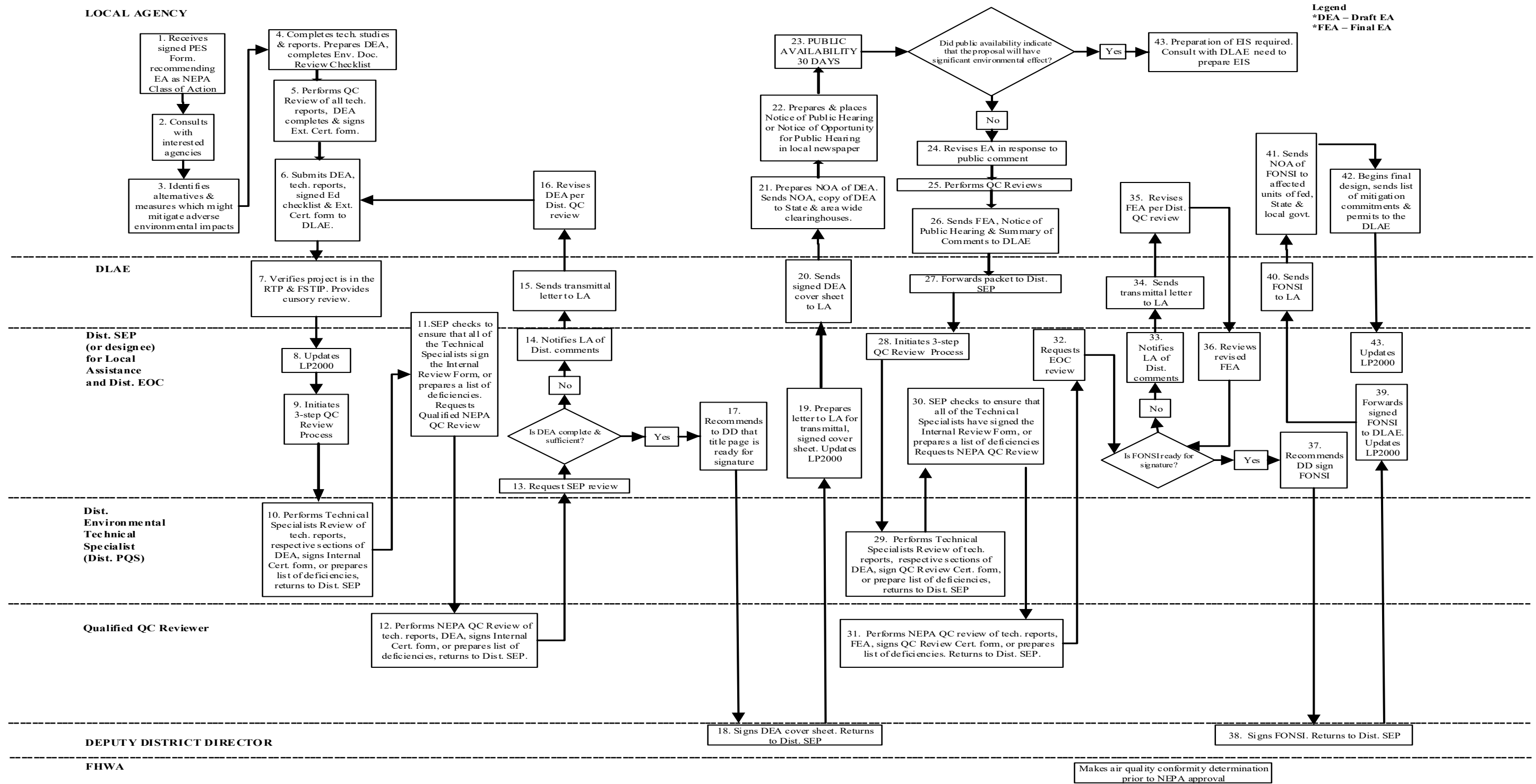


Figure 6-2: Routine Environmental Assessment (EA) Process Flowchart

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Is Draft EA complete and sufficient? If "No," GO TO STEP #14. If "Yes," GO TO STEP #17.

14. District SEP (or designee) prepares transmittal letter or email to the LA, or documents meeting (if applicable) with LA, summarizing all comments received from district technical specialists.
15. District DLAE (or designee) sends transmittal letter or email outlining any deficiencies to the LA; files copy of the letter, email or documented meeting with LA in the project file, and provides the SEP with a copy.
16. LA modifies technical reports and/or Draft EA, according to Caltrans comments, and resubmits report(s) and Draft EA to the DLAE beginning at Step #6. The review and comment process (steps 6-16) are repeated until the district determines that the document is completed and sufficient. (Note: a revised External QC Reviews form is required for each iteration of the document.)
17. District SEP signs and transmits letters to resource and regulatory agency initiating formal consultation and recommends to DD or designee, that title page is ready for signature.

Note: Copies of the letters requesting formal consultation with resource and regulatory agencies and a copy of the letter requesting AQ Conformity Determination from FHWA must be retained by district SEP (or designee) in order to complete the required fields in LP2000. Copies of response letters from resource and regulatory agencies are also transmitted to the DLAE and the district SEP (or designee).
18. DD (or DDD-Environmental or EOC, if designated) signs Draft EA cover sheet and returns to district SEP (or designee).
19. District SEP (or designee) prepares transmittal letter or email to the LA or documents meeting with LA (if applicable) confirming availability of the signed Draft EA cover sheet.
20. District DLAE (or designee) sends transmittal letter or email to the LA and files copy of the letter, email or documentation of meeting, if applicable, with the LA regarding availability of the signed Draft EA in the project file. District SEP (or designee) completes appropriate fields in LP2000 as follows: On Environmental - Environmental Assessment (EA) screen, under Public Circulation field, enter date DD or designee signed cover of Draft EA.
21. LA prepares Notice of Availability (NOA) of EA, available at: <http://www.dot.ca.gov/ser/forms.htm>, and sends NOA and a copy of the EA to the state and area clearinghouses. If Joint IS/EA, the submissions required by CEQA fulfill NEPA's requirement.
22. LA prepares and places Notice of Public Hearing or Notice of Opportunity for Public Hearing in local newspaper.

Note: 23 CFR 771.119(e) requires that the EA be available for minimum of 15 days in advance of the public hearing.

23. PUBLIC AVAILABILITY – 30 DAYS.

Did the EA or comments received from the public indicate that the proposed action will have a significant environmental effect? If “No,” GO TO STEP #24. If “Yes,” GO TO [Section 6.10: Step by Step Procedures – Environmental Impacts Statement](#), and discuss the need to prepare and EIS with the DLAE and district SEP STEP #43.

24. LA prepares Final EA according to appropriate Caltrans Annotated Outline, provided at: <http://www.dot.ca.gov/ser/forms.htm>, and LA completes the Environmental Document Review Checklist, provided at: <http://www.dot.ca.gov/ser/forms.htm>, cross-referencing items on the checklist with the corresponding page numbers found in the Draft EA as necessary to respond to public comments received.
25. LA performs Quality Control review of the Final EA according to Caltrans Environmental Document Quality Control Program under NEPA Assignment (October 2012) provided at: http://www.dot.ca.gov/ser/downloads/memos/nepa/map21/memo_naqualctrl.pdf and completes and signs the External Certifications Environmental Document Quality Control Reviews form provided at: <http://www.dot.ca.gov/ser/forms.htm>.
26. LA sends Final EA, Environmental Document Review Checklist, Notice of Public Hearing or Notice of Opportunity for Public Hearing and summary of comments received to the DLAE.
27. DLAE forwards packet to the district SEP (or designee).
28. District SEP sends a request for AQ Conformity Determination to FHWA <http://www.dot.ca.gov/ser/forms.htm#conformity> and the district SEP (or designee) initiates 3-step Quality Control Review process by sending Final EA to appropriate district technical specialists and requesting a Quality Control Review. Per Chapter 38 of the [SER](#), the Internal Peer review and the Technical Editor Review are not required as these steps are performed by the LA or their consultants.

Note: The conformity determination cannot be completed until there is a public comment period on the analysis. Most of the time the public circulation of the environmental document serves as the public circulation for the conformity analysis.

29. District Technical Resource Specialists review technical report(s) and respective sections of Final EA for technical accuracy and consistency between technical report and EA, sign the Internal QC Reviews) form, and forward the signed form or (if applicable) list of deficiencies to the district SEP (or designee).

Note: All consultations with resource/regulatory agencies must be complete and applicable documentation included in the ED prior to signing the Final EA. District SEP (or designee) updates LP2000 as follows: On Environmental Studies – Environmental Study Milestones screen (1) enter the date of resource or regulatory agency letter, documenting their final opinion/concurrence/agreement, and so forth, (2) use the Delay drop-down arrow to indicate “Yes” or “No.” Note: “Yes” should be used if USFWS or NMFS exceeded 135 days in issuing a Biological Opinion; if USFWS or NMFS exceeded 30 days in issuing a Concurrence Letter; if there are delays in signatures on project MOA or project PA under Section 106 (if applicable), or if excessive delays occurred during any other agency review, (3) use the comments field to document number of iterations needed (between Caltrans and LA) to produce a complete and sufficient report or number of iterations needed (between Caltrans and resource and regulatory agency) to produce an acceptable report.

30. District SEP (or designee) reviews the Final EA and technical report(s) to ensure that all Quality Control Program standards are being met for the project, that the document is technically accurate and consistent with the SER, the annotated outlines, and other applicable guidance. Per the October 1, 2012 memo, [Environmental Document Quality Control Program under NEPA Assignment](#), this policy memorandum describes procedures that Caltrans would implement for environmental documents to ensure compliance with NEPA and other federal laws.

Note: For Local Assistance projects, only the Resource/Technical Specialist Review, NEPA Quality Control Review, and the Environmental Branch Chief/or SEP Review are required. The NEPA Quality Control Review may occur concurrent with the SEP review.

31. NEPA Quality Control Reviewer reviews technical reports and Final EA for compliance with FHWA’s NEPA standards, requirements and policies; signs the Internal Certifications Environmental Document Quality Control Reviews form or (if applicable) prepares list of deficiencies, and forwards to the district SEP (or designee).
32. District SEP drafts FONSI and requests EOC review of Final EA and FONSI.

Is Final EA complete and sufficient, and is FONSI ready for signature ? If “No,” GO TO STEP #33. If “Yes,” GO TO STEP #37.

33. District SEP (or designee) prepares transmittal letter or email to the LA, or documents meeting with LA, if applicable, outlining deficiencies or reasons why a FONSI is not ready for approval, and forwards a copy to the DLAE.
34. District DLAE (or designee) sends transmittal letter or email outlining deficiencies to the LA; files the letter, email or documents meeting with the LA (if applicable) in the project file, and provides the SEP with a copy.

35. LA revises Final EA accordingly and resubmits to the district SEP (or designee) via the DLAE, or if an EIS must be prepared, proceed to [Section 6.10: Step by Step Procedures – Environmental Impacts Statement](#).
36. District SEP reviews the revised Final EA. If still deficient GO TO Step # 33. Steps 33 through 36 are repeated until the district determines that the document is complete and sufficient. Once sufficient, district SEP drafts the FONSI.
37. District SEP requests legal review if an Individual Section 4(f) Evaluation is required either stand-alone or part of ED. Once Legal Office has determined that the Individual Section 4(f) Evaluation is legally sufficient, the district SEP recommends to the DD (or DDD or EOC, if designated) that the Final EA and FONSI is ready for signature.
38. The DD (or DDD-Environmental or EOC, if designated) signs the Final EA cover sheet and FONSI and returns the signed FONSI to the district SEP (or designee).
39. District SEP (or designee) forwards signed Final EA cover sheet and FONSI to the DLAE and updates LP2000 according to the instructions provided in July 20, 2007 DLA memo, Subject: Tracking Local Assistance NEPA Compliance Milestones: On Environmental – Environmental Assessments (EA) screen (1) enter the date District (DLAE or Environmental) receives LA-prepared Final EA and (2) enter date DD or designee signature appears on the FONSI.
40. DLAE sends signed Final EA cover sheet and FONSI to the LA and notifies LA that they may begin final design.
41. LA sends the NOA of the FONSI to the affected units of federal, state, and local government, and distributes Final ED to anyone that commented.
42. LA begins final design and provides the DLAE with each of the following:
 - A list of all Mitigation Commitments
 - A copy of all environmental permits, agreements or approvals (that is, Coastal, 401, 404, 1602 Series, Sec 10, State or Federal Encroachment and/or Right of Entry)
43. District SEP (or designee) updates Environmental-PERMITTS Screen and Mitigation Commitments Screen in LP2000 according to the instruction provided in July 20, 2007, DLA memo , Subject: Tracking Local Assistance NEPA Compliance Milestones <http://localassistance.onramp.dot.ca.gov/lp2000>.
44. After the FONSI has been signed, the SEP (or designee) may prepare a “Notice of Statute of Limitations on Claims” and submit to FHWA for publication in the Federal Register. <http://www.dot.ca.gov/ser/vol1/sec4/ch31ea/chap31ea.htm#statuteoflimitations>
An example of SOL notice can be found at the following link:
<http://www.dot.ca.gov/ser/forms.htm>

6.9 STEP-BY-STEP PROCEDURES – COMPLEX ENVIRONMENTAL ASSESSMENT (EA)

Complex EAs are projects that involve one or more of the following:

- multiple location alternatives
- debate related to purpose and need
- strong public controversy
- issues of logical termini or independent utility
- individual Section 4(f) determinations
- complex Endangered Species Act issues
- numerous cumulative impacts
- high mitigation costs

The requirement to prepare an EA in general may come about through one or more of the following situations:

- Based on information gathered during the PES, where it is clear that the proposed project will not qualify for a CE or where unusual circumstances are likely. The LA identifies the potential for significance under Section A of the PES form and recommends the development of an EA (under Section E of the PES form). The DLAE and district SEP determine that an EA is the appropriate NEPA Class of Action with email concurrence of the HQ EC and sign the PES form.
- During or upon completion of technical studies when it becomes apparent that the proposed project will not qualify for a CE or that unusual circumstances exist, the decision to prepare an EA is made by the district SEP in collaboration with the DLAE and with email concurrence of the HQ EC, and must be clearly documented for the project file. A meeting should be conducted with the LA to discuss why the project is not a CE and to advise the LA on the requirements for an EA. The decision to follow the Complex EA process will be made by the district SEP as soon as sufficient information is available.

The Complex Environmental Assessment (EA) process is shown in Figure 6-3: Complex Environmental Assessment (EA) Process Flowchart. The numbers on the flowchart correlate with the step-by-step procedures within this section.

1. LA receives the signed PES form recommending a complex EA as the NEPA Class of Action.
2. LA prepares the Scope of Work/Consultant Contract (if necessary) according to [LAPM Chapter 10: Consultant Selection](#), and the requirements identified in the PES form and policy and guidance set forth in the SER.
3. LA identifies alternatives and measures to minimize the potential for adverse environmental impacts.

4. LA completes technical studies and reports, prepares the Administrative Draft EA according to the appropriate Caltrans Annotated Outline, provided at: <http://www.dot.ca.gov/ser/forms.htm>. LA completes the Environmental Document Review Checklist, provided at <http://www.dot.ca.gov/ser/forms.htm> cross-referencing items on the checklist with the corresponding page numbers found in the Administrative Draft EA.
5. LA performs Quality Control Review of all technical reports and Administrative Draft EA according to [Caltrans Environmental Document Quality Control Program under NEPA Assignment \(October 2012\)](#) and completes and signs External Certification (Environmental Document Quality Control Reviews) [form](#) prior to submitting the Draft EA and technical studies to DLAE. External Certification (Environmental Document Quality Control Reviews) form is provided at: <http://www.dot.ca.gov/ser/forms.htm>
6. LA signs Administrative Draft EA title page and submits the following completed and original signed documents to the DLAE:
 - Environmental Document Review Checklist
 - External Certifications (Environmental Document Quality Control Review Certification) form
 - Five hard copies of Administrative Draft EA (or an electronic copy, if requested)
 - Two hard copies of each technical report
 - Electronic copy of each technical report
7. DLAE date stamps the Administrative Draft EA on date received, re verifies that the project is in the FSTIP. Provides a cursory review of packet to ensure that the original fully signed Environmental Document Review Checklist, the completed fully signed External Certifications (Environmental Document Quality Control Reviews) form, and the appropriate numbers of copies of the Administrative Draft EA and technical reports have been provided. Submits packet (or CD, if requested) to district SEP (or designee).
8. District SEP (or designee) updates LP2000 as follows: On the Environmental Assessments (EA) Screen (1) enter the date the DLAE received the LA prepared Draft EA, (2) use comments field to indicate whether a Joint NEPA/CEQA document was prepared, and if not, why, (3) indicate whether the LA submitted a “completed” Environmental Document Quality Control Reviews form with the Administrative Draft EA, by using the drop down arrow to select “Yes” or “No” (next to LA Quality Assurance/Quality Control).
9. District SEP (or designee) initiates 5-step Quality Control Review process of the Administrative Draft EA and technical studies by distributing one copy of the applicable technical report and one copy of the Administrative Draft EA to each to each appropriate district technical specialist, and requesting that each reviewer perform

district Quality Control Review of the technical report(s) and the Administrative Draft EA according to [Caltrans Environmental Document Quality Control Program under NEPA Assignment \(October 2012\)](#).

10. Resource/Technical Specialists review technical report(s) in their specialty area and respective sections of Administrative Draft EA for technical accuracy and consistency between technical report and EA, and sign Internal Certifications (Environmental Document Quality Control Reviews) form.

Note: The purpose of the district Resource/Technical Specialists review is to ensure consistency between the conclusion of the specific technical study with information summarized in the Environmental Document (ED). A Resource/Technical Specialist Review will be completed for each resource topic discussed in the ED. The review will be conducted for those sections in each chapter that contain information about the individual resource or technical area under consideration (for example, Summary, Affected Environment, Environmental Consequences, and Avoidance, Minimization and/or Mitigation Measure, Cumulative Impacts) and will provide comments to ensure the following:

- Accuracy of the information in the ED;
- Consistency between the technical study and the information as summarized in the ED;
- All avoidance, minimization or mitigation measures are appropriately characterized and are feasible to implement; and
- All anticipated permit or approval actions have been accurately identified within the ED.

The last district environmental technical specialist to review the Draft EA forwards the signed Internal Certifications (Environmental Document Quality Control Reviews) form or list of deficiencies (if applicable) to the district SEP (or designee).

11. District SEP (or designee) checks to ensure that all of the Resource/Technical Specialists have signed the Internal Certifications (Environmental Document Quality Control Reviews) form. SEP then forwards the Draft environmental document and technical studies to the NEPA Quality Control Reviewer.
12. NEPA Quality Control Reviewer reviews the Administrative Draft EA for compliance with FHWA's NEPA standards, requirements and policies.

Note: The Caltrans NEPA Quality Control reviewer must have the following qualifications:

- (1) At least 2 years of experience leading the development of, or performing consultant oversight for transportation environmental documents in California,

- (2) Demonstrated experience in preparing complex environmental documents or supervisory experience in a unit that reviews Environmental Impact Statements or Environmental Assessments, and
- (3) Certificate of Completion in the Caltrans-Division of Environmental Analysis (DEA) NEPA Compliance Training.

A list of qualified Local Assistance NEPA Assignment Quality Control Reviewers is provided at:

<https://localassistance.onramp.dot.ca.gov/office-nepa-assignment-and-environmental-compliance>

The purpose of the NEPA Quality Control Review is to ensure that the project complies with the Council on Environmental Quality (CEQ) NEPA regulations and FHWA regulations, policies, and standards for the implementation of NEPA and all other applicable federal environmental laws. The NEPA Quality Control Review will provide comments to ensure the following:

- Adequacy of the project's purpose and need statement, logical termini, independent utility and project description;
- Completeness of the alternatives analysis, including information supporting the range of alternatives selected for study in the document;
- All proposed avoidance, minimization and mitigation measures are properly identified, characterized, and are reasonable and practicable to implement;
- Evidence of coordination with any federal, state and local agencies necessary to comply with federal regulatory requirements;
- Compliance with FHWA Environmental Impact and Related Procedures (23 CFR 771) and FHWA environmental policies and applicable guidance; and
- Compliance with other federal laws and regulations, such as Section 7 of the Endangered Species Act, Section 106 of the National Historic Preservation Act, Section 404 of the Clean Water Act, Executive Order 11990-Protection of Wetlands, Executive Order 11988-Floodplain Management, and Section 4(f) of the Department of Transportation Act.

NEPA Quality Control Reviewer signs the Internal Certifications (Environmental Document Quality Control Reviews) form, or prepares list of deficiencies (if applicable), then provides comments to the district Environmental Branch Chief/SEP (or designee).

13. The **SEP** performs district quality control review of Administrative Draft EA according to Caltrans Environmental Document Quality Control Program under NEPA Assignment (October 2012) and considers whether the Administrative Draft EA is ready for HQ review.

Is Administrative Draft EA ready for HQ review? If "No," GO TO STEP #14. If "Yes," GO TO STEP #17.

14. When Administrative Draft or technical reports are deficient, district SEP (or designee) prepares transmittal letter or email to the LA, or documents telephone conversation or meeting with the LA (if applicable) outlining all deficiencies, and requests that the Administrative Draft EA be revised as necessary based on the district/NEPA Quality Control reviewer's comments. Comments received from all 3 levels of review will form the basis of revisions to the Administrative Draft EA.
15. District DLAE (or designee) sends transmittal letter or email to the LA and files a copy of the letter, email, or documented meeting (if applicable) with the LA in the project file, and provides a copy to the SEP.
16. LA revises Administrative Draft EA per district and NEPA Quality Control reviewer's comments and resubmits at Step #6.
17. When Administrative Draft EA and technical reports are complete and sufficient, district SEP submits the following to the HQ EC and requests a Quality Assurance Review of the Administrative Draft EA:
 - Transmittal Memo signed by the district/region SEP requesting review
 - Five copies of the Administrative Draft EA or CD
 - One copy of each technical study (or on CD, if requested)
 - One copy of LA completed Environmental Document Review Checklist
 - One copy of LA completed and signed External QC Reviews form
 - One copy of completed and signed Internal QC Reviews form

The Legal Office will review EAs, as time is available, at the request of the district/region. If an Individual Section 4(f) Evaluation is required, district SEP also requests HQ EC and Legal Office review the draft Individual Section 4(f) Evaluation. Once reviewed and accepted by HQ EC, Legal Office and the district EOC, recommends to DDD-Environmental that the title page is ready for signature.

18. HQ EC performs a QA Review of the environmental document to determine if the Administrative Draft EA is substantively complete and ready for interdisciplinary quality assurance review.

In making this determination, the HQ EC will confirm that the administrative environmental document follows the annotated outline and includes the following:

- Correct title page
- All chapters and necessary resource topics are present and complete
- All appendices are present and complete

- All required correspondence relative to procedural and regulatory requirements
- Complete, clear, legible and logical exhibits and figures

Once the submittal is deemed complete, the review period is 22 business days.

HQ EC will lead an interdisciplinary team of HQ technical specialists to review the document. Technical specialists will review pertinent portions of the document for accuracy to ensure that regulatory requirements are appropriately addressed. The project technical studies will be used in support of the review.

The HQ EC will review the entire environmental document and perform a NEPA quality assurance review.

Did HQ EC find the Administrative Draft EA complete? If "No," GO TO STEP #19. If "Yes," GO TO STEP #22.

19. When the HQ EC finds the Administrative Draft EA incomplete, the HQ EC will consolidate and transmit comments on the Administrative Draft EA to the district SEP (or designee), who in turn drafts a transmittal memo to the LA outlining HQ EC quality assurance comments and requesting the LA make the necessary revisions to the Administrative Draft EA.

20. LA revises Administrative Draft EA in response to HQ EC comments and resubmits revised Draft to district SEP (or designee).

Note: District/Region and HQ EC staff are available to assist LA with: (1) clarification regarding comments, (2) resolution of issues identified in the comments, and (3) in determining adequate response to comments, as needed. A meeting or workshop may be convened by the HQ EC or the district/region/DLAE to facilitate this process.

21. District SEP (or designee) reviews the revised Administrative Draft EA and submits revised Internal QC Reviews form to reflect that all comments have been appropriately addressed and submits the following materials to HQ EC for HQ Pre-Approval Review:

- Transmittal Memo signed by the district/region SEP stating that the document has been revised pursuant to HQ EC comments and requesting pre-approval review.
- One copy of the revised environmental document
- One copy of revised environmental document with track changes
- One copy of comments with a response key
- One copy of the completed Environmental Document Review Checklist, as revised
- One copy of the signed revised Internal QC Reviews form

22. HQ EC reviews the revised Administrative Draft EA to ensure that all comments have been adequately addressed and the Administrative Draft EA is ready for signature. The

review period is 10 business days. HQ EC must concur that its comments have been addressed. At this point, the HQ EC will take one of the following actions:

- Find that minor changes are needed and coordinate directly with the document preparer to make the changes. GO TO STEP #19.
- Determine that substantive issues remain and inform the district SEP in writing of the deficiencies and instruct them to resubmit the document upon subsequent revision. GO TO STEP #19.
- Conclude that the environmental document is adequate and ready for circulation. GO TO STEP #24.

23. HQ EC recommends in writing that the revised Administrative Draft EA is ready for signature.

24. District SEP and the HQ EC will recommend to the DD (or DDD- Environmental or EOC, if designated) that the title sheet is ready for signature.

25. DD (or DDD-Environmental or EOC, if designated) signs the Draft EA title sheet and returns the signed title sheet to the district SEP (or designee).

Note: The DD may delegate signature authority to the DDD for Environmental or the EOC managing the environmental assessment unit that reviewed the document.

26. District SEP (or designee) prepares and sends a letter or email to the LA, or contacts the LA via telephone, to inform them that the Draft EA title sheet has been signed and that they may begin public circulation.

27. District SEP (or designee) provides a copy of the signed Draft EA title sheet to the DLAE and includes a copy of the signed Draft EA title sheet and transmittal in the project file.

28. LA prepares the NOA of the EA and sends NOA and a copy of the Draft EA to the State and area wide clearinghouses. If Joint IS/EA, the submissions required by CEQA fulfill the NEPA requirement.

29. LA prepares and places Notice of Public Hearing or Notice of Opportunity for Public Hearing in local newspaper.

Note: 23 CFR 771.119(e) requires that the EA be available for minimum 15 days in advance of the public hearing.

30. PUBLIC AVAILABILITY - 30 DAYS

Did the EA or comments received from the public indicate that the proposal will have a significant environmental effect? If "No," GO TO STEP #31. If "Yes," discuss the need to prepare an EIS with DLAE and district SEP.

31. LA prepares Administrative Final EA according to appropriate Caltrans Annotated Outline, provided at: <http://www.dot.ca.gov/ser/forms.htm>, and LA completes the Environmental Document Review Checklist, provided at: <http://www.dot.ca.gov/ser/forms.htm> cross-referencing items on the checklist with the corresponding page numbers found in the Draft EA as necessary to respond to public comments received.

Completes and signs the External Certifications (Environmental Document Quality Control Review Certification) form provided at: <http://www.dot.ca.gov/ser/forms.htm>.

32. LA drafts FONSI recommendation.
33. LA sends the Administrative Final EA, Notice of Public Hearing, Summary of Comments received, and original signed External Certifications (Environmental Document Quality Control Review Certification) form to the DLAE.

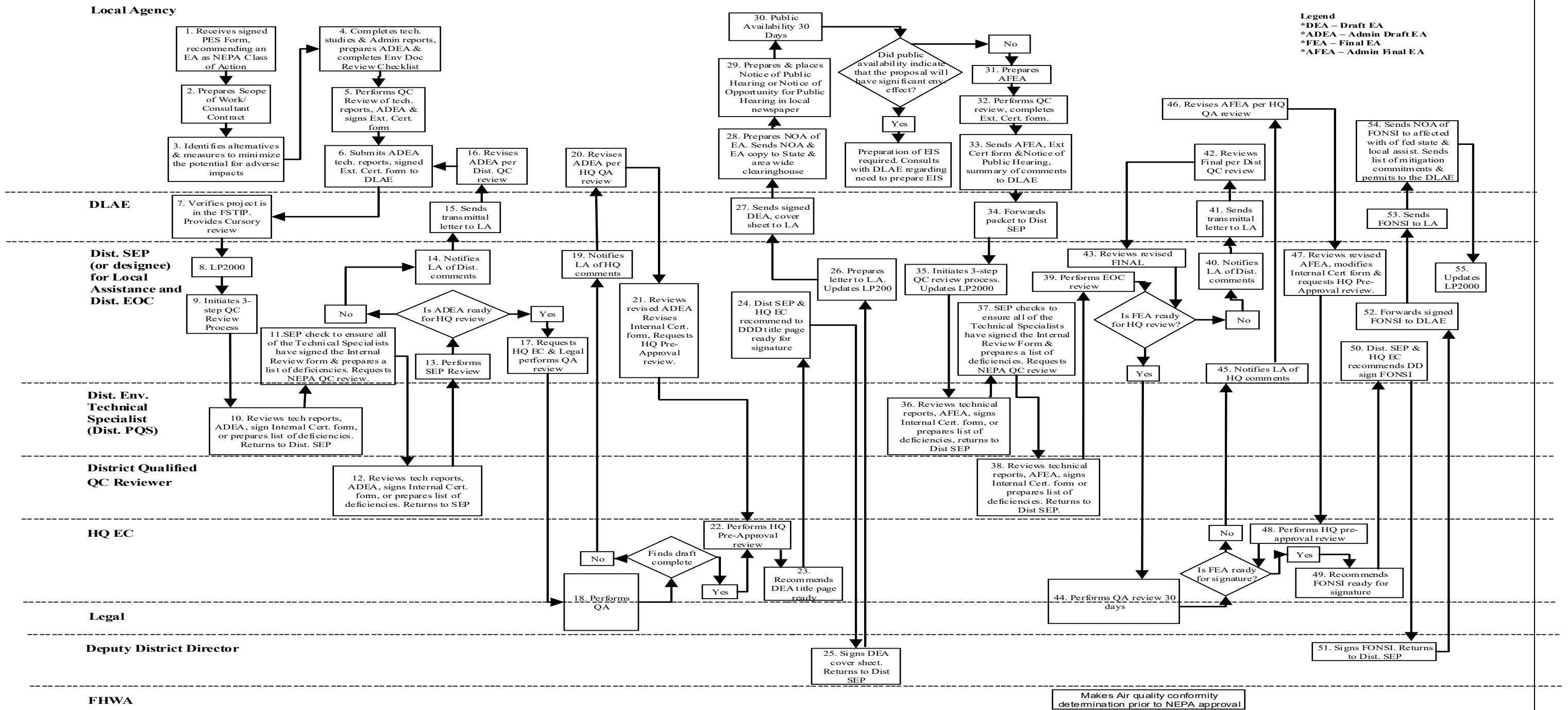


Figure 6-3: Complex Environmental Assessment (EA) Process Flowchart

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34. DLAE date stamps and forwards Administrative Final EA packet to the district SEP (or designee). District SEP sends request for AQ Conformity Determination to FHWA. FHWA makes Air Quality conformity determination prior to NEPA approval.
35. District SEP (or designee) initiates 3-step Quality Control Review (Resource/Technical Specialist Review, NEPA Quality Control Review, and Environmental Branch Chief Review/SEP) by sending one copy of the technical report and one copy of the Final EA to all applicable Resource/Technical Specialists and requesting that each specialist perform district Quality Control Review of the technical report(s) and the Administrative Final EA according to [Caltrans Environmental Document Quality Control Program under NEPA Assignment \(October 2012\)](#).
36. Resource/Technical Specialists review technical report(s) in their specialty area and respective sections of Administrative Final EA for technical accuracy and consistency between technical report and EA, and sign Internal Certifications (Environmental Document Quality Control Reviews) form.

The last district environmental technical specialist to review the Draft EA forwards the signed Internal Certifications (Environmental Document Quality Control Reviews) form or list of deficiencies (if applicable) to the district SEP (or designee).
37. District SEP (or designee) checks to ensure that all of the Resource/Technical Specialists have signed the Internal Certifications (Environmental Document Quality Control Reviews) form. SEP then forwards the Draft environmental document and technical studies to the NEPA Quality Control Reviewer.
38. NEPA Quality Control Reviewer reviews the Administrative Final EA for compliance with FHWA's NEPA standards, requirements and policies.

Note: The Caltrans NEPA Quality Control reviewer must have the following qualifications:

- (1) At least 2 years of experience leading the development of, or performing consultant oversight for transportation environmental documents in California,
- (2) Demonstrated experience in preparing complex environmental documents or supervisory experience in a unit that reviews Environmental Impact Statements or Environmental Assessments, and
- (3) Certificate of Completion in the Caltrans-Division of Environmental Analysis (DEA) NEPA Compliance Training.

A list of qualified Local Assistance NEPA Assignment Quality Control Reviewers is provided at:

<https://localassistance.onramp.dot.ca.gov/office-nepa-assignment-and-environmental-compliance>

The purpose of the NEPA Quality Control Review is to ensure that the project complies with the Council on Environmental Quality (CEQ) NEPA regulations and FHWA

regulations, policies, and standards for the implementation of NEPA and all other applicable federal environmental laws. The NEPA Quality Control Review will provide comments to ensure the following:

- Adequacy of the project's purpose and need statement, logical termini, independent utility and project description;
- Completeness of the alternatives analysis, including information supporting the range of alternatives selected for study in the document;
- All proposed avoidance, minimization and mitigation measures are properly identified, characterized, and are reasonable and practicable to implement;
- Evidence of coordination with any federal, state and local agencies necessary to comply with federal regulatory requirements;
- Compliance with FHWA Environmental Impact and Related Procedures (23 CFR 771) and FHWA environmental policies and applicable guidance; and
- Compliance with other federal laws and regulations, such as Section 7 of the Endangered Species Act, Section 106 of the National Historic Preservation Act, Section 404 of the Clean Water Act, Executive Order 11990-Protection of Wetlands, Executive Order 11988-Floodplain Management, and Section 4(f) of the Department of Transportation Act.

NEPA Quality Control Reviewer signs the Internal Certifications (Environmental Document Quality Control Reviews) form, or prepares list of deficiencies (if applicable), then provides comments to the district Environmental Branch Chief/SEP (or designee).

39. The **SEP** performs district quality control review of Administrative Final EA according to Caltrans Environmental Document Quality Control Program under NEPA Assignment (October 2012) and considers whether the Administrative Final EA is ready for HQ review.

Is Administrative Final EA ready for HQ review? If "No," GO TO STEP #40. If "Yes," GO TO STEP #44.

40. District SEP (or designee) prepares a letter to the LA, or notifies the LA via email, or meeting regarding deficiencies in the Administrative Final EA.
41. District DLAE (or designee) sends transmittal letter or email to the LA and files a copy of the letter, email, or documented telephone conversation or meeting (if applicable) with the LA in the project file, and provides a copy to the SEP.
42. LA revises Administrative Final EA accordingly and resubmits to district SEP (or designee) at Step #43.
43. District SEP reviews the revised Administrative Final EA and determines whether the revised Administrative Final EA is ready for HQ review. If "Yes," district SEP forwards the revised Administrative Final EA to HQ EC and requests Quality Assurance Review. If "No," district SEP (or designee) notifies LA of deficiencies. Steps#40, #41, #42 and #43 are repeated until environmental document is ready for review. When

Administrative Final EA is complete and sufficient, district SEP submits the following to the HQ EC and requests a Quality Assurance Review of the Administrative Final EA:

- Transmittal Memo signed by the District/Region SEP stating that the document has been revised pursuant to the legal review or legal sufficiency review and requesting pre-approval review
- One copy of the revised ED or 4(f)
- One copy of revised ED or 4(f) with track changes (not read-only) showing additions and deletions
- One copy of comments with a response key
-
- One copy of LA completed Environmental Document Review Checklist
- One copy of LA completed and signed External QC Reviews form
- One copy of completed and signed Internal QC Reviews form

The Legal Office will review EAs, as time is available, at the request of the district/region. If an Individual Section 4(f) Evaluation is required, district SEP also requests HQ EC and Legal Office review the draft Individual Section 4(f) Evaluation. Once reviewed and accepted by HQ EC, Legal Office and the district SEP, recommends to DDD-Environmental that the title page is ready for signature.

44. HQ EC performs a QA Review of the environmental document to determine if the Administrative Final EA is substantively complete and ready for interdisciplinary quality assurance review.

In making this determination, the HQ EC will confirm that the administrative environmental document follows the annotated outline and includes the following:

- Correct title page
- All chapters and necessary resource topics are present and complete
- All appendices are present and complete
- All required correspondence relative to procedural and regulatory requirements
- Complete, clear, legible and logical exhibits and figures

Once the submittal is deemed complete, the review period is 30 days.

HQ EC will lead an interdisciplinary team of HQ technical specialists to review the document. Technical specialists will review pertinent portions of the document for accuracy to ensure that regulatory requirements are appropriately addressed. The project technical studies will be used in support of the review.

The HQ EC will review the entire environmental document and perform a NEPA quality assurance review.

Is Administrative Final EA ready for signature? If "No," notify district SEP (or designee) and GO TO STEP #45. If "Yes," GO TO STEP #49.

45. HQ EC (or designee) notifies the LA of deficiencies.
46. LA revises Administrative Final EA per HQ Quality Assurance Review and resubmits revised Administrative Final EA to the district SEP (or designee).
47. District SEP (or designee) reviews revised Administrative Final EA, modifies Internal Certifications (Environmental Document Quality Control Review Certification) form, as needed, and requests HQ pre-approval review.
48. HQ EC performs HQ pre-approval review.

Is Administrative Final EA ready for signature? If "No," GO TO STEP #45. If "Yes," GO TO STEP #49.

49. HQ EC recommends FONSI ready for signature.
50. District SEP recommends DD sign FONSI.
51. DD (or designee) signs FONSI and returns signed FONSI to district SEP.
52. District SEP forwards signed FONSI to DLAE and updates LP2000 according to the instructions provided in July 20, 2007 DLA memo, Subject: [Tracking Local Assistance NEPA Compliance Milestones](#). On the Environmental Assessments (EA) Screen, next to Final EA, (1) use Comments Field to document number of iterations needed to produce an acceptable Final EA, document delays at LA, document delays at Caltrans, indicate sufficiency/deficiency of quality/completeness of Local Agency's Quality Assurance/Quality Control Environmental Document Quality Control Review Certification form, (2) next to Final Quality Assurance/Quality Control (Complex EA) enter date of final signature (Chief, Environmental Branch) on Environmental Document Quality Control Review Certification form, (3) use Comments field to document delays/concerns associated with internal reviews, (4) next to FONSI, enter date DD or designee signature appears on FONSI, (5) use comments field to document internal and external delays associated with the FONSI.
53. DLAE sends signed FONSI to the LA and notifies them that they may begin final design.
54. LA sends the NOA of the FONSI to the affected units of federal, state, and local government, begins final design, and provides the DLAE with each of the following:
 - A list of all Mitigation Commitments
 - A copy of all Environmental Permits (such as Coastal, 401, 404, Sec 10, Encroachment or Right of Entry)
55. District SEP updates LP2000 according to the instruction provided in July 20, 2007, DLA Memo, Subject: Tracking Local Assistance NEPA Compliance Milestones.
56. After the FONSI has been signed, the SEP (or designee) may prepare a "Notice of Statute of Limitations on Claims" and submit to FHWA for publication in the Federal Register. <http://www.dot.ca.gov/ser/vol1/sec4/ch31ea/chap31ea.htm#statuteoflimitations>

An example of SOL notice can be found at the following link:

<http://www.dot.ca.gov/ser/forms.htm>

6.10 Step-by-Step Procedures – Environmental Impact Statement (EIS)

The requirement to prepare an EIS may come about through one or more of the following situations:

- Based on information gathered during PES, it becomes clear that the proposed project will have a significant impact, or
- Technical studies or EA conclude that the project will cause a significant impact.

The Environmental Impact Statement process is shown in Figure 6-4: Environmental Impact Statement Process Flowchart. The numbers on the flowchart correlate with the step-by-step procedures within this section.

1. LA receives signed PES Form recommending EIS.
2. LA requests a meeting with DLAE, district SEP, and HQ EC (if available) to discuss the EIS process, EIS document requirements, and identify potential cooperating and participating agencies.
3. LA prepares letters to cooperating and participating agencies inviting them to participate in the development of the environmental document. Some of the agencies that may have an interest in the project are listed under Section C of the PES Form. State agencies are considered Responsible and Trustee agencies (CDFW, State Lands, Department of Parks and Recreation) under CEQA. Federal agencies are considered Cooperating Agencies. FHWA's [Revised Guidance on Cooperating Agencies](#) provides examples of letters inviting agencies to participate in the environmental process. LA also drafts NOI (<http://www.dot.ca.gov/ser/forms.htm>). Typically, federal agencies have accepted their role (as Cooperating Agencies) prior to publication of the NOI and are listed in the NOI. (Note: A coordination plan must now be established no later than 90 days after the date of publication of an NOI and a schedule is now REQUIRED as part of the coordination plan. This link provides additional guidance: <http://www.dot.ca.gov/ser/guidance.htm#fastact>).
4. LA transmits NOI and invitation letters to the DLAE.
5. DLAE forwards letters and draft NOI to the district SEP (or designee).
6. District SEP sends the invitation letters to federal agencies.
7. District SEP forwards draft NOI to FHWA for publication in the FR.
8. FHWA publishes the NOI in the FR.
9. LA arranges and conducts the scoping meeting to determine the scope of issues to be addressed, and identify significant issues related to the proposed actions.

10. LA undertakes technical studies and prepares technical reports (as required) according to the guidance set forth in the SER.
11. LA prepares Administrative Draft EIS consistent with Caltrans Annotated Outline in the SER provided at: <http://www.dot.ca.gov/ser/forms.htm>
12. LA completes the Environmental Document Review Checklist, provided at: <http://www.dot.ca.gov/ser/forms.htm>
13. LA performs Quality Control Review of all technical reports and Administrative Draft EIS according to [Caltrans Environmental Document Quality Control Program under NEPA Assignment \(October 2012\)](#) and completes and signs the External QC Reviews form provided at: <http://www.dot.ca.gov/ser/forms.htm>
14. LA submits the following completed and original signed documents to DLAE:
 - Environmental Document Review Checklist
 - External QC Reviews form
 - Five hard copies of Administrative Draft EIS
 - Electronic copy of Administrative Draft EIS
 - Two hard copies of each Technical Report
 - Electronic copy of each Technical Report
15. DLAE: (1) date stamps Administrative Draft EIS on date received, (2) verifies again that project is in the FSTIP, (3) provides cursory review of packet to ensure that the original fully signed External QC Reviews form and the appropriate number of copies of the Administrative Draft EIS and technical reports have been provided, and (4) submits packet (or CD, if requested) to district SEP (or designee).
16. District SEP (or designee) updates the LP2000 according to the instructions provided in July 20, 2007 DLA memo, Subject: Tracking Local Assistance NEPA Compliance Milestones. On EIS Screen, (1) enter the date the NOI is published in the FR, use comments field to indicate date Caltrans sent the NOI to FHWA for publication in the FR, (2) enter date Administrative Draft EIS received by the district (either the DLAE or Environmental); use comments field to indicate whether a Joint CEQA/NEPA document was prepared, and if not, why not; (3) next to LA Quality Control/Quality Assurance, indicate whether LA submitted a "completed" External Certifications (Environmental Document Quality Control Review Certification) form with the Administrative Draft EIS, by selecting "Yes" or "No."
17. District SEP initiates and coordinates the Quality Control Review process according to [Caltrans Environmental Document Quality Control Program under NEPA Assignment \(October 2012\)](#). Note: The Local agency is responsible for Peer Review and Technical Editor Review of the environmental documents submitted to Caltrans. The District SEP initiates the review process of Administrative Draft EIS and technical studies by distributing one copy of the applicable technical report and one copy of the

Administrative Draft EIS to each appropriate district technical specialist, and request that each reviewer perform district quality control review of the technical report(s) and the Administrative Draft EIS.

18. District technical specialists conduct quality control review of technical report(s) and respective sections of the Administrative Draft EIS according to Caltrans Environmental Document Quality Control Program under NEPA Assignment (October 2012) provided at:

http://www.dot.ca.gov/ser/downloads/memos/nepa/map21/memo_naqualctrl.pdf

The purpose of the Resource Technical Specialist Review is to ensure the accuracy and internal consistency of specific resource studies and technical information summarized in the Administrative Draft EIS. A Resource Technical Specialist Review will be completed for each resource topic discussed in the ED. The review will be conducted for those sections in each chapter that contain information about the individual resource or technical area under consideration (for example, Summary, Affected Environment, Environmental Consequences, and Avoidance, Minimization or Mitigation Measures, Cumulative Impacts) and will provide comments to ensure the following:

- Accuracy of the information in the ED;
- Consistency between the technical study and the information as summarized in the ED;
- All avoidance, minimization or mitigation measures are appropriately characterized and are feasible to implement; and
- All anticipated permit and/or approval actions have been accurately identified within the ED.

After reviewing the technical report and the Administrative Draft EIS, the district technical specialists sign the Internal QC Review form provided at:

<http://www.dot.ca.gov/ser/forms.htm>, and provides district SEP with either a list of deficiencies, or the signed Internal QC Review form.

19. District SEP performs review of Administrative Draft EIS according to Caltrans Environmental Document Quality Control Program under NEPA Assignment (October 2012) provided at:

http://www.dot.ca.gov/ser/downloads/memos/nepa/map21/memo_naqualctrl.pdf

The District SEP (or designee) checks to ensure all of the Technical Specialists have signed the the Internal Certifications (Environmental Document Quality Control Reviews) form and requests NEPA Quality Control Review of Administrative Draft EIS and technical studies.

20. District NEPA Quality Control Reviewer reviews the Administrative Draft EIS according to Caltrans Environmental Document Quality Control Program under NEPA Assignment (October 2012) provided at:

http://www.dot.ca.gov/ser/downloads/memos/nepa/map21/memo_naqualctrl.pdf

The NEPA QC Reviewer signs the Internal Certifications (Environmental Document Quality Control Reviews) form provided at: <http://www.dot.ca.gov/ser/forms.htm> or (if applicable) prepares list of deficiencies and forwards signed form or list of deficiencies to the district SEP.

Note: The Caltrans NEPA Quality Control Reviewers must have the following qualifications: (1) at least two years of experience leading the development of, or performing consultant oversight for transportation environmental documents in California, (2) demonstrated experience in preparing complex environmental documents or supervisory experience in a unit that reviews Environmental Impact Statements (EISs) or Environmental Assessments, and (3) Certificate of Completion in Caltrans-Division of Environmental Analysis (DEA) NEPA Compliance Training.

The purpose of the NEPA Quality Control Review is to ensure that the project complies with the Council of Environmental Quality (CEQ) NEPA regulations and FHWA regulations, policies and standards for the implementation of NEPA, and all other applicable federal environmental laws. The NEPA Quality Control Review will provide comments to ensure the following:

- Adequacy of the project's purpose and need statement, logical termini, independent utility and project description;
- Completeness of the alternatives analysis, including information supporting the range of alternatives selected for study in the environmental document (ED);
- All proposed avoidance, minimization and mitigation measures are properly identified, characterized and are reasonable and practicable to implement;
- Evidence of coordination with any federal, state and local agencies necessary to comply with federal regulatory requirements;
- Compliance with FHWA Environmental Impact and Related Procedures (23 CFR 771) and FHWA environmental policies and applicable guidance; and
- Compliance with other federal laws and regulations, such as Section 7 of the Endangered Species Act, Section 106 of the National Historic Preservation Act, Section 404 of the Clean Water Act, Executive Order 11990-Protection of Wetlands, Executive Order 11988-Floodplain Management, and Section 4(f) of the Department of Transportation Act.

21. District SEP requests EOC review Administrative Draft EIS.

22. District SEP performs district quality control review according to Caltrans Environmental Document Quality Control Program under NEPA Assignment (October 2012) provided at:
http://www.dot.ca.gov/ser/downloads/memos/nepa/map21/memo_naqualctrl.pdf

SEP signs the Internal Certifications (Environmental Document Quality Control Reviews) form provided at: <http://www.dot.ca.gov/ser/forms.htm> or (if applicable) prepares list of deficiencies (if applicable).

The SEP review ensures that NEPA QC Program standards are being met for the project, that the document is technically accurate and consistent with the SER, the annotated outlines and other applicable guidance. The SEP review shall provide comments to ensure:

- The adequacy of the purpose and need statement, logical termini, independent utility, and project description;
- All project alternatives are adequately described to support anticipated project impacts and proposed avoidance, minimization and mitigation measures;
- All applicable State and federal laws, regulations and guidance documents have been adhered to relative to resource issues addressed in the ED;
- All resource discussions derived from technical studies and memoranda are accurately summarized in the ED.

The SEP shall ensure that all the required appropriate staff members have completed quality control reviews.

23. District SEP reviews the Internal QC Reviews form and considers all comments received during district quality control review.

Is Administrative Draft EIS complete and sufficient from the district's perspective? If "No," GO TO STEP #24. If "Yes," GO TO STEP #26.

24. When Administrative Draft EIS or technical reports are deficient, the district SEP (or designee) prepares a transmittal letter or email to the LA, or contacts the LA via telephone, to inform them of all deficiencies and requests that the Administrative Draft EIS be revised as necessary, based on the district quality control review. Comments received from all reviewers will form the letter or e-mail requesting revisions to the administrative environmental document. The district SEP sends the letter or email to the LA, provides a copy to the DLAE, and updates appropriate fields in LP2000.
25. The LA revises the Administrative Draft EIS according to the comments received and resubmits the draft (see STEPs #14 through 23).
26. When the Administrative Draft EIS and technical reports are complete and sufficient, the district SEP notifies HQ EC and the Legal Office that an Administrative Draft EIS will be submitted for their review in one week. To initiate HQ EC review, district SEP submits the following to the HQ EC and requests a Quality Assurance Review of Administrative Draft EIS (DLAE shall be copied on all correspondence between the district, HQ EC and legal):

- Transmittal Memo signed by the district SEP, requesting review of Administrative ED
- Five paper copies of the Administrative ED
- Five electronic copies of the Administrative Draft EIS
- One paper copy of each technical study
- One electronic copy of each technical study
- One copy of LA completed Environmental Document Review Checklist
- One copy of LA completed and signed External Quality Control Certification Sheet
- One copy of completed and signed Internal Quality Control Certification Sheet

To initiate Legal Division review, the district SEP submits the following to HQ Legal and requests a legal review on the Administrative Draft EIS.

- Transmittal Memo signed by the district SEP, requesting legal review of draft EIS
- One paper copy of the Administrative Draft EIS
- One electronic copy of the Administrative Draft EIS
- One electronic copy of each technical study
- One copy of the LA completed Environmental Document Review Checklist
- One copy of the completed and signed Internal Certification form
- One copy of the LA completed and signed External Certification form

27. HQ EC performs a quality assurance review of the Administrative Draft EIS to determine if the Administrative Draft EIS is substantively complete and ready for interdisciplinary quality assurance review. In making this determination, the HQ EC will confirm that the administrative environmental document follows the annotated outline and includes the following:

- Correct title page
- All chapters and necessary resource topics are present and complete
- All appendices are present and complete
- All required correspondence relative to procedural and regulatory requirements
- Complete, clear, legible and logical exhibits and figures

Once the submittal is deemed complete, the review period is 22 business days.

HQ EC will then lead an interdisciplinary team of HQ technical specialists to review the Administrative Draft EIS. HQ technical specialists will review pertinent portions of the Administrative Draft EIS for accuracy to ensure that regulatory requirements are

appropriately addressed. The project technical studies will be used in support of the review. HQ EC will review the entire Administrative Draft EIS, perform the NEPA Quality Assurance Review according to Caltrans Environmental Document Quality Control Program under NEPA Assignment (October 2012) provided at:

http://www.dot.ca.gov/ser/downloads/memos/nepa/map21/memo_naqualctrl.pdf

The responsible Legal Office performs a legal review of the Administrative Draft EIS, concurrently and independently of HQ review, to determine if significant environmental issues are being appropriately addressed. The Legal Office will provide its legal review comments to the district SEP with a copy to HQ EC. Comments from the Legal Office are independent from HQ EC comments.

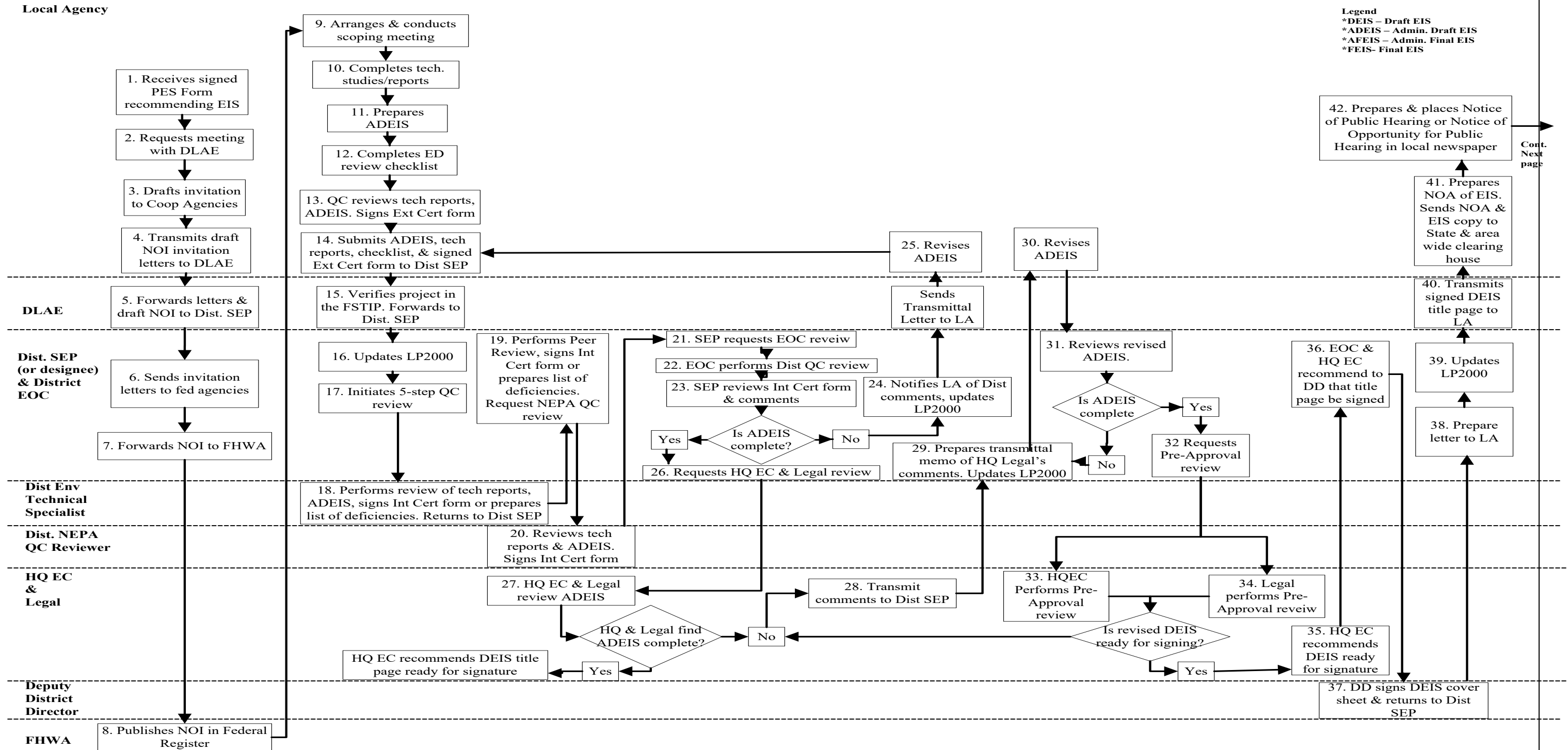


Figure 6-4: Environmental Impact Statement (EIS) Process Flowchart

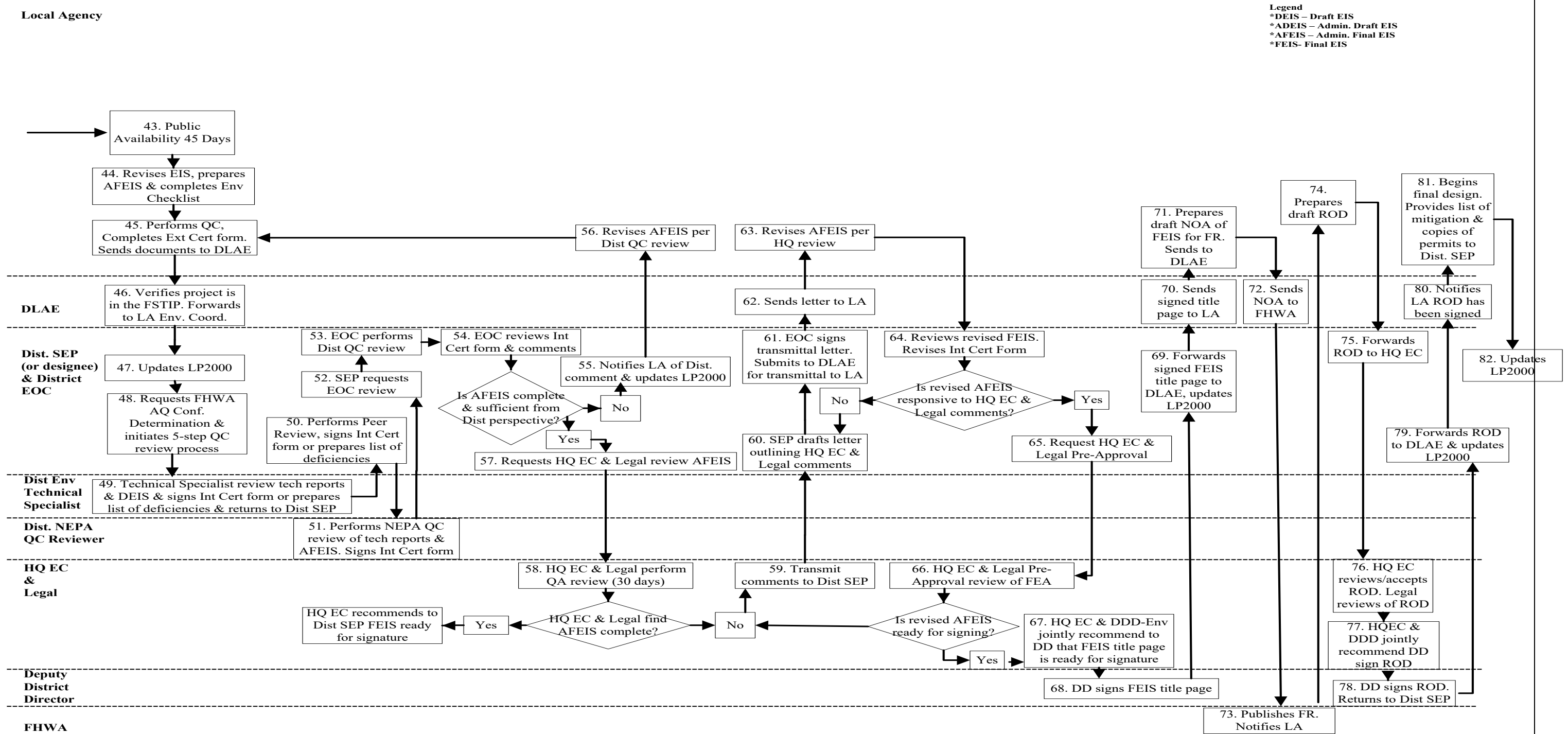


Figure 6-4: Environmental Impact Statement (EIS) Process Flowchart- continued

Did HQ EC and Legal find the Administrative Draft EIS complete? If "Yes," HQ EC will recommend to the district SEP that the Administrative Draft EIS title page is ready for signature. GO TO STEP #35. If "No," GO TO STEP #28.

28. When HQ EC or HQ Legal find Administrative Draft EIS incomplete, HQ EC will consolidate all comments received from the interdisciplinary team and transmit comments on Administrative Draft EIS to the district SEP. A copy of HQ EC comments will be provided to the responsible Legal Office.

The Legal Office will also transmit its comments to the district SEP for local assistance with a copy to HQ EC. Comments from Legal Office are independent from HQ EC comments.

29. District SEP (or designee) prepares a letter or email to the LA, or contacts the LA via telephone, to inform them of HQ EC and HQ Legal's comments, and requests LA make the necessary revisions to the Administrative Draft EIS. District SEP (or designee) provides the DLAE with a copy of the letter or email, and updates LP2000.

Note: HQ Legal comments remain internal to Caltrans. Only a summary of HQ Legal comments shall be provided to the LA. District and HQ EC staff should assist the LA with: (1) clarification regarding comments, (2) resolution of issues identified in the comments, and (3) in determining adequate response to comments, as needed. A meeting or workshop may be convened by the HQ EC or the district/region/DLAE to facilitate this process.

30. LA revises Administrative Draft EIS in response to all comments received and resubmits revised Administrative Draft EIS to the DLAE/district SEP.
31. District SEP (or designee) reviews revised Administrative Draft EIS and revises Internal Certifications (Environmental Document Quality Control Reviews) form, as appropriate, to reflect that all comments have been appropriately addressed.

Is revised Administrative Draft EIS responsive to HQ comments and ready for HQ EC pre-approval review? If "No," GO TO STEP #29. Steps #29 through #31 are repeated until all comments are adequately addressed. If "Yes," GO TO STEP #32.

32. District SEP submits the following materials to the HQ EC and requests HQ Pre-Approval Review:
- Transmittal Memo signed by the district SEP stating that the Administrative Draft EIS has been revised pursuant to HQ EC comments and requesting pre-approval review
 - One copy of the revised ED
 - One copy of revised ED with track changes
 - One copy of comments with a response key
 - One copy of the completed Environmental Document Review Checklist, as revised

- One copy of the completed and signed Internal Certifications (Environmental Document Quality Control Reviews) form, as revised

District SEP also submits the following materials to the Legal Office:

- Transmittal memo signed by the district SEP stating that the document has been revised pursuant to the legal review and requested Pre-Approval Review
 - One copy of the revised ED
 - One copy of the revised ED with track changes
 - One copy of the comments with a response key
 - One copy of the completed Environmental Document Checklist, as revised
 - One copy of the signed Internal QC Reviews form, as revised
33. HQ EC performs Pre-Approval Review of revised Administrative Draft EIS to ensure that all comments have been adequately addressed and that Administrative Draft EIS is ready for signature. Review period is 10 business days. (Note: Ten working day review period is a goal. Actual review time may vary depending upon complexity of issues and current workload.)
34. HQ Legal performs Pre-Approval Review of the revised Administrative Draft EIS concurrently and independently of HQ EC, to ensure all comments have been adequately addressed and that Administrative Draft EIS is ready for signature. Review period is 10 working days. (Note: 10businessdays review period is a goal. Actual review time may vary depending upon complexity of issues and current workload.)

Both HQ EC and Legal Office must concur that their comments have been addressed. At this point, HQ EC will take one of the following actions:

- Find that minor changes are needed and coordinate directly with the document preparer to make the changes.
- Determine that substantive issues remain and inform the district in writing of the deficiencies and instruct them to resubmit the document upon subsequent revision.
- Conclude that the ED is adequate and ready for circulation.

No approval action may be taken until both HQ EC quality assurance and legal review are satisfied.

Did HQ EC and Legal find revised Administrative Draft EIS complete and ready for signature? If "No," HQ EC prepares a memorandum for the district detailing deficiencies requiring correction. GO TO STEP #28. Steps #28 through #34 will be repeated until document is ready for signature. If "Yes," Go to Step #35.

35. HQ EC recommends in writing to the district SEP that Administrative Draft EIS is ready for signature. An Administrative Draft EIS may not be signed until the HQ EC provides the ready for signature recommendation to the district.

36. When HQ EC recommends that revised Administrative Draft EIS is ready for signature, the district DDD and HQ EC jointly recommend to the DD that title page should be signed.
37. DD signs Draft EIS title page and returns the signed Title Sheet to the district SEP.
38. District SEP (or designee) prepares a letter or email to the LA transmitting the signed Draft EIS title page and informing the LA that they may begin public circulation.
39. District SEP updates LP2000 according to the instructions provided in July 20, 2007 DLA memo, Subject: Tracking Local Assistance NEPA Compliance Milestones.
40. District DLAE (or designee) transmits the letter or email, with signed Draft EIS title page, to the LA and provides a copy to the DLAE.

Note: In accordance with NEPA regulation 40 CFR 1506.9, the Department is required to submit all EISs, together with comments and responses, to the U.S. Environmental Protection Agency (U.S. EPA) in Washington D.C. U.S. EPA will prepare a Notice of Availability (NOA) for publication in the Federal Register. All submissions will be made electronically via U.S. EPA's e-mail NEPA system. In addition to the e-NEPA submission, two hard copies of the DEIS must be sent to the appropriate U.S. EPA Regional Office.

41. Following receipt of the signed Draft EIS title page and notification to begin public circulation, the LA prepares the NOA of Draft EIS and sends the NOA and a copy of the Administrative Draft EIS to the state and area wide clearinghouses. If Joint EIS/EIR, the submissions required by CEQA fulfill the NEPA requirement.
42. LA prepares and places the Notice of Public Hearing or Notice of Opportunity for Public Hearing in local newspaper.

Note: 23 CFR 771.123(h) requires that the draft EIS be available for a minimum of 15 days prior to the public hearing.

43. PUBLIC AVAILABILITY - 45 DAYS.
44. LA responds to public comments, revises the EIS (as needed), prepares the Administrative Final EIS consistent with Caltrans Annotated Outline in the SER at: <http://www.dot.ca.gov/ser/forms.htm>, and completes the Environmental Document Review Checklist, provided at <http://www.dot.ca.gov/ser/forms.htm>
45. LA performs Quality Control review of all technical reports and Administrative Final EIS according to Caltrans Environmental Document Quality Control Program under NEPA Assignment (October 2012) provided at: http://www.dot.ca.gov/ser/downloads/memos/nepa/map21/memo_naqualctrl.pdf

LA completes and signs the External QC Reviews form provided at:

<http://www.dot.ca.gov/ser/forms.htm>

LA submits the following completed and original signed documents to the DLAE:

- One hardcopy and CD of the Administrative Final EIS
- Notice of Public Hearing
- Summary of comments received
- Original signed External Certifications (Environmental Document Quality Control Reviews) form

46. DLAE re verifies that project is in the FSTIP and forwards packet to the district SEP (or designee).
47. District SEP updates LP2000 according to the instructions provided in July 20, 2007 DLA memo, Subject: Tracking Local Assistance NEPA Compliance Milestones. On EIS Screen, next to Public Hearing, enter date Public Hearing is conducted (if applicable). Use comments field to document whether there is a substantial controversy over the project and the nature of the controversy.

Note: EIS must be available for a minimum of 15 days in advance of the public hearing.

48. District SEP sends a request for Air Quality Conformity Determination to the FHWA and the district SEP initiates and coordinates the 5-step Quality Control Review process of the Administrative Final EIS according to the Caltrans Environmental Document Quality Control Program under NEPA Assignment (October 2012) provided at: http://www.dot.ca.gov/ser/downloads/memos/nepa/map21/memo_naqualctrl.pdf. This policy memorandum describes procedures that Caltrans would implement for environmental documents to ensure compliance with NEPA and other federal laws. For Local Assistance projects, only the Resource/Technical Specialists Review, NEPA Quality Control Review, and the Environmental Branch Chief Review or SEP Review are required. The NEPA Quality Control Review may occur concurrent with the SEP review. This local assistance 5-step Quality Control Review is consistent with Chapter 38 of the [SER](#).

Note: The conformity determination cannot be finalized until there is a public comment period on the analysis. Most of the time the public circulation of the environmental document serves as the public circulation for the conformity analysis.

49. District technical specialists conduct Quality Control Review of technical report(s) and respective sections of the Administrative Final EIS according to the [Caltrans Environmental Document Quality Control Program under NEPA Assignment \(October 2012\)](#), and sign the [Internal Certifications \(Environmental Document Quality Control Reviews\)](#) form and forward the signed form or list of deficiencies to the district SEP (if applicable).

50. District SEP performs review of Administrative Final EIS according to [Caltrans Environmental Document Quality Control Program under NEPA Assignment \(October 2012\)](#), and signs the [Internal Certifications \(Environmental Document Quality Control Reviews\)](#), prepares list of deficiencies, and requests NEPA Quality Control Review of Administrative Final EIS and technical studies.
51. NEPA Quality Control Reviewer reviews Administrative Final EIS according to [Caltrans Environmental Document Quality Control Program under NEPA Assignment \(October 2012\)](#) and signs the [Internal Certifications \(Environmental Document Quality Control Reviews\)](#) or (if applicable) prepares list of deficiencies and forwards signed form or list of deficiencies to the district SEP (or designee).
52. District SEP requests the district EOC to perform the District Quality Control Review of Administrative Final EIS.
53. Environmental Office Chief performs District Quality Control Review according to [Caltrans Environmental Document Quality Control Program under NEPA Assignment \(October 2012\)](#), and signs the [Internal Certifications \(Environmental Document Quality Control Reviews\)](#) or (if applicable) prepares list of deficiencies and forwards signed form or list of deficiencies to the district SEP (or designee.)
54. District Environmental Office Chief reviews Internal Certifications (Environmental Document Quality Control Reviews) form and considers all comments received during District Quality Control Review.

Is Administrative Final EIS complete and sufficient from the district's perspective? If "No," GO TO STEP #55. If "Yes," GO TO STEP #57.

55. When Administrative Final EIS or technical reports are deficient, the district SEP prepares a letter to the LA informing them of all deficiencies and requests that the Administrative Final EIS be revised, as necessary, based on the District Quality Control Review. Comments received from all reviewers will form letter requesting revisions to the Administrative Final EIS document.
56. LA revises the Administrative Final EIS and resubmits document from Step #45.
57. District SEP notifies the HQ EC and Legal Office that the Administrative Final EIS will be submitted for their review and determination of legal sufficiency, respectively, in one week. To initiate HQ review, district SEP submits the following to the HQ EC and requests a Quality Assurance Review of the Administrative Final EIS: (DLAE shall be copied on all correspondence between the district, HQ EC and Legal).
 - Transmittal Memo signed by the district SEP requesting review of Final EIS
 - Five hardcopies of the Final EIS and one CD
 - One hardcopy of revised technical reports and one CD
 - One copy of LA completed Environmental Document Review Checklist (for Final)

- One copy of LA completed and signed External QC Quality Reviews form
- One copy of completed and signed Internal QC Reviews form

District SEP will also request the Legal Office to conduct a Legal Sufficiency Review of the Administrative Final EIS. The HQ EC Review and the Legal Sufficiency Review typically occur in parallel.

To initiate Legal Sufficiency Review, district SEP submits the following to the Legal Office and requests determination of legal sufficiency:

- Transmittal Memo signed by the district SEP, requesting review
- One copy of the Administrative Draft EIS
- One electronic copy of the Administrative Draft EIS
- One electronic copy of each technical study
- One copy of the LA completed Environmental Document Review Checklist
- One copy of the completed and signed Internal QC Reviews form
- One copy of the LA completed and signed External QC Reviews form

58. HQ EC performs a Quality Assurance Review of the Administrative Final EIS to determine if the document is substantively complete and ready for interdisciplinary quality assurance review.

The review period is 30 days. In making this determination, the HQ EC will confirm that the Final EIS follows the annotated outline and includes the following:

- Correct title page
- All chapters and necessary resource topics are present and complete
- All appendices are present and complete
- All required correspondence relative to procedural and regulatory requirements
- Complete, clear, legible and logical exhibits and figures

HQ EC will then lead an interdisciplinary team of HQ technical specialists to review the Administrative Final EIS. HQ technical specialists will review pertinent portions of the Administrative Final EIS for accuracy and to ensure that regulatory requirements are

appropriately addressed. The project technical studies will be used in support of the review. The HQ EC will review the entire Administrative Final EIS, performing the NEPA Quality Assurance Review according to Caltrans Environmental Document Quality Control Program under NEPA Assignment (October 2012) provided at:

http://www.dot.ca.gov/ser/downloads/memos/nepa/map21/memo_naqualctrl.pdf

HQ EC signs the Internal QC Reviews form provided at:

<http://www.dot.ca.gov/ser/forms.htm> or (if applicable) prepares list of deficiencies.

The Legal Office performs a Legal Sufficiency Review of the revised Administrative EIS. The Legal Office will provide its Legal Sufficiency Review comments to the district SEP

with a copy to the HQ EC. Comments from the Legal Sufficiency Review are independent from HQ EC comments.

Did HQ EC and Legal find the Administrative Final EIS complete? If "Yes," HQ EC will recommend to the district SEP that the Final EIS title page is ready for signature. The title page may not be signed until the ready-for-signature recommendation is received by the district/region. GO TO STEP #67. If "No," GO TO STEP #59.

59. If HQ EC or Legal Office find Administrative Final EIS incomplete, the HQ EC will transmit comments on the environmental document to the district SEP with a copy to the DLAE and to the responsible Legal Office. Legal Office will transmit its Legal Sufficiency Review comments to the district SEP and DLAE if applicable, with a copy to the HQ EC.

Is revised Administrative Final EIS responsive to HQ EC and Legal comments? If "No," GO TO STEP #60. Steps #60 through #64 shall be repeated until document is adequate. If "Yes," GO TO STEP #65.

60. District SEP (or designee) prepares memo summarizing HQ EC and Legal Office comments and requests LA make the necessary revisions to the Administrative Final EIS.

Note: The district staff and HQ EC should assist LA with: (1) clarification regarding comments, (2) resolution of issues identified in the comments, and (3) in determining adequate response to comments, as needed. A meeting or workshop may be convened by the HQ EC or the district/region/DLAE to facilitate this process.

61. District EOC signs the letter.
62. District SEP (or designee) sends the letter to the LA; provides a copy to the DLAE includes a copy in the project file, and updates appropriate fields in LP2000.
63. LA revises Administrative Final EIS in response to all HQ comments and resubmits revised Administrative Final EIS to the district SEP (or designee).
64. District SEP (or designee) reviews the revised Administrative Final EIS and revises the Internal Certifications (Environmental Document Quality Control Reviews) form, as appropriate, to reflect that all comments have been appropriately addressed.

Is revised Administrative Final EIS responsive to HQ EC and Legal comments? If "No," GO TO STEP #60. Steps #60 through #64 shall be repeated until document is adequate. If "Yes," GO TO STEP #65.

65. To initiate HQ EC Pre-Approval Review, the district SEP submits the following materials to HQ EC and requests HQ Pre-Approval Review.

- Transmittal Memo signed by the district SEP stating that the Administrative Final EIS has been revised pursuant to HQ EC comments and requested pre-approval review
- One copy of the revised Administrative Final EIS
- One copy of revised Administrative Final EIS with track changes
- One copy of the comments with a response key
- One copy of the completed Environmental Document Checklist, as revised
- One copy of the signed Quality Review Certification sheet (Final)

To initiate Pre-Approval Legal Sufficiency Review, the district SEP submits the following materials to the Legal Office:

- Transmittal memo signed by the district SEP stating that the document has been revised pursuant to the legal review and requested pre-approval review
- One copy of the revised environmental document
- One copy of the revised environmental with track changes
- One copy of the comments with a response key
- One copy of the completed Environmental Document Checklist, as revised
- One copy of the signed Internal Certifications (Environmental Document Quality Control Reviews) form, as revised

66. HQ EC and Legal Office review revised Administrative Final EIS to ensure that all comments have been adequately addressed and that Administrative Final EIS is ready for signature. Review period is 10 business days. Both HQ EC and Legal Office must concur that their comments have been addressed. At this point, the HQ EC will take one of the following actions:

- Find that minor changes are needed and coordinate directly with the document preparer to make the changes.
- Determine that substantive issues remain and inform the district in writing of the deficiencies and instruct them to resubmit the document upon subsequent revision.
- Conclude that the environmental document is adequate and ready for circulation.

No approval action may be taken until both HQ EC quality assurance and Legal Office review or legal sufficiency is satisfied.

The Legal Office will provide Pre-Approval Legal Sufficiency comments to the district SEP with a copy to the HQ EC.

Is the revised Administrative Final EIS ready for signature? If "No," GO TO STEP #59. Steps #59 through #66 are repeated until HQ determines document is ready for signature. If "Yes," GO TO STEP #67.

67. HQ EC recommends to District SEP that FEIS is ready for signature. HQ EC and Legal Office find revised Administrative Final EIS complete, the HQ EC and DDD

- (Environmental) jointly recommend (in writing) to the DD that the Final EIS title page is ready for signature.
68. DD signs the Final EIS title page and returns the signed Final EIS title sheet to the district SEP.
 69. District SEP (or designee) forwards the signed Final EIS title page to the DLAE, and updates LP2000 according to the instructions provided in July 20, 2007 DLA memo, Subject: Tracking Local Assistance NEPA Compliance Milestones. On the EIS Screen, next to Final EIS, (1) enter date stamp received by either the DLAE or district SEP (or designee); (2) use comments field to identify preferred alternative, document number of iterations needed to produce an acceptable Final EIS; document delays at LA; document delays at Caltrans; indicate sufficiency/deficiency of quality/completeness of the External Certifications (Environmental Document Quality Control Reviews) form. Next to Final HQ Quality Control/Quality Assurance, (1) enter date of final signature (EOC) on the internal Certifications (Environmental Document Quality Control Reviews) form, (2) use comments field to document any delays/concerns. Next to Final Legal Sufficiency, (1) enter date of Legal letter of sufficiency, and (2) use comments field to document delays/concerns associated with Legal review of Final EIS. Next to Public Circulation of Final EIS, (1) enter date DD or designee signed cover of Final EIS. (2) Use comments field to document date request sent to the FHWA to publish Final EIS in FR, actual date of publication in FR, the beginning and ending date of public availability/comment (not less than 45 days), any internal/external delays/concerns, and whether there is continuing substantial controversy over the project.
 70. DLAE sends the signed Final EIS title page to the LA.
 71. LA prepares NOA of the Final EIS to affected units of federal, state, and local government and sends to the DLAE.
 72. DLAE sends NOA to the FHWA.
 73. FHWA publishes NOA in the FR., and LA publishes the NOA in local newspaper.
 74. LA prepares draft ROD and sends to the district SEP (or designee).
 75. District SEP forwards draft ROD to the HQ EC for review and acceptance.
 76. HQ EC and Legal Office review ROD. (Note: The ROD shall be reviewed and accepted by the HQ EC before it is approved by the district. While Legal Office review of the ROD is not required by regulation, it is recommended.)
 77. When HQ EC determines that the ROD is ready for signature, the HQ EC and DDD (environmental) jointly recommend to the DD that ROD is ready for signature.
 78. DD signs ROD and returns to the district SEP. (Note: This signature may not be delegated.)

79. District SEP forwards signed ROD to the DLAE, ensures environmental files are in Uniform Environmental File System, and updates LP2000 according to the instructions provided in July 20, 2007 DLA memo, Subject: Tracking Local Assistance NEPA Compliance Milestones. On the EIS Screen, next to Approval of ROD, enter date DD signature appears on the ROD.

Note: Date of ROD should be no sooner than 30 days after publication of the Final EIS notice in the FR or 90 days after publication of a notice for the Draft EIS, whichever is later. CEQ encourages the publication of the ROD and FHWA is the entity that publishes the Federal Register notice.

The comments field should be used to document internal and external delays associated with bringing about the ROD.

80. DLAE notifies the LA that ROD has been signed and that they may begin final design.

81. LA begins final design and provides the DLAE with each of the following:

- A list of all Mitigation Commitments
- A copy of all environmental permits, agreements, or approvals (that is, Coastal, 401, 404, 1602 Series, Sec 10, State or Federal Encroachment and/or Right of Entry)

82. District SEP updates Environmental-PERMITs Screen and Mitigation-Commitments Screen in LP2000 according to the instruction provided in July 20, 2007, DLA Memo, Subject: Tracking Local Assistance NEPA Compliance Milestones
<http://localassistance.onramp.dot.ca.gov/lp2000>.

83. After the ROD has been signed, the SEP (or designee) may prepare a "Notice of Statute of Limitations on Claims" and submit to FHWA for publication in the Federal Register.
<http://www.dot.ca.gov/ser/vol1/sec4/ch31ea/chap31ea.htm#statuteoflimitations>
An example of SOL notice can be found at the following link:
<http://www.dot.ca.gov/ser/forms.htm>

6.11 REFERENCES

- [National Environmental Policy Act of 1969, as amended \(42 U.S.C., 4321-4347\)](https://www.fsa.usda.gov/Internet/FSA_File/nepa_statute.pdf)
https://www.fsa.usda.gov/Internet/FSA_File/nepa_statute.pdf
- [Council of Environmental Quality \(CEQ\), 40 CFR Part 1500, Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act, November 29, 1978](https://www.fedcenter.gov/Bookmarks/index.cfm?id=786)
<https://www.fedcenter.gov/Bookmarks/index.cfm?id=786>
- [US DOT Order 5610.1C, September 18, 1979, Considering Environmental Impacts by Agencies within the U.S. DOT](https://cms.dot.gov/sites/dot.gov/files/docs/DOT%20Order%205610.1D%20Procedures%20for%20Considering%20Environmental%20Impacts_0.pdf)
https://cms.dot.gov/sites/dot.gov/files/docs/DOT%20Order%205610.1D%20Procedures%20for%20Considering%20Environmental%20Impacts_0.pdf

- [23 CFR 771, Environmental Impact and Related Procedures \(April 1, 1994\)](https://www.gpo.gov/fdsys/granule/CFR-2016-title23-vol1/CFR-2016-title23-vol1-part771)
<https://www.gpo.gov/fdsys/granule/CFR-2016-title23-vol1/CFR-2016-title23-vol1-part771>
- [*Programmatic Agreement among the Federal Highway Administration, the Advisory Council on Historic Preservation, the California State Historic Preservation Office, and the California Department of Transportation Regarding Compliance with Section 106 of the National Historic Preservation Act as it Pertains to the Administration of the Federal-Aid Highway Program in California \(Section 106 PA\) effective January 1, 2014*](http://www.dot.ca.gov/ser/vol2/106pa_14.pdf)
http://www.dot.ca.gov/ser/vol2/106pa_14.pdf
- [*Air Resources Laws and Regulations*](http://www.arb.ca.gov/html/lawsregs.htm)
<http://www.arb.ca.gov/html/lawsregs.htm>
- [*CE Checklist*](http://www.dot.ca.gov/ser/forms.htm)
<http://www.dot.ca.gov/ser/forms.htm>
- [*CE-CE form*](http://www.dot.ca.gov/ser/forms.htm)
<http://www.dot.ca.gov/ser/forms.htm>
- [*External Certifications Environmental Quality Control Reviews*](http://www.dot.ca.gov/ser/vol1/sec6/ch38nepa/External_QC_Certification.doc)
http://www.dot.ca.gov/ser/vol1/sec6/ch38nepa/External_QC_Certification.doc
- [*Internal Certifications Environmental Document Quality Control Reviews*](http://www.dot.ca.gov/ser/vol1/sec6/ch38nepa/Internal_QC_Certification.doc)
http://www.dot.ca.gov/ser/vol1/sec6/ch38nepa/Internal_QC_Certification.doc

EXHIBIT 6-A PRELIMINARY ENVIRONMENTAL STUDY (PES)

Federal Project No.: _____ <small>(Federal Program Prefix-Project No., Agreement No.)</small>	Final Design: _____ <small>(Expected Start Date)</small>
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To: _____ <small>(District Local Assistance Engineer)</small> _____ <small>(District)</small> _____ <small>(Address)</small> _____ <small>(Email Address)</small>	From: _____ <small>(Local Agency)</small> _____ <small>(Project Manager's Name and Telephone No.)</small> _____ <small>(Address)</small> _____ <small>(Email Address)</small>
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Is this Project "ON" the State Highway System? Yes No **IF YES, STOP HERE** and contact the District Local Assistance Engineer regarding the completion of other environmental documentation.

Federal State Transportation Improvement Program (FSTIP) _____
(Currently Adopted Plan Date) _____
(Page No. ___ attach to this form)
<http://www.dot.ca.gov/hq/transprog/oftmp.htm>

Programming for FSTIP:	Preliminary Engineering	Right of Way	Construction
_____	_____	_____	_____
<small>(Fiscal Year)</small>	\$ <small>(Dollars)</small>	\$ <small>(Dollars)</small>	\$ <small>(Dollars)</small>

Project Description as Shown in RTP and FSTIP:

Detailed Project Description: *(Describe the following, as applicable: purpose and need, project location and limits, required right of way acquisition, proposed facilities, staging areas, disposal and borrow sites, construction activities, and construction access.)*

(Continue description on "Notes" sheet, last page of this Exhibit, if necessary)

Preliminary Design Information:

Does the project involve any of the following? Please check the appropriate boxes and delineate on an attached map, plan, or layout including any additional pertinent information.

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Required Attachments:

- Regional map Project location map Project footprint map (existing/proposed right of way)
- Engineering drawings (existing and proposed cross sections), if available Borrow/disposal site location map, if applicable
(Note: all maps (except project location map and regional maps) should be consistent with the project description (minimum scale: 1" = 200').)
- GeoTracker Printout for Hazardous Materials (<http://geotracker.waterboards.ca.gov/>).
- Federal Threatened and Endangered Species List from USFWS (<http://ecos.fws.gov/ipac/>).
- Federal Threatened and Endangered Species List from NMFS (<http://www.westcoast.fisheries.noaa.gov/maps/data/california-species-listtools.html>).
- Current Photos of Project Site FEMA map VIA Questionnaire

Examine the project for potential effects on the environment, direct or indirect and answer the following questions. The "construction area," as specified below, includes all areas of ground disturbance associated with the project, including staging and stockpiling areas and temporary access roads.

Each answer must be briefly documented on the "Notes" pages at the end of the PES Form.

A. Potential Environmental Effects	Yes	To Be Determined	No
General			
1. Will the project require future construction to fully utilize the design capabilities included in the proposed project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. Will the project generate public controversy?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Noise			
3. Is the project a Type I project as defined in 23 CFR 772.5(h); "construction on new location or the physical alteration of an existing highway, which significantly changes either the horizontal or vertical alignment or increases the number of through-traffic lanes"?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. Does the project have the potential for adverse construction-related noise impact (such as related to pile driving)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Air Quality			
5. Is the project in a NAAQS non-attainment or maintenance area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. Is the project exempt from the requirement that a conformity determination be made? (If "Yes," state which conformity exemption in 40 CFR 93.126, Table 2 applies): _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7. Is the project exempt from regional conformity? (If "Yes," state which conformity exemption in 40 CFR 93.127, Table 3 applies): _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8. If project is not exempt from regional conformity, (If "No" on Question #7)			
Is project in a metropolitan non-attainment/maintenance area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Is project in an isolated rural non-attainment area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Is project in a CO, PM10 and/or PM2.5 non-attainment/maintenance area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Hazardous Materials/Hazardous Waste			
9. Is there potential for hazardous materials (including underground or aboveground tanks, etc.) or hazardous waste (including oil/water separators, waste oil, asbestos-containing material, lead-based paint, ADL, etc.) within or immediately adjacent to the construction area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Water Quality/Resources			
10. Does the project have the potential to impact water resources (rivers, streams, bays, inlets, lakes, drainage sloughs) within or immediately adjacent to the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
11. Is the project within a designated sole-source aquifer?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Coastal Zone

12. Is the project within the State Coastal Zone, San Francisco Bay, or Suisun Marsh?

Floodplain

13. Is the construction area located within a regulatory floodway or within the base floodplain (100-year elevation of a watercourse or lake)?

Wild and Scenic Rivers

14. Is the project within or immediately adjacent to a Wild and Scenic River System?

Biological Resources

15. Is there a potential for federally listed threatened or endangered species, or their critical habitat or essential fish habitat to occur within or adjacent to the construction area?

16. Does the project have the potential to directly or indirectly affect migratory birds, or their nests or eggs (such as vegetation removal, box culvert replacement/repair, bridge work, etc.)?

17. Is there a potential for wetlands to occur within or adjacent to the construction area?

18. Is there a potential for agricultural wetlands to occur within or adjacent to the construction area?

19. Is there a potential for the introduction or spread of invasive plant species?

Sections 4(f) and 6(f)

20. Are there any historic sites or publicly owned public parks, recreation areas, wildlife or waterfowl refuges (Section 4[f]) within or immediately adjacent to the construction area?

21. Does the project have the potential to affect properties acquired or improved with Land and Water Conservation Fund Act (Section 6[f]) funds?

Visual Resources

22. Does the project have the potential to affect any visual or scenic resources?

Relocation Impacts

23. Will the project require the relocation of residential or business properties?

Land Use, Community, and Farmland Impacts

24. Will the project require any right of way, including partial or full takes? Consider construction easements and utility relocations.

25. Is the project inconsistent with plans and goals adopted by the community?

26. Does the project have the potential to divide or disrupt neighborhoods/communities?

27. Does the project have the potential to disproportionately affect low-income and minority populations?

28. Will the project require the relocation of public utilities?

29. Will the project affect access to properties or roadways?

30. Will the project involve changes in access control to the State Highway System (SHS)?

31. Will the project involve the use of a temporary road, detour, or ramp closure?

32. Will the project reduce available parking?

33. Will the project construction encroach on state or federal lands?

34. Will the project convert any farmland to a different use or impact any farmlands?

Cultural Resources

35. Is there National Register listed, or potentially eligible historic properties, or archaeological resources within or immediately adjacent to the construction area?
(Note: Caltrans PQS answers question #35)

36. Is the project adjacent to, or would it encroach on Tribal land?

For Sections B, C, and D, check appropriate box to indicate required technical studies, coordination, permits, or approvals.

B. Required Technical Studies and Analyses	C. Coordination	D. Anticipated Actions/Permits/Approvals
<input type="checkbox"/> Traffic <i>Check one:</i> <input type="checkbox"/> Traffic Study <input type="checkbox"/> Technical Memorandum <input type="checkbox"/> Discussion in ED Only	<input type="checkbox"/> Caltrans <input type="checkbox"/> Caltrans <input type="checkbox"/> Caltrans	<input type="checkbox"/> Approval <input type="checkbox"/> Approval <input type="checkbox"/> Approval
<input type="checkbox"/> Noise <i>Check as applicable:</i> <input type="checkbox"/> Traffic Related <input type="checkbox"/> Construction Related <i>Check one:</i> <input type="checkbox"/> Noise Study Report <input type="checkbox"/> NADR <input type="checkbox"/> Technical Memorandum <input type="checkbox"/> Discussion in ED Only	<input type="checkbox"/> Caltrans <input type="checkbox"/> Caltrans <input type="checkbox"/> Caltrans <input type="checkbox"/> Caltrans	<input type="checkbox"/> Approval <input type="checkbox"/> Approval <input type="checkbox"/> Approval <input type="checkbox"/> Approval
<input type="checkbox"/> Air Quality <i>Check as applicable:</i> <input type="checkbox"/> Traffic Related <input type="checkbox"/> Construction Related <i>Check one:</i> <input type="checkbox"/> Air Quality Report <input type="checkbox"/> Technical Memorandum <input type="checkbox"/> Discussion in ED Only	<input type="checkbox"/> Caltrans <input type="checkbox"/> Caltrans <input type="checkbox"/> Caltrans <input type="checkbox"/> FHWA <input type="checkbox"/> Caltrans <input type="checkbox"/> Regional Agency	<input type="checkbox"/> Approval <input type="checkbox"/> Approval <input type="checkbox"/> Approval <input type="checkbox"/> Conformity Finding (23 USC 327 CEs, EAs, EISs) <input type="checkbox"/> Conformity Finding (23 USC 326 CEs) <input type="checkbox"/> PM10/PM2.5 Interagency Consultation
<input type="checkbox"/> Hazardous Materials/ Hazardous Waste <i>Check as applicable:</i> <input type="checkbox"/> Initial Site Assessment (Phase 1) <input type="checkbox"/> Preliminary Site Assessment (Phase 2) <input type="checkbox"/> Discussion in ED Only	<input type="checkbox"/> Caltrans <input type="checkbox"/> Caltrans <input type="checkbox"/> Caltrans <input type="checkbox"/> Cal EPA DTSC <input type="checkbox"/> Local Agency	<input type="checkbox"/> Approval <input type="checkbox"/> Approval <input type="checkbox"/> Approval <input type="checkbox"/> Review Database <input type="checkbox"/> Review Database
<input type="checkbox"/> Water Quality/Resources <i>Check as applicable:</i> <input type="checkbox"/> Water Quality Assess. Report <input type="checkbox"/> Technical Memorandum <input type="checkbox"/> Discussion in ED Only	<input type="checkbox"/> Caltrans <input type="checkbox"/> Caltrans <input type="checkbox"/> Caltrans	<input type="checkbox"/> Approval <input type="checkbox"/> Approval <input type="checkbox"/> Approval
<input type="checkbox"/> Sole-Source Aquifer (Districts 5, 6 and 11)	<input type="checkbox"/> EPA (S.F. Regional Office)	<input type="checkbox"/> Approval of Analysis in ED
<input type="checkbox"/> Coastal Zone	<input type="checkbox"/> CCC	<input type="checkbox"/> Coastal Zone Consistency Determination

B. Required Technical Studies and Analyses	C. Coordination	D. Anticipated Actions/Permits/Approvals
<input type="checkbox"/> Floodplain		
<i>Check as applicable:</i>		
<input type="checkbox"/> Location Hydraulic Study	<input type="checkbox"/> Caltrans	<input type="checkbox"/> Approval
<input type="checkbox"/> Floodplain Evaluation Report	<input type="checkbox"/> Caltrans	<input type="checkbox"/> Approval
<input type="checkbox"/> Summary Floodplain Encroachment Report	<input type="checkbox"/> Caltrans	<input type="checkbox"/> Approval
	<input type="checkbox"/> Caltrans	<input type="checkbox"/> Only Practicable Alternative Finding
	<input type="checkbox"/> FHWA	<input type="checkbox"/> Approves significant encroachments and concurs in Only Practicable Alternative Findings
<input type="checkbox"/> Wild and Scenic Rivers	<input type="checkbox"/> River Managing Agency	<input type="checkbox"/> Wild and Scenic Rivers Determination
<input type="checkbox"/> Biological Resources		
<i>Check as applicable:</i>		
<input type="checkbox"/> NES, Minimal Impact	<input type="checkbox"/> Caltrans	<input type="checkbox"/> Approval
<input type="checkbox"/> NES		
<input type="checkbox"/> BA	<input type="checkbox"/> Caltrans	<input type="checkbox"/> Approves for Consultation
	<input type="checkbox"/> USFWS <input type="checkbox"/> NOAA Fisheries	<input type="checkbox"/> Section 7 Informal/Formal Consultation
<input type="checkbox"/> EFH Evaluation	<input type="checkbox"/> NOAA Fisheries	<input type="checkbox"/> MSA Consultation
<input type="checkbox"/> Bio-Acoustic Evaluation	<input type="checkbox"/> NOAA Fisheries	<input type="checkbox"/> Approval
<input type="checkbox"/> Technical Memorandum	<input type="checkbox"/> Caltrans	<input type="checkbox"/> Approval
<input type="checkbox"/> Wetlands		
<i>Check as applicable:</i>		
<input type="checkbox"/> WD and Assessment	<input type="checkbox"/> Caltrans	<input type="checkbox"/> Approval
	<input type="checkbox"/> ACOE	<input type="checkbox"/> Wetland Verification
	<input type="checkbox"/> NRCS	<input type="checkbox"/> Agricultural Wetland Verification
	<input type="checkbox"/> Caltrans	<input type="checkbox"/> Wetlands Only Practicable Alternative Finding
<input type="checkbox"/> Invasive Plants		
<input type="checkbox"/> Discussion in ED Only	<input type="checkbox"/> Caltrans	<input type="checkbox"/> Approval
<input type="checkbox"/> Section 4(f)		
<i>Check as applicable:</i>		
<input type="checkbox"/> De minimis	<input type="checkbox"/> Caltrans	<input type="checkbox"/> Determine Temporary Occupancy
<input type="checkbox"/> De minimis	<input type="checkbox"/> Caltrans	<input type="checkbox"/> De minimis finding
<input type="checkbox"/> Programmatic 4(f) Evaluation Type: _____	<input type="checkbox"/> Caltrans	<input type="checkbox"/> Approval
<input type="checkbox"/> Individual 4(f) Evaluation	<input type="checkbox"/> Caltrans	<input type="checkbox"/> Approval
	<input type="checkbox"/> Agency with Jurisdiction <input type="checkbox"/> SHPO <input type="checkbox"/> DOI <input type="checkbox"/> HUD <input type="checkbox"/> USDA	

B. Required Technical Studies and Analyses	C. Coordination	D. Anticipated Actions/Permits/Approvals
<input type="checkbox"/> Section 6(f)	<input type="checkbox"/> Agency with Jurisdiction <input type="checkbox"/> NPS	<input type="checkbox"/> Determines Consistency with Long-Term Management Plan
	<input type="checkbox"/> NPS	<input type="checkbox"/> Approves Conversion
<input type="checkbox"/> Visual Resources <input type="checkbox"/> Technical Memorandum <input type="checkbox"/> Minor VIA <input type="checkbox"/> Moderate VIA <input type="checkbox"/> Advance/Complex VIA	<input type="checkbox"/> Caltrans <input type="checkbox"/> Caltrans <input type="checkbox"/> Caltrans <input type="checkbox"/> Caltrans	<input type="checkbox"/> Approval <input type="checkbox"/> Approval <input type="checkbox"/> Approval <input type="checkbox"/> Approval
<input type="checkbox"/> Relocation Impacts <i>Check one:</i> <input type="checkbox"/> Relocation Impact Memo <input type="checkbox"/> Relocation Impact Study <input type="checkbox"/> Relocation Impact Report	<input type="checkbox"/> Caltrans <input type="checkbox"/> Caltrans <input type="checkbox"/> Caltrans	<input type="checkbox"/> Approval <input type="checkbox"/> Approval <input type="checkbox"/> Approval
<input type="checkbox"/> Land Use and Community Impacts <i>Check one:</i> <input type="checkbox"/> CIA <input type="checkbox"/> Technical Memorandum <input type="checkbox"/> Discussion in ED Only	<input type="checkbox"/> Caltrans <input type="checkbox"/> Caltrans <input type="checkbox"/> Caltrans	<input type="checkbox"/> Approval <input type="checkbox"/> Approval <input type="checkbox"/> Approval
<input type="checkbox"/> Construction/Encroachment on State Lands <i>Check as applicable:</i> <input type="checkbox"/> SLC Jurisdiction <input type="checkbox"/> Caltrans Jurisdiction <input type="checkbox"/> SP Jurisdiction	<input type="checkbox"/> SLC <input type="checkbox"/> Caltrans <input type="checkbox"/> SP	<input type="checkbox"/> SLC Lease <input type="checkbox"/> Encroachment Permit <input type="checkbox"/> Encroachment Permit
<input type="checkbox"/> Construction/Encroachment on Federal Lands	<input type="checkbox"/> Federal Agency with Jurisdiction	<input type="checkbox"/> Encroachment Permit
<input type="checkbox"/> Construction/Encroachment On Indian Trust Lands	<input type="checkbox"/> Bureau of Indian Affairs	<input type="checkbox"/> Right of Way Permit
<input type="checkbox"/> Farmlands <i>Check one:</i> <input type="checkbox"/> CIA <input type="checkbox"/> Technical Memorandum <input type="checkbox"/> Discussion in ED Only <i>Check as applicable:</i> <input type="checkbox"/> Form AD 1006 <input type="checkbox"/> Conversion to Non-Agri Use	<input type="checkbox"/> Caltrans <input type="checkbox"/> Caltrans <input type="checkbox"/> Caltrans <input type="checkbox"/> NRCS <input type="checkbox"/> CDOC <input type="checkbox"/> ACOE	<input type="checkbox"/> Approval <input type="checkbox"/> Approval <input type="checkbox"/> Approval <input type="checkbox"/> Approves Conversion <input type="checkbox"/> Approves Conversion

B. Required Technical Studies and Analyses	C. Coordination	D. Anticipated Actions/Permits/ Approvals
<input type="checkbox"/> Cultural Resources (PQS completes this section)		
<input type="checkbox"/> APE Map	<input type="checkbox"/> Caltrans PQS <input type="checkbox"/> Caltrans PQS and DLAE	<input type="checkbox"/> Screened Undertaking <input type="checkbox"/> Approves APE Map
	<input type="checkbox"/> Local Preservation Groups and/or Native American Tribes	<input type="checkbox"/> Provides Comments Regarding Concerns with Project
<input type="checkbox"/> HPSR <input type="checkbox"/> ASR <input type="checkbox"/> HRER	<input type="checkbox"/> Caltrans	<input type="checkbox"/> Approves for Consultation
<input type="checkbox"/> Finding of Effect Report	<input type="checkbox"/> Caltrans	<input type="checkbox"/> Concurs on No Effect, No Adverse Effect with Standard Conditions
	<input type="checkbox"/> SHPO	<input type="checkbox"/> Letter of Concurrence on Eligibility, No Adverse Effect without Standard
<input type="checkbox"/> MOA	<input type="checkbox"/> Caltrans <input type="checkbox"/> SHPO <input type="checkbox"/> ACHP (if requested)	<input type="checkbox"/> Approves MOA <input type="checkbox"/> Approves MOA <input type="checkbox"/> Approves MOA
<input type="checkbox"/> Permits Copies of permits and a list of mitigation commitments are mandatory submittals following NEPA approval.	<input type="checkbox"/> ACOE <input type="checkbox"/> ACOE <input type="checkbox"/> Caltrans/ACOE/EPA <input type="checkbox"/> USFWS <input type="checkbox"/> NOAA Fisheries <input type="checkbox"/> ACOE <input type="checkbox"/> USCG <input type="checkbox"/> RWQCB <input type="checkbox"/> CDFW <input type="checkbox"/> RWQCB <input type="checkbox"/> CCC <input type="checkbox"/> Local Agency <input type="checkbox"/> BCDC	<input type="checkbox"/> Section 404 Nationwide Permit <input type="checkbox"/> Section 404 Individual Permit <input type="checkbox"/> NEPA/404 Integration MOU <input type="checkbox"/> Rivers and Harbors Act Section 10 Permit <input type="checkbox"/> USCG Bridge Permit <input type="checkbox"/> Section 401 Water Quality Certification <input type="checkbox"/> Section 1602 Streambed Alteration Agreement <input type="checkbox"/> NPDES Permit <input type="checkbox"/> Coastal Zone Permit <input type="checkbox"/> BCDC Permit

Notes: Additional studies may be required for other federal agencies.

ACHP	=	Advisory Council on Historic Preservation	HRER	=	Historical Resources Evaluation Report
ACOE	=	U.S. Army Corps of Engineers	HUD	=	U.S. Housing and Urban Development
ADL	=	Aerially Deposited Lead	MOA	=	Memorandum of Agreement
APE	=	Area of Potential Effect	MSA	=	Magnuson-Stevens Fishery Conservation and Management Act
APN	=	Assessor Parcel Number	NEPA	=	National Environmental Policy Act
ASR	=	Archaeological Survey Report	NADR	=	Noise Abatement Decision Report
BA	=	Biological Assessment	NES	=	Natural Environment Study
BCDC	=	Bay Conservation and Development Commission	NHPA	=	National Historic Preservation Act
BE	=	Biological Evaluation	NOAA	=	National Oceanic and Atmospheric Administration
BO	=	Biological Opinion	NMFS	=	National Marine Fisheries Service
Cal EPA	=	California Environmental Protection Agency	NPDES	=	National Pollutant Discharge Elimination System
CCC	=	California Coastal Commission	NPS	=	National Park Service
CDFW	=	California Department of Fish and Wildlife	NRCS	=	Natural Resources Conservation Service
CDOC	=	California Department of Conservation	PM10	=	Particulate Matter 10 Microns in Diameter or Less
CE	=	Categorical Exclusion	PM2.5	=	Particulate Matter 2.5 Microns in Diameter or Less
CIA	=	Community Impact Assessment	PMP	=	Project Management Plan
CWA	=	Clean Water Act	PQS	=	Professionally Qualified Staff
DLAE	=	District Local Assistance Engineer	ROD	=	Record of Decision
DOI	=	U.S. Department of Interior	RTIP	=	Regional Transportation Improvement Program
DTSC	=	Department of Toxic Substances Control	RTP	=	Regional Transportation Plan
EA	=	Environmental Assessment	RWQCB	=	Regional Water Quality Control Board
ED	=	Environmental Document	SER	=	Standard Environmental Reference
EFH	=	Essential Fish Habitat	SEP	=	Senior Environmental Planner
EIS	=	Environmental Impact Statement	SHPO	=	State Historic Preservation Officer
EPA	=	U.S. Environmental Protection Agency	SLC	=	State Lands Commission
FEMA	=	Federal Emergency Management Agency	SP	=	State Parks
FHWA	=	Federal Highway Administration	TIP	=	Transportation Improvement Program
FONSI	=	Finding of No Significant Impacted	USCG	=	U.S. Coast Guard
FTIP	=	Federal Transportation Improvement Program	USDA	=	U.S. Department of Agriculture
HPSR	=	Historic Property Survey Report	USFWS	=	U.S. Fish and Wildlife Service
			WD	=	Wetland Delineation

E. Preliminary Environmental Document Classification (NEPA)

Based on the evaluation of the project, the environmental document to be developed should be:

Check one:

- Environmental Impact Statement (*Note: Engagement with participating agencies in accordance with 23 USC 139 required*)
 - Compliance with 23 USC 139 regarding Participating Agencies required
- Complex Environmental Assessment
- Routine Environmental Assessment
- Categorical Exclusion without required technical studies.
- Categorical Exclusion with required technical studies

(if Categorical Exclusion is selected, check one of the following):

- Section 23 USC 326
 - 23 CFR 771 activity (c)(____)
 - 23 CFR 771 activity (d) (____)
 - Activity _____ listed in the Section 23 USC 326
- Section 23 USC 327

F. Public Availability and Public Hearing

Check as applicable:

- Not Required
- Notice of Availability of Environmental Document
- Public Meeting
- Notice of Opportunity for a Public Hearing
- Public Hearing Required

G. Signatures

Local Agency Staff and/or Consultant Signature

_____ (Signature of Preparer) _____ (Date) _____ (Telephone No.)

_____ (Name)

Local Agency Project Engineer Signature

This document was prepared under my supervision, according to the *Local Assistance Procedures Manual*, Exhibit 6-B, "Instructions for Completing the Preliminary Environmental Study Form."

_____ (Signature of Local Agency) _____ (Date) _____ (Telephone No.)

Caltrans District Professionally Qualified Staff (PQS) Signature

- Project does not meet definition of an “undertaking”; no further review is necessary under Section 106 (“No” Section A, #35).
- Project is limited to the type of activity listed in Attachment 2 of the Section 106 PA and based on the information provided in the PES Form, the project does not have the potential to affect historic properties (“No” Section A, #35).
- Project is limited to the type of activity listed in Attachment 2 of the Section 106 PA, but the following additional procedures or information is needed to determine the potential for effect (“To Be Determined” Section A, #35):
 - Records Search _____ _____ _____
- Project meets the definition of an “undertaking”; all properties in the project area are exempt from evaluation per Attachment 4 of the Section 106 PA (“No” Section A, #35).
- The proposed undertaking is considered to have the potential to affect historic properties; further studies for 106 compliance are indicated in Sections B, C, and D of this PES Form (“Yes” Section A, #35).

(Signature of Professionally Qualified Staff)

(Date)

(Telephone No.)

The following signatures are required for all CEs, routine and complex EAs, and EISs:

Caltrans District Senior Environmental Planner (or Designee) and DLAE Signatures

I have reviewed this Preliminary Environmental Study (PES) Form and determined that the submittal is complete and sufficient. I concur with the studies to be performed and the recommended NEPA Class of Action.

(Signature of Senior Environmental Planner or Designee)

(Date)

(Telephone No.)

(Name)

(Signature of District Local Assistance Engineer or Designee)

(Date)

(Telephone No.)

(Name)

- HQ DEA Environmental Coordinator concurrence _____ . Email concurrence attached.
(date)

**Preliminary Environmental Investigation
Notes to Support the Conclusions of the PES Form
(May Also Include Continuation of Detailed Project Description)**

Brief Explanation of How Project Complies, or Will Comply with Applicable Federal Mandate (Part A):

- 1.
- 2.
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- 36.

Distribution 1) Original - DLAE, 2) Local Agency Project Manager, 3) DLA Environmental Coordinator
4) Senior Environmental Planner (or designee), 5) District PQS

Updated: 05/15/08

EXHIBIT 6-J PRELIMINARY ENVIRONMENTAL SCREENING FOR NON-INFRASTRUCTURE PROJECTS PES(NI)

Federal Project No. (Federal Program Prefix-Project No., Agreement No.)

To: (District Local Assistance Engineer) From: (Local Agency)
(District) (Project Manager's Name and Telephone No.)
(Address) (Address)
(Email Address) (Email Address)

Is this Project "ON" the State Highway System? Yes No

IF YES, STOP HERE and contact the District Local Assistance Engineer regarding the completion of other environmental documentation.

Federal Statewide Transportation Improvement Program (FSTIP): http://www.dot.ca.gov/hq/transprog/oftmp.htm (Current FSTIP Approval Date) (Attach approved FSTIP listing)

Construction Programming For FSTIP (Fiscal Year) \$ (Dollars)

Detailed Project Description (Use Continuation Sheet if necessary):

SECTION A: Does project involve any of the following:

Check "Yes", "No" or "TBD" as appropriate. Use "TBD" when there is insufficient information in the project description to provide a definitive "Yes" or "No" response. List all "TBD" items on the PES(NI) Continuation sheet for further research.

- Yes No TBD
1. Any ground disturbing activities? (e.g., digging of post holes)
2. Any infrastructure elements?
3. Installation of permanent data collection devices?
4. Installation or posting of signs?
5. Grading, clearing or grubbing of vegetation?
6. Electric vehicle charging station(s)?
7. Installation of fare boxes?
8. Pavement striping or painting?
9. Installation of bike cages or racks?
10. Currently planned future construction?
11. Potential to generate public controversy?
12. Any planting of flowers or any plant species?
13. Inconsistency with any plans and goals adopted by the community?
14. Part of a larger project?
15. Activity or action occurring within a Historic District?
16. Establishment of temporary parking facility? (outdoor event, etc.)
17. Temporally reducing available parking? (outdoor event, etc.)
18. Temporally encroaching on state or federal lands? (outdoor event, etc.)
19. Temporally encroaching on tribal lands? (outdoor event, etc.)
20. Use of a publicly owned public park? (outdoor event, etc.)
21. Potential to affect access to properties or roadways? (outdoor event, etc.)
22. Potential to disrupt neighborhoods/communities?
23. Potential to disproportionately affect low-income and minority populations?
24. Development of Plans that involve major decisions that would lead to irretrievable commitment of resources, present or future construction, or ground disturbance?
25. Creation of Programs that involve major decisions that lead to irretrievable commitment of resources, present or future construction, or ground disturbance?
26. Conducting planning and research that involve major decisions that lead to irretrievable commitment of resources, present or future construction, or ground disturbance?
27. Implementation of maintenance plans and projects?
28. Creation of regional bike and trail maps?
29. Historic and scenic site acquisition?

SECTION B: Preliminary NEPA Class of Action

Based on the results of this preliminary environmental screening, the recommended NEPA Class of Action for the proposed project is a 326 Categorical Exclusion (CE). Yes No

If "yes," check applicable activity below:

- 23 CFR 771.117(c): (Check one that is most applicable)
 (1) Activities which do not involve or lead directly to construction.
 (5) Transfer of Federal lands pursuant to 23 U.S.C. 317 when the subsequent action is not an FHWA action.
 (11) Determination of payback under 23 CFR part 480 for property previously acquired with Federal-aid participation.
 (16) Program administration, technical assistance activities, and operating assistance to transit authorities to continue existing service or increase service to meet routine changes in demand.
 (17) The purchase of vehicles by the applicant where the use of these vehicles can be accommodated by existing facilities or by new facilities which themselves are within a CE.
 (20) Promulgation of rules, regulations, and directives.

Project is a 327 CE

Yes No (Use only if project does not qualify as a 326 CE)

The project does not involve the following Unusual Circumstances identified under 23 CFR 771.117(b)

Affirm each of the following by placing a check mark in the preceding box. Use of the PES(NI) will not be possible if all statements cannot be positively affirmed.

- Significant environmental impacts
 Substantial controversy on environmental grounds
 Significant impact on properties protected by Section 4(f) of the DOT Act or Section 106 of the National Preservation Act, or
 Inconsistencies with any Federal, State or local law, requirement or administration determination relating to the environmental aspects of the action.

Affirm each of the following by placing a check mark in the preceding box. Use of the PES(NI) will not be possible if all statements cannot be positively affirmed.

- Air Quality: For projects located in Non-Attainment/Maintenance or Attainment/Unclassified area for CO, PM 2.5, and PM 10, those projects may be exempt from project-level conformity per 40 CFR 93.126 such as an activity which does not involve or lead directly to construction, or a safety project. Refer to 40 CFR 93.126 Table 2-Exempt Projects for the full listing.
 Noise: Project will not generate any long or short term noise to sensitive receptors.
 Water, Wetland, Floodplains: Project will not impact waters, wetlands or floodplains.
 Biology: Project is one of the types covered by the Non-Infrastructure Project Natural Environmental Study - No Effect memo, dated April 25, 2016
 Cultural Resources: Project is one of the types covered by the Undertakings exempt from further review memo, dated April 15, 2016.
 Sec 4(f): Project does not use a Section 4(f) property or result in the temporary occupancy of a Section 4(f) project.
 Coastal Zone: Project is not in a Coastal Zone or qualifies for an exemption.
 Relocation: Project does not involve any relocations.
 Hazardous Waste and Materials: Project does not involve the generation or disposal of any hazardous waste or excess material.

Local Agency Project Engineer Signature

This Preliminary Environmental Screening - Non-Infrastructure PES(NI) form was prepared by me or under my direct supervision. The screening concluded that the project is of a non-infrastructure nature, involving no disruption to the ground or natural environment.

(Signature of Local Agency)

(Date)

(Telephone No.)

Caltrans District Senior Environmental Planner (or Designee) and DLAE Signatures

Based on the information provided on the PES(NI), I concur that the project will involve no disturbance to the ground or natural environment, that the actions is covered under both Attachments C & D of this Office Bulletin, that the recommended NEPA Class of Action is a Categorical Exclusion pursuant to the National Environmental Policy Act as specified above, and that the project is in compliance with all other applicable environmental laws, regulations and Executive orders.

(Signature of Senior Environmental Planner or Designee)

(Date)

(Telephone No.)

(Print Name)

(Signature of District Local Assistance Engineer or Designee)

(Date)

(Telephone No.)

Print Name

Continuation of Project Description (if necessary):

Clarification of all “TBD” responses identified under Section A:

(Once clarification is obtained and provided below, change response from TBD to either “Yes” or “No” as applicable, and cross-reference discussion below.)

Distribution: 1) Original - DLAE, 2) Copy - Local Agency Project Manager, 3) Copy - Senior Environmental Planner (or designee) for project file.

EXHIBIT 6-K INSTRUCTIONS FOR COMPLETING THE PRELIMINARY ENVIRONMENTAL SCREENING FOR NON-INFRASTRUCTURE PROJECTS (PES[NI]) FORM

The Preliminary Environmental Screening for Non-Infrastructure Projects [PES(NI)] form may only be used for local assistance federal-aid “**non-infrastructure**” projects ‘off’ the State Highway System (SHS). The local agency may not proceed with any reimbursable activities prior to the project’s inclusion in a federally approved Federal Statewide Transportation Improvement Program (FSTIP) and receipt of “Authorization to Proceed” notification from Caltrans. (See LAPM, Chapter 3, “Project Authorization,” Section 3.2). Detailed instructions for completing the PES(NI) form are provided below.

Complete the Project Information Section of the PES (NI) form as follows:

Federal-Aid Project No: (Federal Program Prefix-Project No., Agreement No.) Example: RPSTPLE 5017(020). Obtain federal-aid project number from your District Local Assistance Engineer (DLAE). This number is required in order for the district local assistance environmental generalist to process the PES(NI) form .

To: (Name and address of district local assistance engineer to whom project has been assigned)

From: (Name and address of local agency project engineer or manager)

Is the Project “ON” the SHS? Check “Yes” or “No.” If Yes, **STOP**, and contact the DLAE regarding the Caltrans policy on local agency projects “on” the SHS. Based on information contained in the policy memo referenced below, local agency projects “**on**” the SHS are processed as State Highway Projects in accordance with procedures set forth in the *Caltrans Project Development Procedures Manual*.

Note: The current and long-standing policy is for Caltrans to be the California Environmental Quality Act (CEQA) lead agency for improvement projects “on” the SHS. Caltrans practice of acting as CEQA Lead for projects on the SHS is based on the Caltrans statutory obligation to plan, design, construct, operate and maintain the SHS as well as its actual ownership of the SHS. Further, as owner of the right of way, Caltrans is the entity ultimately responsible for property stewardship of all resources within state right of way. This stewardship obligation cannot be delegated to others. This applies even if the project is financed by others.

In certain limited cases, and only when it is in the best interests of the state, Caltrans may delegate CEQA lead agency status to a local agency. Such delegations can only be made by the district director. The district director will provide a written justification for the delegation, which becomes the authorizing document for a cooperative agreement between Caltrans and the local agency. The delegation is then formalized through an executed written agreement, which outlines the roles and responsibilities of each party. These delegations are the exception rather than the rule.

For guidance on determining CEQA lead agency status on local agency projects on the SHS, see Caltrans policy memo provided at:

http://www.dot.ca.gov/ser/downloads/memos/CEQA_Lead_Agency_24Jun04.pdf

Federal Statewide Transportation Improvement Program (FSTIP): Enter the current FSTIP approval date for the project, write the project description exactly as it appears in the FSTIP, and attach a copy of the approved FSTIP page (*showing the project or group of projects*) to the PES(NI) form.

The FSTIP information can be obtained from the MPO.

Note: The California FSTIP is a multi-year, statewide, intermodal program of transportation projects that is consistent with the statewide transportation plan and planning processes, metropolitan transportation plans, and Federal Transportation Improvement Programs (FTIPs). The purpose of the FSTIP is to ensure that federal transportation funding continues to flow into California as a result of complying with federal

regulations pertaining to programming. The FSTIP is prepared by Caltrans in cooperation with the Metropolitan Planning Organizations (MPOs) and is approved by FHWA and FTA. The FTIPs/FSTIP contains all capital and non-capital transportation projects, or identified phases of transportation projects proposed for funding under the Federal Transit Act and Title 23 of the United States Code including federally funded projects. The FSTIP must be financially constrained by year and include sufficient financial information to demonstrate that projects can be funded as programmed. Only projects with funds that are reasonably expected to be available may be programmed in the FSTIP.

Construction Programming for FSTIP: Identify the fiscal year and dollar amount programmed in the current FSTIP under the construction phase. *Note: According to the 9/28/07 Interim Policy on Authorization of Non-construction Federal-aid Projects, funding for projects included under grouped project listings (lump sum) are typically programmed under the construction phase in the FSTIP. For non-construction projects, the detailed (back up) listing for the grouped projects shall also show funding under the construction phase. For all other grouped project listings, the detailed listing may show other applicable phases. Funding for non-construction projects that are individually listed shall also be programmed under the construction phase in the FSTIP.*

Complete Section A of the PES (NI) Form:

Check “Yes,” “No,” or “TBD” as appropriate for each question. Use “TBD” when there is insufficient information available to provide a definitive “Yes” or “No” response. List all “TBD” items on the PES (NI) Continuation Sheet and research as needed to affirm a “Yes” or “No” response. Based on research results, change all “TBD” responses to either “Yes” or “No” responses as appropriate. One or more “Yes” responses require preparation of the regular PES. All “TBD” items must have a definitive “Yes” or “No” response prior to the local agency signature on the PES (NI) form. If additional space is not needed for the project description and there are no “TBD” items requiring further research, it is not necessary to include the Continuation sheet with the signed PES(NI) form.

Note(1): Questions 16-21 pertain to indoor and outdoor activities, which have the potential to generate temporary noise and traffic congestion, reduce available parking, temporarily affect access to properties and roadways, and disrupt the quietude of neighborhoods. While activities of this nature are typically regulated by city and county use permit, the terms and conditions of those permits are not known until after the NEPA document is approved. For this reason, a “yes” response to these questions triggers the preparation of a regular PES form to ensure consideration of and compliance with the provisions of Sec 4(f) 49 U.S.C. 303), (23 CFR 771.111(h)(2)(iii) impacts on abutting properties, U.S. DOT Order Title VI disrupt neighborhoods/communities, and E.O. 12898 (on Environmental Justice) disproportionate adverse environmental impacts on minority or low-income populations.

Note(2): Questions 24-28 pertain to the development of plans and programs of action. Because plans and programs have the potential to commit to actions before they are fully evaluated under federal environmental law (for example, Section 7 and Section 106) (23 CFR 771.111(f)(3)), and because SAFETEA-LU mandates the early consideration of environmental resources during planning, projects of this nature may not be processed with the PES(NI). Completion of the regular PES form will be required.

Complete Section B of the PES (NI) Form: (PRELIMINARY NEPA CLASS OF ACTION)

Complete the **NEPA Class of Action** section by placing a check mark next to 326 Categorical Exclusion (CE) and identify the specific activity that is most applicable for the action. In cases where the project does not qualify for a 326 CE, check 327 CE.

Complete the **Unusual Circumstances** section by placing a check mark in the box preceding each bulleted item to affirm that action will not result in impacts, controversy or inconsistencies as specified. Complete the **Compliance with other Federal Environmental requirements** section by placing check mark in the box preceding each resource listed to affirm the statement.

Complete the Signatory Section of the PES (NI) Form:

The **Local Agency Project Engineer's** signature means that the PES(NI) form was prepared by them or under their direct supervision and that the screening concluded that the project is of a non-infrastructure nature, involving no disruption to the ground or natural environment.

The Caltrans district senior environmental planner (or designee) and DLAE signatures mean that they concur that the project involves no disturbance to the ground or natural environment, that the action(s) is/are covered under Attachments C and D, that the recommended NEPA Class of Action is a CE pursuant to NEPA, and that the project is in compliance with all other applicable environmental laws, regulations and Executive orders.

Distribution: The original signed PES(NI) form and Attachments C and D shall be maintained in the DLAE's project file. A copy of the signed PES(NI) form with Attachments C and D shall be retained by the local agency project manager and the district SEP (*or designee*) for the project file.

EXHIBIT 7-B FIELD REVIEW FORM

Please complete information required in the shaded boxes

Local Agency		Field Review Date	
Project Number		Locator (Dst/Co/Rte/PM/Agency)	
Project Name		Bridge No.(s)	
1. PROJECT LIMITS (see attached list for various locations)			
Net Length (miles)			
2. WORK DESCRIPTION			
ITS project or ITS element	Yes	No	
If yes, choose: High-Risk (formerly "Major") ITS		Low-Risk (formerly "Minor") ITS	Exempt ITS
3. PROGRAMMING DATA			
Amendment No	FTIP (MPO/RTPA)	FY	Page
FTIP PPNO	FHWA/FTA Approval Date		
Federal Funds (\$)	Phases	PE	R/W Const
Air Basin: (CMAQ only)			
4. FUNCTIONAL CLASSIFICATION			
<u>On the Federal-aid System</u>		<u>Off the Federal-aid System</u>	
Principal Arterial – Freeway or Expressway		Rural Minor Collector	
Other Principal Arterial		Local	
Minor Arterial		Bike/ Ped paths not on existing road	
Major Collector			
Urban Minor Collector			
5. STEWARDSHIP CATEGORY			
High Profile (Stewardship)	Yes	No	
Delegated (Stewardship)	Yes	No	(a) DLAE Oversight Yes No
			(b) District Construction Yes No
6. CALTRANS ENCROACHMENT PERMIT			
	Is it required?	Yes	No

7. COST ESTIMATE BREAKDOWN									
(Including Structures)					(\$1,000'S)			Federal Participation	
PE	Environmental Process					Yes		No	
	Design					Yes		No	
	ITS System Manager or Integrator					Yes		No	
CONST	Const. Contract					Yes		No	
	Const. Engineering					Yes		No	
R/W	Preliminary R/W Work					Yes		No	
	Acquisition					Yes		No	
	No. of Parcels					Yes		No	
	Easements					Yes		No	
	Right of Entry					Yes		No	
	RAP (No. Families)					Yes		No	
	RAP (No. Bus)					Yes		No	
	Utilities (Exclude if included in contract items)					Yes		No	
TOTAL COST									
7a. Value Engineering Analysis Required?							Yes		No
(Yes, if total project costs are \$50M or more on the NHS, or \$40M or more for bridges on the NHS)									
8. PROPOSED FUNDING				Total Cost		Cost Share			
Grand Total			\$						
Federal Program (Name/App Code)	#1		\$			Fed	\$	Reimb Ratio	
	#2		\$			Fed	\$	Reimb Ratio	
Matching Funds Breakdown				Local \$				%	
				State \$				%	
				Other \$				%	
State Highway Funds?	Yes		Source				No		
State CMAQ/RSTP Match Eligible?			Yes		No		Partial		
Is the Project Underfunded? Fed \$ < Allowed Reimbursement Rate.						Yes		No	
9. PROJECT ADMINISTRATION									
				Agency		Consultant		State	
PE	Environ Process								
	Design								
	System Manager/Integrator								
R/W	All Work								
CONST ENGR	Contract								
CONSTRUCTION	Contract								
MAINTENANCE									
Will Caltrans be requested to review PS&E?									
				Yes		No			
10. SCHEDULES			Proposed Advertisement Date						
Other Critical Dates									

11. PROJECT MANAGER’S CONCURRENCE			
Local Entity Representative		Date	
Signature		Phone	
Title			
Is Field Review required?	Yes	No	
Caltrans (District) Representative (if attended Field Review)		Date	
Signature		Phone	
Title			
FHWA Representative Title		Date	
Signature		Phone	
Title			
12. LIST OF ATTACHMENTS (Including all appropriate attachments if field review is required. See the “[]” Notation for minimum required attachments for non-NHS projects.)			
	Field Review Attendance Roster or Caltrans Roster		
	Vicinity Map (Required for Construction Type Projects)		
IF APPLICABLE (Complete as required depending on type of work involved)			
	Roadway Data Sheets [Req’d for Roadway projects]		
	Typical Roadway Geometric Section(s) [Req’d for Roadway projects]		
	Major Structure Data Sheet [Req’d for HBP]		Signal Diagram
	Railroad Grade Crossing Data Sheet		Collision Diagram
	Sketch of Each Proposed Alternate Improvement		CMAQ/RSTP State STIP Match
	Existing Federal, State and Local ADA deficiencies not included on other Attachments		
	System Engineering Review Form (SERF) Req’d for High-Risk (formerly “Major”) and Low-Risk (formerly “Minor”) ITS projects		

13. DLAE FIELD REVIEW NOTES

A. MINUTES OF FIELD REVIEWS (See Attachment)

B. ISSUES OR UNUSUAL ASPECTS OF PROJECT (See Attachment)

Distribution: Original with attachments – Local Agency
Copy with attachments (2 copies if HBP) – DLAE

Exhibit 7-C ROADWAY DATA

Federal Project Number _____

1. TRAFFIC DATA

Current ADT _____ Year 20__ Future ADT _____ Year 20__ DHV _____ Trucks __%
 Terrain (Check One) _____ Flat _____ Rolling _____ Mountainous
 Design Speed _____
 Proposed Speed Zone _____ Yes _____ mph _____ No _____

2. GEOMETRIC INFORMATION

ROADWAY SECTION

Facility	Year Constr.	Min. Curve Radius	Thru Traffic Lanes			Shoulders		Median Width
			No. of Lanes	Total Width	Type	Each Width Lt/Rt	Type	
Exist.								
Prop.								
Min. Stds. selected:								
AASHTO _____								
3R _____								
Local _____								
	N/E Contig. Sect.							
	S/W Contig. Sect.							

Remarks (If design standard exception is being sought, cite standard and explain fully how it varies):

3. DEFICIENCIES OF EXISTING FACILITY (Mark appropriate one(s))

- | | |
|--------------------------|--|
| _____ Pavement Surface | _____ Drainage |
| _____ Alignment | _____ Bridge |
| _____ Crossfall | _____ Safety (Attach collision diagram or other documentation) |
| _____ Pavement Structure | _____ Federal Americans w/ Disabilities Act (ADA), State or Local accessibility requirements |
| | _____ Other (describe below) |

Remarks _____

4. TRAFFIC SIGNALS _____ Yes _____ New (attach warrants) _____ Modified _____ No

5. MAJOR STRUCTURES Structure No.(s) _____ (attach structure data sheet)

6. OTHER TRANSPORTATION FACILITIES (Name)

_____	None		
_____	Railroad	_____	(attach railroad data sheet)
_____	Airports	_____	(attach airport data sheet)
_____	Transit	_____	
_____	Bicycle	_____	

7. AGENCIES AFFECTED

Utilities [mark appropriate one(s)]	_____ Telephone	_____ Electrical	_____ Gas
	_____ Water	_____ Irrigation	
	_____ Other	_____ Sanitary	

Major Utility Adjustment: _____

High Risk Facilities: _____

Other: _____

Remarks: _____

Chapter 9 Civil Rights & Disadvantaged Business Enterprise

9.1 Introduction

As subrecipients of United States Department of Transportation (USDOT) funding, local agencies are required to comply with and enforce certain nondiscrimination requirements in the award and administration of USDOT assisted contracts and procurements. The information contained in this chapter has been extracted from other documents and should not be considered as a replacement or substitute for the laws, rules and regulations, agreements, circulars, or other guidance available. Extensive reference is made to the United States Code (USC) and Code of Federal Regulations (CFR).

Caltrans Division of Local Assistance (DLA) is responsible for developing policies and procedures to help local agencies implement a Title VI, ADA, and DBE Program. DLA has included checks and balances throughout its processes including legal review of major agreements and documents. Some of the following implemented processes are taken from various federal regulations for compliance with Title VI, ADA, and DBE.

9.2 Title VI of the Civil Rights Act of 1964 and Related Statutes

Title VI of the Civil Rights Act of 1964 prohibits discrimination based upon race, color, and national origin. Specifically, 42 USC 2000d states, *“No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.”*

In addition to Title VI of the Civil Rights Act of 1964, other nondiscrimination statutes afford legal protection under the Federal Highway Administration’s (FHWA) Title VI Program. These statutes include the following:

- Section 162(a) of the Federal-Aid Highway Act of 1973 (23 USC 324) (sex)
- Age Discrimination Act of 1975 (age)
- Section 504 of the Rehabilitation Act of 1973 (disability)
- Americans with Disabilities Act of 1990 (disability)

Two Presidential Executive Orders place further emphasis on the Title VI protections of race and national origin and are included in the scope of the FHWA’s Title VI Program:

1. Executive Order 12898, “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations,” directs federal agencies to develop strategies to address disproportionately high and adverse human health or environmental effects of their programs on minority and low-income populations. The order is also intended to promote nondiscrimination in federal programs substantially affecting human health and the environment, and to provide minority and low-income communities access to public information and an opportunity for

- public participation in matters relating to human health or the environment.
2. Executive Order 13166, "Improving Access To Services For Persons with Limited English Proficiency," directs federal agencies to evaluate services provided and implement a system that ensures that Limited English Proficiency (LEP) persons are able to meaningfully access the services provided, consistent with, and without unduly burdening, the fundamental mission of the local agency. Additionally, each federal agency shall ensure that recipients of federal financial assistance provide meaningful access to programs, services, and information to their LEP applicants and beneficiaries free of charge.

Taken together, these requirements define an overarching Title VI nondiscrimination program. Title VI and the additional nondiscrimination requirements are applicable to all programs and activities administered by a recipient, in addition to programs receiving federal financial assistance, due to the Civil Rights Restoration Act of 1987.

Nondiscrimination provisions apply to all programs and activities of federal-aid recipients, subrecipients, and contractors, regardless of tier (49 CFR 21).

Title VI Nondiscrimination Statement

The local agency shall develop a Title VI policy statement for signature by the head of the agency. The statement shall give reasonable guarantee that the programs administered by the agency are conducted in compliance with all Title VI nondiscrimination requirements. The signed statement shall be disseminated to the public via such methods as posting in public areas or on the agency's website (49 CFR 21.7(b)).

Assurances

Local agencies sign assurances as part [Exhibit 4-C: Master Agreement](#) with Caltrans. The Program Supplement Agreement (PSA) (see [Exhibit 4-D: Sample - Program Supplement Agreement](#)) for each project includes the local agency's reaffirmation of the nondiscrimination assurances contained in the Master Agreement.

Designation of a Title VI Coordinator

The local agency shall designate a Title VI Coordinator who has a responsible position in the organization and easy access to the head of the agency. Identification of the Title VI Coordinator shall be disseminated to the public via such methods as posting in public areas or on the agency's website (23 CFR 200.9(b)(1)).

Title VI Complaint Procedures

A local agency that receives federal financial assistance is required to adopt procedures that incorporate appropriate due process standards and provide for the prompt and equitable resolution of complaints alleging discrimination on basis of race, color, national origin, age, sex, or disability.

A Title VI complaint may be filed by any individual, group of individuals, or entity that believes they have been subjected to discrimination or retaliation based on their race, color, national origin, age, sex, or disability. The complaint must be filed no later than 180 calendar

days from the most recent date of the alleged act of discrimination unless the time for filing is extended. Complainants have the option to submit their complaint in any format (i.e., use of a complaint form, letter, etc.), but all complaints must be submitted in writing and signed by the complainant or their representative. Local agencies shall offer assistive services for LEP individuals or individuals with disabilities to accommodate alternative formats.

Complaints must include the complainant's name, address, and phone number and be detailed to specify all issues and circumstances of the alleged discrimination. Complainants also have the right to file complaints with federal agencies that provide federal financial assistance to Caltrans or to seek private counsel.

Local agencies shall maintain a record of all Title VI complaints received that includes the date received; identification of each complainant by race, color, sex, or national origin; the nature of the complaint; the disposition (if applicable); the date of the disposition (if applicable); and other pertinent information.

Whenever possible, local agencies shall attempt to resolve Title VI complaints at the lowest possible level. Local agencies shall forward copies of all Title VI complaints to the respective Caltrans Equal Employment Opportunity Office in their district for review and disposition. (23 CFR 200.9(b)(3))

Data Collection

The local agency shall develop procedures for the collection of statistical data (race, color, national origin, age, sex, and disability) of participants in, and beneficiaries of, federally funded roadway projects, e.g., citizens impacted by relocation and participants attend the public hearing during an environmental review. In addition, the local agency shall analyze the data collected to determine the effectiveness of outreach methods to ensure that no group is excluded during the decision-making process or is not given an opportunity to voice their opinions or concerns. (23 CFR 200.9(b)(4))

Title VI Training

The local agency shall provide Title VI training for its managers, supervisors, and staff with frequent public contact every two years. (23 CFR 200.9(b)(9)).

Limited English Proficiency

The local agency is required to ensure programs and activities normally provided in English are accessible to LEP persons. Each local agency shall perform an annual assessment to determine if modifications are needed to their programs and activities to ensure meaningful access by LEP persons, culminating in the development of a language access plan. The local agency's assessment, sometimes referred to as a "four-factor" analysis, shall be based on the following factors:

1. The number or proportion of LEP persons eligible to be served or likely to be encountered.
2. The frequency of LEP contacts.

3. The nature and importance of the programs, services, or activities provided.
4. The resources available for LEP persons.

For example, publications or public notices shall be made available in languages understood by the affected population. Interpreters shall be made available for LEP persons and for the hearing impaired (see [LAPM Chapter 8: Public Hearings](#)).

Language barriers may prohibit LEP persons from:

- Obtaining services and information related to transportation services, programs, and projects.
- Taking advantage of the transit system, which could affect their jobs and social opportunities.
- Understanding the benefits to which they are entitled when their home or business property is acquired through eminent domain.

More information on LEP can be found at: www.lep.gov.

Dissemination of Title VI Information

The local agency shall develop Title VI information for dissemination to the general public and, where appropriate, in languages other than English, pursuant to 23 CFR 200.9(b)(12). The purpose of the information shall be to communicate information about the public's rights under Title VI. Sample information includes, but is not limited to, posters, brochures, flyers, "frequently asked questions" documents, web pages, and the like. Alternative formats shall be offered and made available at no cost to the requester, where applicable.

Contracts and Agreements

The local agency shall include the provisions indicated in Appendix A of Exhibit B, included as part of [Exhibit 4-C: Master Agreement - Administering Agency-State Agreement for Federal-Aid Projects of the Local Assistance Procedures Manual](#), in contracts and agreements, between the local agency and the contractor, where applicable.

Environmental

Presidential Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," is considered during the preliminary environmental investigation process and completion of the Preliminary Environmental Study (PES) Form. See [Exhibit 6-A: Preliminary Environmental Study \(PES\)](#), Instructions for Completing [Exhibit 6-B: Instructions for Completing the Preliminary Environmental Study \(PES\)](#), [LAPM Chapter 6: Environmental Procedures](#), or refer to the local Assistance Environmental website: <http://www.dot.ca.gov/hq/LocalPrograms/env.htm>.

If a project requires that a Relocation Impact Study and/or Community Impact Assessment be conducted, the local agency shall follow the guidance set forth in the Standard Environmental Reference (SER). The SER is an online electronic reference that sets forth document content and format, as required by law or regulation, and recommended format, if not specified by law or

regulation. Chapter 25 of the SER addresses Environmental Justice and LEP requirements: <http://i80.dot.ca.gov/ser/vol1/sec3/community/ch25ej/chap25ej.htm>.

Public Hearings and Public Involvement Meetings

The attendance and concerns of LEP persons, persons with disabilities, minority populations, and low-income populations at public involvement meetings and hearings must be carefully documented to comply with Title VI, including statistics of participants by race and gender. Public hearing announcements must be made available in languages understood by the affected population. Public hearings shall be held at locations that are both geographically and structurally accessible.

Right of Way

On federal-aid projects, all Right of Way (R/W) activities are conducted in accordance with [LAPM Chapter 13: Right of Way](#), and the Caltrans Right of Way Manual, unless the local agency has adopted its own Caltrans-approved procedures. These manuals require that the public be provided with Title VI information and complaint procedures within each of the following R/W functions: appraisals, acquisitions, relocation assistance program, and property management. Both the DLAE and Caltrans District R/W staff monitor R/W activities on local projects to ensure compliance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

Construction

Federal-aid construction contracts must include provisions, which require compliance with Title VI. The specific contract provision language is included in the FHWA Form 1273 that is physically inserted in the federal-aid construction contract (see [LAPM Chapter 12: Plans, Specifications, and Estimate](#)).

Title VI Monitoring

The local agency shall actively monitor its programs, services, and activities to ensure compliance with Title VI requirements. For example, efforts should be made to communicate regularly with management and employees with frequent public contact to address Title VI questions and provide technical assistance and training. Policies and procedures should be evaluated periodically for Title VI compliance and incorporate Title VI requirements, where applicable. Demographic data should be collected and analyzed on an ongoing basis to better understand the populations being served by the local agency, as well as inform the delivery of services. Public meeting notices and other communications should be reviewed for LEP purposes as a matter of practice.

Local agency preliminary environmental studies, technical reports, environmental assessments, and Environmental Impact Statements provide for data collection and analysis on the demographics of neighborhoods and communities. Caltrans' DLAEs and Environmental Specialists review the environmental documents to ensure that no disproportionate adverse impacts occur on minority and low-income neighborhoods or communities.

Title VI Compliance Reviews

Caltrans' DLA conducts program reviews of subrecipients of federal financial assistance to ensure compliance with Title VI requirements pursuant to 23 CFR 200.9(b)(7). Reviews can occur at any time, and at Caltrans' discretion. Reviews consist of a desk audit and/or on-site visit. Reviewers summarize observations and findings in a formal compliance review report that is provided to the local agency and the FHWA. Corrective action may be required, where applicable.

Plans, Specifications & Estimate Checklist

[Exhibit 12-D: PS&E Checklist](#) confirms the implementation of the mandatory requirements of FHWA Form 1273 such as Equal Employment Opportunity (EEO) certification, Disadvantaged Business Enterprise (DBE) provisions, and applicable wage rates. The local agency submits [Exhibit 12-D](#) to the DLAE along with the request for authorization to proceed with construction for federal-aid construction contracts.

Local Agency Construction Contract Administration Checklist

[Exhibit 15-A: Local Agency Construction Contract Administration Checklist](#) confirms that DBE and labor/EEO compliance requirements are performed and documented in the project files. [Exhibit 15-A](#) documents that the local agency will meet all of the requirements prior to the award of the construction contract (see [LAPM Chapter 15: Advertise and Award Project](#)).

Resident Engineer's Construction Contract Administration Checklist

[Exhibit 15-B: Resident Engineer's Construction Contract Administration Checklist](#) is completed by the local agency Resident Engineer. The purpose of this checklist is to assist the local agencies in administering federal-aid highway construction projects. It also provides a record that the EEO/Wage Rate/False Statements posters are being posted at specific locations, that employee interviews will be conducted in accordance with the Labor Compliance/EEO interview form, and that DBE requirements are met. The local agency submits [Exhibit 15-B](#), along with the Award Package shortly after award of the construction contract (see [LAPM Chapter 15](#)).

Additional Resources for Title VI Implementation

You may access additional information on implementing Title VI (including potential Title VI issues, self-monitoring, good practices, and mitigation measures) in Caltrans' Title VI Program Plan and Caltrans' Title VI Guidelines available at

http://www.dot.ca.gov/hq/bep/title_vi/t6_publications.htm.

In addition, Caltrans has produced a Title VI brochure that is available in ten different languages at: http://www.dot.ca.gov/hq/bep/title_vi/t6_publications.htm.

9.3 ACCESSIBILITY: REHABILITATION ACT OF 1973/AMERICANS WITH DISABILITIES ACT OF 1990

Section 504 of the Rehabilitation Act of 1973 (codified as 29 USC Subsection 794 et seq.) prohibits discrimination on the basis of disability in federally assisted programs or activities. The USDOT's implementing regulations for Section 504 can be found at 40 CFR 27.

The Americans with Disabilities Act of 1990 (42 USC 12101 et seq.) is a broader civil rights statute that prohibits discrimination against people with disabilities in all areas of public life. Title II of the ADA applies specifically to state and local government entities, regardless of size or receipt of federal funding. Implementing regulations for Title II of the ADA can be found at 28 CFR 35.

The State of California has also adopted regulations – Section 54 of the California Civil Code – specifying that all buildings, structures, sidewalks, curbs, and related facilities constructed in California by the use of state, county or municipal funds, or the funds of any political subdivision of the state, shall be accessible to and usable by persons with disabilities.

Section 504/Americans with Disabilities Act (ADA) Implementation

Assurances

Administering agencies sign ADA assurances as part of their [Exhibit 4-C: Master Agreement](#) with Caltrans. The Program Supplement Agreement (PSA), (see [Exhibit 4-D: Sample -Program Supplement Agreement](#) for each project, includes the administering agency's reaffirmation of the nondiscrimination assurances contained in the Master Agreement.

Self-Evaluation and Transition Plan

The local agency is required to complete a self-evaluation of its current programs, policies, and practices to identify barriers for people with disabilities pursuant to 28 CFR 35.105, 49 CFR 27.11(c)(2), and Section 504 of the Rehabilitation Act of 1973. The scope of the self-evaluation includes both architectural and administrative barriers. The local agency shall provide an opportunity for interested persons, including individuals with disabilities or organizations representing individuals with disabilities, to participate in the self-evaluation process by submitting comments.

Critical areas to evaluate as part of a self-evaluation include, but are not limited to:

- Public right-of-way accessing government offices, medical facilities, downtown core areas, school zones, residential areas, and the like.
- Access to public buildings (permit/licensing offices, public meeting rooms, etc.)
- Rest areas, parks, and shared use trails.

All public entities are required to complete a self-evaluation. However, only those that employ 50 or more persons are required to maintain the self-evaluation on file and make it available for public inspection for three years.

Following completion of a self-evaluation, a local agency with 50 or more employees is required to develop a transition plan to prioritize removal of structural barriers for accessibility purposes. The transition plan shall accomplish the following:

- Identify physical obstacles in the public agency's facilities that limit the accessibility of its programs or activities to individuals with disabilities.
- Describe in detail the methods that will be used to make the facilities accessible.

- Specify the schedule for taking steps necessary to upgrade pedestrian access to meet Section 504 and/or ADA requirements in each year following the transition plan.
- Indicate the official responsible for implementation of the plan.

Local agencies shall implement a system for periodically reviewing and updating self-evaluations and, if applicable, transition plans.

Designation of an ADA Liaison Officer

The local agency shall designate an ADA Liaison Officer who is responsible for coordinating the efforts of the local agency to comply with ADA requirements, including investigation of complaints. The local agency shall make available to the public the name and contact information (mailing address, telephone number, e-mail address, etc.) of its designated ADA Liaison Officer.

Adoption of Grievance Procedures

A local agency that employs 50 or more persons is required to adopt and publish procedures for resolving grievances arising under Title II of the ADA. Pursuant to 28 CFR 35.170, any individual who believes that he or she or a specific class of individuals has been subjected to discrimination on the basis of disability by a public entity may file a complaint within 180 days of the date of the alleged discrimination, unless the time for filing is extended by a local agency for good cause.

Grievance procedures set out a system for resolving complaints of disability discrimination in a prompt and fair manner. The grievance procedure shall include:

- A description of how and where a complaint under Title II of the ADA may be filed with the local agency.
- A statement notifying potential complainants that alternative means of filing a complaint, other than in writing, will be made available to individuals with disabilities.
- A description of the time frames and processes to be followed by the complainant and the local agency.
- Information on how to appeal an adverse decision.
- A statement of how long complaint files will be retained.

Design

State and local governments, regardless of whether they receive federal financial assistance, are required to comply with Federal [2010 ADA Standards](#), Title 24 of the California Code of Regulations (which contains California building regulations), or local code, whichever provides the greatest access. Private-funded improvements within the public Right of Way are also required to comply with the federal [2010 ADA Standards](#) or with Title 24, whichever code offers the greatest access or protection to individuals with disabilities. All new and altered pedestrian facilities such as, but not limited to, highway rest area facilities, sidewalks, crosswalks, pedestrian overpasses, underpasses, and ramps shall be made accessible to persons with disabilities in accordance with federal and state accessibility standards on all local agency federal-aid projects. Facility maintenance does not constitute an alteration (see

EXHIBIT 9-D DBE CONTRACT GOAL METHODOLOGY

Policy:

Local Agencies must submit DBE Contract Goals, including calculations for each contract funded with federal funds (as shown below on “DBE Contract Goal – Example”) along with the Exhibit 12-D, “PS&E Checklist”.

Procedure for Calculating DBE Contract Goal:

1. The cost estimate for the project must be finalized.
 - For a construction project: the approximate, lump sum, final pay quantities and associated costs for each item of work must be completed.
 - For a consultant project: the scope of work along with the cost estimate for the various professional disciplines necessary to complete the scope of work must be completed.

2. Determine from the final cost estimate what work items will be (typically) done by the prime contractor what work items can be subcontracted out. This does not mean that if the prime contractor is capable of performing all the work items, then no work can or will be subcontracted out. The Agency should make Good Faith Efforts to identify work items that can be subcontracted to DBEs. This can be done by reviewing past projects or from past experience to assess what work can be done by the prime and what work can be subcontracted out.

For example, in an AC overlay project, traffic control, striping, pavement marking, and storm water preparation are typically subcontracted out, and in a bridge design project, geotechnical, computer aided drafting (CAD), and surveying can be subcontracted out. Since each project can be unique, care should be exercised in properly identifying work items that can be subcontracted out.

3. For the work items that can be subcontracted, identify the Work Category Codes from the California Unified Certification Program (CUCP) DBE database.
4. For each Work Category Code, determine the number of available (ready, able and ready) DBE subcontractors or subconsultants by conducting a search in the CUCP database geographically by Caltrans District.
5. Determine the “DBE Work Factor” for each item of work. The Work Factor is the percentage of work that can be performed by a DBE subcontractor for each item of work:

Work Factor %	Description
100%	DBE performs, manages and supervises the work item
12%	DBE provides the material or supplies for work item
10%	DBE provides the trucking operation for a work item

6. If the number of available DBE subcontractors or subconsultants is 10 or more, a 100 percent DBE Work Factor is applied to the Work Category, or item of work.
7. If there are less than 10 DBEs available to perform the Work Category, or item of work, then determine whether or not there is an element of trucking or material supply, and then apply a 10 or 12 percent DBE Work Factor respectively, to those Work Categories or items of work.
8. For bid items not typically not subcontracted, determine whether or not there is an element of trucking or material supply and apply a 10 or 12 percent DBE Work Factor respectively, to those Work Categories or items of work.
9. Calculate the “DBE Work Dollar Amount” by multiplying the estimated cost of the work item by the “DBE Work Factor” established in Steps 6 through 8.
10. Sum up the “DBE Work Dollar Amount” for each work item to arrive at the “Total DBE Work Dollar Amount”.
11. Determine the “Percentage DBE Work” by dividing the “Total DBE Work Dollar Amount” by the estimated total cost of the project.
12. Calculate “DBE Contract Goal” by multiplying the “Percentage DBE Work” by “60%”. The “60%” reflects the realistic representation of the available DBE participation as established using the CUCP DBE database.

Common errors when evaluating Prime vs. Sub-Contractor work:

1. Small dollar contracts or projects with limited scope (contract comprising very few work items) in which it is impractical to subcontract out any portion of the work. For example, a bridge, minor deck repair project comprising of sealing a few cracks and pot holes. Such a project can have a small contract dollar amount and a limited scope of work with very few work items thus limiting, if not eliminating, the feasibility for subcontracting.
2. Assume there are no subcontracting opportunities, because the Prime did all the work on a similar previous job.
3. Assume all the work can be subcontracted out leaving no work for a prime to perform.

DBE Contract Goal - Example

ction and safety. Work on signing and striping with intersection improvements										
Meas. Unit	Item Description	Unit Price	Total	Likely to be Performed by Sub-contractor (Y=Yes)?	Trucking or Supply of Material Involved (Y=Yes)?	Work Category Code (enter a code if corresponding cell in either Column G or H is "Y")	Number of Available DBEs	DBE Work Factor (input a percentage only if the number of available DBEs > 9)	DBE Work Dollar Amount	Comment
LS	Mobilization	\$ 55,000.00	\$ 55,000.00						\$0.00	
LS	Traffic Control	\$ 50,000.00	\$ 50,000.00	Y		C1201	38	100%	\$50,000.00	
LS	Storm Water Pollution Prevention Plan	\$ 20,560.00	\$ 20,560.00	Y		C8713, C8722	53	100%	\$20,560.00	
CY	Roadway Excavation	\$ 75.00	\$ 27,150.00		Y	C9607	7		\$0.00	
EA	Relocate Bus Bench	\$ 200.00	\$ 200.00	Y		C1522	5		\$0.00	
TON	Construct Hot Mix Asphalt	\$ 125.00	\$ 256,250.00		Y	C9602	84	10%	\$25,625.00	C 9602 = 84 DBEs
CY	Construct Aggregate Base Class II	\$ 40.00	\$ 102,800.00		Y	C9602	84	10%	\$10,280.00	SAME AS ABOVE
CY	Concrete Bus Pad, including Monolithic Curb, Lean Concrete Base and Sub-base	\$ 250.00	\$ 20,500.00	Y		C7301	7		\$0.00	
SF	Construct 4" thick PCC Sidewalk	\$ 4.00	\$ 6,000.00	Y		C7301	7		\$0.00	
EA	Construct ADA Curb Ramp, Case A	\$ 1,900.00	\$ 1,900.00	Y		C7301	7		\$0.00	
EA	Construct ADA Curb Ramp, Case C (Mod)	\$ 3,000.00	\$ 3,000.00	Y		C7301	7		\$0.00	
LF	Construct Type A2-6 curb (Caltrans std plan A87A)	\$ 30.00	\$ 14,100.00	Y	Y	C7301	7		\$0.00	C0639 < 10 DBEs
LF	Construct Type B3-6 curb (Caltrans std plan A87A) at Median Island	\$ 10.00	\$ 7,000.00	Y		C7301	7		\$0.00	
LF	Construct Retaining Curb Type A1-12 (Caltrans std plan A87A Mod)	\$ 40.00	\$ 2,560.00	Y		C7301	7		\$0.00	
SF	Construct 6-inch thick PCC at Median island	\$ 6.00	\$ 7,980.00	Y		C7301	7		\$0.00	
EA	Construct Parkway Drain (at Sta 450+41)	\$ 1,500.00	\$ 1,500.00	Y		C6800, C6900	5, 3		\$0.00	
EA	Construct Parkway Drain (at Sta 439+39)	\$ 2,500.00	\$ 2,500.00	Y		C6800, C6900	5, 3		\$0.00	
LF	Construct Reinforced Concrete Box Culvert	\$ 200.00	\$ 44,000.00	Y		C5100	38	100%	\$44,000.00	
EA	Construct Curb Opening Inlet (Type OL-7) Caltrans std plan D72 including corner connection junction structure and local depression	\$ 2,000.00	\$ 2,000.00	Y		C7301	7		\$0.00	
LS	Clearing and Grubbing	\$ 75,000.00	\$ 75,000.00	Y		C1601	52	100%	\$75,000.00	
LS	Signing and Striping	\$ 140,000.00	\$ 140,000.00	Y	Y	C8405/C8406	5		\$0.00	C0800 < 10 DBEs
LS	Record of Construction Changes	\$ 6,999.00	\$ 6,999.00						\$0.00	
LS	Traffic Signal Modifications	\$ 50,000.00	\$ 50,000.00	Y	Y	C8602, C8603, C8604	5	12%	\$6,000.00	C0686 = 27 DBEs
		TOTAL	\$896,999.00					TOTAL DBE WORK	\$231,465.00	
		Work Code			Category			DBE Goal	15%	
		C0639			ASPHALT SUPPLIER(BULK ITEM)					
		C0686			ELECTRICAL & SIGNALS SUPPLIER					
		C0800			TRAFFIC STRIPES, MARKING AND TRAFFIC CONTROL MATERIALS SUPPLY					
		C1201			TRAFFIC CONTROL SYSTEM					
		C1522			RESET, ADJUST ROADWAY ITEMS					
		C1601			CLEARING & GRUBBING					
		C5100			CONCRETE STRUCTURE					
		C6800			SUBSURFACE DRAIN					
		C6900			DOWNDRAIN					
		C7301			CONCRETE CURB & SIDEWALK- MISC					
		C8405			THERMOPLASTIC TRAFFIC STRIPING & MARKING					
		C8406			PAINTED TRAFFIC STRIPING & MARKING					
		C8602			SIGNAL & LIGHTING					
		C8603			SIGNAL					
		C8604			LIGHTING					
		C8713			CONSULTANT, ENVIRONMENTAL					
		C8722			ENVIRONMENTAL ENGINEER					
		C9602			BOTTOM DUMP TRUCK					
		C9607			END DUMP TRUCK					

Distribution: (1) Original – Local Agency Project Files
(2) Copy – DLAE with PS&E Checklist

Exhibit 9-F Monthly Disadvantaged Business Enterprise (DBE) Payment

CONTRACT NUMBER		MONTH	YEAR	FEDERAL AID NUMBER		
PRIME CONTRACTOR/CONSULTANT		BUSINESS ADDRESS				
ITEM NUMBER	DBE FIRM NAME AND BUSINESS ADDRESS	DBE CERT NUMBER	AMOUNT PAID	DATE OF PAYMENT	TOTAL PERCENT OF DBE WORK COMPLETED TO DATE	COMMENTS

List all DBEs regardless of tier, whether or not the firms were originally listed for goal credit. If actual DBE utilization (or item of work) was different than that approved at the time of award, provide comments. Apply the DBE credit rules when reporting amount paid to DBEs. All payments reported, including payments to contractor/consultant, are for the month listed.

I CERTIFY THAT THE ABOVE INFORMATION IS COMPLETE AND CORRECT

CONTRACTOR/CONSULTANT REPRESENTATIVE SIGNATURE	CONTRACTOR/CONSULTANT REPRESENTATIVE NAME (PRINT)	BUSINESS PHONE NUMBER	DATE

TO BE COMPLETED BY RESIDENT ENGINEER/CONTRACT ADMINISTRATOR

TOTAL PAYMENTS TO CONTRACTOR/CONSULTANT	RESIDENT ENGINEER/CONTRACT ADMINISTRATOR'S NAME (PRINT)	BUSINESS PHONE NUMBER	DATE

COPY DISTRIBUTION: Original - Resident Engineer/Contract Administrator, Copy - OBEO - email businesssupportunit@dot.ca.gov

ADA NOTICE: For individuals with sensory disabilities, this document is available in alternate formats. For information, call (916) 445-1233, Local Assistance Procedures Manual TTY 711, or write to Records and Forms Management, 1120 N Street, MS-89, Sacramento, CA 95814.

Lump Sum or Firm Fixed Price

The consultant performs the services stated in the contract for an agreed amount as compensation, including a net fee or profit. This method of payment is appropriate only if the extent, scope, complexity, character, duration, and risk of the work have been sufficiently defined to permit fair compensation to be determined and evaluated by all parties during negotiations (see [Exhibit 10-H: Sample Cost Proposal, Example #1](#) and [Exhibit 10-R: A&E Sample Contract Language](#), Article V, Option 4).

Normally, a lump sum contract will be paid in full at end of the contract when completed. However, a lump sum contract can be negotiated with progress payment if feasible. The progress payment shall be based on percent of work complete or completion of clearly defined milestones. The contract cost proposal shall document the agreed upon progress payment and include the necessary milestones costs, or the percent work complete schedule.

10.3 A&E CONSULTANT AUDIT AND REVIEW PROCESS

This section outlines the audit and review process for A&E contracts that at any time use state or federal funds. All proposed A&E contracts and supporting documents are subject to audit or review by Caltrans' Independent Office of Audits and Investigations (A&I), other state audit organizations, or the federal government. Not all proposed contracts will be audited or reviewed; rather, they will be selected on a risk-based approach.

APPLICABLE STANDARDS

State and federal requirements listed below, and specific contract requirements, serve as the standards for audits and reviews performed. The local agencies, consultants, and subconsultants are responsible for complying with state, federal and specific contract requirements. Local agencies are responsible for determining the eligibility of costs to be reimbursed to consultants. Applicable standards include, but are not limited to:

- Caltrans Local Assistance Procedures Manual (LAPM);
- State and Federal agreements between the local agency and Caltrans, i.e. Master Agreements;
- Project Program Supplemental Agreements;
- 23 United States Code (U.S.C.), Section 112 – Letting of Contracts;
- 40 U.S.C., Chapter 11: the Brooks Act;

- 23 CFR, Chapter 1, Part 172 - Procurement, Management, and Administration of Engineering and Design Related Services;
- 23 CFR, Chapter 1- Federal Highway Administration, Department of Transportation;
- 48 CFR, Federal Acquisition Regulation, Chapter 1, Part 31- Contract Cost Principles and Procedures;

- 48 CFR, Chapter 99 – Cost Accounting Standards (CAS), Subpart 9900;
- 2 CFR, Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards;
- United States Government Accountability Office, Government Auditing Standards
 - Generally accepted government auditing standards (GAGAS);
- California Government Code sections 4525-4529; and
- Proposed contract terms and conditions.

See section 10.10 “References” of this Chapter for links to above referenced standards.

AUDIT GUIDANCE AVAILABLE

The American Association of State Highway Officials, Uniform Audit & Accounting Guide ([AASHTO Audit Guide](#)), which is referred to frequently in this section, is an invaluable tool to guide local agencies, consultants and certified public accountants (CPA) through the requirements for establishing, and audits of, FAR compliant Indirect Cost Rate (ICR). The [AASHTO Audit Guide](#) is used extensively as an industry guide in the audit and review process.

The local agency may seek financial and accounting assistance from its own internal audit staff and independent CPAs for compliance. The consultant may seek professional guidance in selecting its independent CPA. See also the [AASHTO Audit Guide](#), Ch 2.5 C. *Selection of CPA Firm as Overhead Auditor* for guidance in the selection process. Training is also offered by FHWA’s National Highway Institute (see <http://www.nhi.fhwa.dot.gov/default.aspx>). Courses offered include:

- Using the AASHTO Audit Guide for the Procurement and Administration of A&E Contracts (FHWA-NHI-231028)
- Using the AASHTO Audit Guide for the Development of A&E Consultant Indirect Cost Rates (FHWA- NHI-231029)
- Using the AASHTO Audit Guide for the Auditing and Oversight of A&E Consultant Indirect Cost Rates (FHWA-NHI-231030)

If consultants seek training that provides resources on how to build an ICR and basic timekeeping, there are Indirect Cost Rate and Timekeeping webinars created by the Washington State Department of Transportation (WA DOT). The link to the webinars is available at <http://www.dot.ca.gov/hq/audits/>. For training and additional information provided by the Caltrans Local Assistance, visit Caltrans Local Assistance Blog at <http://www.localassistanceblog.com/>. For FHWA’s Q&A for ICRs and audits, and A&E related services, visit FHWA at <http://www.fhwa.dot.gov/programadmin/172qa.cfm>.

ALLOWABLE COSTS

23 USC 112 (b)(2)(B) provides that any A&E contract or subcontract awarded, whether funded in whole or in part with Federal-aid highway funds in furtherance of highway construction projects, shall be performed and audited in compliance with the Federal cost principles. Local agencies are required to perform a cost analysis to ensure all costs are allowable in compliance

with federal and state requirements and retain documentation of negotiation activities and resources. Hourly rate(s) for each key personnel and/or classification of employee(s) proposed in cost proposals must be reasonable for the work performed and actual, allowable, and allocable in accordance with the Federal cost principles. Costs shall be allowable only if the cost is incurred and cost estimates included in negotiated prices are allowable in accordance with the federal and state regulations and procedures, and contract provisions. Local agency may use a sample Cost Analysis Worksheet (See Exhibit 10-H1 through 4).

Indirect costs incurred by local agencies are required to apply consultant or subconsultant's ICR, which has been accepted by Caltrans to contracts. An ICR is valid for the one-year applicable accounting period. ICRs shall be updated on an annual basis in accordance with the consultant's annual accounting period and in compliance with the Federal cost principles. For further guidance, refer to 23 CFR Part 172.11(b)(1). If the firm is subject to CAS, the firm must use the applicable indirect cost rate for the contract.

A consultant's accepted ICR for its one-year applicable accounting period shall be applied to contracts; however, once an ICR is established for a contract, it may be extended beyond the one-year applicable period, through the duration of the specific contract, provided all concerned parties agree. Agreement to the extension of the one-year applicable period shall not be a condition or qualification to be considered for the work or contract award. The contract must clearly specify the ICR period if it is beyond the one-year applicable period and agreed by all concerned parties.

Consultants shall account for costs appropriately and maintain records, including supporting documentation, adequate to demonstrate that costs claimed have been incurred, are allocable to the contract, and comply with the Federal cost principles.

A&I and representatives of the Federal Government have the right to conduct an audit of all costs. If the costs are subsequently determined to be unallowable, these costs are subject to repayment. For further guidance, refer to 23 CFR Part 172 and 48 CFR Part 31.

Generally, whenever the local agencies, consultants and contractors are unable to provide requested information, it shall be viewed that the required actions were either never performed or not properly recorded. Therefore, retention of all the relevant documents is not only required but also important as it minimizes negative findings, **disallowed costs** and assumptions. For more references, refer to Applicable Standards in this chapter.

APPROVAL OR ACCEPTANCE OF INDIRECT COST RATES

Cognizant Letters of Approval

A cognizant approved ICR refers to the ICR established by an audit in accordance with GAGAS or CPA Workpaper Review in accordance with GAGAS to test compliance with the Federal cost principles and accepted by a cognizant agency.

Once reasonable assurance is obtained, the cognizant agency establishes and approves the ICR and a cognizant approval letter is issued. A cognizant agency may be the home state Department of Transportation (DOT) (the state where the consultant's accounting and financial records are located), a federal agency, or a State transportation agency to which cognizance for the particular ICRs of a consulting firm has been delegated or transferred in writing. When providing cognizant

ICR approval, the cognizant agency may perform either an ICR audit or review of an audit report and related work performed by, and the workpapers prepared by a CPA in accordance with GAGAS.

Caltrans Acceptance of Indirect Cost Rate

When the ICRs have not been established by a cognizant agency, Caltrans shall perform an audit or review of a consultant's and subconsultant's ICR to provide reasonable assurance of compliance with the Federal cost principles. An audit or review may consist of one or more of the following:

- Conduct a risk-based review of the ICR calculation and supporting documents;
- Perform an audit in accordance with GAGAS and issuing an audit report;
- Review and accept an audit report and related workpapers prepared by a CPA or another State Transportation Agency;

The outcome of an audit or review is for Caltrans to approve or accept the ICR so that it can be relied upon for future contracts with the consultant for a given one-year accounting period and for reliance by other contracting agencies using the same consultant. Local agencies shall ensure that only approved or accepted ICRs of consultants for the applicable one-year accounting period be applied to contracts, if rates are not under dispute. Local agencies may check A&I's website for consultant's approved or accepted ICRs. All approved or accepted ICRs are issued an Acceptance Identification (ID) number by A&I that is posted to A&I's website at <http://www.dot.ca.gov/hq/audits/>. This ID number should be referenced on all future contracts that use the same fiscal year ICR.

ICRs that have not been accepted by Caltrans will not be eligible for indirect cost payment. An ICR approved by a cognizant agency may be used across states for the one-year applicable accounting period but an ICR accepted by Caltrans may only be applied to A&E contracts entered into with the Caltrans and local agencies. Local agencies include Cities, Counties, Metropolitan Planning Organization, Special Districts, and Regional Transportation Planning Agency that receive federal funds from Caltrans.

Financial Review Performed Prior to Contract Execution

All consultants, including prime and subconsultants, on a proposed contract with a dollar value greater than \$150K are subject to a financial review of the ICR by A&I. The financial documents required are detailed in the Exhibit 10-A, *A&E Consultant Financial Review Request Letter and Exhibit 10-A Checklist*. A&I will review the ICR financial documents to either accept, adjust, or reject the rate **prior to contract execution** using a risk-based approach as dictated by factors that include but are not limited to:

- History of satisfactory performance and professional reputation of consultant;
- Prior FAR compliant history and audit frequency;
- Financial stability;
- Conformance to terms and conditions of previous contracts;
- General responsiveness and responsibility;
- The approximate dollar amount of all A&E contracts awarded to the consultant by Caltrans or a local agency in California within the last three calendar years;
- The number of states in which the consultant does business;
- The type and complexity of the consultant's accounting system;

- The relevant professional experience of any CPA performing audits of the consultants indirect cost rate;
- Assessment of consultant's internal control. Responses to internal control questionnaire, see AASHTO Audit Guide, Appendix B;
- Stability of organizational staffing.

For ICRs that have been adjusted or rejected by A&I, the consultant must provide a revised cost proposal that reflects the adjusted or excluded indirect costs.

Local Agencies' Responsibilities

Local Agencies are responsible for obtaining all required ICR supporting documentation from A&E prime consultants and sub-consultants as outlined in Exhibit 10-A (*A&E Consultant Audit Request Letter*) and the Exhibit 10A-Checklist. Local Agencies are responsible for forwarding these documents to A&I for review and acceptance of the ICR. Local agencies are also required to ensure that A&I has copies of the Exhibit 10-K "*Consultant Certification of Contract Costs and Financial Management System*" and Exhibit 10-H "*Cost Proposal*" for all consultants, both prime and sub-consultants. The ICR included in Exhibit 10-H must match the ICR included in the Exhibit 10-K and the consultant's ICR schedule. For contracts spanning more than one year, local agencies are responsible for ensuring the Exhibit 10-K and cost proposals are updated annually unless all concerned parties agree to fix the ICR for the term of contract, and this is clearly specified in the contract.

The Exhibit 10-H "*Cost Proposal*" includes contract costs: direct salary or wage rates, fixed fees, other direct costs, indirect costs, total costs, and certification for the costs. Local agencies must perform and retain documentation of activities and resources used to support that a cost analysis has been performed to establish that costs and elements were determined to be fair and reasonable in accordance with Federal cost principles.

All contract supporting documentation must be retained by the local agency in project files for the required retention period. Unsupported costs may be disallowed and required to be returned to Caltrans. Having proper documentation policy and procedures, trained staff and organized project files are essential for demonstrating that costs claimed and reimbursed have been incurred, are eligible, allowable, and allocable to the contract and comply with federal cost principles.

Contracts below \$150,000 are not subject to the Caltrans Financial Document Review but local agencies are required to establish that all costs are in compliance with the Federal cost principles, 23 CFR Part 172 and other applicable requirements are met. All documents listed above and cost analysis documents are required to be retained in the project files to demonstrate compliance.

Consultants' Responsibilities (Both prime consultants and subconsultants)

A&E prime consultants and sub-consultants in contract with local agencies using state or federal-aid highway fund should refer to Exhibit 10-A and the 10-A Checklist for the ICR financial documents required to be submitted to their local agency for forwarding to A&I. Consultants must complete the "Annual Certification of Indirect Costs and Financial Management System" (Exhibit 10-K) that attests that the ICR rate proposed is in compliance with FAR (48 CFR Part 31) and that the consultant's financial management system is adequate to accumulate and segregate, reasonable, allowable and allocable direct and indirect project costs. For all future contracts in one fiscal year,

the consultant need only provide a copy of the Exhibit 10-K to the Local Agency. The Exhibit 10-A and 10-K should be submitted to the local agency who will forward a copy to A&I along with all other related and required financial documents.

Consultants must also follow all the federal, state, and contract requirements outlined above in the Section above, “*Applicable Standards*”. Each contracting consultant must ensure its ICR is not combined with any parent company’s or subsidiaries’ ICR.

ICR schedules should be prepared using the accrual basis of accounting and presented in compliance with the Federal cost principles for both the prime consultant and subconsultants.

All workers employed on public works project must be paid the prevailing wage rate determined by the Director of the Department of Industrial Relations according to the type of work and location of the project. <http://www.dir.ca.gov/Public-Works/Prevailing-Wage.html>. Prime and subconsultant consultants must include prevailing wage rate information in the cost proposal (see *Exhibit 10-H1-3 for example*) and provide a Prevailing Wage Rate Policy on company letterhead, signed and dated. The policy must document their accounting treatment for prevailing wage deltas and including the following information:

- Description of types of work they perform which require payment of prevailing wage rates
- Explanation of how the firm pays prevailing wage deltas to affected employees (e.g. pay directly to employee as single amount to cover delta base and delta fringe, pay delta base to employee and pay delta fringe amount to a third party plan, etc.)
- Accounting method used for prevailing wage delta base costs
- Accounting method used for prevailing wage delta fringe costs
- Effect on firm’s most recently completed indirect cost rate

For guidance see Caltrans’ Prevailing Wage Interpretive Guidance on A&I’s website www.dot.ca.gov/audits

Consultant’s labor distribution summary report is a labor expense report that detail all hours worked (paid and unpaid), wages earned, and benefits accrued by all of the consultant’s employees. The labor summary report should detail, but not be limited to, employee names, salaries, hourly rates, total hours worked, direct hours, indirect hours by type, general ledger accounts, paid time off hours, uncompensated hours and amounts, etc.

Executive compensation analysis is an evaluation by the consultant to determine the allow ability and reasonableness of executive compensation in compliance with the Federal cost principles and AASHTO Audit Guide. The executive compensation analysis using the National Compensation Matrix or independent compensation surveys demonstrates and supports the allow ability and reasonableness of executive compensation.

Audits and Investigations’ Responsibilities

After A&I receives a complete financial document packet (per Exhibit 10-A) from the local agency, A&I will review the consultants’ proposed ICR and supporting documents and then notify consultants and local agencies in writing whether the proposed ICRs are accepted, adjusted, or denied.

Caltrans A&I and representatives of the federal government have the right to conduct a final audit of all costs. If the costs are subsequently determined to be unallowable, these costs are subject to repayment.

Contracts will be executed after A&I either accepts, adjusts, or rejects the ICR and a revised final cost proposal (if applicable) is received. Correction of the final cost proposal, however, does NOT need to be cleared through Caltrans A&I before executing the contract. The letter of acceptance along with the executed contract shall be retained in the project file. Failure to reflect the adjusted or denied ICR in a revised final cost proposal may result in the disallowance of costs.

Instructions are provided in the Exhibit 10-A on how to submit a complete Financial Review packet. Submit documents for Financial Review requests to conformance.review@dot.ca.gov.

Alternatively, if you do not have Internet access, you can mail Financial Review packets to Caltrans' A&I mailing address:

Department of Transportation
Independent Office of Audits and
Investigations, MS 2 Attention:
External Audit Manager

P.O. Box
942874
Sacramento,
CA 94274-
0001

AUDITS AND REVIEWS TO BE PERFORMED

An audit, as defined in 23 CFR 172.3, is defined as a formal examination, in accordance with professional standards of a consultant's accounting systems, incurred cost records, and other cost presentations to test the reasonableness, allow ability, and allocability of costs in accordance with the Federal cost principles (as specified in 48 CFR part 31.) AASHTO Audit Guide Chapter 1.3 defines an audit as a formal examination, in accordance with professional standards, of accounting systems, incurred cost records, and other cost presentations to verify their reasonableness, allowability, and allocability for negotiating agreement fees and for determining allowable costs to be charged to government contracts. Audit objectives include the identification and evaluation of all activities that contribute to, or have an impact on, proposed or incurred costs related to government contracts.

Indirect Cost Rate Audits

During an ICR audit, the auditors (A&I or independent CPAs) will examine the consultant's proposed ICR for the applicable one-year accounting period on the proposed contract to ensure that unallowable costs have been removed from the indirect costs, that allowable costs have been correctly measured and properly charged and allocated, and that the ICR has been developed in accordance with the Federal cost principles (as specified in 23 U.S.C. Section 112(b)(2)(B), 23 CFR

Part 172.11, 48 CFR Part 31 and other FAR and State requirements. As a result of the audit, the local agency will work with the consultant to adjust the ICR and contract costs, if applicable, where disallowed costs are identified based on audit recommendations.

For guidance regarding the existing policies and procedures set forth in the federal regulations, and acceptable ICR schedules, refer to the AASHTO Audit Guide, Chapter 5, and Figure 10-3 Standard Indirect Cost Rate Schedule in this Chapter. The review program in the AASHTO Audit Guide, Appendix A, should be used as a guide in performing ICR audits. This review program is used for reviews of CPA audited ICR workpapers.

CPA Workpaper Reviews

During a workpaper review of a CPA audit of an ICR, A&I will review the CPA's audit workpapers to determine whether it is appropriate to issue a Cognizant Letter of Approval or accept the ICR. The CPA Workpaper Review is conducted to determine whether: (a) the CPA's audit of the ICR was conducted in accordance with generally accepted government auditing standards (GAGAS), (b) the CPA adequately considered the auditee's compliance with the Federal cost principles and related federal and state laws and regulations, and (c) the audit report format and contents are acceptable. Figure 10-3 Standard Indirect Cost Rate Schedule provided at the end of this chapter provides required format and contents. Chapter 11 of the AASHTO Audit Guide provides information for the audit and required disclosures. CPAs are required to furnish copies of their workpapers as requested. A CPA Workpaper Review may apply to all contracts selected for review. The outcome of the CPA Workpaper Review is a Cognizant Letter of Approval or Caltrans Acceptance of ICR. The review program in the AASHTO Audit Guide, Appendix A, is used in performing CPA Workpaper Reviews.

IMPORTANT NOTE FOR CPAs: Contracts receiving state or federal funds are highly scrutinized. Materiality levels tend to be lower and more testing is required. GAGAS provides that auditors may find it appropriate to use lower materiality levels as compared with the materiality levels used in non-GAGAS audits because of the public accountability of government entities and entities receiving government funding, various legal and regulatory requirements, and the visibility and sensitivity of government programs. Use of the AASHTO Audit Guide should be used as a tool for performing audits and attestations of A&E firms.

Contract Audits

During a Contract Audit or Review, auditors will review contracts and the consultants' financial management system and contract cost proposal to determine if:

- The consultants' accounting system is adequate to accumulate and segregate costs;
- Costs are reasonable, allowable, and allocable and are supported adequately;
- The contract contains all required fiscal provisions and the provisions are verbatim;

- Proper state and federal procurement requirements were followed; and
- Other audits/reviews of the contract as necessary.

Incurred Cost Audits

During an Incurred Cost Audit auditors will review incurred contract costs to determine if:

- Cost data are maintained in an acceptable accounting control system that gathers, records, classifies, analyzes, summarizes, and report accurate and timely financial data, which includes subsystems such as project and other direct costs, compensation, billing, and labor.
- Costs are adequately supported;
- Reasonable, allowable, and allocable;
- Compliance with state and federal laws and regulations;
- Compliance with the Master Agreement and Supplemental Agreement;
- Compliance with the fiscal provisions stipulated in the contract; and
- The terms required by the Master Agreement and federal laws and regulations are in the contract.

AUDIT FINDINGS AND REVIEW DEFICIENCIES

If audited or reviewed, local agencies are responsible for ensuring contracts, cost proposals, and ICR(s) are modified to conform to audit and review recommendations as necessary, and to ensure that audit findings and review deficiencies are resolved in a timely manner. Failure to do so may result in costs being disallowed.

The local agencies may be subject to sanctions outlined in Chapter 20 “*Deficiencies and Sanctions*” if the state or federal government determines that any reimbursements to the consultant are the result of the lack of proper contract provisions, unallowable charges, unsupported activities, or an inadequate financial management system.

FAR Compliant, Inc. - Statement of Direct Labor, Fringe Benefits, and General Overhead For the year ended December 31, 20xx

Description	General Ledger Balance	Unallowable	FAR Reference	Total Proposed	Home Office	Field Office
Direct Labor	\$123,456,789	(\$934,568)	(1)(15)	\$122,522,221	\$85,765,555	\$36,756,666
Fringe Benefits						
Vacation/Paid Leaves	\$17,283,950			\$17,283,950	\$12,098,765	\$5,185,185
Payroll Taxes	\$1,530,864	(\$30,617)	(15)	\$1,500,247	\$1,050,173	\$450,074
Medical Insurance	\$10,864,197			\$10,864,197	\$7,604,938	\$3,259,259
401K Match	\$4,938,272			\$4,938,272	\$3,456,790	\$1,481,481
Incentives and Bonus	\$15,308,642	(\$3,123,456)	(2)	\$12,185,186	\$8,529,630	\$3,655,556
Other Employee Benefits	\$2,515,280	(\$553,433)	(3)	\$1,961,847	\$1,373,293	\$588,554
Total Fringe Benefits	\$52,441,206	(\$3,707,506)		\$48,733,700	\$34,113,590	\$14,620,110
General & Administrative Overhead						
Indirect Overhead Labor	\$72,696,030	(\$4,452,541)	(1)(2)(4)(15)	\$68,243,489	\$65,790,948	\$2,452,541
Purchased Labor/Subconsultants	\$22,433,019	(\$22,433,019)	(5)	\$ -	\$ -	\$ -
Office Rent	\$12,345,679	(\$987,654)	(6)	\$11,358,025	\$11,038,025	\$320,000
Supplies & Utilities	\$5,753,086			\$5,753,086	\$4,027,160	\$1,725,926
Postage and Shipping	\$1,770,000	\$321,456	(5)	\$2,091,456	\$1,464,019	\$627,437
Equipment and Maintenance	\$3,812,346			\$3,812,346	\$2,512,789	\$1,299,557
Depreciation Expense	\$6,202,469	(\$1,345,678)	(7)	\$4,856,791	\$3,205,482	\$1,651,309
Interest	\$123,456	(\$123,456)	(8)	\$ -	\$ -	\$ -
Dues and Subscription	\$123,456	(\$12,345)	(9)	\$111,111	\$77,778	\$33,333
Advertising & Marketing	\$427,406	(\$45,678)	(10)	\$381,728	\$267,210	\$114,518
Vehicles	\$5,896,123	(\$147,403)	(5)(11)(14)	\$5,748,720	\$4,024,104	\$1,724,616
Bad debts	\$12,345	(\$12,345)	(12)	\$ -	\$ -	\$ -
Legal and Accounting Services	\$3,713,580	(\$222,815)	(13)	\$3,490,765	\$3,490,765	\$ -
Fines and Penalties	\$80,000	(\$80,000)	(16)	\$ -	\$ -	\$ -
Total General & Admin. Overhead	\$135,388,995	(\$29,541,478)		\$105,847,517	\$95,898,280	\$9,949,237
Total Indirect Costs				\$154,581,216	\$130,011,870	\$24,569,347
Indirect Cost Rates				126.17%	151.59%	66.84%

Figure 10.3: Standard Indirect Cost Rate Schedule

FAR References:

- (1) FAR 31.202: Uncompensated overtime.
- (2) FAR 31.205-6: Profit distribution and excess of the reasonable compensation.
- (3) FAR 31.205-46, 31.205-14 & 31.205-51: Meals not for valid business purposes and associated with lobbying and lacking adequate support
- (4) FAR 31.201-2: Administrative staff costs billed to projects/clients.
- (5) FAR 31.201-2: Subconsultant labor and other direct costs billed to and paid by contracts/clients.
- (6) FAR 31.205-36 and 31.205-17: Capital lease costs, rent paid in excess of reasonable costs, and idle facilities and capacity costs.
- (7) FAR 31.201-2 & 31.205-6: Costs relates to personal use by employees and luxury vehicles.
- (8) FAR 31.205-20: Interest and other financial costs not allowable.
- (9) FAR 31.201-2: Non-business related dues and subscriptions.
- (10) FAR 31.205-1: Costs for advertisement and public relations costs and trade show expense including labor.
- (11) FAR 31.205-46(d) and 31.205-6(m)(2): Personal use of vehicle and lack of mileage logs and business purpose.
- (12) FAR 31-205-3: Bad debts and collection costs.
- (13) FAR 31.205-27 and 31.205-47: Reorganization and capital raising related costs and costs incurred in connection with violation of a law or regulation by the consultant.
- (14) FAR 31.205-46: Unreasonable costs and costs not supported by documents and lack of business purpose.
- (15) FAR 31.201-6(a) & CAS 405-40: Labor costs associated with unallowable costs.
- (16) FAR 31.205-15: Fines and penalties resulting from violations of laws and regulations.

- Description of project;
- Scope of work;
- Schedule of work (including estimated start and end dates of the contract);
- Method of payment, and cost proposal requirements. The cost proposal is submitted in a separate sealed envelope. See [Exhibit 10-H: Sample Cost Proposal \(Example 3\)](#) for sample cost proposal formats;
- Contract audit and review process requirements (see [Section 10.3: A&E Consultant Audit and Review Process](#));
- Proposal format and required contents;
- Method, criteria and weighting for selection;
- A DBE contract goal is specified (see [Exhibit 10-I: Notice to Proposers DBE Information](#)), if a federal-aid contract;
- Consultants acting in a management support role requirements [Exhibit 10-U: Consultant in Management Support Role Conflict of Interest and Confidentiality Statement](#);
- Protest procedures and dispute resolution process per 2 CFR Part 200.318(k).

The RFP specifies the content of a proposal, the number of copies required, due date, mailing address, and a physical address where the submittals may be hand delivered if different from the mailing address. Two to four weeks is usually allowed between the time the RFP is published and time that proposals must be submitted. More time may be required for complex contracts or projects.

Items typically required in a technical proposal include:

- Work plan (specify what is to be covered);
- Organizational chart;
- Schedule and deadlines;
- Staffing plan;
- Proposed Team—complete for prime consultant and all key subconsultants;
- Key personnel names and classifications—key team members identified in the original proposal/cost proposal shall not change (be different than) in the executed contract;
- Staff resumes;
- Names of consultant’s project manager and the individual authorized to negotiate the contract on behalf of the consulting firm;
- Consultant DBE Commitment document, see [Exhibit 10-O1: Consultant Proposal DBE Commitment](#);

considered nonresponsive and rejected without evaluation. Late submittals, submittals to the wrong location, or submittals with inadequate copies are considered nonresponsive and shall be rejected. Submittal of additional information after the due date shall not be allowed.

Documentation of when each proposal was received must be maintained in the project files. Copies of date stamped envelope covers or box tops are recommended. The members of the consultant selection committee must evaluate each proposal according to the technical criteria listed in the RFP. Minimum of three proposals must be received and evaluated. If only two proposals are received, a justification must be documented to proceed with the procurement. If only one proposal is received, a Non Competitive process must be justified and a Public Interest Finding (PIF) must be documented and signed by the DLAE. In either case, the re-advertisement of the RFP should be considered as an option.

The committee must also evaluate reference checks and other information gathered independently. Reference checks shall be completed and other information gathered before the interviews are conducted. If necessary, the results of the reference checks or other information may be discussed with the highest ranked qualified consultants at the interviews.

Develop Final Ranking and Notify Consultants of Results

The selection committee discusses and documents the strengths and weaknesses of each proposal; interviews the three or more highest ranked consultants (short listed); and develops a final ranking of the highest ranked consultants. All consultants that submitted proposals must be informed about the final ranking of consultants. It is important that all competing consultants receive the same information.

Most consultants will request information as to why they were not the highest ranked. Therefore, the selection committee should keep notes as to why a particular consultant was not selected. When a consultant requests debriefing, the reasons for not being selected must be objective reasons. The consultant should not be compared to others, and should not be provided with information about other consultants during this debriefing. Normally, the Contract Administrator does the debriefing; however, any member of the selection committee may be designated to do the debriefing.

Negotiate Contract with Top-Ranked Consultant

Cost proposal (for both Prime and all Subconsultant), and contract audit and review documents such as [Exhibit 10-K: Consultant Certification of Contract Costs and financial Management System](#) of Costs and Financial Management System and [Exhibit 10-A: A&E Consultant Audit Request Letter and Checklist](#), whichever applicable (see [Section 10.3: A&E Consultant Audit and Review Process](#)) should be submitted in a separate sealed envelope. Typically, the cost proposals are submitted by the short listed consultants only, at time of interview. However, if time is of the essence and it can be justified, or if no interviews are planned, the cost proposal can be requested from all consultant with their technical proposal.

The cost proposal for the most qualified consultant will be opened and used to begin negotiations. If agreement cannot be reached, then negotiations proceeds to the next most qualified consultant. Each consultant's cost proposal must remain sealed until negotiations

commence with that particular consultant. The goal of negotiations is to agree on a final contract that delivers the services, or products required at a fair and reasonable cost to the local agency. At the completion of successful cost negotiations, all remaining sealed envelopes containing cost proposals shall be returned to consultants.

Cost proposals in electronic form shall be submitted separately from the RFP and contained in a secure database that is inaccessible to the members involved in the A&E consultant contract procurement process. Only the cost proposal of the most qualified consultant will be requested to be sent to the members. Cost proposals of unsuccessful consultants are confidential and shall not be opened by the local agency or any private entity that the local agency uses to store the cost proposals. Any concealed cost proposals of the unsuccessful consultants must be properly disposed of by permanently deleting the cost proposals and/or any copy of the cost proposals.

The independent cost estimate, developed by the local agency in advance of requesting a cost proposal from the top-ranked consultant, is an important basis and tool for negotiations or terminating unsuccessful negotiations with the most qualified consultant. It can be revised, if needed, for use in negotiations with the next most qualified consultant. A contract audit and review may be required (see [Section 10.3: A&E Consultant Audit and Review Process](#) in this chapter). Local agency Contract Administrator ensures that all required documentations are provided to Caltrans A&I within 10 days of written request, including all documents for a Financial Review, if applicable. Caltrans A&I will not proceed with a Financial Document Review until all required documentation is completed correctly and submitted. Negotiations should be finalized after addressing all deficiencies noted in the Caltrans A&I Financial Review Letter if applicable. An indirect cost audit may be performed within the record retention period of the contract.

Items typically negotiated include:

- Work plan;
- Schedule and deadlines (for deliverables and final duration of contract);
- Products to be delivered;
- Classification, wage rates, and experience level of personnel to be assigned;
- Cost items, payments, and fees. Fee is required to be negotiated as a separate element
- Hours, level of effort by task and/or classification

The consultant's ICR is not a negotiable item. A lower rate cannot be negotiated by the local agency. The local agency and the consultant will agree on the final cost proposal and incorporate into final contract.

Before executing the consultant contract, the local agency must review contract to ensure that all federal and state requirements have been met (see [Exhibit 10-C: A&E Consultant Contract Reviewers Checklist](#)), and adjustment or denial of ICR as identified in the Financial Review Letter has been included in the final cost proposal, if applicable.

Prior to contract award, the local agency must submit a completed [Exhibit 10-C](#) signed by the Contract Administrator for all new or amended federal and/or state funded A&E consultant contracts to aeoversight@dot.ca.gov for Caltrans review and acceptance. If there are any changes to the contract after Caltrans acceptance of [Exhibit 10-C](#), the local agency must notify Caltrans and provide a copy of an updated [Exhibit 10-C](#) and all contract amendments to aeoversight@dot.ca.gov. Execution of an A&E consultant contract without Caltrans acceptance may result in ineligibility for reimbursement. Submission of [Exhibit 10-C](#) to Caltrans HQ for acceptance is not required for non-A&E consultant contracts.

10.6 CONSULTANT SELECTION USING THE ONE-STEP RFQ METHOD

The RFQ method is used when the services being procured are specialized, or the scope of work is defined broadly and may include multiple projects.

Appoint Consultant Selection Committee

A consultant selection committee with a minimum of three members is appointed at the beginning of the consultant selection process. The committee reviews and scores the materials submitted by consultants in response to the RFQ, develops a shortlist of qualified consultants, interviews those consultants, and develops a final ranking of the most qualified consultants. Representation on the committee includes the Contract Administrator and subject matter experts from the project's functional area. The members should be familiar with the scope of work to be contracted out and with the local agency standards that will be used in the contract.

Participation by a Caltrans district representative is at the option of the local agency and subject to the availability of the DLAE staff. Caltrans participation on the interview panel does not relieve the local agency of its responsibility to ensure that proper procurement procedures are followed and all requirements are met.

Local agency Contract Administrator ensures that all committee members meet the conflict of interest requirements (23 CFR 172) by completing and signing a conflict of interest statement prior to selection process initiation. A sample conflict of interest form is provided in [Exhibit 10-T: Panel Member Conflict of Interest & Confidentiality Statement](#).

Develop Technical Criteria for Evaluation of Qualifications

The Contract Administrator is responsible for developing the technical criteria, and their relative importance which are used to evaluate and rank the consultant qualifications. The criteria and relative weights must be included in the RFQ, and the same criteria and relative weights must be used in the evaluation sheets. Failure to include criteria and relative weights and to use the same criteria and weights during the evaluation will result in the contract costs being ineligible for federal or state reimbursement. [Exhibit 10-B: Suggested Consultant Evaluation Sheet](#) is a recommended evaluation sheet with criteria and rating points for A&E consultants, where cost is not used as a rating factor. This format is not mandatory, but it is recommended in the interest of developing consistency among the hundreds of agencies and consultants operating in the state. The local agency should consult with the DLAE before making major changes to the suggested approach.

Receive/Evaluate Statements of Qualifications and Develop Shortlist

The first step in the evaluation process is to determine that each SOQ contains all forms and other information required by the RFQ. Otherwise, the submittals may be considered nonresponsive and rejected without evaluation. Late submittals, submittals to the wrong location, and submittals with inadequate copies are considered nonresponsive and shall be rejected. Submittal of additional information after the due date shall not be allowed. Documentation of when each proposal was received must be maintained in the project files. Copies of date stamped envelope covers or box tops are recommended.

Minimum of three proposals must be received and evaluated. If only two proposals are received, a justification must be documented to proceed with the procurement. If only one proposal is received, a Non-Competitive process must be justified and a Public Interest Finding (PIF) must be documented and signed by the DLAE. In either case, the re-advertisement of the RFP should be considered as an option.

The consultant selection committee reviews the submitted SOQ according to the published evaluation criteria and weighting factors. The committee makes an independent random check of one or more of the consultant's references. This check applies to major subconsultants also. The committee establishes a shortlist of consultants who are considered to be best qualified to perform the contract work. The shortlist includes enough qualified consultants to ensure that at least three consultants are interviewed.

Notify Consultants of Shortlist

All consultants that submitted an SOQ must be notified of the results of the review. The notification also identifies those consultants (short list) that will be requested to attend interviews. Most consultants will request information as to why they were not placed on the shortlist. Therefore, the selection committee should keep notes why a particular consultant was not selected for the shortlist. When a consultant requests a debriefing, the reasons given for not being selected must be objective reasons. Consultants should not be compared with each other during the debriefing. Normally, the Contract Administrator does the debriefing; however, any member of the selection committee may be designated to do the debriefing.

Interview Top-Ranked Consultants

Each consultant to be interviewed is given a copy of the draft of the proposed contract, defining the detailed scope of work, and/or description of required services, and other information. This should be sent with the initial notification of the interview.

Between the time of the notification of the shortlist and interviews, the local agency may answer any questions concerning the scope of work to be contracted out, if not done earlier during the solicitation. In addition, the local agency may conduct additional reference checks for each consultant to be interviewed. Consultants should submit their questions about the RFQ and receive their answers from the local agency in writing. It is required that all consultants on the shortlist receive the questions and answers and are given the same information.

The committee should evaluate reference checks and other information that is gathered independently. Reference checks shall be completed and other information gathered before the

Alternatively, if time is of the essence and it can be justified, sealed cost proposals may be requested from all of the consultants on the shortlist.

If the contract involves more than one project, the consultant must provide a separate cost proposal for each project in addition to a summary cost proposal for the total contract. If the contract involves milestones, the consultant must furnish a separate cost proposal for each milestone with a summary cost proposal for the total costs. If the contract involves subconsultants, the prime consultant must include a separate cost proposal for each subconsultant. Each subconsultant's cost proposal must follow the same format as the prime consultant's cost proposal.

Negotiate Contract with Top-Ranked Consultant

Cost proposal (for both Prime and all Subconsultant), and contract audit and review documents such as [Exhibit 10-K: Consultant Certification of Contract Costs and Financial Management System](#) and [Exhibit 10-A: A&E Consultant Audit Request Letter and Checklist](#), whichever applicable (see [Section 10.3: A&E Consultant Audit and Review Process](#)) will be submitted in a separate sealed envelope. Typically, the cost proposals are submitted by the short listed consultants only, at time of interview. However, if time is of the essence and it can be justified, or if no interviews are planned, the cost proposal can be requested from all consultant with their statements of qualification.

After the top-ranked consultant submits a sealed cost proposal, the local agency reviews the cost proposal and compares it with the local agency's confidential detailed independent cost estimate and enters into negotiations. The goal of negotiation is to agree on a final contract that delivers to the local agency the services or products required at a fair and reasonable cost. The independent cost estimate, developed by the local agency in advance of requesting a cost proposal from the top-ranked consultant, is an important basis and tool for negotiations.

Negotiations should commence with the most qualified consultant. If agreement on a fair and reasonable price cannot be reached, negotiations should then be formally terminated. Negotiations then proceed to the next most qualified consultant, and so on. Each consultant's cost proposal must remain sealed until negotiations commence with that particular consultant.

At the completion of successful cost negotiations, all remaining sealed envelopes containing cost proposals shall be returned to consultants.

Cost proposals in electronic form shall be submitted separately from the RFQ and contained in a secure database that is inaccessible to the members involved in the A&E consultant contract procurement process. Only the cost proposal of the most qualified consultant will be requested to be sent to the members. Cost proposals of unsuccessful consultants are confidential and shall not be opened by the local agency or any private entity that the local agency uses to store the cost proposals. Any concealed cost proposals of the unsuccessful consultants must be properly disposed of by permanently deleting the cost proposals and/or any copy of the cost proposals.

A contract audit and review may be required (see [Section 10.3: A&E Consultant Audit and Review Process](#) earlier in this chapter). Local agency Contract Administrator is responsible for the submittal of all required documentations to Caltrans A&I in a timely fashion, including all

documents for a Financial Review, if applicable. Caltrans A&I will not proceed with a Financial Review until all required documentation is completed correctly and submitted. Negotiations may be completed after receipt of the Caltrans A&I Financial Review Letter. An indirect cost audit may be performed within the record retention period of the contract.

The items typically negotiated include:

- Work plan;
- Staffing plan;
- Schedule (including contract begin and end dates);
- Products to be delivered;
- Classification, wage rates, and experience level of personnel to be assigned;
- Cost items, payments and fee. Fee is required to be negotiated as a separate element.

The consultant's ICR is not a negotiable item. A lower rate cannot be negotiated by the local agency. For on-call contracts, typically a price agreement is reached based on specific rate of compensation for the term of the contract. The subsequent task orders (or mini agreements for individual project work) is negotiated based on actual cost plus fee, or lump sum, which is derived from the wage rates agreed upon earlier for the on-call contract.

Before executing the consultant contract, the local agency must review contract to ensure that all federal and state requirements have been met (see [Exhibit 10-C: A&E Consultant Contract Reviewers Checklist](#)), and receive Caltrans A&I's Financial Review acceptance letter, if applicable.

Prior to contract award, the local agency must submit a completed [Exhibit 10-C](#) signed by the Contract Administrator for all new or amended federal and/or state funded A&E consultant contracts to aeoversight@dot.ca.gov for Caltrans review and acceptance. If there are any changes to the contract after Caltrans acceptance of [Exhibit 10-C](#), the local agency must notify Caltrans and provide a copy of an updated [Exhibit 10-C](#) and all contract amendments to aeoversight@dot.ca.gov. Execution of an A&E consultant contract without Caltrans acceptance may result in ineligibility for reimbursement. Submission of [Exhibit 10-C](#) is not required for non-A&E consultant contracts..

10.7 CONSULTANT SELECTION USING THE TWO-STEP RFQ/RFP METHOD

Combined RFQ and RFP

Selecting consultants using the Two-Step RFQ/RFP method requires combining certain steps from each of the other two methods previously described. The consultants are rated based upon both their qualifications and their technical proposals.

The initial steps in this method (up to the development and notification of the shortlist) are the same as the steps followed when using the One-Step RFQ method. At this point, the consultants from the shortlist are issued an RFP. The remaining steps are the same as the later steps followed in the One-Step RFP method. The combination of these steps is indicated in

Figure 10-4: Consultant Selection Flowchart. Because it is a combination of the One-Step RFQ and One-Step RFP methods, this method of consultant selection requires more work and time than the other two methods. Consequently, the combined RFQ/RFP method is recommended for use only when the scope of work is very complex or unusual. The Two-Step RFQ/RFP is also well suited for procuring multiple on-call contracts through single solicitation. The outcome of the first step - RFQ will be multiple contracts, or on-call list of consultants with cost/price agreements. The subsequent project work will be procured thru individual competition or mini-RFPs amongst the on-call consultants. The mini-RFP or the task order will be negotiated with first ranked firm from each competition. Task order (mini-RFP) cost will be based on wage rates established in the master on-call contract, and the time and deliverable requirements in the task order.

10.8 COMPLETING THE PROJECT

Develop the Final Contract

The Contract Administrator requests a revised cost proposal from the consultant after: (1) negotiations have been completed, (2) the local agency and consultant have agreed to a fair and reasonable price, and (3) a letter, if applicable, is released by Caltrans A&I that accepts, denies or makes an adjustment to the proposed ICR. The Contract Administrator should review the revised cost proposal to ensure that all the items and changes discussed during negotiation were included. This revised cost proposal then becomes the final cost proposal, is attached to and made a part of the consultant contract. For informational purposes, sample contract language and format have been included as [Exhibit 10-R: A&E Sample Contract Language](#).

The Contract Administrator has responsibility to ensure that the final negotiated contract is complete and has verified that all required backup documents have been provided. Copies of the contract are sent to the consultant for signature first.

Review and Approval of Contracts

Proposed contracts for consultant services (including subcontracted work) exceeding \$150,000, must be reviewed by the local agency to verify that:

- Compensation is fair and reasonable and includes prevailing wage rates, if applicable;
- Work activities and schedules are consistent with the nature and scope of the project;
- DBE goal Exhibit 10-O2: Consultant Contract DBE Commitment is included for all contracts regardless of goal.;
- [Exhibit 10-K: Consultant Certification of Contract Costs and Financial Management System](#) (for Prime and Subs), and [Exhibit 10-A: A&E Consultant Audit Request Letter](#) and Checklist and all supporting documents, if applicable, have been submitted to Caltrans A&I;

- If applicable, adjustment or denial of the ICR identified in the Financial Review Letter have been included in the final cost proposal;
- [Exhibit 10-C: A&E Consultant Contract Reviewers Checklist](#) must be used to ensure that required documentation has been provided;
- A cost proposal (see [Exhibit 10-H: Sample Cost Proposal](#)), must include the costs of materials, direct salaries, payroll additions, other direct costs, indirect costs, fees, and backup calculations.

Before approving a contract for consulting services, the Contract Administrator must be satisfied that the consultant's organization:

- Is qualified to perform the services required;
- Is in a position, considering other work commitments, to provide competent and experienced personnel to perform the services in the time allowed;
- Is fully aware of all applicable federal and state laws including implementing regulations, design standards, specifications, previous commitments that must be incorporated into the design of the project, and administrative controls including those of Caltrans and FHWA.
- Has an adequate financial management system as required by the applicable federal regulations.

The contract must provide for a defined level of acceptability and a statement to the effect that the consultant may be required to modify its work as necessary; to meet that level of acceptability as defined in the contract. The contract shall provide for local agency reviews at appropriate stages during performance of the work, to determine if any changes or other actions are warranted.

The contract shall also provide that the consultant establish a working office at a place acceptable to the local agency. The contract shall provide that the consultant and subconsultants shall maintain all books, documents, papers, accounting records, and other information pertaining to costs incurred. Such materials must be available for inspection and audit by federal, State, and local agency authorized representatives; and copies thereof shall be furnished, if requested.

Following final settlement of the contract accounts with the State or FHWA, such records and documents may be archived at the option of the local agency, but in any event shall be retained for a three-year period after processing of the final voucher by the State or FHWA.

Execute Contract and Issue Notice to Proceed to Consultant

The Contract Administrator sends the consultant a fully executed copy of the contract with an original signature and issues a notice to proceed. Funds may not be used to reimburse the agency for any work or costs incurred before the Authorization to Proceed is issued, or for consultant costs incurred prior to the execution of the consultant contract. Local agency consultant selection and contract execution costs may be reimbursable.

Project Records

Federal-Aid Highway Program funding recipients and sub-recipients must maintain adequate and readily accessible project performance and financial records, supporting documents, and other records considered pertinent to the grant agreement and in compliance with Federal laws and regulations (e.g., 23 USC 112; 40 USC 1101-1104, 23 CFR 172, 48 CFR 31, and 2 CFR Part 200). These records shall be maintained for a minimum of three (3) years following issuance of the final voucher from FHWA (forwarded by Caltrans) and the closure of all other pending matters (2 CFR Part 200.333).

For audit purposes, project records and documentation shall be kept for three (3) years after payment of the final federal or state voucher. Among the records to be retained are as follows (not an all-inclusive list):

- Copies of RFPs and RFQs, changes, addendums, etc. and bidder's list;
- Documentation of DBE participation (including [Exhibit 10-O1: Consultant Proposal DBE Commitment](#) and [Exhibit 10-O2: Consultant Contract DBE Commitment](#));
- Solicitation and advertisement records;
- Identification of selection committee members;
- Record of receiving proposals, statement of qualifications;
- Evaluation and ranking records such as original score sheets from all panel members, short list questions and other documentation (see [Exhibit 10-B: Suggested Consultant Evaluation Sheet](#));
- Independent cost estimate (prepared in advance of requesting a cost proposal from the top-ranked consultant);
- Record of negotiations (to include a separate negotiation of profit in accordance with federal guidelines);
- Financial Review Letter and Cognizant Agency Letter, when applicable;
- CPA-audited ICR Audit Report or Approved State DOT Cognizant Indirect Rate Letter, if any;
- Consultant Certification of Costs and Financial Management ([Exhibit 10-K: Consultant Certification of Contract Costs and Financial Management System](#)) for contracts over \$150,000 or more;
- A&E Consultant Audit Request Letter and Checklist ([Exhibit 10-A: A&E Consultant Audit Request Letter and Checklist](#)) for contracts over \$150,000 and all supporting documentation.
- Executed consultant contracts, cost proposals and amendments (see [Exhibit 10-R: A&E Sample Contract Language](#) and [Exhibit 10-H: Sample Cost Proposal](#));
- Contract oversight and progress meeting documents;
- Progress and final payments, and supporting documentation;

- Performance evaluation (see [Exhibit 10-S: Consultant Performance Evaluation](#));
- Consultant contract checklists (see [Exhibit 10-C: A&E Consultant Contract Reviewers Checklist](#));
- Accounting records documenting compliance with State and federal administrative requirements;
- Certifications and Conflict of Interest forms ([Exhibit 10-T: Panel Member Conflict of Interest & Confidentiality Statement](#), [Exhibit 10-U: Consultant in Management Support Role Conflict of Interest and Confidentiality Statement](#) and [Exhibit 10-Q: Disclosure of Lobbying Activities](#), as appropriate).

Retention Clauses

At the option of the local agency, a retention clause may be included in the consultant contract. The usual retained amount is five percent; appropriate securities on deposit may be substituted for the retention. A retention clause in the consultant contract is recommended (see [Exhibit 10-R: A&E Sample Contract Language](#), Article XXXI).

Review of Local Agency Actions

Federal-aid or state reimbursement is contingent on meeting the federal or state requirements and can be withdrawn, if these procedures are not followed and documented. The local agency files are to be maintained in a manner to facilitate future FHWA or Caltrans process reviews and audits. As specified in the Review and Approval of Contracts above, the Contract Administrator must review the proposed consultant contract before execution.

[Exhibit 10-C: A&E Consultant Contract Reviewers Checklist](#) is to be completed and signed. A copy shall be emailed to Caltrans at aeoversight@dot.ca.gov prior to contract award for acceptance. This acceptance of [Exhibit 10-C](#) must be retained in the local agency project files.

10.9 MISCELLANEOUS CONSIDERATIONS

Engineering Services Under \$150,000

The procurement of consultant services by Small Purchase Procedures is in accordance with 23 CFR 172.7(a)(2) and 48 CFR 2.101.

Local agencies should be fully aware that consultant services costing in aggregate no more than \$150,000 per contract may be obtained through a relatively simple and informal method of procurement. This informal method must be sound and appropriate for the consulting services procured and the project files must contain justification for the selection. The method of procurement shall be an open and competitive process in selecting consultants and should consider a minimum of three different consultants whenever possible. The Brooks Act and the consultant audit process described in [Section 10.3: A&E Consultant Audit and Review Process](#) of this chapter do not apply to consultant service contracts under \$150,000. Although this method of procurement is informal, it must still comply with [Sections 10.1: General](#), [10.2: Identifying & Defining a Need for Consultants Completing the Project](#), and [Section 10.9: Miscellaneous Considerations](#), of this chapter.

- Explanation of the services needed, and why they cannot be provided by the local agency;
- Name and qualification of the consultant, who provided the services;
- Documentation of the fees showing how the fee was calculated, and that it is reasonable by comparative standards;
- Any other records needed to show compliance with federal-aid program regulations.

Retaining a Consultant as an Agency Engineer or in Management Support Role

A local agency may retain qualified consultants in a management support role on its staff in professional capacities for state funded or federal-aid projects such as:

- A City Engineer (or equivalent) who manages the engineering unit for the city, providing oversight of a project, series of projects, managing or directing work of other consultants or contractors on behalf of the City, selecting other consultants, approving changes to schedule, scope, deliverables or costs, and approving invoices
- A County Engineer (or equivalent) who manages the engineering unit for the county such as duties described above.
- A Project Manager (or equivalent) who manages and oversees a project, series of projects or the work of other consultants and contractors on behalf of the public agency
- A Program Manager (or equivalent) who manages and oversees an element of a highway program, function, or service on behalf of the public agency

However, a consultant in a management support role is not:

- A consultant engineer performing project-specific design, and/or construction contract administration and construction engineering for the public agency
- A consultant “project manager” performing contract management on behalf of the consultant on the public agency’s consultant contract.
- A consultant providing support to administrative duties such as federal authorization process, labor compliance activities, and other management and administrative tasks.

The use of a consultant in a management support role should be limited to unique or very unusual situations. These situations require a thorough justification as to why the local agency cannot perform the management. Consultants used in management support roles must be selected using the same procedures as those for other consultants specified in this chapter.

Eligibility for federal or state reimbursement for a consultant in a management support role requires the following:

- Compliance with the selection procedures specified in this chapter;
- Existence of a contract between the local agency and the consultant specifying the local agency engineering services to be performed;

- Written designation by the local agency of the responsibilities and authority of the consultant as an agency engineer;
- For a state funded or federal-aid project, completion of [*Exhibit 10-T: Panel Member Conflict of Interest & Confidentiality Statement*](#) by all members (both consultants and employees) prior to participating in the Architect & Engineering (A&E) Selection Panel pertaining to the specific selection process and the firms being considered;
- Selection of consultants for A&E management positions shall be by the use of qualification based selection procedures on an open and competitive basis resulting in a contract with defined beginning and ending dates not to exceed five (5) years;
- For a state funded or federal-aid project, a local agency consultant in a management support role shall not:
 - Participate in, or exercise authority over the A&E selection process, if that consultant's firm is one of the proposing firms, or subconsultant to a proposing firm;
 - Participate in, or exercise authority over management of work performed by the consultant's firm, or to a consultant's firm of which the local agency consultant firm is a subconsultant. This would include, but not be limited to, managing or directing the work, approving changes in the schedule, scope, or deliverables; and approving invoices.
 - Apply for or receive reimbursement of federal-aid funds for the local agency's federal-aid project if either of the foregoing has occurred. However reimbursement for the construction contract portion of the project will still be allowed provided all other federal-aid requirements have been met.
 - Where benefiting more than a single federal-aid project, allocability of consultant contract costs for services related to a management support role shall be distributed consistent with the cost principles applicable to the contracting agency in 23 CFR 172.7(b)(5).

If engineering services for a project are within the scope of the services described in the retained consultant's contract, these services may be performed by the person or firm designated as an agency engineer. If the services are not within the scope, eligibility for federal or state reimbursement for these services require a new consultant contract to be developed using the selection procedures in this chapter. Retained consultants involved in the preparation of the RFP or RFQ shall not be considered in the selection of consultants for the resulting project specific work.

When engineering or architectural consultants in a management support role are procured with federal-aid funds, the local agency (subgrantee) shall fully comply with the following:

- Subparagraphs of 2 CFR 200.318 maintain a contract administration system and maintain a written code of standards. No employee, officer or agent of the subgrantee shall participate in selection, or in the award or administration of a contract supported by federal funds if a conflict of interest, real or apparent, would be involved.

- Subparagraph of 23 CFR §172.7(b) requires that the local agency shall receive approval from FHWA. In addition, any federal-aid projects designated as High Profile projects may also need approval from FHWA.
- Liability insurance should normally be required from the consultant (errors and omissions, etc.).

For federally funded projects, local agencies that solicit to hire A&E consultant(s) in a management support role must obtain FHWA approval prior to contract execution.

In order for a contract for a consultant in a management support role to be federally eligible, the following are required prior to contract execution:

- The local agency shall submit a request for approval via email the Scope of Work and Conflict of Interest Policy to the Division of Local Assistance-Headquarters (DLA-HQ) at aeoversight@dot.ca.gov, prior to solicitation.
- Once the local agency receives FHWA’s written response, the local agency can proceed with the RFQ.
- After consultant selection, the local agency shall submit the completed *Exhibit 10-U: Consultant in Management Support Role Conflict of Interest and Confidentiality Statement* to the DLA-HQ at aeoversight@dot.ca.gov. Local agency will receive FHWA’s approved *Exhibit 10-U* via email.

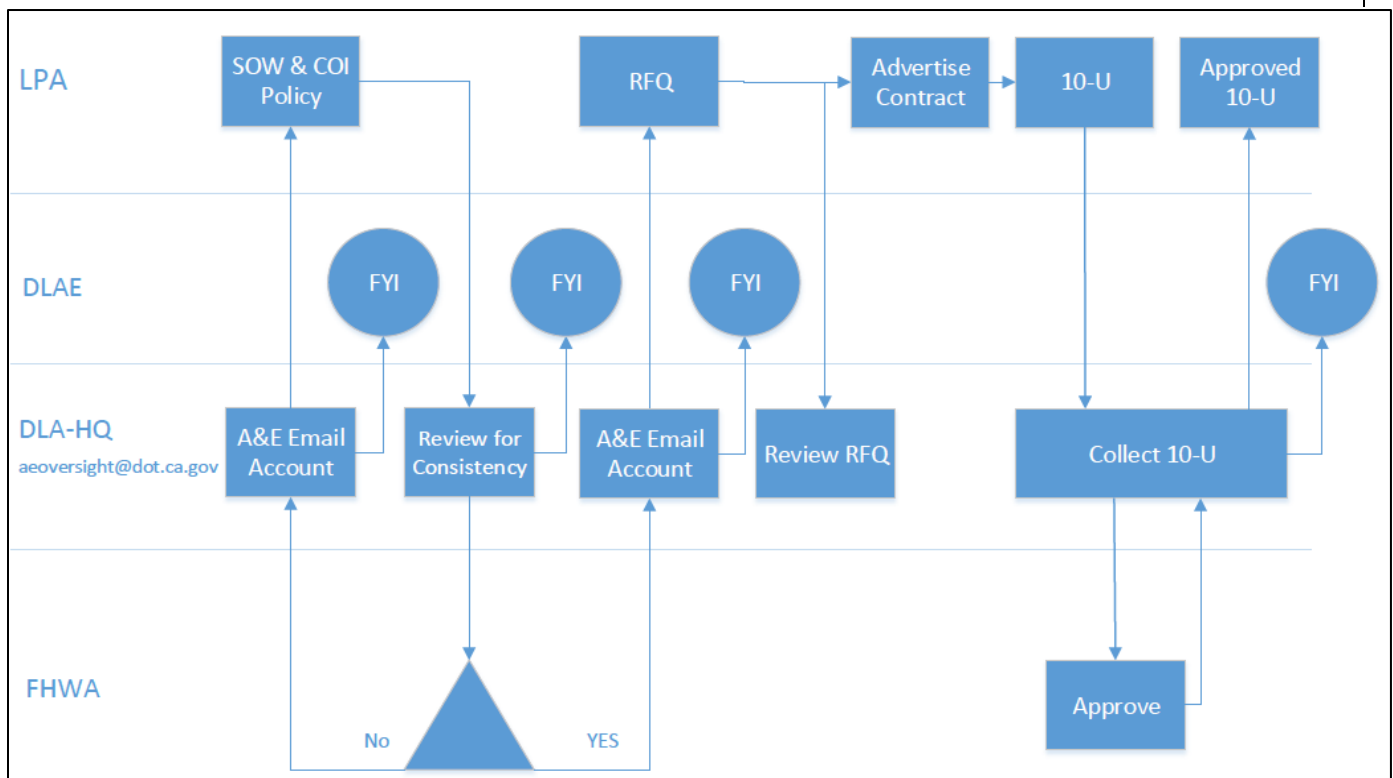


Figure 10-5: Consultant in a Management Support Role Flowchart

Construction Engineering Services

Under federal-aid regulations and state policy, the primary responsibility for general supervision of construction must remain with the local agency. The local agency must also ensure that the work is performed in accordance with the approved plans and specifications, by employing or retaining as a consultant a registered engineer for construction engineering services on the project.

All construction engineering activities performed by a consultant must be under the overall supervision of a full-time employee of the agency who is in responsible charge. These activities may include preparation of contract change orders, construction surveys, foundation investigations, measurement, and computation of quantities, testing of construction materials, checking of shop drawings, preparation of estimates, reports, and other inspection activities necessary to ensure that the construction is being performed in accordance with the plans and specifications. The construction engineering consultant's contract defines the relative authorities and responsibilities of the full-time employee of the local agency in charge of the project and the consultant's construction engineering staff.

If a technical inspection consultant is to provide professional assistance to the local agency, a formal consultant contract must be executed which follows this chapter's requirements. The contract shall provide for reviews at appropriate stages during performance of the work to determine if any changes or other actions are warranted. These reviews are to be made by the local agency.

10.10 Non-A&E CONSULTANTS

Definition

Services and planning studies that are not included in the definition of A&E related services or are not directly related to a construction project may be considered non-A&E. These services include Right-of-Way appraisal and acquisition activities, conducting public outreach during environmental clearance or construction, and Active Transportation Program educational and outreach activities.

The determining factor for the required use of competitive negotiation/qualifications based selection procedures is whether the services being procured are related to a specific construction project and whether the services require work to be performed, provided by, or under the direction of a registered engineer or architect. If a planning study is to determine the need for improvements within a corridor, to conduct travel demand studies, or to obtain information on costs for planning and programming processes, the consultant may not need to be procured under a qualifications based selection process.

Intelligent Transportation System (ITS) Projects

Intelligent Transportation System (ITS) means electronic, communications, or information processing used singly or in combination to improve the efficiency or safety of a surface transportation system. ITS projects are those that in whole or in part, funds the acquisition of

technologies or systems of technologies that provide significant contributions to the provision of one or more ITS user services as defined in the National ITS Architecture.

The federal-aid procurement regulations identify three possible contract procurement procedures for ITS projects including engineering and design related services (or A&E), construction, and non-engineering/non-architectural (or Non-A&E).

If ITS projects include physical installation of field devices and/or communications infrastructure, such as new traffic signals, new controller cabinets, changeable message signs, radio and computers, vehicle detectors, and conduits for cabling in the roadway, then that work and required equipment usually meets the definition of construction. The construction contract must be procured based on competitive bidding. If the ITS project involves considerable software development, system integration, hiring engineers and specialists for ITS design and installation support, inspection, design documentation, training and deployment, it would be considered an engineering and design services contract and the contract must be procured as an A&E consultant contract.

However, if an ITS project does not meet either the definition of construction or engineering and design services, then the contract may be considered to be a Non-A&E consultant contract. Examples of Non-A&E consultant contracts are:

- The procurement of hardware and software associated with incident management system
- Software systems for arterial and freeway management systems
- Operating the 511 traveler information service
- Nonprofessional services for system support such as independent validation and verification, testing and specification development, and development of a concept of operations

For more information regarding Intelligent Transportation Systems (ITS) Program procurement requirements, refer to *LAPG, Chapter 13* [LAPG Chapter 13: Intelligent Transportation Systems](#).

Non-Infrastructure Projects

- Non-infrastructure (NI) projects are those transportation-related projects that do not involve either engineering design, Right-of-Way acquisition (for additional guidance refer to LAPM Chapter 13), or the eventual physical construction of transportation facilities.

Procurement of Non-A&E consultant contracts associated with non-infrastructure projects must follow Non-A&E procurement procedures described in this chapter. For more information on NI projects, refer to *LAPM Chapter 3 Project Authorization*. [LAPM Chapter 3: Project Authorization](#).

Procurement of Non-A&E Consultant Contracts

Local agencies must use their own documented procurement procedures which reflect applicable state, local, and tribal laws and regulations, provided that the procurements conform to applicable federal laws and regulations (2 CFR Part 200). All non-A&E

procurements for federal-aid funded projects must be conducted by competitive proposals in a manner providing full and open competition consistent with federal and state standards. Refer to California State Public Contract Code 10335-10381 for more information.

- a. Request for proposals must be publicized and all evaluation factors and their relative importance identified
- b. Proposals must be solicited from an adequate number of qualified sources (no less than three)
- c. Local agency must have a written procedure for evaluating proposals
- d. Consultants other than A&E consultants shall be selected using cost or cost and qualifications (best value)
- e. Public agencies contracting with other public agencies to perform work need an executed Memorandum of Understanding (MOU) or interagency agreement
- f. A consultant firm that was instrumental or listed in the application process for projects, such as ATP, is not entitled to be awarded a contract for its implementation without a competitive procurement. All federal/state funded contracts must be competitively solicited.

Determining Need for Consultant

To identify if a non-A&E professional services contract is needed, consider the following:

- Types of services needed
- Special licensing (not considered A&E)
- How necessary are the services
- When are the services needed
- One-time or on-going services
- Routine or extraordinary/unique
- Scope of Work

Preparing the Request for Proposal

An RFP for professional services should be as detailed and precise as possible and include minimum qualification requirements, solicitation and award time frames, term of agreement, scope of work, evaluation criteria and process, and technical proposal and performance specifications.

Be sure to attach complete scopes of work outlining local agency and consultant responsibilities and all special provisions for the work/services needed, and have all funding approved. Local agency contacts, or the Contract Administrator should be identified in the RFP.

An example RFP is provided on the Local Assistance Website at <http://www.dot.ca.gov/hq/LocalPrograms/AE/index.htm> and may be modified.

Scope of Work

Clear and concise scopes of work are critical elements of service contracts. SOWs must be detailed and specific and be organized in a logical manner. Sort work details by similar actions or requirements. Clearly define roles and responsibilities of consultant and local agency. Agency Contract Administrator should write SOWs to indicate what qualifications are required to perform the work and to express when, where, and how the work/service is to be performed.

Technical Proposal

The Technical proposal should include the following information:

- **Consultant Project Manager** – qualifications, roles and responsibilities.
- **Methodology** - description of work and overall approach, specific techniques that will be used and specific administrative and operations expertise to be used.
- **Workplan and Work Schedule** - the technical proposal should include activities and tasks, and their delivery schedule.
- **Personnel** - List of personnel who will be working on the project, and their resumes.
- **Facilities and resources** (If applicable) - Explanation of where the services will be provided and what type of equipment is needed to perform services.
- **Sub-contracts** - Identify all sub-contracts that are to be used, description of each and the work by each sub-consultant/sub-contractor. No work shall be subcontracted unless listed in the technical proposal. Sub-consultant resumes should be provided.
- **References** - The technical proposal should provide at least three (3) clients for whom the proposer has performed work of similar nature to the request.

Cost Proposal Worksheet

The RFP should provide a standard format for cost proposal that all proposers must include in their technical proposal. The cost proposal format can be broken down by specific tasks, showing hourly labor rates, level of effort and material, and/or by milestones and deliverables.

DBE Consideration

DBE consideration is required on all federal-aid funded contracts including non-A&E..

Solicitation and Award of Contracts

Advertisement for RFPs may be through the local agency website, local publications, and national publications. Minimum solicitation time is 14 calendar days.

The solicitation should inform potential bidders that questions must be submitted in writing to the Agency Contract Manager/Administrator by a specified date and time. All pertinent technical information and answers to bidder's questions shall be provided to all potential bidders. Written responses to all questions will be collectively compiled and provided as an addendum.

Contracts may be modified or amended only if the contracts so provide. Amendments must be requested and executed prior to the termination date of the most recently approved original or amended contract. All records of contract activities shall be kept for three years after federal final voucher E-76 or state final voucher for State-Only funds. Costs are reimbursable after state allocation by the California Transportation Commission (CTC) and/or the issuance of the federal E-76. The per diem rate shall not exceed the state rate. Contract Managers are responsible for monitoring expenditures on all contracts and verifying categories of work that require prevailing wage. A person in Responsible Charge of contract management is required for all federally funded projects.

Evaluation Criteria

Review all eligible proposals (i.e., those filed on time and in the manner prescribed) to determine which ones meet the format requirements and the standards specified in the RFP. Proposals meeting the minimum standards and format requirements can then be rated or scored. Those proposals shall be submitted to an agency evaluation committee. The evaluation committee will evaluate and score proposals using the methods specified in the RFP. The contract must be awarded to the responsible proposer whose proposal is given the highest score by an evaluation committee.

The Contract Administrator must verify that each proposal contains all of the forms and other information required by the RFP. If all required information is not provided, a proposal may be considered nonresponsive and rejected without evaluation. Proposals without information regarding, or not meeting, the required DBE utilization goal or without a Good Faith Effort documentation, late submittals, submittals to the wrong location, or submittals with inadequate copies are considered nonresponsive and shall be rejected. Submittal of additional information after the due date shall not be allowed. Documentation of when each proposal was received must be maintained in the project files. Copies of date stamped envelope covers or box tops are recommended.

Note that all criteria to be used to evaluate the technical proposals must have a logical foundation within the scope of work or within other technical requirements contained in the RFP. Each criterion must have a weight or level of importance, and it is recommended that total possible score for the evaluation criteria be one hundred (100) points. The proposed cost should be at least thirty percent (30%) of total points in evaluation criteria.

To establish effective competition, a minimum of three proposal must be evaluated. If only two proposals are received, a justification must be documented to proceed with the procurement. If only one proposal is received, a Non-Competitive process must be justified and a Public Interest Finding (PIF) ([LAPM Exhibit 12-F: Cost-Effective/Public Interest Finding](#)) must be documented. In either case, the re-advertisement of the RFP should be considered as an option.

The committee must also evaluate reference checks and other information gathered independently. Reference checks shall be completed and other information gathered before the interviews are conducted. If necessary, the results of the reference checks or other information may be discussed with the highest ranked qualified consultants at the interviews.

Oral Presentations

Oral presentations are optional. The evaluation criteria must include factors/sub-factors and weights used to score the proposers performance at the oral presentation. The evaluation committee will only be able to score each proposer based upon this criteria. The Contract Manager/Administrator should develop a set of questions related to the scope of work or the project to be asked during the evaluation committee question and answer (Q & A) section of the oral presentations. All proposers are asked the same questions for consistency.

Protest/Appeals/Reinstatement Procedures

Both state and federal regulations require well-defined protest/reinstatement procedures. It is essential that the procedures include a reasonable opportunity for the prospective consultant to present his/her case. The appeals procedures strengthens the process by which the contracting agency reaches its ultimate goal and helps defends its action against a claim of lack of due process. A termination clause and a provision for settlement of contract disputes are required. Protest procedures and dispute resolution processes should be in accordance with 2 CFR 200.318(k)

10.11 REFERENCES

- [23 CFR, Part 172](#)
Administration of Engineering and Design Related Service Contracts
<http://www.ecfr.gov/cgi-bin/text-idx?rgn=div5&node=23:1.0.1.2.3>
- [40 USC, Section 1104](#)
Brooks Act <http://www.fhwa.dot.gov/programadmin/121205.cfm>
- [41 CFR](#)
Public Contracts and Property Management
http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title41/41tab_02.tpl
- [41 USC](#)
Public Contracts
<http://law.onecle.com/uscode/41/index.html>
- [23 USC](#)
Letting of Contracts
<http://www.fhwa.dot.gov/map21/docs/title23usc.pdf>
- [48 CFR, Chapter 1, Part 15.404](#)
<https://www.acquisition.gov/far/html/FARTOCP15.html>

**EXHIBIT 10-A A&E CONSULTANT FINANCIAL DOCUMENT REVIEW
REQUEST LETTER**

(For Proposed A&E Consultant Contracts of \$150,000 or Greater)

Department of Transportation
Independent Office of Audits and Investigations, MS 2
Attention: External Audit Manager
P.O. Box 942874
Sacramento, CA 94274-0001
conformance.review@dot.ca.gov

Date: _____
Federal Project Number: _____

Project Description: _____

To Caltrans Independent Office of Audits and Investigations:

The following applicable documents are attached for proposed A&E consultant contract number _____ at a proposed total contract amount of \$ _____ with [Prime Consultant's full legal name]:

Participation Amounts for Prime and all Sub-consultants on this contract are:

Consultant's Name	Participation Amount	Category 1, 2, 3, 4, or 5?

Note: add pages if necessary.

1. **Category 1:** For our Consultant with a **Cognizant Approval Letter** for the Indirect Cost Rate (ICR) Fiscal Year End (FYE) proposed, we are submitting the following:

- Cost Proposals from all selected Prime and subconsultants. *(Examples at Exhibits 10-H1 through 10-H4)*
- Cognizant Approval Letter for FYE proposed, issued by cognizant state *(Based on Location of Accounting Records as stated on AASHTO ICQ)*
- Consultant Annual Certification of Indirect Costs and Financial Management System *(Exhibit 10-K). (If already submitted for the fiscal year, provide only a copy)*
- Local Agency and Consultant's Point of Contacts
- Prevailing Wage (PW) Policy for PW contracts

**PW contracts require written PW Policy. It must be on the company's letterhead, signed, and dated by company's official to show accounting methods used on delta base and delta fringe - refer to A&I's PW Interpretive Guidance on www.dot.ca.gov/audits.*

2. **Category 2:** For our Consultant with **Caltrans Acceptance Identification (ID) Number** for ICR FYE proposed, we are submitting the following:

- Cost Proposals from all selected Prime and subconsultants. *(Examples at Exhibits 10-H1 through 10-H4)*
- Caltrans' ICR Acceptance ID(s) for FYE ICR proposed, as listed below:

Consultant's Name	ICR FYE Accepted	Acceptance ID #s

Note: add pages if necessary.

- Local Agency and Consultant's Point of Contacts
- Prevailing Wage (PW) Policy for PW contracts*

3. **Category 3:** For our consultant requesting a Safe Harbor Rate (SHR), the following are submitted:

- Cost Proposals *(Examples at Exhibit 10-H1 through 10-H4)*
- Local Agency and Consultant's Point of Contacts
- Prevailing Wage (PW) Policy for PW contracts*
- Safe Harbor Rate Consultant Certification of Eligibility Contract Costs and Financial Management System (Attachment 1R). *Firms using SHR can be reimbursed for the prevailing wage deltas either as an Other Direct Cost or as an Overhead/Indirect Cost - refer to A&I's PW Interpretive Guidance on www.dot.ca.gov/audits.*
- Questionnaire for Evaluating Consultant's Financial Management System (Attachment 2R)
- Here is a list of consultants that are requesting use of the Safe Harbor Rate:

- _____
- _____
- _____

4. **Category 4:** For contract amounts **greater than or equal to \$150,000 but less than \$1,000,000 with participating amount greater than or equal to \$150,000**, the following are submitted for all prime and subconsultants on this contract:

- Cost Proposals from all selected Prime and subconsultants. *(Examples at Exhibits 10-H1 through 10-H4)*
- Consultant Annual Certification of Indirect Costs and Financial Management System (Exhibit 10-K) *(If already submitted for the fiscal year, provide only a copy)*
- Local Agency and Consultant's Point of Contacts
- FAR Compliant Indirect Cost Rate (ICR) Schedule including FAR References and Disclosure Note. ***FAR Compliant ICR schedule includes FAR References and Disclosure Notes. If the Disclosure Notes are not provided, A&I will provide a first year waiver of this requirement; however, the note will be required on future fiscal year ICR schedules. See AASHTO Guide Chapter 5, 8, and 11 for references. The fiscal year-end's indirect cost rate (ICR) to be applied to the Agreement is based on the*

submission package received by A&I. For financial document package received between January 1, 2018 and June 30, 2018, the FYE ICR of 2016 must be submitted or the FYE 2017 ICR if available. If the financial document package received date is between July 1, 2018 and December 31, 2018, the 2017 ICR must be submitted.

- AASHTO Internal Control Questionnaire (ICQ) Appendix B
- Prevailing Wage (PW) Policy for PW contracts*

5. Category 5: For contract amounts **greater than or equal to \$1,000,000**, the following are submitted for all prime and subconsultants with **participating amounts greater than or equal to \$150,000** on this contract:

- Cost Proposals from all selected Prime and subconsultants. *(Examples at Exhibits 10-H1 through 10-H4)*
- Consultant Annual Certification of Indirect Costs and Financial Management System *(Exhibit 10-K) (If already submitted for the fiscal year, provide only a copy)*
- Local Agency and Consultant's Point of Contacts
- FAR Compliant Indirect Cost Rate (ICR) Schedule including FAR References and Disclosure Note **
(Prime Consultant must have a CPA Audited ICR Report if contract is ≥ \$1M, regardless of Prime Consultant's participation amount).
- Prior year Indirect Cost Rate (ICR) Schedule
- AASHTO Internal Control Questionnaire (ICQ) Appendix B
- Post-Closing Trial Balance. *(Accounts and balances must match costs proposed on the FAR Compliant ICR schedule, as per 48 CFR Part 31)*
- Vacation/Sick Policy
- Bonus Policy
- Executive Compensation Analysis (ECA). *(Accounts and balances must match costs proposed on the FAR Compliant ICR schedule, as per 48 CFR Part 31)*
- Prevailing Wage (PW) Policy for PW contracts*

Sincerely,

Name _____

Signature _____

Title _____

Department _____

Address _____

Distribution:

- 1) Original - Caltrans Independent Office of Audits & Investigations
- 2) Copy - Local Agency Project Files
- 3) Copy - Caltrans District Local Agency Engineer

**CALTRANS A&I FINANCIAL DOCUMENT REVIEW REQUIREMENTS
FOR ARCHITECTURAL AND ENGINEERING (A&E) CONSULTANTS
ON LOCAL GOVERNMENT AGENCY CONTRACTS**

Type of Financial Documents and Information for ICR FYE proposed *	CATEGORY 1: Firms with Cognizant Approval Letter for ICR FYE proposed	CATEGORY 2: Firms with Caltrans Acceptance ID Number for ICR FYE proposed **	CATEGORY 3: Firms Requesting Safe Harbor Rate (SHR)	If not Categories 1-3	
				CATEGORY 4: Contracts ≥ \$150K to < \$1M and participating amounts ≥ to \$150K	CATEGORY 5: Contracts ≥ \$1M and participating amounts ≥ \$150K
For all Prime and Sub-consultants					
A&E Consultant Financial Document Review Request Letter and Checklist (Exhibit 10-A) (1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Cost Proposals from all selected Prime and subconsultants. (Examples at Exhibit 10-H1 through 10-H4)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Cognizant Approval Letter for the FYE proposed (issued by cognizant state, which is based on Location of Accounting Records as stated in AASHTO ICQ)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Caltrans' ICR Acceptance ID #s for ICR FYE proposed **	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Consultant Annual Certification of Indirect Costs and Financial Management System (Exhibit 10-K) (if already submitted for the fiscal year, provide a copy)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Local Agency and Consultant's Points of Contact	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
FAR Compliant Indirect Cost Rate (ICR) Schedule including FAR References and Disclosure Notes (2) ★ <i>Prime Consultant must have a CPA Audited ICR Report if contract is ≥ \$1M, regardless of Prime Consultant's participation amount.(2)</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	★
Prior Year ICR Schedule	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
AASHTO Internal Control Questionnaire (ICQ) Appendix B	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Post Closing Trial Balance (3)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vacation/Sick Policy	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bonus Policy	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Executive Compensation Analysis (ECA) (3)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Prevailing Wage (PW) Policy for PW contracts (4)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
When applicable, additional documents may be requested:					
Supplemental reconciliation schedule (to tie the proposed ICR Schedule to Trial Balance) (3)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chart of Accounts	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Income Statement (3)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
Labor Summary Report (5)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
Related Party Rent Analysis (3)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
Vehicle, Equipment, and Other Direct Costs Schedules (3)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
Safe Harbor Rate Documents:						
- Consultant Certification of Eligibility of Contract Costs and Financial Management System (Attachment 1R)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
- Questionnaire for Evaluating Consultant's Financial Management System (Attachment 2R)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
Total Documents Required	6	5	6		7	12

* ICR FYE = Indirect Cost Rate Fiscal Year End. This list is not all inclusive and additional documentation may be required.

** Caltrans ICR Acceptance ID # is an identification number issued by Caltrans upon review and acceptance of consultant's indirect cost rate(s) schedule for a specific fiscal year. This ID # can be referenced for use on future contracts using the same FYE ICR.

*** Firms using SHR can be reimbursed for the prevailing wage deltas either as an Other Direct Cost or as an Overhead/Indirect Cost - refer to A&I's PW Interpretive Guidance on www.dot.ca.gov/audits.

Local Agencies are required to complete Exhibit 10-A and include all applicable required documents upon submission. FAR Compliant ICR schedule includes FAR References, and Disclosure Notes. If the Disclosure Notes are not provided, A&I will provide a first year waiver of this requirement; however, the notes will be required on future fiscal year ICR schedules. See AASHTO Guide Chapter 5, 8, and 11 for references. The fiscal year-end indirect cost rate (ICR) to be applied to the Agreement is based on the submission package received by A&I. For financial document packages received from January 1, 2018 to June 30, 2018, the 2016 FYE ICR must be submitted or the FYE 2017 ICR if available. For financial document packages received from July 1, 2018 to December 31, 2018, the 2017 ICR must be submitted.

Accounts and balances must match costs proposed on the FAR Compliant ICR schedule, as per 48 CFR Part 31. Prevailing Wage (PW) contract requires written PW Policy. It must be on the company's letterhead, signed, and dated by company's official to show accounting methods used on delta base and delta fringe - refer to A&I's PW Interpretive Guidance on www.dot.ca.gov/audits.

Document/Report must summarize total labor costs that agree to total direct labor and total indirect labor amounts included in the fiscal year ICR schedule proposed on the contract. Uncompensated overtime must be presented for salaried/exempt employees that are not compensated for hours worked in excess of 8 hours a day/40 hours per week/2080 hours per year. Refer to Uncompensated Overtime Interpretive Guidance on www.dot.ca.gov/audits.

**EXHIBIT 10-C INSTRUCTIONS FOR A&E CONSULTANT
CONTRACT REVIEWERS CHECKLIST**

Submittal of Exhibit 10-C for new or amended consultant contracts is required for all A&E consultant contracts (State and Federal) for Caltrans review and acceptance prior to contract award. Sections A, B, and C on Exhibit 10-C will be skipped for contract amendments (Section D applies to amendments only). A designated contract administrator must prepare and sign EXHIBIT 10-C (Not applicable for Non A&E Contracts).

EXHIBIT 10-C must be submitted using fillable PDF along with a signed copy via email to aeoversight@dot.ca.gov in the following format LocalAgencyName_FederalProjectNumber.

The following are considered procedural deficiencies and may jeopardize federal and/or state funding on completed or ongoing projects.

- Did not advertise as required.
- Did not re-advertise for required period.
- Did not identify all evaluation factors in Request for Qualifications/Request for Proposals (RFQ/RFP).
- Did not identify the weights or values of each evaluation factor in RFQ/RFP.
- Method of payment in RFP not consistent with contract cost proposal.
- No supporting documentation that all proposals were received within the required time frames (example: proposals not date-stamped).
- No conflict of interest signed by panel members or evidence an appropriate Code of Ethics was followed in accordance with federal requirements.
- Profit not negotiated.
- No support that cost analysis was performed.
- Cost elements not negotiated/evidence of negotiations not maintained.
- No prior authorization given for sole source contracts.
- Title VI requirements [per 23 CFR 172 (c) (vi)] revisions needed in contracts (federal funded only).
- DBE requirements [per 23 CFR 172 (c) (vii)] revisions needed in contracts (federal funded only).

The following are considered unrecoverable deficiencies and shall result in the withdrawal of all or a portion of the federal and/or state funds from the project:

- No records or documentation to support consultant procurement.
- No support for scoring and/or ranking of consultants.

Two or more of the following are considered unrecoverable deficiencies and shall result in the withdrawal of all or a portion of the federal and/or state funds from the project:

- No justification for sole-sourcing.
- Could not support contract was advertised at all.
- No independent cost estimate performed.
- Local preference used.
- Price used as an evaluation factor.
- Scoring evaluation factors or weights do not match those identified in the RFQ/RFP.
- Did not include any evaluation factors in the RFQ/RFP.

- Cost proposal does not break down job classifications and types of costs by amount and/or rates.
- Missing Title VI requirements [per 23 CFR 172 (c) (vi)] from contracts (Federal Funded Only).
- Missing DBE requirements [per 23 CFR 172 (c) (vii)] from contracts (Federal Funded Only).

A. PROCUREMENT PLANNING

1. DESCRIPTION OF NEED FOR CONSULTANT

Describe need for consultant: How was the need for a consultant justified? Compare the project schedule and objectives with local agency capabilities, staff expertise and availability, and funding resources.

2. LOCAL AGENCY CONTRACT ADMINISTRATOR (NAME & CONTACT INFO)

The Local Agency Contract Administrator must be a qualified local agency employee, or have staff that is qualified to ensure the consultant's work is complete, accurate, and consistent with the terms and conditions of the consultant contract.

- a. Include contact information: name of contract administrator.
- b. Phone and email of contract administrator.

3. SCOPE OF WORK

Indicate if scope of work (SOW) is included in solicitation and contract. SOW means all services, work activities, and actions required of the consultant by the obligations of the contract.

- a. Indicate if the contract includes a consultant in a management role (EXHIBIT 10-U). The use of a consultant in a management role should be limited to unique or unusual situations. These situations require a thorough justification and approval by FHWA before contract execution.
- b. Schedule of work from work breakdown structure (WBS) helps to determine the schedule of contract delivery and must be included in the scope of work to increase accountability and efficiency of a contract.

4. INDEPENDENT COST ESTIMATES (ICE)

- a. Enter the amount of an independent cost estimate (ICE). An ICE is needed for cost analysis and contract negotiation (23 CFR 172.7(a)(1)(v)(B)) to ensure that consultant services are obtained at a fair and reasonable cost. In order to properly identify the maximum amount of the contract and to assess the validity of a consultant's cost proposal, the contracting agency shall prepare a detailed independent estimate with an appropriate breakdown of the work or labor hours, types or classifications of labor required, other direct costs, and consultant's fixed fee for the defined scope of work.
- b. Agencies are required to maintain documentation to show how the ICE was calculated. Several methods can be used. Refer to Module 4 for examples on how to calculate the ICE at:

<http://www.dot.ca.gov/hq/LocalPrograms/AE/2016/M4-slides.pdf> or
<http://www.dot.ca.gov/hq/LocalPrograms/AE/2016/M4-2016-11-14.mp4>.

B. SOLICITATION DOCUMENTS AND ADVERTISEMENT

1. CONSULTANT SELECTION COMMITTEE AND CONFLICT OF INTEREST

- a. A consultant selection committee with a minimum of three members is appointed at the beginning

of the consultant selection process. The committee reviews materials submitted by consultants, develops a shortlist of qualified consultants, and develops a final ranking of the most qualified proposals.

- b. Exhibit 10-T should be completed by all panel members and anyone involved in the procurement process, and include signatures and dates.
- c. Completed Exhibit 10-T includes all applicable boxes checked and the contract administrator's signature verifying no conflicts of interest.

2. PROCUREMENT SCHEDULE

Provide an estimated schedule for the procurement process. Establish a submittal deadline for responses to the RFP/RFQ that provides sufficient time for interested consultants to receive notice, prepare, and submit a proposal. Except in unusual circumstances, this deadline shall not be fewer than 14 calendar days from the date of issuance of the RFP/RFQ. A contract procurement schedule must be completed before advertising the contract and included it in the solicitation document, identifying key dates for consultant selection activities.

3. TYPE OF CONTRACT

Specify the anticipated type of contract listed in the solicitation document. Three contract types are typical for A&E consultant services for Federal aid highway projects. Contract type refers to the method in which the contract is structured to cover the work.

- a. Project-specific contract: A contract between the contracting agency and consultant for the performance of services and a defined scope of work related to a specific project or projects
- b. Multi-purpose or Multi-phased contract: A project-specific contract where the defined scope of work is divided into phases that may be negotiated and executed individually as the project progresses.
- c. On-call contract: A number of projects, under which task or work orders are issued on an as-needed basis, for an established contract period. An "on-call" typically used when a specialized service of indefinite delivery or indefinite quantity is needed for a number of different projects, such as construction engineering, design, environmental analysis, traffic studies, geotechnical studies, field surveying, etc. Further requirements for on-call contracts:
 1. Specify a reasonable maximum length of contract period, including the number and period of any allowable contract extensions, which shall not exceed five years;
 2. Specify a maximum total contract dollar amount that may be awarded under a contract;
 3. Include a statement of work, requirements, specifications, or other description to define the general scope, complexity, and professional nature of the services; and
 4. Indicate if multiple consultants are to be selected and multiple on-call or indefinite delivery/indefinite quantity (IDIQ) contracts will be awarded through a single solicitation for specific services, and if so, how task orders will be issued.

4. METHOD OF PAYMENT

The anticipated method of payment must be specified in the original solicitation, the executed contract and any subsequent modification thereto. Methods of payment are based on the scope of services to be performed:

- a. *Actual Cost-Plus-Fixed Fee*: is appropriate when the extent, scope, complexity, character, or duration of work cannot be precisely predicted. Fixed fees apply to the total direct and indirect costs.

- b. *Cost Per Unit of Work*: is appropriate when the cost per unit of work can be determined with reasonable accuracy in advance and the extent or quantity of the work is indefinite
- c. *Specific Rates of Compensation*: should only be used when estimating the extent or the duration of work is not possible at the time of procurement, or estimating costs with any reasonable degree of accuracy.
- d. *Lump Sum*: is appropriate only if the extent, scope, complexity, character, duration, and risk of the work have been sufficiently defined to permit fair compensation to be determined and evaluated by all parties during negotiations.

When the method of payment is other than lump sum, the contract shall specify a maximum amount payable which shall not be exceeded unless adjusted by a contract modification.

5. EVALUATION CRITERIA AND WEIGHTS (EXHIBIT 10-B)

The criteria and relative weights must be included in the RFP/RFQ, and the same criteria and relative weights must be used on the evaluation sheets. See Exhibit 10-B for example criteria. The evaluation criteria MUST have weights in order to properly evaluate the submittals. The criteria MUST be the same as what was listed in the solicitation document. Any changes not made through an addendum render the contract invalid. The combined total of non-technical criteria cannot exceed 10% of the evaluation criteria. Consultants should be initially ranked based on raw data and the final ranking based on the sum of the initial ranking. Please see example iii. Module 3: Evaluation and Selection of Consultant located at:

- <http://www.dot.ca.gov/hq/LocalPrograms/AE/2016/M3-slides.pdf> or
- <http://www.dot.ca.gov/hq/LocalPrograms/AE/2016/M3-2016-08-31.mp4>

6. PROCUREMENT TYPE (RFP vs RFQ)

- a. One step RFQ: For services (materials testing, construction inspection, etc.).
- b. One step RFP: For project specific work (bridge painting, roadway design, etc.).
- c. The Two-Step RFQ/RFP method may be used when the scope of work is complex or unusual. This method also may be preferred by local agencies that are inexperienced about negotiations and procedures for establishing compensation. However, the Two-Step RFQ/RFP method is recommended for procurement of multiple on-call contracts, or pre-qualified list, through a single solicitation. This method requires substantially more work and time than the other two methods described above.
- d. Length of contract: all contracts must have a duration specified. On-call contracts should not exceed five years (three year contract with options to twice extend an additional year). The type and length of the contract should be listed in the solicitation.

7. DBE UTILIZATION GOAL SETTING (FEDERAL FUNDED ONLY)

DBE goals are required for all Federal-aid contracts including on-call contracts.

- a. Exhibit 9-D (DBE Contract Goal Methodology) must be submitted and reviewed by Caltrans for consultant contracts equal to or greater than \$500,000. An agency must have documentation as to how the goal was calculated. Use your independent cost estimate and follow the DBE procedures located at <http://www.dot.ca.gov/hq/LocalPrograms/lam/forms/chapter9/9d.pdf>
- b. Exhibit 10-I (NOTICE TO PROPOSERS DBE INFORMATION) must be included in the solicitation.

- c. Proposals without information regarding, or not meeting, the required DBE utilization goal or without a Good Faith Effort documentation are considered nonresponsive and shall be rejected. Zero (no subcontracting opportunities) DBE goals must be approved by the DLAE prior to contract execution. No goal means DBE was not considered in solicitation.
- d. Exhibit 15-H (DBE Information—Good Faith Efforts) must be approved by LPA.

8. RECORDS OF PUBLICATION FOR RFP OR RFQ

- a. List the platform that was used to advertise the RFP/RFQ: A public forum must be used that gives both in-state and out-of-state consultants a fair opportunity to be considered for award. Acceptable advertisements include, although not limited to: public clearinghouse, Planetbids, Public Purchase, and local agency's website.
- b. Advertising must be at least 14 calendar days. Caltrans suggests 21 days minimum.

9. RECORDS OF RESPONSE TO SOLICITATION

- a. A minimum of three proposals must be received and evaluated. If only two proposals are received, a justification must be documented to proceed with the procurement; if only one proposal is received, a signed Public Interest Finding (PIF) approved by the DLAE is required. In either case, the re-advertisement of the RFP should be considered as an option.
- b. The Contract Administrator must evaluate each SOQ/SOP and verify each proposal contains all of the forms and other information required by the solicitation.
- c. All proposals received should be documented (e.g. log sheet, copies of time-stamped envelopes, etc.), and copies must be kept in agency's files.

C. EVALUATION AND SELECTION

1. DOCUMENTATION OF CONSULTANT SELECTION

- a. Documentation of when each proposal was received must be maintained in the project files. Copies of date stamped envelope covers or box tops are recommended. All supporting documentation must be retained in the project files for the required retention period in the event an audit or review is performed.
- b. Evaluation criteria must be the same as in solicitation from which a qualifications based selection was conducted.
- c. Original score sheets complete with signatures must be in the file. Spreadsheets alone are not an acceptable method of showing evaluation. Score sheets must be signed and dated by all evaluators.

Exhibits 10-O1 must be included in the technical proposal or the statement of qualification package provided to the local agency by each (prime consultant) proposer and required to be submitted to the DLAE for federal reimbursement (Federal funded projects only). For calculating goals, refer to:

<http://www.dot.ca.gov/hq/LocalPrograms/AE/2016/M2-slides.pdf> or

<http://www.dot.ca.gov/hq/LocalPrograms/AE/2016/M2-2016-09-02.mp4> Module 2.

For contracts with no DBE contract goal, Exhibit 10-O1 is not necessary.

- d. Exhibit 10-U must be completed by all consultants in management support role positions and submitted to FHWA for approval through Caltrans HQ prior to contract execution.

2. DEVELOP TOP RANKED CONSULTANTS AND NOTIFY ALL INTERVIEWEES

- a. Three or more highest ranked consultants (short listed) will be interviewed and a final ranking of the highest ranked consultants must be developed. All consultants that submitted technical proposals must be informed about the final ranking of consultants. Notes should be kept to explain why a particular consultant was not selected if requested.
- b. Interviews are to be structured and conducted in a formal manner. Each consultant to be interviewed is sent an invitation to the interview, with an agenda and timeline. A copy of the draft proposed contract, defining the standard contract language/boilerplate is also provided. Reference checks shall be completed and other information gathered before the interviews are conducted. All oral interviews must be evaluated including signatures and dates.

3. COST PROPOSAL

- a. All cost proposals need to be in the same format as Exhibit 10-H or equivalent and contain all of the cost components including direct, indirect, other direct, and fee.
See <http://www.dot.ca.gov/hq/LocalPrograms/lam/forms/chapter10/10h.pdf> for sample form for each method of payment.
- b. The method of payment must be specified in cost proposal. Four methods are permitted depending on the scope of services to be performed: Actual Cost-Plus-Fixed Fee; Cost Per Unit of Work; Specific Rates of Compensation; Lump Sum.
- c. Cost proposal must identify classifications to be billed. Labor costs must be broken down to direct and indirect.
- d. ICR must be a given current fiscal year.
- e. All key personnel must be identified in cost proposal.
- f. Cost proposal must include other direct costs and supporting calculations (EXHIBIT 10-H)
- g. The determination of the amount of the fixed fee shall take into account the size, complexity, duration, and degree of risk involved in the work. The fixed fee is not adjustable during the life of the contract. Fixed fees in excess of 15% of the total direct labor and indirect costs of the contract may be justified only when exceptional circumstances exist (23 CFR 172.11.b (3) (iii)).

4. AUDIT AND REVIEW DOCUMENTS

For contracts are equal to or greater than \$150,000, an annual Exhibit 10-K, Consultant Annual Certification of Indirect Cost and Financial Management System of all A&E firms on the contract must be submitted to A&I for review (All prime and sub- consultants) for both federal and state funded contracts. The firm will be listed on A&I's website, if the firm's annual indirect cost rate has been accepted by A&I and shown with the identification number and the applicable fiscal year.

- a. Proposed indirect cost rate on all contract proposals are subject to review by A&I prior to execution.
- b. The review may result in acceptance, adjustment, or denial of proposed ICR. The final cost proposal must be revised if applicable to reflect the adjusted or denied ICR.
- c. Any findings by A&I need to be resolved prior to contract execution or the contract could be considered ineligible for state and/or federal funding.

5. RECORD OF COST/PROFIT NEGOTIATIONS

- a. Selected/best-qualified consultant's cost elements must be analyzed including necessity for and reasonableness (verification of cost or price information not comparing cost or price data).
- b. At the completion of successful cost negotiations, all remaining concealed "unopened" cost proposals shall be returned to consultants or dispose of in accordance with written policies and procedures approved by FHWA (23 CFR 172.5(c)).

- c. Cost analysis, i.e., verifying the cost in the cost proposal from the top-ranked consultant and evaluating the specific elements such as direct salary or wage rates, fixed fee, other direct costs, indirect costs and profits (23 CFR Part 172.11(b)). Cost Analysis is the analysis of the separate cost elements of a service to verify proposed costs are reasonable for the work to be performed and in compliant with Federal cost principles. Cost Analysis is used to verify direct cost in consultant's cost proposal to actual costs of labor, products and services and to determine if the costs are reasonable. Price Analysis (comparisons with previous prices) may be included, provided Cost Analysis was performed on the previous prices, reasonableness was determined and the previous contracted work is substantially the same.
- d. In accordance with federal guidelines, project record of negotiations of cost/profit shall be kept for at least three (3) years after payment of the final federal or state voucher.

6. MANDATORY FEDERAL FISCAL PROVISIONS (FEDERAL-FUNDED ONLY)

- a. The 14 articles list in Exhibit 10-R as mandatory and verbatim must be in the contract.
- b. List provisions that are not verbatim.
- c. Exhibits 10-O2 must be completed at the conclusion of cost negotiations, incorporated into the final agreement and a copy sent to the DLAE. Refer to:
<https://player.vimeo.com/video/127551624> or
<http://www.dot.ca.gov/hq/LocalPrograms/AE/2016/M2-2016-09-02.mp4> Module 2 for calculating goals.

7. SOLE-SOURCE CONTRACT

Sole-source also known as noncompetitive is defined as the method of procurement of engineering and design related services when it is not feasible to award the contract using competitive negotiation. Sole-source contracts should be used only in very limited circumstances. Document the justification for sole-source in detail. For sole-source contracts, the DLAE must approve and sign the Public Interest Finding (PIF) EXHIBIT 12-F. If the PIF is not approved, the contract is considered invalid and not federally reimbursable. All sole-source PIF's must have an independent cost estimate attached.

8. EVALUATION FACTOR

For A&E contracts, price cannot be used as an evaluation factor. Price should not be considered until negotiations. Only the consultant chosen for negotiations should have their cost proposal opened (all other proposals should be returned to sender unopened or disposed of according to agency policy after contract execution).

9. POLICY AND PROCEDURES

- a. Date adopted Caltrans procedures - Consultant Procurement Manual (CPM) or LAPM Ch. 10. According to federal regulations, an agency must have an approved procedure or adopt Caltrans.
- b. If not Caltrans procedures, has local agency's procedure been approved by Caltrans? Local agency can use their own procedures but these must be approved by Caltrans to be considered valid. All agencies must follow LAPM Ch. 10 for consultant contracts in addition to any policies and procedures they have in place.

10. METHOD OF PAYMENT IN CONTRACT

The method of payment listed in the executed contract should be the same as the solicitation and cost proposal.

11. CONTRACT AWARDED SHOULD MATCH SOLICITATION

The type of contract (Specific, Multi-phased, or On-call) listed in the executed contract must be the same as the solicitation and cost proposal.

D. FOR AMENDED CONSULTANT CONTRACTS**1. SPECIFY MAXIMUM LENGTH OF CONTRACT AMENDMENT**

Specify a reasonable maximum length of consultant contract amendment period by indicating start date of the amendment and end date of the total new-contract period. For on-call contract, the maximum length of consultant contract amendment period shall not exceed five years in total.

All contract amendments must be fully executed before the ending date of the contract. Failure to amend a contract prior to the ending date will make the subsequent costs ineligible for federal and state reimbursement.

2. TYPE OF CONTRACT

Specify the original type of contract awarded in a contract amendment. Three contract types which are typical for A&E consultant services for Federal aid highway projects are project-specific, multi-phased, and on-call. A contract type specified in the contract amendment shall match with the original contract.

3. TOTAL AMENDED CONTRACT AMOUNT

Specify a maximum total amount of amended contract that may be awarded under the total contract. A&E Consultant Audit and Review Process of LAPM Chapter 10 shall apply to the entire contract and must be completed prior to execution of the contract amendment.

The full amount of any contract modification or amendment that would cause the total contract amount to exceed the federal simplified acquisition threshold (currently established at \$150,000) would be ineligible for federal funding.

4. AMENDMENT NUMBER

Every contract amendment must have an amendment number and that amendment number must be specified in the EXHIBIT 10-C.

5. DESCRIPTION OF NEED FOR AMENDMENT

Describe need for amendment of the existing project schedule and objectives: How was the need for an amendment justified? How has the original project been handled and why is it required to be modified? (e.g.: Extra time, added work, or increased costs). Only work within the original advertised scope of services shall be added by amendment to the contract. The addition of work outside the original advertised scope will make that work ineligible for federal or state reimbursement.

6. DESCRIPTION OF CONTRACT CHANGE

Describe the contract change: Any change to the original contract must meet the legal requirements of the local agency (EXHIBIT 10-R). Clearly outline the changes and contain a mutually agreed upon method of compensation (EXHIBIT 10-H). A consultant contract may be amended at any time prior to the expiration date of the original contract.

For on-call consultant contracts, the amendment is restricted to the work (task order) that has already been started by the consultant and cannot include any new work.

If an emergency exists of such magnitude that a delay cannot be tolerated, the local agency and the consultant may agree on an amendment initiating the work, so that reimbursable work may begin. The

initiating amendment is then followed by a final amendment once the full scope of the emergency work is known and agreed to by both parties. In both cases, sufficient funding should be included in the amendments to pay for all work to be performed by the consultant. The final amendment must be executed as quickly as possible. Failure to fully comply with this section may result in the loss of Federal/State funding.

7. HAS THE SCOPE OF WORK CHANGED?

Scope of work and preparation of amendments must be clearly stated in EXHIBIT 10-C and the amendment contract to ensure that any changes to the scope are within the constraints of the original RFP/RFQ.

Only work included within the original advertised scope of services and evaluation criteria of the solicitation from which a consultant was selected based on qualifications to perform may be incorporated into a contract. Necessary or desired services which are outside of the advertised scope from which the qualifications based selection was conducted should be procured under a new advertisement, accomplished with in-house contracting agency staff, or performed under an existing on-call contract which allows for the desired services, necessary qualifications, costs, and schedule.

8. DOES THE REVISED SCOPE OF WORK INCLUDE A CONSULTANT IN MANAGEMENT SUPPORT ROLE?

Indicate if the contract amendment includes a consultant in a management role. Local agency shall fill out EXHIBIT 10-U if they need for consultant(s) in management support role.

9. WAS EXHIBIT 10-U SUBMITTED IF THERE IS A CONSULTANT IN MANAGEMENT SUPPORT ROLE?

A completed Exhibit 10-U shall be submitted to FHWA for approval prior to execution of the contract amendment for which federal funds are being sought. Local agencies must submit an approved Exhibit 10-U prior to seeking federal reimbursement.

EXHIBIT 10-H1 COST PROPOSAL Page 1 of 3

ACTUAL COST-PLUS-FIXED FEE OR LUMP SUM (FIRM FIXED PRICE) CONTRACTS

(DESIGN, ENGINEERING AND ENVIRONMENTAL STUDIES)

Note: Mark-ups are Not Allowed

Prime Consultant Subconsultant 2nd Tier Subconsultant

Consultant _____

Project No. _____ Contract No. _____ Date _____

DIRECT LABOR

Classification/Title	Name	Hours	Actual Hourly Rate	Total
(Project Manager)*	_____	_____	\$ _____	\$ _____
(Sr. Civil Engineer)	_____	_____	\$ _____	\$ _____
(Envir. Scientist)	_____	_____	\$ _____	\$ _____
(Inspector)**	_____	_____	\$ _____	\$ _____

LABOR COSTS

a) Subtotal Direct Labor Costs \$ _____

b) Anticipated Salary Increases (see page 2 for calculation) \$ _____

c) **TOTAL DIRECT LABOR COSTS [(a) + (b)]** \$ _____

INDIRECT COSTS

d) Fringe Benefits (Rate: _____%) e) Total Fringe Benefits [(c) x (d)] \$ _____

f) Overhead & G&A (Rate: _____%) g) Overhead [(c) x (f)] \$ _____

h) General and Administrative (Rate: _____%) i) Gen & Admin [(c) x (h)] \$ _____

j) **TOTAL INDIRECT COSTS [(e) + (g) + (i)]** \$ _____

FIXED FEE

k) **TOTAL FIXED FEE [(c) + (j)] x fixed fee _____%** \$ _____

l) CONSULTANT'S OTHER DIRECT COSTS (ODC) – ITEMIZE (Add additional pages if necessary)

Description of Item	Quantity	Unit	Unit Cost	Total
Mileage Costs			\$	\$
Equipment Rental and Supplies			\$	\$
Permit Fees			\$	\$
Plan Sheets			\$	\$
Test			\$	\$

l) **TOTAL OTHER DIRECT COSTS** \$ _____

m) SUBCONSULTANTS' COSTS (Add additional pages if necessary)

Subconsultant 1: \$ _____

Subconsultant 2: \$ _____

Subconsultant 3: \$ _____

Subconsultant 4: \$ _____

m) **TOTAL SUBCONSULTANTS' COSTS** \$ _____

n) **TOTAL OTHER DIRECT COSTS INCLUDING SUBCONSULTANTS [(l)+(m)]** \$ _____

TOTAL COST [(c) + (j) + (k) + (n)] \$ _____

NOTES:

- Key personnel **must** be marked with an asterisk (*) and employees that are subject to prevailing wage requirements must be marked with two asterisks (**). All costs must comply with the Federal cost principles. Subconsultants will provide their own cost proposals.
- The cost proposal format shall not be amended. Indirect cost rates shall be updated on an annual basis in accordance with the consultant's annual accounting period and established by a cognizant agency or accepted by Caltrans.
- Anticipated salary increases calculation (page 2) must accompany.

EXHIBIT 10-H1 COST PROPOSAL Page 2 of 3

ACTUAL COST-PLUS-FIXED FEE OR LUMP SUM (FIRM FIXED PRICE) CONTRACTS

(CALCULATIONS FOR ANTICIPATED SALARY INCREASES)

1. Calculate Average Hourly Rate for 1st year of the contract (Direct Labor Subtotal divided by total hours)

Direct Labor Subtotal per Cost Proposal	Total Hours per Cost Proposal	=	Avg Hourly Rate	5 Year Contract Duration
\$250,000.00	5000		\$50.00	Year 1 Avg Hourly Rate

2. Calculate hourly rate for all years (Increase the Average Hourly Rate for a year by proposed escalation %)

	Avg Hourly Rate		Proposed Escalation			
Year 1	\$50.00	+	2%	=	\$51.00	Year 2 Avg Hourly Rate
Year 2	\$51.00	+	2%	=	\$52.02	Year 3 Avg Hourly Rate
Year 3	\$52.02	+	2%	=	\$53.06	Year 4 Avg Hourly Rate
Year 4	\$53.06	+	2%	=	\$54.12	Year 5 Avg Hourly Rate

3. Calculate estimated hours per year (Multiply estimate % each year by total hours)

	Estimated % Completed Each Year		Total Hours per Cost Proposal		Total Hours per Year	
Year 1	20.0%	*	5000	=	1000	Estimated Hours Year 1
Year 2	40.0%	*	5000	=	2000	Estimated Hours Year 2
Year 3	15.0%	*	5000	=	750	Estimated Hours Year 3
Year 4	15.0%	*	5000	=	750	Estimated Hours Year 4
Year 5	10.0%	*	5000	=	500	Estimated Hours Year 5
Total	100%		Total	=	5000	

4. Calculate Total Costs including Escalation (Multiply Average Hourly Rate by the number of hours)

	Avg Hourly Rate (calculated above)		Estimated hours (calculated above)		Cost per Year	
Year 1	\$50.00	*	1000	=	\$50,000.00	Estimated Hours Year 1
Year 2	\$51.00	*	2000	=	\$102,000.00	Estimated Hours Year 2
Year 3	\$52.02	*	750	=	\$39,015.00	Estimated Hours Year 3
Year 4	\$53.06	*	750	=	\$39,795.30	Estimated Hours Year 4
Year 5	\$54.12	*	500	=	\$27,060.80	Estimated Hours Year 5
	Total Direct Labor Cost with Escalation			=	\$257,871.10	
	Direct Labor Subtotal before Escalation			=	\$250,000.00	
	Estimated total of Direct Labor Salary Increase			=	\$7,871.10	Transfer to Page 1

NOTES:

1. This is not the only way to estimate salary increases. Other methods will be accepted if they clearly indicate the % increase, the # of years of the contract, and a breakdown of the labor to be performed each year.
2. An estimation that is based on direct labor multiplied by salary increase % multiplied by the # of years is not acceptable. (i.e. \$250,000 x 2% x 5 yrs = \$25,000 is not an acceptable methodology)
3. This assumes that one year will be worked at the rate on the cost proposal before salary increases are granted.
4. Calculations for anticipated salary escalation must be provided.

EXHIBIT 10-H1 COST PROPOSAL Page 3 of 3

Certification of Direct Costs:

I, the undersigned, certify to the best of my knowledge and belief that all direct costs identified on the cost proposal(s) in this contract are actual, reasonable, allowable, and allocable to the contract in accordance with the contract terms and the following requirements:

1. Generally Accepted Accounting Principles (GAAP)
2. Terms and conditions of the contract
3. [Title 23 United States Code Section 112](#) - Letting of Contracts
4. [48 Code of Federal Regulations Part 31](#) - Contract Cost Principles and Procedures
5. [23 Code of Federal Regulations Part 172](#) - Procurement, Management, and Administration of Engineering and Design Related Service
6. [48 Code of Federal Regulations Part 9904 - Cost Accounting Standards Board](#) (when applicable)

All costs must be applied consistently and fairly to all contracts. All documentation of compliance must be retained in the project files and be in compliance with applicable federal and state requirements. Costs that are noncompliant with the federal and state requirements are not eligible for reimbursement.

Local governments are responsible for applying only cognizant agency approved or Caltrans accepted Indirect Cost Rate(s).

Prime Consultant or Subconsultant Certifying:

Name: _____ Title *: _____

Signature : _____ Date of Certification (mm/dd/yyyy): _____

Email: _____ Phone Number: _____

Address: _____

*An individual executive or financial officer of the consultant’s or subconsultant’s organization at a level no lower than a Vice President or a Chief Financial Officer, or equivalent, who has authority to represent the financial information utilized to establish the cost proposal for the contract.

List services the consultant is providing under the proposed contract:

--

EXHIBIT 10-H2 COST PROPOSAL Page 1 of 3

SPECIFIC RATE OF COMPENSATION (USE FOR ON-CALL OR AS-NEEDED CONTRACTS)
(CONSTRUCTION ENGINEERING AND INSPECTION CONTRACTS)

Note: Mark-ups are Not Allowed

Consultant _____ Prime Consultant Subconsultant 2nd Tier Subconsultant

Project No. _____ Contract No. _____ Participation Amount \$ _____ Date _____

For Combined Rate	Fringe Benefit % + General & Administrative %	=	Combined ICR%
OR			
For Home Office Rate	Fringe Benefit % + General & Administrative %	=	Home Office ICR%
For Field Office Rate	Fringe Benefit % + General & Administrative %	=	Field Office ICR%

Fee = %

BILLING INFORMATION

CALCULATION INFORMATION

Name/Job Title/Classification ¹	Hourly Billing Rates ²			Effective Date of Hourly Rate		Actual or Avg. Hourly Rate ³	% or \$ Increase	Hourly Range - for Classifications Only
	Straight	OT(1.5x)	OT(2x)	From	To			
John Doe – Project Manager * Civil Engineer II	\$0.00	\$0.00	\$0.00	01/01/2016	12/31/2016	\$0.00		Not Applicable
	\$0.00	\$0.00	\$0.00	01/01/2017	12/31/2017	\$0.00	0.0%	
	\$0.00	\$0.00	\$0.00	01/01/2018	12/31/2018	\$0.00	0.0%	
Sue Jones – Construction Engineer/Inspector Engineer I	\$0.00	\$0.00	\$0.00	01/01/2016	12/31/2016	\$0.00		Not Applicable
	\$0.00	\$0.00	\$0.00	01/01/2017	12/31/2017	\$0.00	0.0%	
	\$0.00	\$0.00	\$0.00	01/01/2018	12/31/2018	\$0.00	0.0%	
Buddy Black – Claims Engineer Engineer III	\$0.00	\$0.00	\$0.00	01/01/2016	12/31/2016	\$0.00		Not Applicable
	\$0.00	\$0.00	\$0.00	01/01/2017	12/31/2017	\$0.00	0.0%	
	\$0.00	\$0.00	\$0.00	01/01/2018	12/31/2018	\$0.00	0.0%	
Land Surveyor **	\$0.00	\$0.00	\$0.00	01/01/2016	12/31/2016	\$0.00		\$00 - \$00
	\$0.00	\$0.00	\$0.00	01/01/2017	12/31/2017	\$0.00	0.0%	\$00 - \$00
	\$0.00	\$0.00	\$0.00	01/01/2018	12/31/2018	\$0.00	0.0%	\$00 - \$00
Technician	\$0.00	\$0.00	\$0.00	01/01/2016	12/31/2016	\$0.00		\$00 - \$00
	\$0.00	\$0.00	\$0.00	01/01/2017	12/31/2017	\$0.00	0.0%	\$00 - \$00
	\$0.00	\$0.00	\$0.00	01/01/2018	12/31/2018	\$0.00	0.0%	\$00 - \$00

(Add pages as necessary)

NOTES:

1. Key personnel **must** be marked with an asterisk (*) and employees that are subject to prevailing wage requirements must be marked with two asterisks (**). All costs must comply with the Federal cost principles. Subconsultants will provide their own cost proposals.
2. The cost proposal format shall not be amended.
3. Billing rate = actual hourly rate * (1+ ICR) * (1+ Fee). Indirect cost rates shall be updated on an annual basis in accordance with the consultant’s annual accounting period and established by a cognizant agency or accepted by Caltrans. All costs must comply with the Federal cost principles for reimbursement.
4. For named employees and key personnel enter the actual hourly rate. For classifications only, enter the Average Hourly Rate for that classification.

EXHIBIT 10-H2 COST PROPOSAL Page 2 of 3

SPECIFIC RATE OF COMPENSATION (USE FOR ON-CALL OR AS-NEEDED CONTRACTS)
(CONSTRUCTION ENGINEERING AND INSPECTION CONTRACTS)

Consultant _____ Prime Consultant Subconsultant

Project No. _____ Contract No. _____ Date _____

SCHEDULE OF OTHER DIRECT COST ITEMS (Add additional pages as necessary)				
Description of Item	Quantity	Unit	Unit Cost	Total
Mileage Costs			\$	\$
Equipment Rental and Supplies			\$	\$
Permit Fees			\$	\$
Plan Sheets			\$	\$
Test			\$	\$
Vehicle			\$	\$
Subconsultant 1:				\$
Subconsultant 2:				\$
Subconsultant 3:				\$
Subconsultant 4:				\$
Subconsultant 5:				\$

Note: Add additional pages if necessary.

NOTES:

1. List other direct cost items with estimated costs. These costs should be competitive in their respective industries and supported with appropriate documentation.
2. Proposed ODC items should be consistently billed regardless of client and contract type.
3. Items when incurred for the same purpose, in like circumstance, should not be included in any indirect cost pool or in the overhead rate.
4. Items such as special tooling, will be reimbursed at actual cost with supporting documentation (invoice).
5. Items listed above that would be considered "tools of the trade" are not reimbursable as other direct cost.
6. Travel related costs should be pre-approved by the contracting agency and shall not exceed current State Department of Personnel Administration rules.

7. If mileage is claimed, the rate should be properly supported by the consultant's calculation of their actual costs for company vehicles. In addition, the miles claimed should be supported by mileage logs.
8. If a consultant proposes rental costs for a vehicle, the company must demonstrate that this is its standard procedure for all of their contracts and that they do not own any vehicles that could be used for the same purpose.
9. The cost proposal format shall not be amended. All costs must comply with the Federal cost principles.
10. Add additional pages if necessary.
11. Subconsultants must provide their own cost proposals.

EXHIBIT 10-H2 COST PROPOSAL Page 3 of 3

Certification of Direct Costs:

I, the undersigned, certify to the best of my knowledge and belief that all direct costs identified on the cost proposal(s) in this contract are actual, reasonable, allowable, and allocable to the contract in accordance with the contract terms and the following requirements:

- 7. Generally Accepted Accounting Principles (GAAP)
- 8. Terms and conditions of the contract
- 9. [Title 23 United States Code Section 112](#) - Letting of Contracts
- 10. [48 Code of Federal Regulations Part 31](#) - Contract Cost Principles and Procedures
- 11. [23 Code of Federal Regulations Part 172](#) - Procurement, Management, and Administration of Engineering and Design Related Service
- 12. [48 Code of Federal Regulations Part 9904 - Cost Accounting Standards Board](#) (when applicable)

All costs must be applied consistently and fairly to all contracts. All documentation of compliance must be retained in the project files and be in compliance with applicable federal and state requirements. Costs that are noncompliant with the federal and state requirements are not eligible for reimbursement.

Prime Consultant or Subconsultant Certifying:

Name: _____ Title *: _____

Signature : _____ Date of Certification (mm/dd/yyyy): _____

Email: _____ Phone Number: _____

Address: _____

* An individual executive or financial officer of the consultant’s or subconsultant’s organization at a level no lower than a Vice President or a Chief Financial Officer, or equivalent, who has authority to represent the financial information utilized to establish the cost proposal for the contract.

List services the consultant is providing under the proposed contract:

--

EXHIBIT 10-H3 COST PROPOSAL Page 1 of 2

COST PER UNIT OF WORK CONTRACTS
(GEOTECHNICAL AND MATERIAL TESTING)

Note: Mark-ups are Not Allowed

Prime Consultant Subconsultant 2nd Tier Subconsultant

Consultant _____

Project No. _____ Contract No. _____ Date _____

Unit/Item of Work:

(Example: Log of Test Boring for Soils Report, or ADL Testing for Hazardous Waste Material Study)

Include as many Items as necessary.

DIRECT LABOR	Hours	Billing Hourly Rate (\$)	Total (\$)
Professional (Classification)*	_____	_____	_____
Sub-professional/Technical**	_____	_____	_____
EQUIPMENT 1 (with Operator)	_____	_____	_____
EQUIPMENT 2 (with Operator)	_____	_____	_____

Consultant’s Other Direct Costs (ODC) – Itemize:

Description of Item	Quantity	Unit	Unit Cost	Total
ODC Example: Travel/Mileage Costs			\$	\$
ODC Example: Mobilization/De-mobilization			\$	\$
ODC Example: Supplies/Consumables			\$	\$
ODC Example: Report			\$	\$
ODC (List more ODCs as applicable)			\$	\$
Subconsultant 1:				\$
Subconsultant 2:				\$
Subconsultant 3:				\$
Subconsultant 4:				\$
Subconsultant 5:				\$

Note: Attach additional pages if necessary.

TOTAL COST PER UNIT OF WORK \$ _____

NOTES:

1. Key personnel **must** be marked with an asterisk (*) and employees that are subject to prevailing wage requirements must be marked with two asterisks (**). All costs must comply with the Federal cost principles. Subconsultants will provide their own cost proposals. The cost proposal format shall not be amended.
2. Hourly billing rates should include prevailing wage rates and be consistent with publicly advertised rates charged to all clients (Commercial, Private or Public).
3. Mobilization/De-mobilization is based on site location and number and frequency of tests/items.
4. ODC items shall be based on actual costs and supported by historical data and other documentation.
5. ODC items that would be considered “tools of the trade” are not reimbursable.
6. Billing Hourly Rates must be actual, allowable, and reasonable.

EXHIBIT 10-H3 COST PROPOSAL Page 2 of 2

Certification of Direct Costs:

I, the undersigned, certify to the best of my knowledge and belief that all direct costs identified on the cost proposal(s) in this contract are actual, reasonable, allowable, and allocable to the contract in accordance with the contract terms and the following requirements:

- 13. Generally Accepted Accounting Principles (GAAP)
- 14. Terms and conditions of the contract
- 15. [Title 23 United States Code Section 112](#) - Letting of Contracts
- 16. [48 Code of Federal Regulations Part 31](#) - Contract Cost Principles and Procedures
- 17. [23 Code of Federal Regulations Part 172](#) - Procurement, Management, and Administration of Engineering and Design Related Service
- 18. [48 Code of Federal Regulation Part 9904 - Cost Accounting Standards Board](#) (when applicable)

All costs must be applied consistently and fairly to all contracts. All documentation of compliance must be retained in the project files and be in compliance with applicable federal and state requirements. Costs that are noncompliant with the federal and state requirements are not eligible for reimbursement.

Prime Consultant or Subconsultant Certifying:

Name: _____ Title*: _____

Signature : _____ Date of Certification (mm/dd/yyyy): _____

Email: _____ Phone Number: _____

Address: _____

* An individual executive or financial officer of the consultant’s or subconsultant’s organization at a level no lower than a Vice President or a Chief Financial Officer, or equivalent, who has authority to represent the financial information utilized to establish the cost proposal for the contract.

List services the consultant is providing under the proposed contract:

--

**EXHIBIT 10-K CONSULTANT ANNUAL CERTIFICATION OF
INDIRECT COSTS AND FINANCIAL MANAGEMENT SYSTEM**

(Note: If a Safe Harbor Indirect Cost Rate is approved, this form is not required.)

Consultant's Full Legal Name: _____

Important: Consultant means the individual or consultant providing engineering and design related services as a party of a contract with a recipient or sub-recipient of Federal assistance. Therefore, the Indirect Cost Rate(s) shall not be combined with its parent company or subsidiaries.

Indirect Cost Rate:

Combined Rate _____ % **OR**

Home Office Rate _____ % and Field Office Rate (if applicable) _____ %

Facilities Capital Cost of Money _____ % (if applicable)

Fiscal period * _____

* Fiscal period is annual one year applicable accounting period that the Indirect Cost Rate was developed (not the contract period). The Indirect Cost Rate is based on the consultant's one-year applicable accounting period for which financial statements are regularly prepared by the consultant.

I have reviewed the proposal to establish an Indirect Cost Rate(s) for the **fiscal period** as specified above and have determined to the best of my knowledge and belief that:

- All costs included in the cost proposal to establish the indirect cost rate(s) are allowable in accordance with the cost principles of the Federal Acquisition Regulation (FAR) 48, Code of Federal Regulations (CFR), Chapter 1, Part 31 (48 CFR Part 31);
- The cost proposal does not include any costs which are expressly unallowable under the cost principles of 48 CFR Part 31;
- The accounting treatment and billing of prevailing wage delta costs are consistent with our prevailing wage policy as either direct labor, indirect costs, or other direct costs on all federally-funded A&E Consultant Contracts.
- All known material transactions or events that have occurred subsequent to year-end affecting the consultant's ownership, organization, and indirect cost rates have been disclosed as of the date of this certification.

I am providing the required and applicable documents as instructed on Exhibit 10-A.

Financial Management System:

Our labor charging, job costing, and accounting systems meet the standards for financial reporting, accounting records, and internal control adequate to demonstrate that costs claimed have been incurred, appropriately accounted for, are allocable to the contract, and comply with the federal requirements as set forth in [Title 23 United States Code \(U.S.C.\) Section 112\(b\)\(2\)](#); [48 CFR Part 31.201-2\(d\)](#); [23 CFR, Chapter 1, Part 172.11\(a\)\(2\)](#); and all applicable state and federal rules and regulations.

Our financial management system has the following attributes:

- Account numbers identifying allowable direct, indirect, and unallowable cost accounts;
- Ability to accumulate and segregate allowable direct, indirect, and unallowable costs into separate cost

accounts;

- Ability to accumulate and segregate allowable direct costs by project, contract and type of cost;
- Internal controls to maintain integrity of financial management system;
- Ability to account and record costs consistently and to ensure costs billed are in compliance with FAR;
- Ability to ensure and demonstrate costs billed reconcile to general ledgers and job costing system; and
- Ability to ensure costs are in compliance with contract terms and federal and state requirement

Cost Reimbursements on Contracts:

I also understand that failure to comply with 48 CFR Part 16.301-3 or knowingly charge unallowable costs to Federal-Aid Highway Program (FAHP) contracts may result in possible penalties and sanctions as provided by the following:

- Sanctions and Penalties - [23 CFR Part 172.11\(c\)\(4\)](#)
- False Claims Act - [Title 31 U.S.C. Sections 3729-3733](#)
- Statements or entries generally - [Title 18 U.S.C. Section 1001](#)
- Major Fraud Act - [Title 18 U.S.C. Section 1031](#)

All A&E Contract Information:

- Total participation amount \$ _____ on all State and FAHP contracts for Architectural & Engineering services that the consultant received in the last three fiscal periods.
- The number of states in which the consultant does business is _____.
- Years of consultant’s experience with 48 CFR Part 31 is _____.
- Audit history of the consultant’s current and prior years (if applicable)
 - Cognizant ICR Audit Local Gov’t ICR Audit Caltrans ICR Audit
 - CPA ICR Audit Federal Gov’t ICR Audit

I, the undersigned, certify all of the above to the best of my knowledge and belief and that I have reviewed the Indirect Cost Rate Schedule to determine that any costs which are expressly unallowable under the Federal cost principles have been removed and comply with [Title 23 U.S.C. Section 112\(b\)\(2\)](#), [48 CFR Part 31](#), [23 CFR Part 172](#), and all applicable state and federal rules and regulations. I also certify that I understand that all documentation of compliance must be retained by the consultant. I hereby acknowledge that costs that are noncompliant with the federal and state requirements are not eligible for reimbursement and must be returned to Caltrans.

Name**: _____ Title**: _____

Signature: _____ Date of Certification (mm/dd/yyyy): _____

Email**: _____ Phone Number**: _____

**An individual executive or financial officer of the consultant’s or subconsultant’s organization at a level no lower than a Vice President, a Chief Financial Officer, or equivalent, who has authority to represent the financial information used to establish the indirect cost rate.

Note: ***Both prime and subconsultants as parties of a contract must complete their own Exhibit 10-K forms. Caltrans will not process local agency’s invoices until a complete Exhibit 10-K form is accepted and approved by Caltrans Audits and Investigations.***

- Distribution:**
- 1) Original - Local Agency Project File
 - 2) Copy - Consultant
 - 3) Copy - Caltrans Audits and Investigations

EXHIBIT 10-R A & E SAMPLE CONTRACT LANGUAGE

(For Local Assistance Federal-aid Projects)

NOTE TO LOCAL AGENCY - BE SURE THAT YOUR LEGAL STAFF REVIEWS AND APPROVES ALL CONSULTANT CONTRACTS BEFORE EXECUTION. THIS CONTRACT LANGUAGE IS ONLY SUGGESTED LANGUAGE. MODIFY AS RECOMMENDED BY YOUR OWN LEGAL STAFF AND TO FIT YOUR PARTICULAR REQUIREMENTS AND PROJECT.

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ARTICLE I INTRODUCTION

- A. This contract is between the following named, hereinafter referred to as, CONSULTANT and the following named, hereinafter referred to as, LOCAL AGENCY:

The name of the "CONSULTANT" is as follows: _____

Incorporated in the State of *(NAME OF STATE)*

The Project Manager for the "CONSULTANT" will be *(NAME)*

The name of the "LOCAL AGENCY" is as follows: _____

The Contract Administrator for LOCAL AGENCY will be *(NAME)*

- B. The work to be performed under this contract is described in Article II entitled Statement of Work and the approved CONSULTANT's Cost Proposal dated *(DATE)*. The approved CONSULTANT's Cost Proposal is attached hereto (Attachment I) and incorporated by reference. If there is any conflict between the approved Cost Proposal and this contract, this contract shall take precedence.
- C. CONSULTANT agrees to indemnify and hold harmless LOCAL AGENCY, its officers, agents, and employees from any and all claims, demands, costs, or liability arising from or connected with the services provided hereunder due to negligent acts, errors, or omissions of CONSULTANT. CONSULTANT will reimburse LOCAL AGENCY for any expenditure, including reasonable attorney fees, incurred by LOCAL AGENCY in defending against claims ultimately determined to be due to negligent acts, errors, or omissions of CONSULTANT.
- D. CONSULTANT and the agents and employees of CONSULTANT, in the performance of this contract, shall act in an independent capacity and not as officers or employees or agents of LOCAL AGENCY.
- E. Without the written consent of LOCAL AGENCY, this contract is not assignable by CONSULTANT either in whole or in part.
- F. No alteration or variation of the terms of this contract shall be valid, unless made in writing and signed by the parties hereto; and no oral understanding or agreement not incorporated herein, shall be binding on any of the parties hereto.
- G. The consideration to be paid to CONSULTANT as provided herein, shall be in compensation for all of CONSULTANT's expenses incurred in the performance hereof, including travel and per diem, unless otherwise expressly so provided.

ARTICLE II STATEMENT OF WORK

(INSERT APPROPRIATE STATEMENT OF WORK INCLUDING A DESCRIPTION OF THE DELIVERABLES)

A. Consultant Services

Detail based on the services to be furnished should be provided by CONSULTANT. Nature and extent should be verified in the negotiations to make precise statements to eliminate subsequent uncertainties and misunderstandings. Reference to the appropriate standards for design or other standards for work performance stipulated in consultant contract should be included. Describe acceptance criteria, and if the responsible consultant/engineer shall sign all Plans, Specifications and Estimate (PS&E) and engineering data furnished under the contract including registration number. Environmental documents are not considered complete until a Caltrans District Senior Environmental Planner signs the Categorical Exclusion, a Caltrans Deputy District Director signs the Finding of No

Significant Impact, or the Caltrans District Director signs the Record of Decision [see Chapter 6, “*Environmental Procedures*” in the LAPM, and the *Standard Environmental Reference*].

B. Right of Way

State whether Right of Way requirements are to be determined and shown by CONSULTANT, whether land surveys and computations with metes and bounds descriptions are to be made, and whether Right of Way plots are to be furnished.

C. Surveys

State whether or not the CONSULTANT has the responsibility for performing preliminary or construction surveys.

D. Subsurface Investigations

State specifically whether or not CONSULTANT has responsibility for making subsurface investigations. If borings or other specialized services are to be made by others under the supervision of CONSULTANT, appropriate provisions are to be incorporated. Archaeological testing and data recovery guidance can be found in the *Standard Environmental Reference*.

E. Local Agency Obligations

All data applicable to the project and in possession of LOCAL AGENCY or another agency, or government that are to be made available to CONSULTANT are referred to in the contract. Any other assistance or services to be furnished to CONSULTANT are to be stated clearly.

F. Conferences, Visits to Site, Inspection of Work

The contract provides for conferences as needed, visits to the site, and inspection of the work by representatives of the state, or FHWA. Costs incurred by CONSULTANT for meetings, subsequent to the initial meeting shall be included in the fee.

G. Checking Shop Drawings

For contracts requiring the preparation of construction drawings, make provision for checking shop drawings. Payment for checking shop drawings by CONSULTANT may be included in the contract fee, or provision may be made for separate payment.

H. Consultant Services During Construction

The extent, if any of CONSULTANT’s services during the course of construction as material testing, construction surveys. etc., are specified in the contract together with the method of payment for such services.

I. Documentation and Schedules

Contracts where appropriate, shall provide that CONSULTANT document the results of the work to the satisfaction of LOCAL AGENCY, and if applicable, the State and FHWA. This may include preparation of progress and final reports, plans, specifications and estimates, or similar evidence of attainment of the contract objectives.

J. Deliverables and Number of Copies

The number of copies of papers or documents to be furnished, such as reports, brochures, sets of plans, specifications, or Right of Way plots is specified. Provision may be made for payment for additional copies.

ARTICLE III CONSULTANT'S REPORTS OR MEETINGS

(Choose either Option 1 or Option 2)

(Option 1 - Use paragraphs A & B below for standard contracts)

- A. CONSULTANT shall submit progress reports at least once a month. The report should be sufficiently detailed for the Contract Administrator to determine, if CONSULTANT is performing to expectations, or is on schedule; to provide communication of interim findings, and to sufficiently address any difficulties or special problems encountered, so remedies can be developed.
- B. CONSULTANT's Project Manager shall meet with LOCAL AGENCY's Contract Administrator, as needed, to discuss progress on the contract.

(Option 2 - Use paragraphs A & B below for on-call contracts)

- A. CONSULTANT shall submit progress reports on each specific project in accordance with the Task Order. These reports shall be submitted at least once a month. The report should be sufficiently detailed for LOCAL AGENCY's Contract Administrator or Project Coordinator to determine, if CONSULTANT is performing to expectations, or is on schedule; to provide communication of interim findings, and to sufficiently address any difficulties or special problems encountered, so remedies can be developed.
- B. CONSULTANT's Project Manager shall meet with LOCAL AGENCY's Contract Administrator or Project Coordinator, as needed, to discuss progress on the project(s).

ARTICLE IV PERFORMANCE PERIOD (Verbatim)

(A time must be set for beginning and ending the work under the contract. The time allowed for performing the work is specified; it should be reasonable for the kind and amount of services contemplated; and it is written into the contract. If it is desirable that Critical Path Method (CPM) networks, or other types of schedules be prepared by CONSULTANT, they should be identified and incorporated into the contract.)

(Choose either Option 1 or Option 2)

(Option 1 - Use paragraphs A & B below for standard and on-call contracts)

- A. This contract shall go into effect on (DATE), contingent upon approval by LOCAL AGENCY, and CONSULTANT shall commence work after notification to proceed by LOCAL AGENCY'S Contract Administrator. The contract shall end on (DATE), unless extended by contract amendment.
- B. CONSULTANT is advised that any recommendation for contract award is not binding on LOCAL AGENCY until the contract is fully executed and approved by LOCAL AGENCY.

(Option 2 - Use paragraph C below in addition to paragraphs A & B above for on-call contracts)

- C. The period of performance for each specific project shall be in accordance with the Task Order for that project. If work on a Task Order is in progress on the expiration date of this contract, the terms of the contract shall be extended by contract amendment.

ARTICLE V ALLOWABLE COSTS AND PAYMENTS (Verbatim)

(Choose either Option 1, 2, 3, or 4)

(Option 1 - Use paragraphs A through J below for Actual Cost-Plus-Fixed Fee contracts. Use Exhibit 10-H, Example #1 for Cost Proposal Format)

- A. The method of payment for this contract will be based on actual cost plus a fixed fee. LOCAL AGENCY will reimburse CONSULTANT for actual costs (including labor costs, employee benefits, travel, equipment rental

costs, overhead and other direct costs) incurred by CONSULTANT in performance of the work. CONSULTANT will not be reimbursed for actual costs that exceed the estimated wage rates, employee benefits, travel, equipment rental, overhead, and other estimated costs set forth in the approved CONSULTANT'S Cost Proposal, unless additional reimbursement is provided for by contract amendment. In no event, will CONSULTANT be reimbursed for overhead costs at a rate that exceeds LOCAL AGENCY's approved overhead rate set forth in the Cost Proposal. In the event, that LOCAL AGENCY determines that a change to the work from that specified in the Cost Proposal and contract is required, the contract time or actual costs reimbursable by LOCAL AGENCY shall be adjusted by contract amendment to accommodate the changed work. The maximum total cost as specified in Paragraph "H" shall not be exceeded, unless authorized by contract amendment.

- B. In addition to the allowable incurred costs, LOCAL AGENCY will pay CONSULTANT a fixed fee of \$(AMOUNT). The fixed fee is nonadjustable for the term of the contract, except in the event of a significant change in the scope of work and such adjustment is made by contract amendment.
- C. Reimbursement for transportation and subsistence costs shall not exceed the rates specified in the approved Cost Proposal.
- D. When milestone cost estimates are included in the approved Cost Proposal, CONSULTANT shall obtain prior written approval for a revised milestone cost estimate from the Contract Administrator before exceeding such cost estimate.
- E. Progress payments will be made monthly in arrears based on services provided and allowable incurred costs. A pro rata portion of CONSULTANT's fixed fee will be included in the monthly progress payments. If CONSULTANT fails to submit the required deliverable items according to the schedule set forth in the Statement of Work, LOCAL AGENCY shall have the right to delay payment or terminate this Contract in accordance with the provisions of Article VI Termination.
- F. No payment will be made prior to approval of any work, nor for any work performed prior to approval of this contract.
- G. CONSULTANT will be reimbursed, as promptly as fiscal procedures will permit upon receipt by LOCAL AGENCY's Contract Administrator of itemized invoices in triplicate. Invoices shall be submitted no later than 45 calendar days after the performance of work for which CONSULTANT is billing. Invoices shall detail the work performed on each milestone and each project as applicable. Invoices shall follow the format stipulated for the approved Cost Proposal and shall reference this contract number and project title. Final invoice must contain the final cost and all credits due LOCAL AGENCY including any equipment purchased under the provisions of Article XI Equipment Purchase of this contract. The final invoice should be submitted within 60 calendar days after completion of CONSULTANT's work. Invoices shall be mailed to LOCAL AGENCY's Contract Administrator at the following address:

(LOCAL AGENCY/NAME OF CONTRACT ADMINISTRATOR)

(ADDRESS)

- H. The total amount payable by LOCAL AGENCY including the fixed fee shall not exceed \$(Amount).
- I. Salary increases will be reimbursable if the new salary is within the salary range identified in the approved Cost Proposal and is approved by LOCAL AGENCY's Contract Administrator.

For personnel subject to prevailing wage rates as described in the California Labor Code, all salary increases, which are the direct result of changes in the prevailing wage rates are reimbursable.

(Option 2 - For Cost per Unit of Work contracts, replace paragraphs A & B of Option 1 with the following paragraphs A, B, and C and re-letter the remaining paragraphs. Adjust as necessary for work specific to your project. Use Exhibit 10-H, Example #3 for Cost Proposal Format)

- A. The method of payment for the following items shall be at the rate specified for each item, as described in this Article. The specified rate shall include full compensation to CONSULTANT for the item as described, including but not limited to, any repairs, maintenance, or insurance, and no further compensation will be allowed therefore.
- B. The specified rate to be paid for vehicle expense for CONSULTANT's field personnel shall be \$(Amount) per approved Cost Proposal. This rate shall be for a fully equipped vehicle, with radio and flashing yellow light (if needed), as specified in Article II of this contract.

The specified rate to be paid for equipment shall be, as listed in Attachment (Insert Attachment Number).

- C. The method of payment for this contract, except those items to be paid for on a specified rate basis, will be based on cost per unit of work. LOCAL AGENCY will reimburse CONSULTANT for actual costs (including labor costs, employee benefits, travel, equipment-rental costs, overhead and other direct costs) incurred by CONSULTANT in performance of the work. CONSULTANT will not be reimbursed for actual costs that exceed the estimated wage rates, employee benefits, travel, equipment rental, overhead and other estimated costs set forth in the approved Cost Proposal, unless additional reimbursement is provided for, by contract amendment. In no event, will CONSULTANT be reimbursed for overhead costs at a rate that exceeds LOCAL AGENCY approved overhead rate set forth in the approved Cost Proposal. In the event, LOCAL AGENCY determines that changed work from that specified in the approved Cost Proposal and contract is required; the actual costs reimbursable by LOCAL AGENCY may be adjusted by contract amendment to accommodate the changed work. The maximum total cost as specified in Paragraph "I," shall not be exceeded unless authorized by contract amendment.

(Option 3 - Use paragraphs A through P for Specific Rates of Compensation contracts [such as on-call contracts]. Use Exhibit 10-H, Example #2 for Cost Proposal Format)

- A. CONSULTANT will be reimbursed for hours worked at the hourly rates specified in CONSULTANT's Cost Proposal (Attachment Number). The specified hourly rates shall include direct salary costs, employee benefits, overhead, and fee. These rates are not adjustable for the performance period set forth in this Contract.
- B. In addition, CONSULTANT will be reimbursed for incurred (actual) direct costs other than salary costs that are in the cost proposal and identified in the cost proposal and in the executed Task Order.
- C. Specific projects will be assigned to CONSULTANT through issuance of Task Orders.
- D. After a project to be performed under this contract is identified by LOCAL AGENCY, LOCAL AGENCY will prepare a draft Task Order; less the cost estimate. A draft Task Order will identify the scope of services, expected results, project deliverables, period of performance, project schedule and will designate a LOCAL AGENCY Project Coordinator. The draft Task Order will be delivered to CONSULTANT for review. CONSULTANT shall return the draft Task Order within ten (10) calendar days along with a Cost Estimate, including a written estimate of the number of hours and hourly rates per staff person, any anticipated reimbursable expenses, overhead, fee if any, and total dollar amount. After agreement has been reached on the negotiable items and total cost; the finalized Task Order shall be signed by both LOCAL AGENCY and CONSULTANT.
- E. Task Orders may be negotiated for a lump sum (Firm Fixed Price) or for specific rates of compensation, both of which must be based on the labor and other rates set forth in CONSULTANT's Cost Proposal.
- F. Reimbursement for transportation and subsistence costs shall not exceed the rates as specified in the approved Cost Proposal.

- G. When milestone cost estimates are included in the approved Cost Proposal, CONSULTANT shall obtain prior written approval for a revised milestone cost estimate from the Contract Administrator before exceeding such estimate.
- H. Progress payments for each Task Order will be made monthly in arrears based on services provided and actual costs incurred.
- I. CONSULTANT shall not commence performance of work or services until this contract has been approved by LOCAL AGENCY, and notification to proceed has been issued by LOCAL AGENCY'S Contract Administrator. No payment will be made prior to approval or for any work performed prior to approval of this contract.
- J. A Task Order is of no force or effect until returned to LOCAL AGENCY and signed by an authorized representative of LOCAL AGENCY. No expenditures are authorized on a project and work shall not commence until a Task Order for that project has been executed by LOCAL AGENCY.
- K. CONSULTANT will be reimbursed, as promptly as fiscal procedures will permit upon receipt by LOCAL AGENCY'S Contract Administrator of itemized invoices in triplicate. Separate invoices itemizing all costs are required for all work performed under each Task Order. Invoices shall be submitted no later than 45 calendar days after the performance of work for which CONSULTANT is billing, or upon completion of the Task Order. Invoices shall detail the work performed on each milestone, on each project as applicable. Invoices shall follow the format stipulated for the approved Cost Proposal and shall reference this contract number, project title and Task Order number. Credits due LOCAL AGENCY that include any equipment purchased under the provisions of Article XI Equipment Purchase of this contract, must be reimbursed by CONSULTANT prior to the expiration or termination of this contract. Invoices shall be mailed to LOCAL AGENCY's Contract Administrator at the following address:

(NAME OF LOCAL AGENCY/ NAME OF CONTRACT ADMINISTRATOR)

(ADDRESS)

- L. The period of performance for Task Orders shall be in accordance with dates specified in the Task Order. No Task Order will be written which extends beyond the expiration date of this Contract.
- M. The total amount payable by LOCAL AGENCY for an individual Task Order shall not exceed the amount agreed to in the Task Order, unless authorized by contract amendment.
- N. If the Consultant fails to satisfactorily complete a deliverable according to the schedule set forth in a Task Order, no payment will be made until the deliverable has been satisfactorily completed.
- O. Task Orders may not be used to amend this Agreement and may not exceed the scope of work under this Agreement.
- P. The total amount payable by LOCAL AGENCY for all Task Orders resulting from this contract shall not exceed \$ (Amount). It is understood and agreed that there is no guarantee, either expressed or implied that this dollar amount will be authorized under this contract through Task Orders.

(Option 4 - Use paragraphs A through E below for lump sum contracts. Use Exhibit 10-H, Example #1 for Cost Proposal Format)

- A. The method of payment for this contract will be based on lump sum. The total lump sum price paid to CONSULTANT will include compensation for all work and deliverables, including travel and equipment described in Article II Statement of Work of this contract. No additional compensation will be paid to CONSULTANT, unless there is a change in the scope of the work or the scope of the project. In the instance of a change in the scope of work or scope of the project, adjustment to the total lump sum compensation will be negotiated between CONSULTANT and LOCAL AGENCY. Adjustment in the total lump sum

compensation will not be effective until authorized by contract amendment and approved by LOCAL AGENCY.

- B. Progress payments may be made monthly in arrears based on the percentage of work completed by CONSULTANT. If CONSULTANT fails to submit the required deliverable items according to the schedule set forth in the Statement of Work, LOCAL AGENCY shall have the right to delay payment or terminate this Contract in accordance with the provisions of Article VI Termination.
- C. CONSULTANT shall not commence performance of work or services until this contract has been approved by LOCAL AGENCY and notification to proceed has been issued by LOCAL AGENCY'S Contract Administrator. No payment will be made prior to approval of any work, or for any work performed prior to approval of this contract.
- D. CONSULTANT will be reimbursed, as promptly as fiscal procedures will permit, upon receipt by LOCAL AGENCY'S Contract Administrator of itemized invoices in triplicate. Invoices shall be submitted no later than 45 calendar days after the performance of work for which CONSULTANT is billing. Invoices shall detail the work performed on each milestone, on each project as applicable. Invoices shall follow the format stipulated for the Cost Proposal and shall reference this contract number and project title. Final invoice must contain the final cost and all credits due LOCAL AGENCY that include any equipment purchased under the provisions of Article XI Equipment Purchase of this contract. The final invoice should be submitted within 60-calendar days after completion of CONSULTANT's work. Invoices shall be mailed to LOCAL AGENCY's Contract Administrator at the following address:

(LOCAL AGENCY/NAME OF CONTRACT ADMINISTRATOR)

(ADDRESS)

- E. The total amount payable by LOCAL AGENCY shall not exceed \$(Amount).

ARTICLE VI TERMINATION (Verbatim)

- A. LOCAL AGENCY reserves the right to terminate this contract upon thirty (30) calendar days written notice to CONSULTANT with the reasons for termination stated in the notice.
- B. LOCAL AGENCY may terminate this contract with CONSULTANT should CONSULTANT fail to perform the covenants herein contained at the time and in the manner herein provided. In the event of such termination, LOCAL AGENCY may proceed with the work in any manner deemed proper by LOCAL AGENCY. If LOCAL AGENCY terminates this contract with CONSULTANT, LOCAL AGENCY shall pay CONSULTANT the sum due to CONSULTANT under this contract prior to termination, unless the cost of completion to LOCAL AGENCY exceeds the funds remaining in the contract. In which case the overage shall be deducted from any sum due CONSULTANT under this contract and the balance, if any, shall be paid to CONSULTANT upon demand.

ARTICLE VII COST PRINCIPLES AND ADMINISTRATIVE REQUIREMENTS (Verbatim)

- A. CONSULTANT agrees that the Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., shall be used to determine the cost allowability of individual items.
- B. CONSULTANT also agrees to comply with federal procedures in accordance with 2 CFR, Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.
- C. Any costs for which payment has been made to CONSULTANT that are determined by subsequent audit to be unallowable under 2 CFR, Part 200 and 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., are subject to repayment by CONSULTANT to LOCAL AGENCY.

ARTICLE VIII RETENTION OF RECORDS/AUDIT (Verbatim)

For the purpose of determining compliance with Public Contract Code 10115, et seq. and Title 21, California Code of Regulations, Chapter 21, Section 2500 et seq., when applicable and other matters connected with the performance of the contract pursuant to Government Code 8546.7; CONSULTANT, subconsultants, and LOCAL AGENCY shall maintain and make available for inspection all books, documents, papers, accounting records, and other evidence pertaining to the performance of the contract, including but not limited to, the costs of administering the contract. All parties shall make such materials available at their respective offices at all reasonable times during the contract period and for three years from the date of final payment under the contract. The state, State Auditor, LOCAL AGENCY, FHWA, or any duly authorized representative of the Federal Government shall have access to any books, records, and documents of CONSULTANT and its certified public accountants (CPA) work papers that are pertinent to the contract and indirect cost rates (ICR) for audit, examinations, excerpts, and transactions, and copies thereof shall be furnished if requested.

ARTICLE IX AUDIT REVIEW PROCEDURES (Verbatim)

- A. Any dispute concerning a question of fact arising under an interim or post audit of this contract that is not disposed of by agreement, shall be reviewed by LOCAL AGENCY'S Chief Financial Officer.
- B. Not later than 30 days after issuance of the final audit report, CONSULTANT may request a review by LOCAL AGENCY'S Chief Financial Officer of unresolved audit issues. The request for review will be submitted in writing.
- C. Neither the pendency of a dispute nor its consideration by LOCAL AGENCY will excuse CONSULTANT from full and timely performance, in accordance with the terms of this contract.

(The following AUDIT CLAUSE must be inserted into all contracts of \$150,000 or greater)

- D. CONSULTANT and subconsultant contracts, including cost proposals and ICR, are subject to audits or reviews such as, but not limited to, a contract audit, an incurred cost audit, an ICR Audit, or a CPA ICR audit work paper review. If selected for audit or review, the contract, cost proposal and ICR and related work papers, if applicable, will be reviewed to verify compliance with 48 CFR, Part 31 and other related laws and regulations. In the instances of a CPA ICR audit work paper review it is CONSULTANT's responsibility to ensure federal, state, or local government officials are allowed full access to the CPA's work papers including making copies as necessary. The contract, cost proposal, and ICR shall be adjusted by CONSULTANT and approved by LOCAL AGENCY contract manager to conform to the audit or review recommendations. CONSULTANT agrees that individual terms of costs identified in the audit report shall be incorporated into the contract by this reference if directed by LOCAL AGENCY at its sole discretion. Refusal by CONSULTANT to incorporate audit or review recommendations, or to ensure that the federal, state or local governments have access to CPA work papers, will be considered a breach of contract terms and cause for termination of the contract and disallowance of prior reimbursed costs.

(The following AUDIT CLAUSE must be inserted into all contracts of \$3,500,000 or greater).

- E. CONSULTANT Cost Proposal is subject to a CPA ICR Audit Work Paper Review by Caltrans' Audit and Investigation (Caltrans). Caltrans, at its sole discretion, may review and/or audit and approve the CPA ICR documentation. The Cost Proposal shall be adjusted by the CONSULTANT and approved by the LOCAL AGENCY Contract Administrator to conform to the Work Paper Review recommendations included in the management letter or audit recommendations included in the audit report. Refusal by the CONSULTANT to incorporate the Work Paper Review recommendations included in the management letter or audit recommendations included in the audit report will be considered a breach of the contract terms and cause for termination of the contract and disallowance of prior reimbursed costs.
 1. During a Caltrans' review of the ICR audit work papers created by the CONSULTANT's independent CPA, Caltrans will work with the CPA and/or CONSULTANT toward a resolution of issues that arise

during the review. Each party agrees to use its best efforts to resolve any audit disputes in a timely manner. If Caltrans identifies significant issues during the review and is unable to issue a cognizant approval letter, LOCAL AGENCY will reimburse the CONSULTANT at a provisional ICR until a FAR compliant ICR {e.g. 48 CFR, part 31; GAGAS (Generally Accepted Auditing Standards); CAS (Cost Accounting Standards), if applicable; in accordance with procedures and guidelines of the American Association of State Highways and Transportation Officials Audit Guide; and other applicable procedures and guidelines} is received and approved by A&I. Provisional rates will be as follows:

- a. If the proposed rate is less than 150% - the provisional rate reimbursed will be 90% of the proposed rate.
 - b. If the proposed rate is between 150% and 200% - the provisional rate will be 85% of the proposed rate.
 - c. If the proposed rate is greater than 200% - the provisional rate will be 75% of the proposed rate.
2. If Caltrans is unable to issue a cognizant letter per paragraph E.1. above, Caltrans may require CONSULTANT to submit a revised independent CPA-audited ICR and audit report within three (3) months of the effective date of the management letter. Caltrans will then have up to six (6) months to review the CONSULTANT's and/or the independent CPA's revisions.
 3. If the CONSULTANT fails to comply with the provisions of this Section E, or if Caltrans is still unable to issue a cognizant approval letter after the revised independent CPA-audited ICR is submitted, overhead cost reimbursement will be limited to the provisional ICR that was established upon initial rejection of the ICR and set forth in paragraph E.1. above for all rendered services. In this event, this provisional ICR will become the actual and final ICR for reimbursement purposes under this contract.
 4. CONSULTANT may submit to LOCAL AGENCY final invoice only when all of the following items have occurred: (1) Caltrans approves or rejects the original or revised independent CPA-audited ICR; (2) all work under this contract has been completed to the satisfaction of LOCAL AGENCY; and, (3) Caltrans has issued its final ICR review letter. The CONSULTANT MUST SUBMIT ITS FINAL INVOICETO local agency no later than 60 days after occurrence of the last of these items.

The provisional ICR will apply to this contract and all other contracts executed between LOCAL AGENCY and the CONSULTANT, either as a prime or subconsultant, with the same fiscal period ICR.

ARTICLE X SUBCONTRACTING (Verbatim)

- A. Nothing contained in this contract or otherwise, shall create any contractual relation between LOCAL AGENCY and any subconsultant(s), and no subcontract shall relieve CONSULTANT of its responsibilities and obligations hereunder. CONSULTANT agrees to be as fully responsible to LOCAL AGENCY for the acts and omissions of its subconsultant(s) and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by CONSULTANT. CONSULTANT's obligation to pay its subconsultant(s) is an independent obligation from LOCAL AGENCY'S obligation to make payments to the CONSULTANT.
- B. CONSULTANT shall perform the work contemplated with resources available within its own organization and no portion of the work pertinent to this contract shall be subcontracted without written authorization by LOCAL AGENCY's Contract Administrator, except that, which is expressly identified in the approved Cost Proposal.
- C. CONSULTANT shall pay its subconsultants within ten (10) calendar days from receipt of each payment made to CONSULTANT by LOCAL AGENCY.
- D. All subcontracts entered into as a result of this contract shall contain all the provisions stipulated in this contract to be applicable to subconsultants.
- E. Any substitution of subconsultant(s) must be approved in writing by LOCAL AGENCY's Contract Administrator prior to the start of work by the subconsultant(s).

ARTICLE XI EQUIPMENT PURCHASE (Verbatim)

- A. Prior authorization in writing, by LOCAL AGENCY's Contract Administrator shall be required before CONSULTANT enters into any unbudgeted purchase order, or subcontract exceeding \$5,000 for supplies, equipment, or CONSULTANT services. CONSULTANT shall provide an evaluation of the necessity or desirability of incurring such costs.
- B. For purchase of any item, service or consulting work not covered in CONSULTANT's Cost Proposal and exceeding \$5,000 prior authorization by LOCAL AGENCY's Contract Administrator; three competitive quotations must be submitted with the request, or the absence of bidding must be adequately justified.
- C. Any equipment purchased as a result of this contract is subject to the following: "CONSULTANT shall maintain an inventory of all nonexpendable property. Nonexpendable property is defined as having a useful life of at least two years and an acquisition cost of \$5,000 or more. If the purchased equipment needs replacement and is sold or traded in, LOCAL AGENCY shall receive a proper refund or credit at the conclusion of the contract, or if the contract is terminated, CONSULTANT may either keep the equipment and credit LOCAL AGENCY in an amount equal to its fair market value, or sell such equipment at the best price obtainable at a public or private sale, in accordance with established LOCAL AGENCY procedures; and credit LOCAL AGENCY in an amount equal to the sales price. If CONSULTANT elects to keep the equipment, fair market value shall be determined at CONSULTANT's expense, on the basis of a competent independent appraisal of such equipment. Appraisals shall be obtained from an appraiser mutually agreeable to by LOCAL AGENCY and CONSULTANT, if it is determined to sell the equipment, the terms and conditions of such sale must be approved in advance by LOCAL AGENCY." 2 CFR, Part 200 requires a credit to Federal funds when participating equipment with a fair market value greater than \$5,000 is credited to the project.

ARTICLE XII STATE PREVAILING WAGE RATES (Verbatim)

(Choose either Option 1 or Option 2)

(Option 1 - For contracts where a portion of the proposed work to be performed are crafts affected by state labor laws, use paragraphs A and B)

- A. CONSULTANT shall comply with the State of California's General Prevailing Wage Rate requirements in accordance with California Labor Code, Section 1770, and all Federal, State, and local laws and ordinances applicable to the work.
- B. Any subcontract entered into as a result of this contract, if for more than \$25,000 for public works construction or more than \$15,000 for the alteration, demolition, repair, or maintenance of public works, shall contain all of the provisions of this Article, unless the awarding agency has an approved labor compliance program by the Director of Industrial Relations.
- C. When prevailing wages apply to the services described in the scope of work, transportation and subsistence costs shall be reimbursed at the minimum rates set by the Department of Industrial Relations (DIR) as outlined in the applicable Prevailing Wage Determination. See <http://www.dir.ca.gov>.

(Option 2 - Use only paragraph A below when all of the proposed work in the contract is performed by crafts not affected by state labor laws or are not contemplated for use)

- A. The State of California's General Prevailing Wage Rates are not applicable to this contract.

Note: The Federal "Payment of Predetermined Minimum Wage" applies only to federal-aid construction contracts.

ARTICLE XIII CONFLICT OF INTEREST (Verbatim)

- A. CONSULTANT shall disclose any financial, business, or other relationship with LOCAL AGENCY that may have an impact upon the outcome of this contract, or any ensuing LOCAL AGENCY construction project. CONSULTANT shall also list current clients who may have a financial interest in the outcome of this contract, or any ensuing LOCAL AGENCY construction project, which will follow.
- B. CONSULTANT hereby certifies that it does not now have, nor shall it acquire any financial or business interest that would conflict with the performance of services under this contract.

(Choose either Option 1 or Option 2 if appropriate)

(Option 1 - Use paragraphs C & D below with paragraphs A & B above for PS&E contracts only)

- C. CONSULTANT hereby certifies that neither CONSULTANT, nor any firm affiliated with CONSULTANT will bid on any construction contract, or on any contract to provide construction inspection for any construction project resulting from this contract. An affiliated firm is one, which is subject to the control of the same persons through joint-ownership, or otherwise.
- D. Except for subconsultants whose services are limited to providing surveying or materials testing information, no subconsultant who has provided design services in connection with this contract shall be eligible to bid on any construction contract, or on any contract to provide construction inspection for any construction project resulting from this contract.

(Option 2 - Use paragraphs C, D & E below with paragraphs A & B above for Construction Contract Administration contracts only)

- C. CONSULTANT hereby certifies that neither CONSULTANT, its employees, nor any firm affiliated with CONSULTANT providing services on this project prepared the Plans, Specifications, and Estimate for any construction project included within this contract. An affiliated firm is one, which is subject to the control of the same persons through joint- ownership, or otherwise.
- D. CONSULTANT further certifies that neither CONSULTANT, nor any firm affiliated with CONSULTANT, will bid on any construction subcontracts included within the construction contract. Additionally, CONSULTANT certifies that no person working under this contract is also employed by the construction contractor for any project included within this contract.
- E. Except for subconsultants whose services are limited to materials testing, no subconsultant who is providing service on this contract shall have provided services on the design of any project included within this contract.

ARTICLE XIV REBATES, KICKBACKS OR OTHER UNLAWFUL CONSIDERATION (Verbatim)

CONSULTANT warrants that this contract was not obtained or secured through rebates kickbacks or other unlawful consideration, either promised or paid to any LOCAL AGENCY employee. For breach or violation of this warranty, LOCAL AGENCY shall have the right in its discretion; to terminate the contract without liability; to pay only for the value of the work actually performed; or to deduct from the contract price; or otherwise recover the full amount of such rebate, kickback or other unlawful consideration.

ARTICLE XV PROHIBITION OF EXPENDING LOCAL AGENCY STATE OR FEDERAL FUNDS FOR LOBBYING (Verbatim)

(Include this article in all contracts where federal funding will exceed \$150,000. If less than \$150,000 in federal funds will be expended on the contract; delete this article and re-number the notification article which follows.)

- A. CONSULTANT certifies to the best of his or her knowledge and belief that:

1. No state, federal or local agency appropriated funds have been paid, or will be paid by-or-on behalf of CONSULTANT to any person for influencing or attempting to influence an officer or employee of any state or federal agency; a Member of the State Legislature or United States Congress; an officer or employee of the Legislature or Congress; or any employee of a Member of the Legislature or Congress, in connection with the awarding of any state or federal contract; the making of any state or federal grant; the making of any state or federal loan; the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any state or federal contract, grant, loan, or cooperative agreement.
 2. If any funds other than federal appropriated funds have been paid, or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency; a Member of Congress; an officer or employee of Congress, or an employee of a Member of Congress; in connection with this federal contract, grant, loan, or cooperative agreement; CONSULTANT shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.
- B. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
- C. CONSULTANT also agrees by signing this document that he or she shall require that the language of this certification be included in all lower-tier subcontracts, which exceed \$100,000 and that all such sub recipients shall certify and disclose accordingly.

ARTICLE XVI STATEMENT OF COMPLIANCE

- A. CONSULTANT's signature affixed herein, and dated, shall constitute a certification under penalty of perjury under the laws of the State of California that CONSULTANT has, unless exempt, complied with, the nondiscrimination program requirements of Government Code Section 12990 and Title 2, California Administrative Code, Section 8103.
- B. During the performance of this Contract, Consultant and its subconsultants shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (e.g., cancer), age (over 40), marital status, and denial of family care leave. Consultant and subconsultants shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Consultant and subconsultants shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 (a-f) et seq.) and the applicable regulations promulgated there under (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Contract by reference and made a part hereof as if set forth in full. Consultant and its subconsultants shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.

(For contracts with Federal funding, add paragraphs C & D)

- C. The Consultant shall comply with regulations relative to Title VI (nondiscrimination in federally-assisted programs of the Department of Transportation – Title 49 Code of Federal Regulations, Part 21 - Effectuation of Title VI of the 1964 Civil Rights Act). Title VI provides that the recipients of federal assistance will implement and maintain a policy of nondiscrimination in which no person in the state of California shall, on the basis of race, color, national origin, religion, sex, age, disability, be excluded from participation in, denied

the benefits of or subject to discrimination under any program or activity by the recipients of federal assistance or their assignees and successors in interest.

- D. The Consultant, with regard to the work performed by it during the Agreement shall act in accordance with Title VI. Specifically, the Consultant shall not discriminate on the basis of race, color, national origin, religion, sex, age, or disability in the selection and retention of Subconsultants, including procurement of materials and leases of equipment. The Consultant shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the U.S. DOT's Regulations, including employment practices when the Agreement covers a program whose goal is employment.

ARTICLE XVII DEBARMENT AND SUSPENSION CERTIFICATION

- A. CONSULTANT's signature affixed herein, shall constitute a certification under penalty of perjury under the laws of the State of California, that CONSULTANT has complied with Title 2 CFR, Part 180, "OMB Guidelines to Agencies on Government wide Debarment and Suspension (nonprocurement)", which certifies that he/she or any person associated therewith in the capacity of owner, partner, director, officer, or manager, is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency; has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three (3) years; does not have a proposed debarment pending; and has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years. Any exceptions to this certification must be disclosed to LOCAL AGENCY.
- B. Exceptions will not necessarily result in denial of recommendation for award, but will be considered in determining CONSULTANT responsibility. Disclosures must indicate to whom exceptions apply, initiating agency, and dates of action.
- C. Exceptions to the Federal Government Excluded Parties List System maintained by the General Services Administration are to be determined by the Federal highway Administration.

ARTICLE XVIII FUNDING REQUIREMENTS

- A. It is mutually understood between the parties that this contract may have been written before ascertaining the availability of funds or appropriation of funds, for the mutual benefit of both parties, in order to avoid program and fiscal delays that would occur if the contract were executed after that determination was made.
- B. This contract is valid and enforceable only, if sufficient funds are made available to LOCAL AGENCY for the purpose of this contract. In addition, this contract is subject to any additional restrictions, limitations, conditions, or any statute enacted by the Congress, State Legislature, or LOCAL AGENCY governing board that may affect the provisions, terms, or funding of this contract in any manner.
- C. It is mutually agreed that if sufficient funds are not appropriated, this contract may be amended to reflect any reduction in funds.
- D. LOCAL AGENCY has the option to void the contract under the 30-day termination clause pursuant to Article VI, or by mutual agreement to amend the contract to reflect any reduction of funds.

ARTICLE XIX CHANGE IN TERMS

- A. This contract may be amended or modified only by mutual written agreement of the parties.
- B. CONSULTANT shall only commence work covered by an amendment after the amendment is executed and notification to proceed has been provided by LOCAL AGENCY's Contract Administrator.

- C. There shall be no change in CONSULTANT's Project Manager or members of the project team, as listed in the approved Cost Proposal, which is a part of this contract without prior written approval by LOCAL AGENCY's Contract Administrator.

ARTICLE XX DISADVANTAGED BUSINESS ENTERPRISES (DBE) PARTICIPATION

- A. This contract is subject to 49 CFR, Part 26 entitled "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs". Consultants who obtain DBE participation on this contract will assist Caltrans in meeting its federally mandated statewide overall DBE goal.
- B. The goal for DBE participation for this contract is _____%. Participation by DBE consultant or subconsultants shall be in accordance with information contained in the Consultant Proposal DBE Commitment (Exhibit 10-O1), or in the Consultant Contract DBE Information (Exhibit 10-O2) attached hereto and incorporated as part of the Contract. If a DBE subconsultant is unable to perform, CONSULTANT must make a good faith effort to replace him/her with another DBE subconsultant, if the goal is not otherwise met.
- C. DBEs and other small businesses, as defined in 49 CFR, Part 26 are encouraged to participate in the performance of contracts financed in whole or in part with federal funds. CONSULTANT or subconsultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. CONSULTANT shall carry out applicable requirements of 49 CFR, Part 26 in the award and administration of US DOT-assisted agreements. Failure by CONSULTANT to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as LOCAL AGENCY deems appropriate.
- D. Any subcontract entered into as a result of this contract shall contain all of the provisions of this section.
- E. A DBE firm may be terminated only with prior written approval from LOCAL AGENCY and only for the reasons specified in 49 CFR 26.53(f). Prior to requesting LOCAL AGENCY consent for the termination, CONSULTANT must meet the procedural requirements specified in 49 CFR 26.53(f).
- F. A DBE performs a Commercially Useful Function (CUF) when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a CUF, the DBE must also be responsible with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself. To determine whether a DBE is performing a CUF, evaluate the amount of work subcontracted, industry practices, whether the amount the firm is to be paid under the contract is commensurate with the work it is actually performing, and other relevant factors.
- G. A DBE does not perform a CUF if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of DBE participation. In determining whether a DBE is such an extra participant, examine similar transactions, particularly those in which DBEs do not participate.
- H. If a DBE does not perform or exercise responsibility for at least thirty percent (30%) of the total cost of its contract with its own work force, or the DBE subcontracts a greater portion of the work of the contract than would be expected on the basis of normal industry practice for the type of work involved, it will be presumed that it is not performing a CUF.
- I. CONSULTANT shall maintain records of materials purchased or supplied from all subcontracts entered into with certified DBEs. The records shall show the name and business address of each DBE or vendor and the total dollar amount actually paid each DBE or vendor, regardless of tier. The records shall show the date of payment and the total dollar figure paid to all firms. DBE prime consultants shall also show the date of work performed by their own forces along with the corresponding dollar value of the work.

- J. Upon completion of the Contract, a summary of these records shall be prepared and submitted on the form entitled, "Final Report-Utilization of Disadvantaged Business Enterprise (DBE), First-Tier Subconsultants" CEM-2402F [Exhibit 17-F, of the LAPM], certified correct by CONSULTANT or CONSULTANT's authorized representative and shall be furnished to the Contract Administrator with the final invoice. Failure to provide the summary of DBE payments with the final invoice will result in twenty-five percent (25%) of the dollar value of the invoice being withheld from payment until the form is submitted. The amount will be returned to CONSULTANT when a satisfactory "Final Report-Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subconsultants" is submitted to the Contract Administrator.
- K. If a DBE subconsultant is decertified during the life of the contract, the decertified subconsultant shall notify CONSULTANT in writing with the date of decertification. If a subconsultant becomes a certified DBE during the life of the Contract, the subconsultant shall notify CONSULTANT in writing with the date of certification. Any changes should be reported to LOCAL AGENCY's Contract Administrator within 30 days.

ARTICLE XXI CONTINGENT FEE

CONSULTANT warrants, by execution of this contract that no person or selling agency has been employed, or retained, to solicit or secure this contract upon an agreement or understanding, for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees, or bona fide established commercial or selling agencies maintained by CONSULTANT for the purpose of securing business. For breach or violation of this warranty, LOCAL AGENCY has the right to annul this contract without liability; pay only for the value of the work actually performed, or in its discretion to deduct from the contract price or consideration, or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee.

ARTICLE XXII DISPUTES

(Choose either Option 1 or Option 2)

(Option 1 - Use paragraphs A through C below for all contracts without PS&E submittal)

- A. Any dispute, other than audit, concerning a question of fact arising under this contract that is not disposed of by agreement shall be decided by a committee consisting of LOCAL AGENCY's Contract Administrator and (Insert Department Head or Official), who may consider written or verbal information submitted by CONSULTANT.
- B. Not later than 30 days after completion of all work under the contract, CONSULTANT may request review by LOCAL AGENCY Governing Board of unresolved claims or disputes, other than audit. The request for review will be submitted in writing.
- C. Neither the pendency of a dispute, nor its consideration by the committee will excuse CONSULTANT from full and timely performance in accordance with the terms of this contract.

(Option 2 - Replace Paragraph B, above, with the following for contracts requiring the submission of PS&E)

- B. Not later than 30 days after completion of all deliverables necessary to complete the plans, specifications and estimate, CONSULTANT may request review by LOCAL AGENCY Governing Board of unresolved claims or disputes, other than audit. The request for review will be submitted in writing.

ARTICLE XXIII INSPECTION OF WORK

CONSULTANT and any subconsultant shall permit LOCAL AGENCY, the state, and the FHWA if federal participating funds are used in this contract; to review and inspect the project activities and files at all reasonable times during the performance period of this contract including review and inspection on a daily basis.

ARTICLE XXIV SAFETY

(Use on all contracts regardless of funding source)

- A. CONSULTANT shall comply with OSHA regulations applicable to CONSULTANT regarding necessary safety equipment or procedures. CONSULTANT shall comply with safety instructions issued by LOCAL AGENCY Safety Officer and other LOCAL AGENCY representatives. CONSULTANT personnel shall wear hard hats and safety vests at all times while working on the construction project site.
- B. Pursuant to the authority contained in Section 591 of the Vehicle Code, LOCAL AGENCY has determined that such areas are within the limits of the project and are open to public traffic. CONSULTANT shall comply with all of the requirements set forth in Divisions 11, 12, 13, 14, and 15 of the Vehicle Code. CONSULTANT shall take all reasonably necessary precautions for safe operation of its vehicles and the protection of the traveling public from injury and damage from such vehicles.
- C. Any subcontract entered into as a result of this contract, shall contain all of the provisions of this Article.

(Add to all contracts, which may require trenching of five feet or deeper)

- D. CONSULTANT must have a Division of Occupational Safety and Health (CAL-OSHA) permit(s), as outlined in California Labor Code Sections 6500 and 6705, prior to the initiation of any practices, work, method, operation, or process related to the construction or excavation of trenches which are five feet or deeper.

ARTICLE XXV INSURANCE

(Choose either Option 1 or Option 2)

(Option 1 - for Contracts with a scope of services that may require the consultant or subconsultant to work within the operating state or Local Agency Highway Right of Way; where there would be exposure to public traffic or construction operations)

- A. Prior to commencement of the work described herein, CONSULTANT shall furnish LOCAL AGENCY a Certificate of Insurance stating that there is general comprehensive liability insurance presently in effect for CONSULTANT with a combined single limit (CSL) of not less than one million dollars (\$1,000,000) per occurrence.
- B. The Certificate of Insurance will provide:
 - 1. That the insurer will not cancel the insured's coverage without 30 days prior written notice to LOCAL AGENCY.
 - 2. That LOCAL AGENCY, its officers, agents, employees, and servants are included as additional insureds, but only insofar as the operations under this contract are concerned.
 - 3. That LOCAL AGENCY will not be responsible for any premiums or assessments on the policy.
- C. CONSULTANT agrees that the bodily injury liability insurance herein provided for, shall be in effect at all times during the term of this contract. In the event said insurance coverage expires at any time or times during the term of this contract, CONSULTANT agrees to provide at least thirty (30) days prior notice to said expiration date; and a new Certificate of Insurance evidencing insurance coverage as provided for herein, for not less than either the remainder of the term of the contract, or for a period of not less than one (1) year. New Certificates of Insurance are subject to the approval of LOCAL AGENCY. In the event CONSULTANT fails to keep in effect at all times insurance coverage as herein provided, LOCAL AGENCY may, in addition to any other remedies it may have, terminate this contract upon occurrence of such event.

(Option 2 - For Contracts with a scope of services that will not require the Consultant or subconsultant to work within the operating State or LOCAL AGENCY Highway Right of Way where there would be exposure to public traffic or construction Consultant operations)

CONSULTANT is not required to show evidence of general comprehensive liability insurance.

ARTICLE XXVI OWNERSHIP OF DATA

- A. Upon completion of all work under this contract, ownership and title to all reports, documents, plans, specifications, and estimates produce as part of this contract will automatically be vested in LOCAL AGENCY; and no further agreement will be necessary to transfer ownership to LOCAL AGENCY. CONSULTANT shall furnish LOCAL AGENCY all necessary copies of data needed to complete the review and approval process.
- B. It is understood and agreed that all calculations, drawings and specifications, whether in hard copy or machine-readable form, are intended for one-time use in the construction of the project for which this contract has been entered into.
- C. CONSULTANT is not liable for claims, liabilities, or losses arising out of, or connected with the modification, or misuse by LOCAL AGENCY of the machine-readable information and data provided by CONSULTANT under this contract; further, CONSULTANT is not liable for claims, liabilities, or losses arising out of, or connected with any use by LOCAL AGENCY of the project documentation on other projects for additions to this project, or for the completion of this project by others, except only such use as many be authorized in writing by CONSULTANT.
- D. Applicable patent rights provisions regarding rights to inventions shall be included in the contracts as appropriate (48 CFR 27, Subpart 27.3 - Patent Rights under Government Contracts for federal-aid contracts).
- E. LOCAL AGENCY may permit copyrighting reports or other agreement products. If copyrights are permitted; the agreement shall provide that the FHWA shall have the royalty-free nonexclusive and irrevocable right to reproduce, publish, or otherwise use; and to authorize others to use, the work for government purposes.

ARTICLE XXVII CLAIMS FILED BY LOCAL AGENCY'S CONSTRUCTION CONTRACTOR

- A. If claims are filed by LOCAL AGENCY's construction contractor relating to work performed by CONSULTANT's personnel, and additional information or assistance from CONSULTANT's personnel is required in order to evaluate or defend against such claims; CONSULTANT agrees to make its personnel available for consultation with LOCAL AGENCY'S construction contract administration and legal staff and for testimony, if necessary, at depositions and at trial or arbitration proceedings.
- B. CONSULTANT's personnel that LOCAL AGENCY considers essential to assist in defending against construction contractor claims will be made available on reasonable notice from LOCAL AGENCY. Consultation or testimony will be reimbursed at the same rates, including travel costs that are being paid for CONSULTANT's personnel services under this contract.
- C. Services of CONSULTANT's personnel in connection with LOCAL AGENCY's construction contractor claims will be performed pursuant to a written contract amendment, if necessary, extending the termination date of this contract in order to resolve the construction claims.

ARTICLE XXVIII CONFIDENTIALITY OF DATA

- A. All financial, statistical, personal, technical, or other data and information relative to LOCAL AGENCY's operations, which are designated confidential by LOCAL AGENCY and made available to CONSULTANT

in order to carry out this contract, shall be protected by CONSULTANT from unauthorized use and disclosure.

- B. Permission to disclose information on one occasion, or public hearing held by LOCAL AGENCY relating to the contract, shall not authorize CONSULTANT to further disclose such information, or disseminate the same on any other occasion.
- C. CONSULTANT shall not comment publicly to the press or any other media regarding the contract or LOCAL AGENCY's actions on the same, except to LOCAL AGENCY's staff, CONSULTANT's own personnel involved in the performance of this contract, at public hearings or in response to questions from a Legislative committee.
- D. CONSULTANT shall not issue any news release or public relations item of any nature, whatsoever, regarding work performed or to be performed under this contract without prior review of the contents thereof by LOCAL AGENCY, and receipt of LOCAL AGENCY'S written permission.
- E. Any subcontract entered into as a result of this contract shall contain all of the provisions of this Article.

(For PS&E contracts add paragraph F, below, to paragraphs A through E, above)

- F. All information related to the construction estimate is confidential, and shall not be disclosed by CONSULTANT to any entity other than LOCAL AGENCY.

ARTICLE XXIX NATIONAL LABOR RELATIONS BOARD CERTIFICATION

In accordance with Public Contract Code Section 10296, CONSULTANT hereby states under penalty of perjury that no more than one final unappealable finding of contempt of court by a federal court has been issued against CONSULTANT within the immediately preceding two-year period, because of CONSULTANT's failure to comply with an order of a federal court that orders CONSULTANT to comply with an order of the National Labor Relations Board.

ARTICLE XXX EVALUATION OF CONSULTANT

CONSULTANT's performance will be evaluated by LOCAL AGENCY. A copy of the evaluation will be sent to CONSULTANT for comments. The evaluation together with the comments shall be retained as part of the contract record.

ARTICLE XXXI RETENTION OF FUNDS

- A. Any subcontract entered into as a result of this Contract shall contain all of the provisions of this section.
(Local agency to include either B, C, or D below; delete the other two)
- B. No retainage will be withheld by the Agency from progress payments due the prime consultant. Retainage by the prime consultant or subconsultants is prohibited, and no retainage will be held by the prime consultant from progress due subconsultants. Any violation of this provision shall subject the violating prime consultant or subconsultants to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the prime consultant or subconsultant in the event of a dispute involving late payment or nonpayment by the prime consultant or deficient subconsultant performance, or noncompliance by a subconsultant. This provision applies to both DBE and non-DBE prime consultants and subconsultants.
- C. No retainage will be held by the Agency from progress payments due the prime consultant. Any retainage held by the prime consultant or subconsultants from progress payments due subconsultants shall be promptly paid in full to subconsultants within 30 days after the subconsultant's work is satisfactorily completed.

Federal law (49 CFR 26.29) requires that any delay or postponement of payment over the 30 days may take place only for good cause and with the Agency’s prior written approval. Any violation of this provision shall subject the violating prime consultant or subconsultant to the penalties, sanctions and other remedies specified in Section 7108.5 of the Business and Professions Code. These requirements shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the prime consultant or subconsultant in the event of a dispute involving late payment or nonpayment by the prime consultant, deficient subconsultant performance, or noncompliance by a subconsultant. This provision applies to both DBE and non-DBE prime consultant and subconsultants.

- D. The Agency shall hold retainage from the prime consultant and shall make prompt and regular incremental acceptances of portions, as determined by the Agency, of the contract work, and pay retainage to the prime consultant based on these acceptances. The prime consultant, or subconsultant, shall return all monies withheld in retention from a subconsultant within thirty (30) days after receiving payment for work satisfactorily completed and accepted including incremental acceptances of portions of the contract work by the agency. Federal law (49 CFR 26.29) requires that any delay or postponement of payment over thirty (30) days may take place only for good cause and with the agency’s prior written approval. Any violation of this provision shall subject the violating prime consultant or subconsultant to the penalties, sanctions and other remedies specified in Section 7108.5 of the Business and Professions Code. These requirements shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the prime consultant or subconsultant in the event of a dispute involving late payment or nonpayment by the prime Consultant, deficient subconsultant performance, or noncompliance by a subconsultant. This provision applies to both DBE and non-DBE prime consultant and subconsultants.

ARTICLE XXXII NOTIFICATION

All notices hereunder and communications regarding interpretation of the terms of this contract and changes thereto, shall be effected by the mailing thereof by registered or certified mail, return receipt requested, postage prepaid, and addressed as follows:

CONSULTANT:

_____ (CONSULTANT)

_____ (NAME) _____, Project Manager

_____ (ADDRESS)

LOCAL AGENCY:

_____ (LOCAL AGENCY)

_____ (NAME) _____, Contract Administrator

_____ (ADDRESS)

ARTICLE XXXIII CONTRACT

The two parties to this contract, who are the before named CONSULTANT and the before named LOCAL AGENCY, hereby agree that this contract constitutes the entire agreement which is made and concluded in duplicate between the two parties. Both of these parties for and in consideration of the payments to be made, conditions mentioned, and work to be performed; each agree to diligently perform in accordance with the terms and conditions of this contract as evidenced by the signatures below.

ARTICLE XXXIV SIGNATURES

(Name of CONSULTANT)

(Name of LOCAL AGENCY)

(Signature)

(Name of Signer)

(Signature)

(Name of Signer)

Date: _____

**EXHIBIT 10-U CONSULTANT IN MANAGEMENT SUPPORT ROLE CONFLICT OF INTEREST AND
CONFIDENTIALITY STATEMENT¹**

RFP/RFQ PROCUREMENT NUMBERS (if applicable): _____

PROJECT NAME (and FPN, if applicable)²: _____

APPLICABILITY: To be filled out by local agency consultants in management support role.

I am an employee of a consultant under contract to the local agency that is responsible for the procuring and administering of one or more consultant contracts containing either Federal or State funds.

I am in a management position with the local agency, my title is listed below and I have attached my duty statement and scope of work.

I hereby certify as follows:

1. I recuse myself from all potential conflicts of interest.
2. I will not directly or indirectly participate in, manage, or oversee any consultant selection procurement process in which the consulting firm of which I am employed is competing as a consultant or subconsultant.
3. I will not directly or indirectly influence any employee, staff member, or other individual participating in any consultant selection procurement process in which the consulting firm of which I am employed is as a consultant or subconsultant.
4. I will not directly or indirectly participate in, manage, or oversee any local agency contract that is with the consulting firm of which I am employed, regardless of whether the involvement of my employer in the contract is as a consultant or subconsultant. Among other things, this includes my not being involved in approving changes in the schedule, scope, deliverables or invoices.
5. I understand that if I am involved in any local agency contract that is with the consulting firm of which I am employed, in violation of 1. or 2. above, that local agency contract will no longer be eligible for Federal or State reimbursement because of my involvement.

I certify that I have read and understand my responsibilities per **23 CFR 172.7(b)(5)**

I fully understand that it is unlawful for a person to utilize any organization name (i.e. local agency) or auxiliary organization information, which is not a matter of public record, for personal gain.

¹ Each consultant staff working in a management support role shall complete a separate form.

² For on-call contracts or contracts for multiple projects, indicate accordingly.

I have read and fully understand all of the above.

Date: _____

Signed: _____

Name: _____

Title: _____

Consultant Firm/Sole Proprietor: _____

REVIEWED BY PUBLIC WORKS DIRECTOR OR AUTHORIZED LOCAL AGENCY REPRESENTATIVE

I have reviewed the foregoing "Conflict of Interest and Confidentiality Statement" and will ensure:

- That the foregoing named local agency consultant who is under contract and in a management support role with our local agency, abides by the foregoing terms and conditions;
- That should the foregoing named local agency consultant, who is under contract and in a management support role with our local agency, violate any of the foregoing terms and conditions, the Caltrans DLAE will be notified and such violation will be considered a breach of ethics and could be a basis for ineligibility of State or Federal project funds.
- The procedures followed to procure and execute the contract, between the local agency and the consulting firm of which I am employed, comply with all federal and state requirements. Also this contract has a specific date from _____ to _____.

Date: _____

Signed: _____

Name: _____

Title: _____

Department/Local Agency: _____

REVIEWED/CONCURRENCE BY FEDERAL HIGHWAYS

I have reviewed the foregoing "Conflict of Interest and Confidentiality Statement" and supervisor's statement.

- I concur that the consultant, who is under contract and in a management support role with the local agency, does not appear to present a conflict of interest. The local agency and the consultant should be considered eligible for federal reimbursement.

- I do not concur as I believe that the consultant, who is under contract and in a management support role with the local agency, does appear to present a conflict of interest.

Date: _____

Signed: _____

Name: _____

Position: _____

Distribution: 1) Copy to: DLAE for each Federal/State funded project
2) Copy to be returned to Local Agency by DLAE with FHWA approval

Caltrans Specifications

For projects off the SHS, [Exhibit 12-G: Required Federal-Aid Contract Language](#) has combined required federal contract provisions into a single document to assist local agencies. [Exhibit 12-H: Sample Bid](#) has assembled federal certifications, disclosures and other requirements into a single document. For SHS projects, current Caltrans [Standard Specifications and Standard Special Provisions](#) and federal contract boilerplate (Form FHWA1273 and other required federal contract provisions) are available from the Caltrans Office Engineer at: <http://www.dot.ca.gov/hq/esc/oe/>. For local agency projects to be advertised, awarded and administered by Caltrans, Caltrans boilerplate specifications are inserted by Caltrans.

12.8 FEDERAL CONTRACT REQUIREMENTS

Required Federal Contract Language

[Exhibit 12-G](#) is available to assist local agencies in complying with federal regulations on transportation construction projects. It specifies to the contractor the terms of the contract including, but not limited to, when the contractor is to start, number of working days, liquidated damages, payment, work operations and items of work.

Disadvantaged Business Enterprise (DBE)

Individual DBE contract goals will be established. Complete evaluation documentation is required and shall be retained for each contract (see DBE references in [LAPM Chapter 9: Civil Rights and Disadvantaged Business Enterprises](#)). For contracts that contain a specific DBE goal, Caltrans' Standard Specifications are required to describe the DBE policy, the DBE contract goal, eligibility criteria, good faith effort requirements, sanctions on failure to comply, procedures for counting DBE participation, award documentation procedures, post-award compliance procedures, and required records and reporting. [Exhibit 12-G](#) includes requirements for DBE subcontractor listing, Federal Lobbying Restrictions, DBE, and other requirements. All federal-aid projects are subject to the legislative and regulatory DBE requirements. The main objective is to ensure that DBE firms have an opportunity to participate in federally funded projects. If there is a DBE goal placed on the contract, the contractor must meet the goal or document a good faith effort to meet the contract goal by using DBEs (see [LAPM Chapter 9: Civil Rights and Disadvantaged Business Enterprises](#)). Good faith efforts shall be documented and verified (see [Exhibit 15-H: DBE Information-Good Faith Effort](#)). If a DBE subcontractor is unable to perform, the contractor must make a good faith effort to replace him or her with another DBE subcontractor if the goal is not otherwise met. Contracts shall contain special provisions stating that it is the local agency's policy to comply with Part 26 of Title 49, Code of Federal Regulations (CFR) and specify the contractor's obligation under these regulations. In accordance with [LAPM Chapter 9](#), Section 9.6 Local Agency

Responsibilities under Caltrans DBE Program Plan, each local agency is required to create and maintain a bidders list containing information about all DBE and non-DBE firms that bid or quote on the local agency's federal-aid construction contracts. The required bidders list is to include the name, address, DBE/non-DBE status, date established and annual gross receipts of the firms. [Exhibit 12-B: Bidder's List of Subcontractors \(DBE and Non-DBE\)](#) provides a sample form local agencies may choose to use in their solicitations to compile a bidders list.

Buy America

On all federal-aid construction projects, current regulations require that steel and iron used be made in the United States if federal dollars are used during any phase of the project (such as design, environmental, right-of-way or construction). The Buy America provision applies to all foreign steel and iron materials regardless of the percentage of steel in the manufactured product. All manufacturing processes involved in steel or iron products must occur within the United States. These processes include rolling, extruding, machining, bending, grinding, drilling, coating, welding and smelting. Domestically produced steel billets or iron ingots shipped overseas for any process and returned to the United States do not conform to this requirement.

Buy America provisions do not apply to:

- Minimal use of all foreign material in which the total delivery cost to the project site is less than \$2500 or 0.1 percent of the contract amount, whichever is greater.
- Raw materials, scrap temporary steel items such as sheet pilings, bridges, steel scaffolding and false work.
- Materials that remain in place at the contractor's convenience such as sheet pilings and forms.
- Pig iron manufactured outside the United States.

A local agency shall not list an ineligible iron or steel product as nonparticipating in order to circumvent the Buy America requirements.

A waiver of the Buy America requirements by the FHWA Division Administrator is permitted for specific projects, specific products, specific geographical areas, or combinations if:

- Buy America is inconsistent with the public interest, or
- There is not a sufficient supply of domestic materials of satisfactory quality.

Approval authority for waiver of Buy America requirements has not been delegated from the FHWA to Caltrans and therefore is not delegated to the local agencies. The local agency should plan for a Buy America waiver request to take at least six months. Additionally, local agencies should be particularly careful not to specify, in the design process, items that are not Buy America compliant. Information on the Buy America waiver process can be found at:

<http://www.fhwa.dot.gov/construction/contracts/waivers.cfm>.

Form FHWA 1273

The May 1, 2012 revision of Form FHWA 1273 (included in [Exhibit 12-G: Required Federal-Aid Contract Language](#)) is a package of federally required contract provisions that must be physically included, unmodified, in the executed contract for all federal-aid projects. The provisions apply to all work performed on the contract including work performed by subcontract. The unmodified Form FHWA 1273 is required to be physically incorporated into each executed contract, subcontract and subsequent lower-tier subcontracts. The provisions may not be incorporated by reference.

Failure of the local agency to incorporate the Form FHWA 1273 in the executed contract is considered an unrecoverable project deficiency and shall make the construction phase of the

project ineligible for federal reimbursement (see [LAPM Chapter 20: Deficiencies and Sanctions](#)). The prime contractor is responsible for compliance with the requirements by all subcontractors and lower tier subcontractors. Failure of the prime contractor to comply with this requirement is grounds for local agency termination of the contract with the contractor and debarment of the contractor by the FHWA.

Modifications of Form FHWA 1273 by Special Provision Sections IV (Davis-Bacon and Related Act Provisions) and Section VI (Subletting or Assigning the Contract) of Form FHWA 1273 may not be applicable to some projects. If the project is exempted from either of these two provisions, it must be specified elsewhere in the contract by special provision that it does not apply.

Use of Local Hiring Preference The local agency shall not include contract provisions that require preferences to hire locally on any federal-aid contract. The contract provisions included in Form FHWA 1273 also require that the contractor not discriminate against labor from any other State. Any contract that includes provisions that require a contractor to give any preference in hiring (with the exception of Native Americans living on or near a reservation on eligible projects) shall make the contract ineligible for federal reimbursement (see [LAPM Chapter 20: Deficiencies and Sanctions](#)).

Nondiscrimination The provisions of this section related to 23 CFR Part 230 are applicable to Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts. Please read the Form FHWA 1273 for complete details on Section II. Include Item 12, Female and Minority Goals of Exhibit 12-G in contract provisions. The contractor and each non material sub-contractor are required to report annually, on the composition of their workforce by race, gender, and job category who perform work during the last payroll period of July, using Form PR-1391 Federal- aid Highway Construction Contractors Annual EEO Report to the local agency. The local agency shall forward completed Form PR-1391's (see Exhibit 16-O) to the Caltrans District Local Assistance Engineer.

Cargo Preference Act Requirements

Local agencies must insert a contract clause referencing and requiring compliance with the requirements of the Cargo Preference Act of 1954 and the implementing regulations in 46 CFR 381 into all federally funded construction contracts. Until relevant provisions are added to Form FHWA 1273, the Use of United States – flag vessels clause provided in [Exhibit 12-G: Required Federal-aid Contract Language](#) must be included (either directly or by reference) in federally funded construction contracts.

Federal Trainee Program

On selected federal-aid highway construction projects, Federal Trainee Program or On-the-Job Training (OJT) special provisions (Item 15 of Exhibit 12-G) must be included in the contract provisions to establish the number of trainees for the construction contract.

The main objectives of the Federal Trainee/OJT Program are to:

- Provide training for women and minorities which will upgrade their job skills, thereby increasing their access to higher paying trade jobs and journeyman-level positions and
- Ensure that a diverse work force will meet future labor needs in the construction industry.

Filling training positions on each project must focus on hiring women and minorities, but not exclude anyone. If a contractor cannot meet the OJT objectives, direct recruitment efforts must be documented to show an effort at OJT compliance.

The major components of an OJT program include:

- The local agency must include the required federal training special provisions in the PS&E package if the project size and duration warrant an OJT program.
- The local agency should select contracts that contribute to the Contract Training Goals. These contracts must show the number of trainees, the number of trainees upgraded to journeyman and the level of skills.
- The local agency must review the training programs proposed by contractors. Approval or rejection is based on the legitimacy of the job-skill classifications proposed and the number of training hours specified.
- Caltrans must determine if statewide OJT is effective.
- The contractor is responsible for recruitment and selection of trainees.
- The contractor must evaluate training based on an approved training program.
- OJT provision costs are reimbursed by the FHWA in accordance with the Federal Requirement Training Special Provisions included in selected contracts. Required trainees/apprentices are to be funded on the bidding schedule or by change order at \$0.80/hour; or the training program can be a bid item with the same reimbursement ratio as the construction project. OJT support services include recruiting, counseling, remedial training, and an OJT program administration by others.
- If the contractor does not show a good faith effort to provide acceptable training to the trainees specified, a sanction may be applied. Sanctions may include withholding progress payments if effective on-the-job training is not provided.

In California, federal trainees are considered registered apprentices. There are relatively few crafts in highway work which utilize apprentices – bricklayers, carpenters, cement masons, electricians, equipment operators, ironworkers, pile bucks, and a few others. There are no apprentice teamsters or laborers. The ratio of journeymen to apprentices is generally 5 to 1.

With these thoughts in mind, the number of trainees established for a project should be determined by examining the extent of only that work which will be done by the apprentice-able crafts. The following procedure may be used as a guide for establishing the number of trainees for a federal-aid project:.

1. If the proposed construction contract has less than 100 working days, no trainees and no Federal Trainee Program special provisions are needed.

2. If the proposed construction contract has 100 working days or more, add individual totals for each of the following work categories in the Engineer’s Estimate:
 - Earthwork (except for imported borrow)
 - Pile driving
 - Portland Cement Concrete (except for precast concrete)
 - Masonry
 - Bar reinforcing and pre-stressing steel
 - Structural steel erection
 - Electrical
 - Buildings

3. Using the totals obtained above , determine the number of trainees for each work category from the following table:

Table 12-2: Federal Trainee Schedule

COST FOR WORK CATEGORY	NUMBER OF TRAINEES	COST FOR WORK CATEGORY	NUMBER OF TRAINEES
< 400,000	0	16,000,000	15
≥ 400,000	1	18,000,000	16
700,000	2	20,000,000	17
1,000,000	3	23,000,000	18
1,500,000	4	26,000,000	19
2,000,000	5	29,000,000	20
2,500,000	6	33,000,000	21
3,000,000	7	37,000,000	22
4,000,000	8	41,000,000	23
5,000,000	9	45,000,000	24
6,500,000	10	50,000,000	25
8,000,000	11	> 50,000,000	*
10,000,000	12		
12,000,000	13		
14,000,000	14		

* 25, plus 1 additional trainee for every \$5,000,000 over \$50,000,000

4. If the totals for each of the work categories listed under Step 2 above are all less than \$400,000 then no trainees and no Federal Trainee Program special provisions are needed.
5. For any work category equal to or greater than \$400,000, total the trainees obtained for the applicable work categories and include the Federal Trainee Program special provisions. Calculate the contract cost using \$800 per trainee and include Federal Trainee Program under Supplemental Funds of the Engineer’s Estimate.

Federal Wage Rates

The payment of predetermined minimum wages on federal-aid contracts is derived from the Davis-Bacon Act of 1931 and is prescribed by 23 USC 113. These wage rates must be physically

Exhibit 12-B Bidder's List of subcontractor (DBE and Non-DBE)

Part 1

As of March 1, 2015 Contractors (and sub-contractors) wishing to bid on public works contracts shall be registered with the State Division of Industrial Relations and certified to bid on Public Works contracts. Please register at: <https://efiling.dir.ca.gov/PWCR/ActionServlet?action=displayPWCRRegistrationForm>

In accordance with Title 49, Section 26.11 of the Code of Federal Regulations, and Section 4104 of the Public Contract Code of the State of California, as amended, the following information is required for each sub-contractor who will perform work amounting to more than one half of one percent (0.5%) of the Total Base Bid or \$10,000 (whichever is greater). **Photocopy this form for additional firms.** Federal Project Number: _____

Subcontractor Name and Location	Line Item & Description	Subcontract Amount	Percentage of Bid Item Sub-contracted	Contractor License Number	DBE (Y/N)	DBE Cert Number	Annual Gross Receipts
				DIR Reg Number			
Name:							<input type="checkbox"/> <\$1 million
City, State:							<input type="checkbox"/> <\$5 million
							<input type="checkbox"/> <\$10 million
							<input type="checkbox"/> <\$15 million
							Age of Firm: ___ yrs.
Name:							<input type="checkbox"/> <\$1 million
City, State:							<input type="checkbox"/> <\$5 million
							<input type="checkbox"/> <\$10 million
							<input type="checkbox"/> <\$15 million
							Age of Firm: ___ yrs.
Name:							<input type="checkbox"/> <\$1 million
City, State:							<input type="checkbox"/> <\$5 million
							<input type="checkbox"/> <\$10 million
							<input type="checkbox"/> <\$15 million
							Age of Firm: ___ yrs.
Name:							<input type="checkbox"/> <\$1 million
City, State:							<input type="checkbox"/> <\$5 million
							<input type="checkbox"/> <\$10 million
							<input type="checkbox"/> <\$15 million
							Age of Firm: ___ yrs.
Name:							<input type="checkbox"/> <\$1 million
City, State:							<input type="checkbox"/> <\$5 million
							<input type="checkbox"/> <\$10 million
							<input type="checkbox"/> <\$15 million
							Age of Firm: ___ yrs.
Name:							<input type="checkbox"/> <\$1 million
City, State:							<input type="checkbox"/> <\$5 million
							<input type="checkbox"/> <\$10 million
							<input type="checkbox"/> <\$15 million
							Age of Firm: ___ yrs.

Distribution: 1) Original-Local Agency File 2) Copy-DLAE w/ Award Package

**Exhibit 12-B Bidder's List of subcontractor (DBE and Non-DBE)
Part 2**

In accordance with Title 49, Section 26 of the Code of Federal Regulations, the Bidder shall list all subcontractor who provide a quote or bid but were not selected to participate as a subcontractor on this project. Photocopy this form for additional firms.

Subcontractor Name and Location	Line Item & Description	Subcontract Amount	Percentage of Bid Item Sub-contracted	Contractor License Number	DBE (Y/N)	DBE Cert Number	Annual Gross Receipts
				DIR Reg Number			
Name:							<input type="checkbox"/> <\$1 million
City, State:							<input type="checkbox"/> <\$5 million
							<input type="checkbox"/> <\$10 million
							<input type="checkbox"/> <\$15 million
							Age of Firm: ___ yrs.
Name:							<input type="checkbox"/> <\$1 million
City, State:							<input type="checkbox"/> <\$5 million
							<input type="checkbox"/> <\$10 million
							<input type="checkbox"/> <\$15 million
							Age of Firm: ___ yrs.
Name:							<input type="checkbox"/> <\$1 million
City, State:							<input type="checkbox"/> <\$5 million
							<input type="checkbox"/> <\$10 million
							<input type="checkbox"/> <\$15 million
							Age of Firm: ___ yrs.
Name:							<input type="checkbox"/> <\$1 million
City, State:							<input type="checkbox"/> <\$5 million
							<input type="checkbox"/> <\$10 million
							<input type="checkbox"/> <\$15 million
							Age of Firm: ___ yrs.
Name:							<input type="checkbox"/> <\$1 million
City, State:							<input type="checkbox"/> <\$5 million
							<input type="checkbox"/> <\$10 million
							<input type="checkbox"/> <\$15 million
							Age of Firm: ___ yrs.
Name:							<input type="checkbox"/> <\$1 million
City, State:							<input type="checkbox"/> <\$5 million
							<input type="checkbox"/> <\$10 million
							<input type="checkbox"/> <\$15 million
							Age of Firm: ___ yrs.

Distribution: 1) Original-Local Agency File 2) Copy-DLAE w/ Award Package

EXHIBIT 12-D PS&E CHECKLIST

Agency _____ Federal Project No. _____

This form is to be completed by the local agency and attached to the PS&E Certification. See Exhibit 12-E for instructions and the referenced attachments.

I. HIGHWAY SYSTEM AND FUNCTIONAL CLASSIFICATION (Check applicable box)**A. National Highway System**

On the National Highway System (NHS) Off the NHS

B. Functional Classification (Check as many as appropriate)On the Federal-aid SystemOff the Federal-aid System Principal Arterial - Fwy or Exprwy Rural Minor Collector Other Principal Arterial Local Minor Arterial Major Collector Urban Minor Collector**II. PROJECT SCOPE OF WORK** (Check applicable box)

- PS&E is consistent with the scope of work identified in a scoping document or application.
- PS&E is consistent with the scope of work that was revised during a later phase of development and appropriate approvals were obtained.

III. TYPE OF CONSTRUCTION (Check applicable box)

- New or Reconstruction
- Resurfacing, Restoration and Rehabilitation (3R)
- Preventive Maintenance

IV. METHOD OF CONSTRUCTION**A. Contracting Method** (Check appropriate box)

- Competitive bidding
- Other than competitive bidding. (If the contracting method is other than competitive bidding, check the appropriate box below).
- The project is "Delegated" (subject to minimal FHWA oversight). A Public Interest Finding has been submitted to the DLAE for approval and filed in the contract records justifying the method.
- The project is "Projects of Division Interest (PoDI)" (subject to a higher degree of FHWA oversight). A Public Interest Finding justifying the method has been submitted and approved by Caltrans and FHWA.
- The entire work will be constructed by contract as indicated above.
- Some work (incidental to the main purpose of the project) will be constructed by Force Account.

- A Public Interest Finding approved by the DLAE is on file in the contract records justifying the work.
- The entire project will be constructed by Force Account (Day Labor). (If the entire project will be constructed by Force Account check the appropriate box below).
- The project is “Delegated” (subject to minimal FHWA oversight). A Public Interest Finding has been submitted to the DLAE for approval and filed in the contract records justifying the method.
- The project is “Projects of Division Interest (PoDI)” (subject to a higher degree of FHWA oversight). A Public Interest Finding justifying the method has been submitted and approved by Caltrans and FHWA.

V. ENVIRONMENTAL ANALYSIS (Check box if requirement is met)

- The PS&E is fully responsive to the necessary actions called for by the environmental document, permit conditions, and other agreements.

VI. VALUE ENGINEERING ANALYSIS (VA) (NHS projects only - Check appropriate box)

- VA has been performed on this project and a copy of the analysis has been submitted to the DLAE for forwarding to the Caltrans District Value Analysis Coordinator.
- The project is not a bridge project. VA has not been performed as the estimated total project cost is <\$50 million.
- The project is a bridge project. VA has not been performed as the total project cost is <\$40 million.

VII. GEOMETRIC DESIGN STANDARDS (Complete this section only if project changes existing geometrics)

- Current Caltrans Design Standards (on State Highway System)
- FHWA-adopted AASHTO Standards (Green Book)
- 3R Projects – Exhibit 11-A Geometric Design Standards for Local 3R Projects
- Design Standards (non NHS only) approved by Local Agency Date: _____

VIII. BRIDGE DESIGN PROCEDURES

- All bridges have been designed in accordance with the current AASHTO LRFD Bridge Design Specifications with California Amendments.
- Not applicable (Bridge construction not included in the project).

IX. STANDARD PLANS

- Current Caltrans *Standard Plans*
- Standard Plans for Public Works Construction*
- Local Approved Standard Plans:

_____ Date signed (on behalf of the local agency) by a person in responsible charge and who is a registered professional engineer licensed to practice in the State of California.

X. PROJECT PLANS AND SPECIFICATIONS

- Cover sheet of plans and specifications signed and stamped on behalf of the local agency by the person

in responsible charge, and who is a registered professional engineer licensed to practice in the State of California.

- Traffic Control Plans or reference to Standard Plan and Signs/Striping Plans included. (Note: Additionally, Traffic Management Plans are required to be on file for all reconstruction, rehabilitation, and other projects [including projects on the State Highway System not funded by the State], if significant traffic delays are anticipated and as a result from project activities).
- Erosion Control Plan.
- Americans with Disabilities Act (ADA) is being fully complied with including *Federal ADA Standards for Accessible Guidelines for Buildings and Facilities (ADAAG)*, Title 24 of the California Code of Regulations and local codes.

XI. STANDARD SPECIFICATIONS

- Current Caltrans *Standard Specifications and Standard Special Provisions*
- Standard Specifications for Public Works Construction (Green Book)*
- Locally Approved Standard Specifications

XII. FEDERAL REQUIREMENTS

PAGE NO.*

A. Required Federal Contract Provisions (refer to Exhibit 12-G *Required Federal-aid Contract Language*).

**Note – Provide Contract page number. If Current Caltrans Standard Specifications are used, indicate “Caltrans Specs” in space provided.*

- 1. Disadvantaged Business Enterprise** or equivalent provisions are included..... _____
- 2. Bid Opening** or equivalent provisions are included _____
- 3. Bid Rigging** or equivalent procedures are included..... _____
- 4. Contract Award** or equivalent procedures are included..... _____
- 5. Contract License** or equivalent provisions are included..... _____
- 6. Changed Conditions** or equivalent provisions are included..... _____
- 7. Beginning of Work, Time of Completion and Liquidated Damages** or equivalent provisions are included..... _____
- 8. Buy America**
 - “Buy America” or equivalent provisions are included..... _____
 - A Buy America Waiver was approved by FHWA on _____, 20_____.
- 9. Quality Assurance or equivalent provisions are included** _____
- 10. Prompt Payment of Funds Withheld from Subcontractors or equivalent provisions are included** _____
- 11. FHWA Form 1273** – The local agency acknowledges that an unmodified copy of FHWA Form 1273 *Required Contract Provisions Federal-aid Construction Contracts* (1273 Revised May 1, 2012) must be physically incorporated into the executed contract..... _____
 - All sections of the FHWA Form 1273 apply to this project

PAGE NO.*

Section IV. Davis-Bacon and related Act Provisions does not apply because the project is not on the Federal-aid System (roads classified as local roads or rural minor collectors) which are exempted, as specified in the special provision on page.....

Section VI. Subletting or Assigning the Contract does not apply since this project is off the NHS, as specified in the special provision on page.....

12. Female and Minority Goals or equivalent provisions are included.....

13. Title VI assurances are included.....

14. Use of United States-Flag Vessels (Cargo Preference Act).....

15. Federal Trainee Program

Federal Trainee special provisions do not apply. Please check applicable sub-box below:

The project is less than 100 working days

The project has 100 working days or more; however, the engineer's estimate is less than \$400,000 in each of the work categories specified in the LAPM Chapter 12, "Federal Trainee Program".

Federal Trainee special provisions do apply and Federal Trainee Program or equivalent special provisions are included.....

The number of trainees or apprentices is _____

B. DBE Goal (Refer to Exhibit 12-E *PS&E Checklist Instruction*)

Local Agency non-zero DBE goal percentage for this contract is: _____

The DBE goal for this contract is zero percent because there are no subcontracting opportunities for DBE participation. Documentation verifying this determination is attached to this PS&E Checklist and is also on file with the local agency. (Refer to Exhibit 12-E, PS&E Checklist Instructions).

This contract has no DBE goal because:

This is an emergency relief project

This contract is "nonprofit"

This contract uses Force Account

Other, specify: _____

Documentation verifying the above "no DBE goal" determination is attached to the PS&E Checklist and is also on file with the local agency. Refer to Exhibit 12-E *PS&E Checklist Instructions*.

C. Certifications/Disclosures (Refer to Exhibit 12-H *Sample Bid*)

Equal Employment Opportunity Certification or equivalent

Noncollusion Affidavit or equivalent.....

Debarment and Suspension Certification or equivalent

Nonlobbying Certification for Federal-aid Contracts.....

Disclosure of Lobbying Activities

PAGE NO.*

D. Other Required Forms (The following forms are applicable with the above required federal requirements (see Exhibit H *Sample Bid*):

- Exhibit 15-G *Local Agency Bidder DBE Commitment (Construction Contracts)* or Equivalent _____
- Exhibit 15-H *DBE Information - Good Faith Efforts* (if DBE Goal not met)..... _____
- Exhibit 12-B *Bidder's List of Subcontractors (DBE and Non-DBE)* include data for all subcontractors listed by the prime contractor..... _____

E. Federal Wage Rates

- Federal wage rates are physically incorporated into this contract advertising package
Local Agencies shall comply with the federal “**10-day rule**” where Local Agencies are required to access the federal wage rates within ten days prior to bid opening to check if updated rates have been posted. If the updated wage rates exist, the revised federal wage rates shall be issued by an addendum by Local Agencies. **The final contract documents signed by the local agency and the contractor must physically include the current federal wage rates.** _____
- Federal wage rates are not physically incorporated in the contract advertising package but are referenced to an Internet web site address on page number _____ of the Special Provisions where the applicable federal wage rates can be found. Local Agencies shall comply with the federal “**10-day rule**” as described above. **The final contract documents signed by the local agency and the contractor must physically include the current federal wage rates.**
- Federal Wage Rates are not required since this project is not located on a Federal-aid route.

F. Relations with Railroad

- The required provisions are included _____
- This project does not involve the use of railroad properties or adjustments to railroad facilities.

XIII. RESTRICTED CONTRACT PROVISIONS (CHECK APPROPRIATE BOX)

A. Indian Preferences

- Not included
- Included. The project is on or near the _____ Indian Reservation.

B. Bonding and Prequalification

- Bonding or prequalification, if required, will not be used to restrict competition, prevent submission of a bid by, or prohibit consideration of a bid submitted by any responsible contractor, whether a resident or nonresident of the State of California.
The procedures and requirements a STD proposes to use for qualifying and licensing contractors, who may bid for, be awarded, or perform Federal-aid highway contracts, shall be submitted to the Division Administrator for advance approval. Only those procedures and requirements so approved shall be effective with respect to Federal-aid highway projects. Any changes in approved procedures and requirements shall likewise be subject to approval by the Division Administrator.

C. Price Adjustment Clauses

- Price adjustment clauses are not included.
- Price adjustment clauses are included. The federal conditions restricting the use of these clauses have been met and are documented in the project files.

D. Warranty Clauses (Complete this section if project is on the NHS)

- Warranty Clauses are not included
- Warranty Clauses are included. Documentation of the required conditions on the use of these clauses is in the project files.

E. Proprietary Items

- Proprietary Items are not included
- Proprietary Items are included. A Public Interest Finding (certification if applicable) justifying the use has been approved and emailed to Proprietary.PIF@dot.ca.gov.

XIV. MATERIALS & EQUIPMENT**A. Publicly Owned Equipment (for use by Contractor).**

- Not included.
- Included. A Public Interest Finding justifying this use is in project files and the project specifications meet the requirements for federal participation listed in Chapter 12.

B. Equipment Purchases for Local Ownership

- Not included.
- Included. Amount charged to construction engineering will be limited to amortized equipment cost (over its useful life) attributable to the time the equipment is used on the project.

C. Convict Produced Materials

- Not included.
- Included. The conditions placed on the use of these materials by the contractor meet federal requirements and are included in the contract specifications.

D. Local Agency Furnished Materials (Check appropriate box)

- Local Agency Furnished Materials are not included.
- Local Agency Furnished Materials have been acquired on the basis of competitive bidding.
- A Public Interest Finding is on file in the contract records justifying another method of acquisition.

XV. PRELIMINARY ESTIMATE (Check all applicable)

- Exhibit 12-A or equivalent has been completed and is attached.
- The estimate is broken down into items sufficient in detail to provide an initial prediction of the financial obligation to be incurred by the local agency, State and FHWA and to permit an effective review and comparison of the bids received.
- Non-participating items of work have been identified and segregated from the estimated cost of work eligible for Federal-aid.
- The estimate has been segregated by fund types for use in preparing the "Request for Authorization for Construction" (Detail Record) and the Finance Letter.

XVI. Major Projects with Total Cost of \$100 Million to \$500 Million or more

- The total cost of this project is Expected to be less than \$100 million. No financial or project management plans are required.

- This project is expected to be \$100 million or more. A Financial Plan is required and has been prepared and submitted to the DLAE. Approval Date: _____.
- This project is expected to be \$500 million or more and:
- A Project Management Plan has been prepared and submitted to the DLAE. Approval Date: _____
- An Annual Financial Plan has been prepared and submitted to the DLAE Approval Date _____

XVII. Local Agency Signature

This Federal Contract Provisions checklist has been prepared in accordance with Chapter 12 *Plans, Specifications & Estimate* of the Local Assistance Procedures Manual.

Signature: _____ Date: _____
Title: _____

XVIII. CALTRANS ACCEPTANCE

It is the responsibility of Local Agencies to make sure that the PS&E package is complete, adequate for its purpose, accurate, free of defects and inaccuracies, and unambiguous. Caltrans has not conducted a comprehensive review of the PS&E package and does not assume any responsibility or liability of the accuracy, completeness or adequacy of the PS&E package as a result of the Caltrans review of the "PS&E CHECKLIST."

Check appropriate acceptance statement:

- I have reviewed this "PS&E CHECKLIST." The PS&E checklist appears to have been prepared in accordance with Chapter 12 "Plans, Specifications & Estimate" of the *Local Assistance Procedures Manual*. I have not conducted a comprehensive review of the PS&E package and I cannot, therefore, attest that there are no errors, ambiguities, or omissions in the PS&E package. Caltrans assumes no liability for any defect in the PS&E package by virtue of its review of the PS&E checklist.
- I have reviewed this "PS&E CHECKLIST." I have verified that the required Federal Contract Provisions are included in the specifications of the PS&E package but I have not reviewed the PS&E package in detail for other purposes. The PS&E checklist appears to have been prepared in accordance with Chapter 12 "Plans, Specifications & Estimate" of the *Local Assistance Procedures Manual*. I have not conducted a comprehensive review of the PS&E package and I cannot, therefore, attest that there are no errors, ambiguities, or omissions in the PS&E package. Caltrans assumes no liability for any defect in the PS&E package by virtue of its review of the PS&E checklist.

Signature: _____ Date: _____
Title: _____

- Distribution:**
- 1) Original with PS&E Certification - DLAE
 - 2) Original "Accepted" copy with PS&E Certification - DLAE file
 - 3) One "Accepted" copy to be returned to Local Agency

EXHIBIT 12-G REQUIRED FEDERAL-AID CONTRACT LANGUAGE
 (For Local Assistance Construction Projects)

The following language must be incorporated into all Local Assistance Federal-aid construction contracts. The following language, with minor edits, was taken from the Code of Federal Regulations.

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1. DISADVANTAGED BUSINESS ENTERPRISES (DBE)

Under 49 CFR 26.13(b):

The contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.

The Department shows a goal for DBEs to comply with the DBE program objective provided in 49 CFR 26.1 Make work available to DBEs and select work parts consistent with available DBEs including subcontractors, suppliers, services providers, and truckers

Meet the DBE goal shown on the Notice to Bidders or demonstrate that you made adequate good faith efforts to meet this goal.

You are responsible to verify at bid opening the DBE firm is certified as a DBE by the California Unified Certification Program and possess the work codes applicable to the type of work the firm will perform on the contract. Determine that selected DBEs perform a commercially useful function for the type of work the DBE will perform on the Contract as provided in 49 CFR 26.55(c)(1)-(4). Under 49 CFR 26.55(c)(1)-(4), the DBE must be responsible for the execution of a distinctive element of work and must carry out its responsibility by actually performing, managing, and supervising the work.

All DBE participation will count toward the California Department of Transportation's federally mandated statewide overall DBE goal.

Credit for materials or supplies you purchase from DBEs will be evaluated on a contract-by-contract basis and counts towards the goal in the following manner:

- 100 percent counts if the materials or supplies are obtained from a DBE manufacturer.
- 60 percent counts if the materials or supplies are obtained from a DBE regular dealer.
- Only fees, commissions, and charges for assistance in the procurement and delivery of materials or supplies, if they are obtained from a DBE that is neither a manufacturer nor regular dealer. 49 CFR 26.55 defines "manufacturer" and "regular dealer."

You receive credit towards the goal if you employ a DBE trucking company that is performing a commercially useful function. The Agency uses the following factors in determining whether a DBE trucking company is performing a commercially useful function:

- The DBE must be responsible for the management and supervision of the entire trucking operation for which it is responsible on a particular contract, and there cannot be a contrived arrangement for the purpose of meeting DBE goals.
- The DBE must itself own and operate at least one fully licensed, insured, and operational truck used on the contract.
- The DBE receives credit for the total value of the transportation services it provides on the Contract using trucks it owns, insures, and operates using drivers it employs.
- The DBE may lease trucks from another DBE firm, including an owner-operator who is certified as a DBE. The DBE who leases trucks from another DBE receives credit for the total value of the transportation services the lessee DBE provides on the Contract.
- The DBE may lease trucks without drivers from a non-DBE truck leasing company. If the DBE leases trucks from a non-DBE truck leasing company and uses its own employees as drivers, it is entitled to credit for the total value of these hauling services.

- A lease must indicate that the DBE has exclusive use and control over the truck. This does not preclude the leased truck from working for others during the term of the lease with the consent of the DBE, so long as the lease gives the DBE absolute priority for use of the leased truck. Leased trucks must display the name and identification number of the DBE.

[49 Fed. Reg. 59595 (10/2/14) (to be codified as 49 CFR 26.55 (d)).

a. DBE Commitment Submittal

Submit the Exhibit 15-G *Construction Contract DBE Commitment* form, included in the Bid book. If the form is not submitted with the bid, remove the form from the Bid book before submitting your bid.

If the DBE Commitment form is not submitted with the bid, the apparent low bidder, the 2nd low bidder, and the 3rd low bidder must complete and submit the DBE Commitment form to the Agency. DBE Commitment form must be received by the Agency no later than 4:00 p.m. on the 4th business day after bid opening.

Other bidders do not need to submit the DBE Commitment form unless the Agency requests it. If the Agency requests you to submit a DBE Commitment form, submit the completed form within 4 business days of the request.

Submit a copy of the quote from each DBE shown on the DBE Commitment form that describes the type and dollar amount of work shown on the form. Submit a DBE Confirmation form for each DBE shown on the DBE Commitment form to establish that it will be participating in the contract in the type and dollar amount of work shown on the form. If a DBE is participating as a joint venture partner, submit a copy of the joint venture agreement.

Submit written confirmation from each DBE stating that it is participating in the contract. Include confirmation with the DBE Commitment form. A copy of a DBE's quote will serve as written confirmation that the DBE is participating in the contract.

If you do not submit the DBE Commitment form within the specified time, the Agency will find your bid nonresponsive.

b. Good Faith Efforts Submittal

You can meet the DBE requirements by either documenting commitments to DBEs to meet the Contract goal or by documenting adequate faith efforts to meet the Contract goal. An adequate good faith effort means the bidder must show that it took all necessary and reasonable steps to achieve a DBE goal that by their scope, intensity, and appropriateness to the objective, could reasonably be expected to meet the DBE goal.

.If you have not met the DBE goal, complete and submit the DBE Information - Good Faith Efforts, Exhibit 15-H, form with the bid showing that you made adequate good faith efforts to meet the goal. Only good faith efforts directed towards obtaining participation by DBEs will be considered

Submit good faith efforts documentation within the specified time to protect your eligibility for award of the contract in the event the Department finds that the DBE goal has not been met.

Refer to 49 CFR Appendix A for guidance regarding evaluation of good faith efforts to meet the DBE goal.

The Agency considers DBE commitments of other bidders in determining whether the low bidder made a good faith effort to meet the DBE goal.

If your DBE Commitment form shows that you have met the DBE goal or if you are required to submit the DBE Commitment form, you must also submit good faith efforts documentation within the specified time to protect your eligibility for award of the contract in the event the Agency finds that the DBE goal has not been met.

Good faith efforts documentation must include the following information and supporting documents, as necessary:

1. Items of work you have made available to DBE firms. Identify those items of work you might otherwise perform with your own forces and those items that have been broken down into economically feasible units to facilitate DBE participation. For each item listed, show the dollar value and percentage of the total contract. It is your responsibility to demonstrate that sufficient work to meet the goal was made available to DBE firms.
2. Names of certified DBEs and dates on which they were solicited to bid on the project. Include the items of work offered. Describe the methods used for following up initial solicitations to determine with certainty if the DBEs were interested, and the dates of the follow-up. Attach supporting documents such as copies of letters, memos, facsimiles sent, telephone logs, telephone billing statements, and other evidence of solicitation. You are reminded to solicit certified DBEs through all reasonable and available means and provide sufficient time to allow DBEs to respond.
3. Name of selected firm and its status as a DBE for each item of work made available. Include name, address, and telephone number of each DBE that provided a quote and their price quote. If the firm selected for the item is not a DBE, provide the reasons for the selection.
4. Name and date of each publication in which you requested DBE participation for the project. Attach copies of the published advertisements.
5. Names of agencies and dates on which they were contacted to provide assistance in contacting, recruiting, and using DBE firms. If the agencies were contacted in writing, provide copies of supporting documents.
6. List of efforts made to provide interested DBEs with adequate information about the plans, specifications, and requirements of the contract to assist them in responding to a solicitation. If you have provided information, identify the name of the DBE assisted, the nature of the information provided, and date of contact. Provide copies of supporting documents, as appropriate.
7. List of efforts made to assist interested DBEs in obtaining bonding, lines of credit, insurance, necessary equipment, supplies, and materials, excluding supplies and equipment that the DBE subcontractor purchases or leases from the prime contractor or its affiliate. If such assistance is provided by you, identify the name of the DBE assisted, nature of the assistance offered, and date assistance was provided. Provide copies of supporting documents, as appropriate.
8. Any additional data to support demonstration of good faith efforts.

The Agency may consider DBE commitments of the 2nd and 3rd bidders when determining whether the low bidder made good faith efforts to meet the DBE goal.

c. Exhibit 15-G - Construction Contract DBE Commitment

Complete and sign Exhibit 15-G *Construction Contract DBE Commitment* included in the contract documents regardless of whether DBE participation is reported.

Provide written confirmation from each DBE that the DBE is participating in the Contract. A copy of a DBE's quote serves as written confirmation. If a DBE is participating as a joint venture partner, the Agency encourages you to submit a copy of the joint venture agreement.)

d. Subcontractor and Disadvantaged Business Enterprise Records

Use each DBE as listed on the DBE Commitment form Exhibit 12-B Bidder's List of Subcontractors (DBE and Non-DBE) and Exhibit 15-G Construction Contract DBE Commitment form unless you receive authorization for a substitution. Ensure that all subcontractor and agreements with DBEs to supply labor or materials are performed under 49 CFR 26.

Maintain records including:

- Name and business address of each 1st-tier subcontractor
- Name and business address of each DBE subcontractor, DBE vendor, and DBE trucking company, regardless of tier
- Date of payment and total amount paid to each business

If you are a DBE contractor, include the date of work performed by your own forces and the corresponding value of the work.

Before the 15th of each month for the previous month's work, submit:

1. Monthly DBE Trucking Verification form.
2. Monthly DBE Payment form

If a DBE is decertified before completing its work, the DBE must notify you in writing of the decertification date. If a business becomes a certified DBE before completing its work, the business must notify you in writing of the certification date. Submit the notifications. Upon work completion, complete a Disadvantaged Business Enterprises (DBE) Certification Status Change, Exhibit 17-O, form. Submit the form within 30 days of contract acceptance.

Upon work completion, complete Exhibit 17-F Final Report – Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subcontractors. Submit it within 30 days of contract acceptance. The Department withholds \$10,000 until the form is submitted. The Department releases the withholdings upon submission of the completed form.

e. Performance of Disadvantaged Business Enterprises

DBEs must perform work or supply materials as listed on the DBE Commitment Form Exhibit 15-G Construction Contract DBE Commitment.

Do not terminate or substitute a listed DBE for convenience and perform the work with your own forces or those of an affiliate, a non-DBE firm, or another DBE firm obtain materials from other sources without authorization from the Department.

The Department authorizes a request to use other forces or sources of materials if it shows any of the following justifications:

1. Listed DBE fails or refuses to execute a written contract based on plans and specifications for the project.
2. You stipulated that a bond is a condition of executing the subcontract and the listed DBE fails to meet your bond requirements.
3. Work requires a contractor's license and listed DBE does not have a valid license under Contractors License Law.
4. Listed DBE fails or refuses to perform the work or furnish the listed materials.
5. Listed DBE's work is unsatisfactory and not in compliance with the Contract.
6. Listed DBE is ineligible to work on the project because of suspension or debarment.
7. Listed DBE becomes bankrupt or insolvent.
8. Listed DBE voluntarily withdraws with written notice from the Contract
9. Listed DBE is ineligible to receive credit for the type of work required.
10. Listed DBE owner dies or becomes disabled resulting in the inability to perform the work on the Contract.

11. Agency determines other documented good cause. Under 40CFR 26.53 Notify the original DBE of your intent to use other forces or material sources and provide the reasons. Provide the DBE with 5 days to respond to your notice and advise you and the Department of the reasons why the use of other forces or sources of materials should not occur. Your request to use other forces or material sources must include:

1. One or more of the reasons listed in the preceding paragraph
2. Notices from you to the DBE regarding the request
3. Notices from the DBEs to you regarding the request

If the Department authorizes the termination or substitution of a listed DBE, make good faith efforts to find another DBE. The substitute DBE must (1) perform at least the same amount of work as the original DBE under the contract to the extent needed to meet the DBE goal and (2) be certified as a DBE with the work code applicable to the type of work the DBE will perform on the Contract **Submit your documentation of good faith efforts within 7 days of your request for authorization of the substitution. The Department may authorize a 7-day extension of this submittal period at your request. Refer to 49 CFR 26 Appendix A for guidance regarding evaluation of good faith efforts to meet the DBE goal.**

Unless the Department authorizes a request to terminate or substitute a listed DBE, the Department does not pay for work unless it is performed or supplied by the DVBE listed on the DBE Commitment form Exhibit 15-G Construction Contract DBE Commitment. You may be subject to sanctions under 49 CFR 26.

2. **BID OPENING** The Agency publicly opens and reads bids at the time and place shown on the *Notice to Bidders*.
3. **BID RIGGING** The U.S. Department of Transportation (DOT) provides a toll-free hotline to report bid rigging activities. Use the hotline to report bid rigging, bidder collusion, and other fraudulent activities. The hotline number is

(800) 424-9071. The service is available 24 hours 7 days a week and is confidential and anonymous.. The hotline is part of the DOT's effort to identify and investigate highway construction contract fraud and abuse and is operated under the direction of the DOT Inspector General.

4. **CONTRACT AWARD** If the Agency awards the contract, the award is made to the lowest responsible and responsive bidder.

5. CONTRACTOR LICENSE

The Contractor must be properly licensed as a contractor from contract award through Contract acceptance (Public Contract Code § 10164).

6. CHANGED CONDITIONS

a. Differing Site Conditions

1. During the progress of the work, if subsurface or latent physical conditions are encountered at the site differing materially from those indicated in the contract or if unknown physical conditions of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in the work provided for in the contract, are encountered at the site, the party discovering such conditions shall promptly notify the other party in writing of the specific differing conditions before the site is disturbed and before the affected work is performed.

2. Upon written notification, the engineer will investigate the conditions, and if it is determined that the conditions materially differ and cause an increase or decrease in the cost or time required for the performance of any work under the contract, an adjustment, excluding anticipated profits, will be made and the contract modified in writing accordingly. The engineer will notify the contractor of the determination whether or not an adjustment of the contract is warranted.
3. No contract adjustment which results in a benefit to the contractor will be allowed unless the contractor has provided the required written notice.
4. No contract adjustment will be allowed under this clause for any effects caused on unchanged work. (This provision may be omitted by the Local Agency, at their option.)

b. Suspensions of Work Ordered by the Engineer

1. If the performance of all or any portion of the work is suspended or delayed by the engineer in writing for an unreasonable period of time (not originally anticipated, customary, or inherent to the construction industry) and the contractor believes that additional compensation and/or contract time is due as a result of such suspension or delay, the contractor shall submit to the engineer in writing a request for adjustment within 7 calendar days of receipt of the notice to resume work. The request shall set forth the reasons and support for such adjustment.
2. Upon receipt, the engineer will evaluate the contractor's request. If the engineer agrees that the cost and/or time required for the performance of the contract has increased as a result of such suspension and the suspension was caused by conditions beyond the control of and not the fault of the contractor, its suppliers, or subcontractors at any approved tier, and not caused by weather, the engineer will make an adjustment (excluding profit) and modify the contract in writing accordingly. The contractor will be notified of the engineer's determination whether or not an adjustment of the contract is warranted.
3. No contract adjustment will be allowed unless the contractor has submitted the request for adjustment within the time prescribed.
4. No contract adjustment will be allowed under this clause to the extent that performance would have been suspended or delayed by any other cause, or for which an adjustment is provided or excluded under any other term or condition of this contract.

c. Significant Changes in the Character of Work

1. The engineer reserves the right to make, in writing, at any time during the work, such changes in quantities and such alterations in the work as are necessary to satisfactorily complete the project. Such changes in quantities and alterations shall not invalidate the contract nor release the surety, and the contractor agrees to perform the work as altered.
2. If the alterations or changes in quantities significantly change the character of the work under the contract, whether such alterations or changes are in themselves significant changes to the character of the work or by affecting other work cause such other work to become significantly different in character, an adjustment, excluding anticipated profit, will be made to the contract. The basis for the adjustment shall be agreed upon prior to the performance of the work. If a basis cannot be agreed upon, then an adjustment will be made either for or against the contractor in such amount as the engineer may determine to be fair and equitable.
3. If the alterations or changes in quantities do not significantly change the character of the work to be performed under the contract, the altered work will be paid for as provided elsewhere in the contract.
4. The term "significant change" shall be construed to apply only to the following circumstances:

- When the character of the work as altered differs materially in kind or nature from that involved or included in the original proposed construction; or
- When a major item of work, as defined elsewhere in the contract, is increased in excess of 125 percent or decreased below 75 percent of the original contract quantity. Any allowance for an increase in quantity shall apply only to that portion in excess of 125 percent of original contract item quantity, or in case of a decrease below 75 percent, to the actual amount of work performed.

7. BEGINNING OF WORK, TIME OF COMPLETION AND LIQUIDATED DAMAGES

The Contractor shall begin work within 15 calendar days after the contract has been approved by the attorney appointed and authorized to represent the City/County of _____.

This work shall be diligently prosecuted to completion before the expiration of WORKING DAYS beginning on the fifteenth calendar day after approval of the contract.

(Insert amount of Liquidated Damages)

The Contractor shall pay to the City/County of _____ the sum of \$ _____ per day, for each and every calendar day's delay in finishing the work in excess of the number of working days prescribed above.

8. BUY AMERICA

9. **Furnish steel and iron materials to be incorporated into the work with certificates of compliance and certified mill test reports. Mill test reports must indicate where the steel and iron were melted and manufactured. Steel and iron materials must be produced in the U.S. except:**

1. Foreign pig iron and processed, pelletized, and reduced iron ore may be used in the domestic production of the steel and iron materials [60 Fed Reg 15478 (03/24/1995)];
2. If the total combined cost of the materials does not exceed the greater of 0.1 percent of the total bid or \$2,500, materials produced outside the U.S. may be used.

Production includes:

1. Processing steel and iron materials, including smelting or other processes that alter the physical form or shape (such as rolling, extruding, machining, bending, grinding, and drilling) or chemical composition;
2. Coating application, including epoxy coating, galvanizing, and painting, that protects or enhances the value of steel and iron materials.

10. QUALITY ASSURANCE

The Agency uses a Quality Assurance Program (QAP) to ensure a material is produced to comply with the Contract.

You may examine the records and reports of tests the Agency performs if they are available at the job site.

Schedule work to allow time for QAP.

11. PROMPT PAYMENT OF FUNDS WITHHELD TO SUBCONTRACTORS

(The local agency must include one of the following three provisions to ensure prompt and full payment of any retainage from the prime contractor, or subcontractor, to a subcontractor. Remove or strike out the methods not used.)

(EITHER)

No retainage will be withheld by the agency from progress payments due the prime contractor. Retainage by the prime contractor or subcontractors is prohibited and no retainage will be held by the prime contractor from progress due subcontractors. Any violation of this provision shall subject the violating prime contractor or subcontractor to the penalties, sanctions and other remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies otherwise available to the prime Contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the prime contractor or deficient subcontract performance, or noncompliance by a subcontractor.

(OR)

No retainage will be held by the agency from progress payments due the prime contractor. Any retainage held by the prime contractors or subcontractors from progress payments due subcontractors shall be promptly paid in full to subcontractors within 30 days after the subcontractor's work is satisfactorily completed. Federal law (49CFR26.29) requires that any delay or postponement of payment over the 30 days may take place only for good cause and with the agency's prior written approval. Any violation of this provision shall subject the violating prime contractor or subcontractor to the penalties, sanctions and other remedies specified in Section 7108.5 of the Business and Professions Code. These requirements shall not be construed to limit or impair any contractual, administrative, or judicial remedies otherwise available to the prime Contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the prime contractor, deficient subcontract performance, or noncompliance by a subcontractor.

(OR)

The agency shall hold retainage from the prime contractor and shall make prompt and regular incremental acceptances of portions, as determined by the agency, of the contract work, and pay retainage to the prime contractor based on these acceptances. The prime contractor, or subcontractor, shall return all monies withheld in retention from a subcontractor within 30 days after receiving payment for work satisfactorily completed and accepted including incremental acceptances of portions of the contract work by the agency. Federal law (49CFR26.29) requires that any delay or postponement of payment over 30 days may take place only for good cause and with the agency's prior written approval. Any violation of this provision shall subject the violating prime contractor or subcontractor to the penalties, sanctions and other remedies specified in Section 7108.5 of the Business and Professions Code. These requirements shall not be construed to limit or impair any contractual, administrative, or judicial remedies otherwise available to the prime contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the prime contractor, deficient subcontract performance, or noncompliance by a subcontractor.

12. FORM FHWA-1273 REQUIRED CONTRACT PROVISIONS FEDERAL-AID CONTRACTS

(Excluding ATTACHMENT A - EMPLOYMENT AND MATERIALS PREFERENCE FOR APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS ROAD CONTRACTS)

[The following 10 pages must be physically inserted into the contract without modification.]

13. Form FHWA-1273 Required Contract Provisions Federal-Aid Contracts

(Excluding ATTACHMENT A - EMPLOYMENT AND MATERIALS PREFERENCE FOR APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS ROAD CONTRACTS)

[The following 10 pages must be physically inserted into the contract without modification.]

FHWA-1273 -- Revised May 1, 2012

**REQUIRED CONTRACT PROVISIONS
FEDERAL-AID CONSTRUCTION CONTRACTS**

- I. General
- II. Nondiscrimination
- III. Nonsegregated Facilities
- IV. Davis-Bacon and Related Act Provisions
- V. Contract Work Hours and Safety Standards Act Provisions
- VI. Subletting or Assigning the Contract
- VII. Safety: Accident Prevention
- VIII. False Statements Concerning Highway Projects
- IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
- X. Compliance with Governmentwide Suspension and Debarment Requirements
- XI. Certification Regarding Use of Contract Funds for Lobbying

ATTACHMENTS

A. Employment and Materials Preference for Appalachian Development Highway System or Appalachian Local Access Road Contracts (included in Appalachian contracts only)

I. GENERAL

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under Title 23 (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Form FHWA-1273 must be included in all Federal-aid design-build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services). The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in bid proposal or request for proposal documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract.

3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA.

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors.

II. NONDISCRIMINATION

The provisions of this section related to 23 CFR Part 230 are applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts.

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR 60, 29 CFR 1625-1627, Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The contractor and all subcontractors must comply with: the requirements of the Equal Opportunity Clause in 41 CFR 60-1.4(b) and, for all construction contracts exceeding \$10,000, the Standard Federal Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60-4.3.

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR 60, and 29 CFR 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), and Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The following provision is adopted from 23 CFR 230, Appendix A, with appropriate revisions to conform to the U.S. Department of Labor (US DOL) and FHWA requirements.

1. Equal Employment Opportunity: Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630, 29 CFR 1625-1627, 41 CFR 60 and 49 CFR 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the contractor's project activities under this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract.

b. The contractor will accept as its operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training."

2. EEO Officer: The contractor will designate and make known to the contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active EEO program and who must be assigned adequate authority and responsibility to do so

3. Dissemination of Policy: All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer.

b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.

c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minorities and women.

d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

4. Recruitment: When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.

a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minorities and women. To meet this requirement, the contractor will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority and women applicants may be referred to the contractor for employment consideration.

b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.

c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.

5. Personnel Actions: Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

6. Training and Promotion:

a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).

c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

d. The contractor will periodically review the training and promotion potential of employees who are minorities and women and will encourage eligible employees to apply for such training and promotion.

7. Unions: If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

a. The contractor will use good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher paying employment.

b. The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, national origin, age or disability.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the contracting agency and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

8. Reasonable Accommodation for Applicants / Employees with Disabilities: The contractor must be familiar with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established there under. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

9. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment: The contractor shall not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.

a. The contractor shall notify all potential subcontractors and suppliers and lessors of their EEO obligations under this contract.

b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.

10. Assurance Required by 49 CFR 26.13(b):

a. The requirements of 49 CFR Part 26 and the State DOT's U.S. DOT-approved DBE program are incorporated by reference.

b. The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the contracting agency deems appropriate.

11. Records and Reports: The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.

a. The records kept by the contractor shall document the following:

(1) The number and work hours of minority and non-minority group members and women employed in each work classification on the project;

(2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women;

b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on [Form FHWA-1391](#). The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more.

The contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location, under the contractor's control, where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding \$2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size). The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. Contracting agencies may elect to apply these requirements to other projects.

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 "Contract provisions and related matters" with minor revisions to conform to the FHWA-1273 format and FHWA program requirements.

1. Minimum wages

a. All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account

(except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.d. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph 1.b. of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

b. (1) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(ii) The classification is utilized in the area by the construction industry; and

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(2) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(3) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits,

where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Wage and Hour Administrator for determination. The Wage and Hour Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(4) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs 1.b.(2) or 1.b.(3) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

c. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

d. If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

2. Withholding

The contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract, or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the contracting agency may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

3. Payrolls and basic records

a. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall

maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

b. (1) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the contracting agency. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g. , the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the contracting agency for transmission to the State DOT, the FHWA or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the contracting agency..

(2) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(i) That the payroll for the payroll period contains the information required to be provided under §5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under §5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 3.b.(2) of this section.

(4) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

c. The contractor or subcontractor shall make the records required under paragraph 3.a. of this section available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the FHWA may, after written notice to the contractor, the contracting agency or the State DOT, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. Apprentices and trainees

a. Apprentices (programs of the USDOL).

Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed.

Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

b. Trainees (programs of the USDOL).

Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration.

The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration.

Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

c. Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

d. Apprentices and Trainees (programs of the U.S. DOT).

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the particular program.

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

6. Subcontracts. The contractor or subcontractor shall insert Form FHWA-1273 in any subcontracts and also require the subcontractors to include Form FHWA-1273 in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

7. Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

9. Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of eligibility.

a. By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

c. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

The following clauses apply to any Federal-aid construction contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

1. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1.) of this section, the contractor and any subcontractor responsible

therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1.) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1.) of this section.

3. Withholding for unpaid wages and liquidated damages. The FHWA or the contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2.) of this section.

4. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1.) through (4.) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1.) through (4.) of this section.

VI. SUBLETTING OR ASSIGNING THE CONTRACT

This provision is applicable to all Federal-aid construction contracts on the National Highway System.

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635.116).

a. The term "perform work with its own organization" refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions:

- (1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;
- (2) the prime contractor remains responsible for the quality of the work of the leased employees;
- (3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and
- (4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of

payrolls, statements of compliance and all other Federal regulatory requirements.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract.

2. The contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. The contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract.

5. The 30% self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements.

VII. SAFETY: ACCIDENT PREVENTION

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under

Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C.3704).

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, Form FHWA-1022 shall be posted on each Federal-aid highway project (23 CFR 635) in one or more places where it is readily available to all persons concerned with the project:

18 U.S.C. 1020 reads as follows:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 1, 1916, (39 Stat. 355), as amended and supplemented;

Shall be fined under this title or imprisoned not more than 5 years or both."

IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

By submission of this bid/proposal or the execution of this contract, or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, or subcontractor, as appropriate, will be deemed to have stipulated as follows:

1. That any person who is or will be utilized in the performance of this contract is not prohibited from receiving an award due to a violation of Section 508 of the Clean Water Act or Section 306 of the Clean Air Act.

2. That the contractor agrees to include or cause to be included the requirements of paragraph (1) of this Section X in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements.

X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost \$25,000 or more – as defined in 2 CFR Parts 180 and 1200.

1. Instructions for Certification – First Tier Participants:

a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default.

d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

* * * * *

2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:

a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;

(2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification; and

(4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

2. Instructions for Certification - Lower Tier Participants:

(Applicable to all subcontracts, purchase orders and other lower tier transactions requiring prior FHWA approval or estimated to cost \$25,000 or more - 2 CFR Parts 180 and 1200)

a. By signing and submitting this proposal, the prospective lower tier is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneously by reason of changed circumstances.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website

(<https://www.epls.gov/>), which is compiled by the General Services Administration.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

* * * * *

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Participants:

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

* * * * *

XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed \$100,000 (49 CFR 20).

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any

person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such recipients shall certify and disclose accordingly.

12. FEMALE AND MINORITY GOALS

To comply with Section II, "Nondiscrimination," of "Required Contract Provisions Federal-Aid Construction Contracts," the following are goals for female and minority utilization goals for Federal-aid construction contracts and subcontracts that exceed \$10,000:

The nationwide goal for female utilization is 6.9 percent.

The goals for minority utilization [45 Fed Reg 65984 (10/3/1980)] are as follows:

MINORITY UTILIZATION GOALS

	Economic Area	Goal (Percent)
174	Redding CA: Non-SMSA (Standard Metropolitan Statistical Area) Counties: CA Lassen; CA Modoc; CA Plumas; CA Shasta; CA Siskiyou; CA Tehama	6.8
175	Eureka, CA Non-SMSA Counties: CA Del Norte; CA Humboldt; CA Trinity	6.6
176	San Francisco-Oakland-San Jose, CA: SMSA Counties: 7120 Salinas-Seaside-Monterey, CA CA Monterey	28.9
	7360 San Francisco-Oakland CA Alameda; CA Contra Costa; CA Marin; CA San Francisco; CA San Mateo	25.6
	7400 San Jose, CA CA Santa Clara, CA	19.6
	7485 Santa Cruz, CA CA Santa Cruz	14.9
	7500 Santa Rosa CA Sonoma	9.1
	8720 Vallejo-Fairfield-Napa, CA CA Napa; CA Solano	17.1
	Non-SMSA Counties: CA Lake; CA Mendocino; CA San Benito	23.2
177	Sacramento, CA: SMSA Counties: 6920 Sacramento, CA CA Placer; CA Sacramento; CA Yolo	16.1
	Non-SMSA Counties CA Butte; CA Colusa; CA El Dorado; CA Glenn; CA Nevada; CA Sierra; CA Sutter; CA Yuba	14.3
178	Stockton-Modesto, CA: SMSA Counties: 5170 Modesto, CA CA Stanislaus	12.3
	8120 Stockton, CA CA San Joaquin	24.3
	Non-SMSA Counties	19.8
	CA Alpine; CA Amador; CA Calaveras; CA Mariposa; CA Merced; CA Tuolumne	

179	Fresno-Bakersfield, CA	
	SMSA Counties: 0680 Bakersfield, CA	19.1
	CA Kern 2840 Fresno, CA	26.1
	CA Fresno	
	Non-SMSA Counties: CA Kings; CA Madera; CA Tulare	23.6
180	Los Angeles, CA:	
	SMSA Counties: 0360 Anaheim-Santa Ana-Garden Grove, CA	11.9
	CA Orange	
	4480 Los Angeles-Long Beach, CA	28.3
	CA Los Angeles	
	6000 Oxnard-Simi Valley-Ventura, CA	21.5
	CA Ventura	
	6780 Riverside-San Bernardino-Ontario, CA	19.0
	CA Riverside; CA San Bernardino	
7480 Santa Barbara-Santa Maria-Lompoc, CA	19.7	
CA Santa Barbara		
Non-SMSA Counties	24.6	
CA Inyo; CA Mono; CA San Luis Obispo		
181	San Diego, CA:	
	SMSA Counties	
	7320 San Diego, CA	16.9
	CA San Diego	
Non-SMSA Counties	18.2	
CA Imperial		

For each July during which work is performed under the contract, you and each non material-supplier subcontractor with a subcontract of \$10,000 or more must complete Form FHWA PR-1391 (Appendix C to 23 CFR 230). Submit the forms by August 15.

13. FEDERAL TRAINEE PROGRAM

For the Federal training program, the number of trainees or apprentices is _____.

This section applies if a number of trainees or apprentices is specified in the special provisions.

As part of your equal opportunity affirmative action program, provide on-the-job training to develop full journeymen in the types of trades or job classifications involved.

You have primary responsibility for meeting this training requirement.

If you subcontract a contract part, determine how many trainees or apprentices are to be trained by the subcontractor.

Include these training requirements in your subcontract.

Where feasible, 25 percent of apprentices or trainees in each occupation must be in their 1st year of apprenticeship or training.

Distribute the number of apprentices or trainees among the work classifications on the basis of your needs and the availability of journeymen in the various classifications within a reasonable recruitment area.

Before starting work, submit to the City/County of _____:

1. Number of apprentices or trainees to be trained for each classification
2. Training program to be used
3. Training starting date for each classification

Obtain the City/County's of _____ approval for this submitted information before you start work. The City/County of _____ credits you for each apprentice or trainee you employ on the work who is currently enrolled or becomes enrolled in an approved program.

The primary objective of this section is to train and upgrade minorities and women toward journeymen status. Make every effort to enroll minority and women apprentices or trainees, such as conducting systematic and direct recruitment through public and private sources likely to yield minority and women apprentices or trainees, to the extent they are available within a reasonable recruitment area. Show that you have made the efforts. In making these efforts, do not discriminate against any applicant for training.

Do not employ as an apprentice or trainee an employee:

1. In any classification in which the employee has successfully completed a training course leading to journeyman status or in which the employee has been employed as a journeyman
2. Who is not registered in a program approved by the US Department of Labor, Bureau of Apprenticeship and Training

Ask the employee if the employee has successfully completed a training course leading to journeyman status or has been employed as a journeyman. Your records must show the employee's answers to the questions.

In your training program, establish the minimum length and training type for each classification. The City/County of _____ and FHWA approves a program if one of the following is met:

1. It is calculated to:
 - Meet the your equal employment opportunity responsibilities
 - Qualify the average apprentice or trainee for journeyman status in the classification involved by the end of the training period
2. It is registered with the U.S. Department of Labor, Bureau of Apprenticeship and Training, and it is administered in a way consistent with the equal employment responsibilities of Federal-aid highway construction contracts

Obtain the State's approval for your training program before you start work involving the classification covered by the program.

Provide training in the construction crafts, not in clerk-typist or secretarial-type positions. Training is allowed in lower level management positions such as office engineers, estimators, and timekeepers if the training is oriented toward construction applications. Training is allowed in the laborer classification if significant and meaningful training is provided and approved by the division office. Off-site training is allowed if the training is an integral part of an approved training program and does not make up a significant part of the overall training.

The City/County of _____ reimburses you 80 cents per hour of training given an employee on this contract under an approved training program:

1. For on-site training
2. For off-site training if the apprentice or trainee is currently employed on a Federal-aid project and you do at least one of the following:
 - Contribute to the cost of the training
 - Provide the instruction to the apprentice or trainee

- Pay the apprentice's or trainee's wages during the off-site training period
3. If you comply this section.
- Each apprentice or trainee must:
1. Begin training on the project as soon as feasible after the start of work involving the apprentice's or trainee's skill
 2. Remain on the project as long as training opportunities exist in the apprentice's or trainee's work classification or until the apprentice or trainee has completed the training program
- Furnish the apprentice or trainee:
1. Copy of the program you will comply with in providing the training
 2. Certification showing the type and length of training satisfactorily completed

14. TITLE VI ASSURANCES

During the performance of this Agreement, the contractor, for itself, its assignees and successors in interest (hereinafter collectively referred to as CONTRACTOR) agrees as follows:

- (1) Compliance with Regulations: CONTRACTOR shall comply with the regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the REGULATIONS), which are herein incorporated by reference and made a part of this agreement.
- (2) Nondiscrimination: CONTRACTOR, with regard to the work performed by it during the AGREEMENT, shall not discriminate on the grounds of race, color, sex, national origin, religion, age, or disability in the selection and retention of sub-applicants, including procurements of materials and leases of equipment. CONTRACTOR shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the agreement covers a program set forth in Appendix B of the Regulations.
- (3) Solicitations for Sub-agreements, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by CONTRACTOR for work to be performed under a Sub-agreement, including procurements of materials or leases of equipment, each potential sub-applicant or supplier shall be notified by CONTRACTOR of the CONTRACTOR'S obligations under this Agreement and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.
- (4) Information and Reports: CONTRACTOR shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the California Department of Transportation or FHWA to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of CONTRACTOR is in the exclusive possession of another who fails or refuses to furnish this information, CONTRACTOR shall so certify to the California Department of Transportation or the FHWA as appropriate, and shall set forth what efforts CONTRACTOR has made to obtain the information.
- (5) Sanctions for Noncompliance: In the event of CONTRACTOR'S noncompliance with the nondiscrimination provisions of this agreement, the California Department of Transportation shall impose such agreement sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
 - (a) withholding of payments to CONTRACTOR under the Agreement within a reasonable period of time, not to exceed 90 days; and/or
 - (b) cancellation, termination or suspension of the Agreement, in whole or in part.

- (6) Incorporation of Provisions: CONTRACTOR shall include the provisions of paragraphs (1) through (6) in every sub-agreement, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

CONTRACTOR shall take such action with respect to any sub-agreement or procurement as the California Department of Transportation or FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance, provided, however, that, in the event CONTRACTOR becomes involved in, or is threatened with, litigation with a sub-applicant or supplier as a result of such direction, CONTRACTOR may request the California Department of Transportation enter into such litigation to protect the interests of the State, and, in addition, CONTRACTOR may request the United States to enter into such litigation to protect the interests of the United States.

15. USE OF UNITED STATES-FLAG VESSELS

The CONTRACTOR agrees-

1. To utilize privately owned United States-flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to this contract, to the extent such vessels are available at fair and reasonable rates for United States-flag commercial vessels.
2. To Furnish within 20 days following the date of loading for shipments originating within the United State or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated "on-board" commercial ocean bill-of-lading in English for each shipment of cargo described in paragraph (1) of this section to both the Contracting Officer (through the prime contractor in the case of subcontractor bills-of-lading) and to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590.
3. To insert the substance of the provisions of this clause in all subcontracts issued pursuant to this contract.

MAINTAIN RECORDS AND SUBMIT REPORTS DOCUMENTING YOUR PERFORMANCE UNDER THIS SECTION

Market Value sets the basis for just compensation, the two amounts may differ because of unusual circumstances. The Code of Civil Procedure defines Market Value as: (a) The fair market value of the property taken is the highest price on the date of valuation that would be agreed to by a seller, being willing to sell but under no particular or urgent necessity for doing so, or obliged to sell, and a buyer being ready, willing and able to buy but under no particular necessity for so doing, each dealing with the other with full knowledge of all the uses and purposes for which the property is reasonably adaptable and available, and (b) The fair market value of property taken for which there is no relevant comparable market is its value on the date of valuation as determined by any method of valuation that is just and equitable.

Appraisal Review

As noted above, on federal-aid projects, a formal review of the appraisal is necessary (See 49 CFR 24.104). If the local agency is using a private sector review appraiser, the review appraiser must have a valid California license issued by the state Office of Real Estate Appraisers (OREA). If the project sponsor is a qualified agency and performing its own appraisal work, the California Department of Real Estate (DRE) has held that, as employees of a public agency, neither the appraiser, nor the review appraiser needs such a license. The review appraiser must determine whether the appraisal meets applicable requirements and make any necessary corrections or revisions.

If the review appraiser is unable to approve or recommend approval of the appraisal, the reviewer may develop additional documentation to support what is felt to be an approved or recommended value unless it meets the requirements of an Appraisal Waiver Valuation as discussed below. The reviewer must state the basis for the value conclusion. The Uniform Act makes it clear that the local agency must establish an amount believed to be just compensation. Therefore, if another agency or a consultant does an appraisal review, the acquiring agency must retain the responsibility for establishing an estimate of just compensation. Another agency or a consultant cannot do so.

Appraisal Waiver Valuation

When the local agency determines that the valuation problem is uncomplicated and the market value is estimated at \$10,000 or less based on a review of available data, the appraisal can be waived. In this case, the local agency will prepare a Waiver Valuation. The \$10,000 amount includes any damages to the remainder property but excludes any non-substantial construction contract work. This information is consistent with 49 CFR 24.102(c)(2).

Separation of Appraisal and Acquisition Functions

Local agencies should maintain a separation of the appraisal and acquisition functions, except that the same person can appraise and acquire a parcel if the total valuation excluding non-substantial construction contract work is \$10,000 or less. This dollar limit also applies to appraisal revisions where the appraiser was previously assigned to negotiate the parcel. The valuation document can be either an appraisal or Waiver Valuation.

When the same person prepares the appraisal and does the acquisition, the appraisal should contain a statement substantially as follows: I understand that I may be assigned as the

relocation and the circumstances, which necessitate it. A copy of each confirmation letter will be sent to the DLAE.

If Verbal Special Authorization to Proceed is obtained, the local agency must furnish a written submittal to the DLAE confirming the information and containing a fully documented relocation plan. This must be accomplished within 30 days. An appropriate diary of decisions and discussions shall be maintained.

14.4 UTILITY FACILITIES

The Caltrans Encroachments and Utilities Policy requires all high priority facilities located within project limits be positively identified and shown on project plans within highway R/W.

For federally funded participating projects off the SHS, compliance with the state's Encroachments and Utilities Policy is not mandatory. This policy shall be followed to ensure the maximum safety during construction of the project.

Note: For projects on the SHS: All local agency projects on the SHS shall conform to the state's Encroachments and Utilities Policy within Highway R/W. See Caltrans Project Development Procedures Manual (PDPM), Chapter 17. A copy of the policy may be obtained from Caltrans' Division of Design. It is also available online at http://www.dot.ca.gov/hq/oppd/pdpm/chap_pdf/chapt17.pdf.

When performing R/W Utility Relocation on a state highway project, the local agency's Project Engineer must complete the Project Engineer's Certification of Utility Facilities and submit it as an attachment to the project certification, as required by the policy.

14.5 AUDIT REQUIREMENTS

The Utility Coordinator is responsible for submitting a request for any applicable audits as described in of [LAPM Chapter 5: Invoicing](#), Section 5.8.

Note: For projects on the SHS, refer to Chapter 13, of the [Caltrans Right of Way Manual](#), and discuss with the District Right of Way Utility Coordinator.

14.6 REFERENCES

- [23 Code of Federal Regulations \(CFR\) 645](#)
<http://www.fhwa.dot.gov/legregs/directives/fapg/cfr0645a.htm>
- [48 Code of Federal Regulations \(CFR\), Chapter 1, Part 31](#)
http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title48/48cfr31_main_02.tpl
- [California Streets and Highways Code, Sections 702, 703, 705, and 706](#)
<http://www.leginfo.ca.gov/cgi-bin/displaycode?section=shc&group=00001-01000&file=700-711>

Procedures

The administering agency shall follow its own procedures for bid opening, provided such procedures include:

- As bids are received, they shall be logged in and stamped with the time and date.
- The bids shall be retained in a secure place until the designated time and place for public opening.
- All bids received in accordance with the terms of the advertisement shall be publicly opened and announced either item by item or by total amount.
- If any bid received is not read aloud, the name of the bidder and the reason for not reading the bid aloud shall be publicly announced at the bid opening.
- Negotiation with contractors, during the period following the opening of bids and before the award of the contract shall not be permitted.

If a local agency elects to prequalify contractors, the agency's prequalification procedures shall not include procedures or requirements for bonding, insurance, prequalification, qualification or licensing of contractors, which may operate to restrict competition, to prevent submission of a bid by, or to prohibit the consideration of a bid submitted by any responsible contractor, whether resident or nonresident of the State wherein the work is to be performed.

Prequalification of contractors may be required as a condition for submission of a bid or award of contract only if the period between the date of issuing a call for bids and the date of opening of bids affords sufficient time to enable a bidder to obtain the required prequalification rating. For further discussion on prequalification of bidders see: AASHTO publication on Suggested Guidelines for Strengthening Bidding and Contract Procedures (which is available in the FHWA Contract Administration Core Curriculum).

The agency's bidding procedures shall not discriminate against any qualified bidder regardless of political boundaries. No bidder shall be required to obtain a license before submitting a bid or before the bid is considered for award of a contract, which includes federal financing; however, a State contractor's license must be obtained upon award of the contract. The local agency may also withhold payment under such contract until such time as the contractor furnishes proof of a proper license in compliance with State laws. No local agency shall bid in competition with, or enter into a subcontract with private contractors. As bids are received, they shall be logged in and stamped with the time and date. The bids shall be retained in a secure place until the designated time and place for public opening.

The administering agency shall retain the following completed documents for the successful bidder in the project file:

- [*Exhibit 15-G1: Construction Contract DBE Commitment*](#)
- A list of bidders and total amounts bid with an item-by-item breakdown (see [*Exhibit 15-D: Bid Tabulation Summary Sheet \(Sample\)*](#)) of the three lowest bidders
- The Non-collusion Affidavit (see [*Exhibit 12-H: Sample Bid*](#))
- [*Exhibit 15-I: Local Agency Bid Opening Checklist*](#)

Where the lowest bid exceeds the engineer's estimate by an unreasonable amount as defined by established agency procedures, or where competition is considered to be poor for the size, type, and location of project, bids may be rejected unless an award of contract is justified as being in the best interest of the public. See [Section 15.6: Contract Award, Bid Analysis Process](#), and guidelines on [Preparing Engineer's Estimate, Bid Review and Evaluation](#), dated January 20, 2004.

The administering agency shall assure that all bids submitted include a completed addenda certification statement. The addenda certification statement is as follows:

Addenda - This bid is submitted with respect to the changes to the contract included in addendum number/s_ (Fill in number/s if addenda have been received.)

Warning - If an addendum or addenda have been issued by the administering agency and not noted above as being received by the bidder, this Bid may be rejected.

15.6 CONTRACT AWARD

Introduction

Warning: No project shall be advertised for bids, nor shall any project work (by contract or other than contract) be undertaken, and no materials shall be purchased on any federal-aid project, prior to issuance of Authorization to Proceed by Caltrans or the FHWA. Violation of this requirement shall result in the project ineligible for federal funding.

The contract award is a critical milestone for all federal-aid projects. At this point, the administering agency must have a complete financial package assuring adequate funding for the project. The administering agency shall award federal-aid contracts on the basis of the lowest responsive and responsible bidder. It is the administering agency's responsibility to assure that all successful bidders are licensed contractors upon award of any contract incorporating State or federal-aid funds.

Bid Analysis Process

The administering agency should conduct a bid analysis for each project. The bid analysis is required for projects on the National Highway System (NHS). The bid analysis is the process performed to justify the award or rejection of the bids and should assure that good competition and the lowest possible cost were received. A proper bid analysis better ensures that funds are being used in the most effective manner. A bid analysis also assists the agency in preparing accurate engineering estimates on future projects.

The bid analysis process is an examination of the unit bid prices for reasonable conformance with the engineer's estimated prices. Beyond the comparison of prices, other factors that a bid analysis may consider include:

- Number of bids
- Distribution or range of the bids
- Identity and geographic location of the bidders

Chapter 16 Administer Construction Contracts

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EXHIBITS

Exhibits applicable to this chapter can be found at

<http://www.dot.ca.gov/hq/LocalPrograms/lam/forms/lapmforms.htm>

[Exhibit 16-A: Weekly Statement of Working Days](#)

[Exhibit 16-B: Subcontracting Request](#)

[Exhibit 16-C: Resident and Assistance Engineers Daily Report](#)

[Exhibit 16-D: Certificate of Proficiency](#)

[Exhibit 16-E: Independent Assurance Sampling and Testing \(Form MR-0102\)](#)

[Exhibit 16-F: Report of Witness Tests \(Form MR-0103\)](#)

[Exhibit 16-G: Corroboration Report \(Form MR-0104\)](#)

[Exhibit 16-H: Independent Assurance Sampling and Testing Log Summary \(Form MR- 0110\)](#)

[Exhibit 16-I: Notice of Materials to Be Used \(Form CEM-3101\)](#)

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[Exhibit 16-K: Report of Inspection of Material \(Form MR-0029\)](#)

[Exhibit 16-L: Sample Federal-Aid Invoice](#)

[Exhibit 16-M: Notice of Materials to Be Inspected \(MR-0028\)](#)

[Exhibit 16-N: Employee Interview: Labor Compliance/EEO](#)

[Exhibit 16-O: Federal-Aid Highway Construction Contractors Annual EEO Report](#)

[Exhibit 16-P: Employee Interview: Labor Compliance/EEO \(Spanish Form\)](#)

[Exhibit 16-Q: U.S. Dept. of Labor Office of Federal Contract Compliance Programs](#)

[Exhibit 16-R: Size, Frequency and Location of Sampling and Testing Tables](#)

[Exhibit 16-S: Caltrans Test Method – ASTM Test Method Conversion Chart](#)

[Exhibit 16-T: Materials Typically Accepted by a Certificate of Compliance](#)

[Exhibit 16-UI: Initial Potential Claim Record](#)

[Exhibit 16-UF: Full and Final Potential Claim Record](#)

[Exhibit 16-US: Supplemental Potential Claim Record](#)

[Exhibit 16-V: Source Inspection Request Local Agency to DLAE](#)

[Exhibit 16-W: Source Inspection Request to TransLab](#)

[Exhibit 16-Y: Monthly Progress Payment Item Quantity Calculation Sheet,](#)

[Exhibit 16-Z: Monthly DBE Trucking Verification](#)

[Exhibit 16-Z2: Acceptance Testing Results Summary Log](#)

CHAPTER 16 Administer Construction Contracts

16.1 INTRODUCTION

Chapter Guidance

This chapter provides the procedures and guidelines local public agencies (LPAs) must follow when administering the construction of federal-aid projects. Contract administration is the comprised actions taken after a contract is awarded to obtain and document compliance with contract requirements, such as timely delivery, proper construction, dispute resolution, acceptance, payment, and closing of contract. These actions may include technical administrative and managerial support.

Contract Administration Delegated to Local Agencies

For delegated projects, the Federal Highway Administration (FHWA) has assigned the responsibility of contract administration, including construction inspection, to Caltrans. This responsibility is conveyed by Caltrans to the LPA through an E-76, which is the Authorization to Proceed executed for each federal-aid project. For all locally administered federal-aid projects, further delegation of responsibility is made by Caltrans to the LPA through a state/local agreement called a Master Agreement (specific to each LPA) and the program supplements (specific to each project). Delegation to an LPA is based on the following conditions:

- An employee of the LPA is in responsible charge of the project and that person is a full-time employee of the LPA,
- All federal requirements are met in performance of the work, and
- The LPA adequately staffs and equips the project team to properly administer the contract.

Such delegation does not relieve Caltrans of overall project responsibility. Caltrans will perform periodic process reviews and oversight to assure compliance.

Local Public Agencies (LPA) Procedures when Administering a Federal-Aid Construction Contract

For projects off the State Highway System (SHS), an LPA must follow the Local Assistance Procedures Manual (LAPM), most notably [Chapter 15: Advertise and Award Project](#), [Chapter 16: Administer Construction Contracts](#), and [Chapter 17: Project Completion](#).

For projects on the SHS (projects constructing permanent improvement within the state right of way), an LPA must follow the procedures found in the following four manuals:

- [Local Agency Resident Engineer Construction Manual Supplement](#)
- [Caltrans Construction Manual](#)
- [Local Assistance Structure Representative Guidelines](#)

- [Bridge Construction Records and Procedures Manual, Volumes 1 and 2](#)

Keep in mind these manuals are not contract documents; they are procedures and guidelines. In case of conflicts, the contract documents and the agency-state agreements shall prevail. However, if mandated federal-aid requirements were inadvertently omitted from the contract, the LPA must amend the contracts via change order to correct the omissions.

Available Training for Federal-Aid Construction Administration

The following two courses are offered to LPA Resident Engineers (REs) and other staff through the California Local Technical Assistance Program Training:

- The Resident Engineer Academy
- Federal-Aid Series, Day 5, Federal Rules for Construction Contract Administration and Project Completion

The RE Academy introduces students to the roles and responsibilities of an RE and to the requirement of the federal-aid program, while Day 5 of the Federal-Aid Series explains the federal-aid requirements in this chapter and [LAPM Chapter 17: Project Completion](#). To find out more information go to the [HQ Local Assistance Training webpage](#).

Other Available Resources

When a problem arises, the RE has many resources to consult or request assistance, in addition to the LAPM, including the:

- [District Local Assistance Engineer \(DLAE\)](#)
- Construction Oversight Engineer (COE)
- [HQ Division of Local Assistance](#)
- [Federal-Aid Essentials for Local Public Agencies](#)
- [Caltrans Manuals and Guides](#)

The [Caltrans Construction Manual](#) is a great resource for REs, Office Engineers (OE), field inspectors and lab testers, covering topics from change order writing, labor compliance, as well as sampling and testing. [Caltrans Construction Manual](#). Chapter 4: Construction Details is especially helpful to those inspecting roadwork operations, providing specific activities to be completed before, during and after construction.

For structure work, the Bridge Construction Procedures Manual should be consulted.

Contract Administration Costs Eligible for Reimbursement

Construction engineering (CE) costs, which include the work of project advertising, contract administration, supervision and inspection of construction activities, measurement and payments, preparation of as-built plans, and final estimates, are eligible for federal-aid reimbursement if identified and programmed in the Authorization to Proceed. A fifteen percent

(of the Engineer's Estimate) limitation on CE is required for the federal-aid program on a statewide basis. It is recognized that for smaller or more complex projects, it can be difficult to perform all CE within the 15% limitation. If federal funds are available, the LPA may submit a request to the DLAE for additional CE funds. Such a request must be supported by documentation, including a projected cost breakdown, and approval is not guaranteed. For more information on programming construction engineering see [LAPM Chapter 3: Project Authorization](#).

16.2 PROJECT SUPERVISION AND INSPECTION

Designate the Person in Responsible Charge of the Project

Federal statutes require that the LPA must provide a full time employee of the LPA who is accountable for the project. This individual is the person in responsible charge of the project.

For projects administered by an LPA, the person in responsible charge does not need to be an engineer. The regulations allow one employee to have responsible charge over multiple projects at the same time.

Person in Responsible Charge

The person designated responsible in charge must be a public employee. This requirement applies even in the following cases:

- a. A consultant is performing the construction engineering services
- b. A consultant has been hired as the City Engineer or Public Works Director

Person in Responsible Charge Duties:

The person in responsible charge performs the following duties:

- Administers inherently governmental project activities including those dealing with cost, time, adherence to contract requirements, construction quality and scope,
- Maintains familiarity of the day to day project operations, including project safety issues,
- Makes or participates in decisions about changed conditions or scope changes that require change orders or supplemental agreements,
- Visits and reviews the project on a frequency that is commensurate with the magnitude and complexity of the project,
- Reviews financial processes, transactions and documentation to ensure that safeguards are in place to minimize fraud, waste, and abuse,
- Directs project staff, local agencies or consultants, to carry out project administration and contract oversight, including proper documentation, and
- Maintains awareness of the qualification assignments and on-the-job performance of local agencies and consultant staff at all stages of the project.

Provide Adequate Project Staff

The LPA must designate a qualified engineer who is empowered to administer the construction contract, known as the Resident Engineer (RE). For projects off the SHS, the RE is not required to be a registered, however, if not registered, they must be working under the supervision of a registered engineer. The LPA must furnish sufficient qualified support staff to assist the RE in, but not limited to, construction surveys, soils and foundation tests, measurement and computation of quantities, testing of construction materials, checking shop drawings, and preparation of progress payments and reports. Additional RE responsibilities include the preparation of "As-Built" drawings, filing of documentation, and other inspection and staff services necessary to assure that the construction is being performed in accordance with the project plans and specifications, state and federal laws, and with this manual. For projects with structures, a structures representative may be necessary. The LPA may employ a consultant to provide construction engineering services such as RE's, inspectors, lab testers or surveyors, however, the LPA must provide a full-time public employee to be the person who is in responsible charge.

Document the Project Staff

List the names, titles and contact number of all staff (Agency and consultants hired by the agency) assigned to the project performing contract administration duties, including engineers, inspectors, lab testers, office help or others. This list should not include any contractors' staff or consultants hired by the prime contractor. Place a copy in the project files. This documentation is essential for auditors to determine the adequacy of the LPA's staffing.

Obtain the Designation of the Contractor's Authorized Representative

Prime contractors, including those operating in joint venture, must be required by the project specifications to designate in writing a person authorized to supervise the work and to act for the contractor on the project. The representative must be present at the jobsite while work is in progress. Both the Caltrans Standard Specifications, as well as the Greenbook, includes this requirement. Place a copy of the authorization in the project file, providing the address and after hours contact information of the person authorized to supervise.

16.3 MAINTAINING PROJECT RECORDS

An LPA must establish a separate record file for each federal-aid highway project. The project file must contain all data pertinent to the work and to the requirements of the specifications.

In general, project records must support the adequacy of the field supervision, inspection and testing; conformance to contract specifications; and payments to the contractor. Generally, whenever the LPA is unable to produce requested records, it shall be assumed by reviewing personnel the required actions were never performed. Organized project files can minimize these negative assumptions.

During the construction phase, Caltrans Construction Oversight Engineers periodically perform reviews and inspection of the LPA project files for compliance with federal and state requirements. Organization and content of the project file is one indicator of the effective and

efficient management of the project by the RE. It also minimizes resources necessary for conducting process reviews.

Organization of Project Records

Each agency must develop or adopt a filing index to be used on all federal-aid projects administered by the agency off the SHS. An agency is only required to use the CT filing index for projects on the SHS. The files must be complete and well organized and should include, at a minimum, even on relatively simple projects, the topics indicated below.

Project Record Filing System - Locally Administered Federal-Aid Projects

1. Award Package
 - a. [Exhibit 15-A: Local Agency Construction Contract Administration Checklist](#)
 - b. [Exhibit 15-B: Resident Engineer's Construction Contract Administration Checklist](#)
 - c. [Exhibit 15-M: Detailed Estimate](#)
 - d. [Exhibit 3-O: Sample Local Federal-Aid Project Finance Letter](#)
2. Project Personnel
 - a. LPA Project Personnel Sheet (names, titles and phone number)
 - b. LPA and Contractor's Emergency Contact Information Sheet
 - c. Contractor's letter designating representative authorized to act for the contractor.
3. Correspondence
 - a. To contractor
 - b. From contractor
 - c. General
4. [Exhibit 16-A: Weekly Statement of Working Days](#)
5. Quality Assurance:
 - a. Copy of Quality Assurance Plan
 - b. Independent Assurance
 - i. [Exhibit. 16-D: Certification of Proficiency](#)
 - ii. Certification of Accreditation of Testing Lab (TL-0113)
 - iii. Equipment Calibration Verifications (Nuclear Gauge)
 - c. [Exhibit. 16-I: Notice of Material to be Used \(Form CEM-3101\)](#)

- d. Acceptance Testing Results and Initial Tests (Make a Category 6d for each material such as, 4d1.i, Cl 2 Base Test Summary Log, 4d2.ii Cl 2 Base Test Results- 4d2.i AC Test Results Log etc.. Include items below for each):
 - i. Test Result Summary Log
 - ii. Test Results
 - e. [*Exhibit 16-T: Materials Typically Accepted by Certificate of Compliance*](#)
 - f. [*Exhibit 16-K: Report of Inspection of Material \(Form MR-0029\)*](#)
 - g. Buy America Certifications
 - h. [*Exhibit 17-G: Corroboration Report*](#)
6. Engineer's Daily Reports
 - a. Resident Engineer's Daily Report ([*Exhibit 16-C*](#), or similar)
 - b. Assistant Engineer's Daily Report ([*Exhibit 16-C*](#), or similar)
 - c. Structures Engineer
 7. Photographs
 8. Contract Item Pay Quantity Documents
 - a. [*Exhibit 16-Y: Monthly Progress Payment Item Quantity Calculation Sheet*](#), or similar
 9. Change Orders (CO)
 - a. CO 1
 - i. Approved CO or equivalent (agencies may use their own form or use State form CEM-4900)
 - ii. CO Memorandum/Transmittal Letter or equivalent (agencies may use their own form or use State form CEM-4903)
 - iii. Written Prior Approval to Proceed
 - iv. Independent Supporting Force Account Cost Calculations (if Agreed Price)
 - v. Justification of time extension
 - vi. Extra Work Reports
 - b. CO 2 etc
 10. Progress Pay Estimates and Status of Funds
 11. Labor Compliance and Equal Employment Opportunity (EEO) records
 - a. Certified Payrolls

- b. [*Exhibit 16-B: Subcontracting Request*](#)
 - c. Photo Documentation of all required posters:
www.fhwa.dot.gov/programadmin/contracts/poster.cfm
 - d. Labor Compliance Interviews
 - e. [*Exhibit 16-0: Federal-Aid Highway Contractors Annual EEO Report*](#)
12. Disadvantaged Business Enterprise (DBE) Records
- a. [*Exhibit 15-G: Construction Contract DBE Information*](#)
 - b. [*Exhibit 15-H: DBE Information - Good Faith Efforts*](#)
 - c. [*Exhibit 16-Z: Monthly DBE Trucking Verification*](#)
 - d. DBE Substitution Supporting Documentation (if applicable)
 - e. [*Exhibit 17-F: Final Report –Utilization of DBE and First –Tier Subcontractor*](#)

Other sections of this chapter explains the content of the above listed file categories.

A large and complex project usually requires a more detailed record-keeping system. The record-keeping system described in [Caltrans Construction Manual](#), Section 5-102, Organization of Project Documents, is suggested for large projects.

Availability of Records for Review or Audit

All contract documentation and backup records must be available for inspection by Caltrans and FHWA at any time for a minimum of three years after the final voucher is received from FHWA. The files must be available at a single location for these reviews and audits. Use of a uniform project record-keeping system, together with diligent maintenance of the system, greatly facilitates a process review and minimizes negative findings. Good records of all construction activities clearly demonstrates to those concerned that project supervision and control were attained on the project.

16.4 PRE-CONSTRUCTION CONFERENCE AND PARTNERING

Pre-Construction Conference

For all construction projects, the LPA must schedule a pre-construction conference with the contractor.

Required Attendees:

- LPA Representative
- Resident Engineer (if this is not the same person as above)
- Contractor

Possible/Recommended Attendees:

- LPA Labor Compliance Officer
- LPA Safety Officer
- Other Affected Agencies (Fish and Wildlife, Parks and Rec, etc.)
- Emergency Services (Fire, Police, Ambulance, etc.)
- Public Utilities (if relocation or temporary shut downs are required)

The size, duration, and complexity of the project should be considered when determining who to invite. When an invitation is extended to Caltrans, representation will be up to the DLAE as resources allow. The LPA representatives should discuss important contract issues, submittals, as well as sanctions for non-compliance with local, state, and federal requirements.

Required Topics:

- Safety
- Equal Employment Opportunity
- Labor Compliance
- Subcontracting (including required submittal of the [Exhibit 16-B: Subcontracting Request](#))
- DBE (Including submittal of [Exhibit 16-Z: Monthly DBE Trucking Verification](#), if necessary)
- NEPA, Permits and Environmental Mitigation Commitment requirements
- Potential Traffic or Pedestrian Handling Issues

Recommended Topics:

- Progress Schedule
- Work Plans
- Quality Control/Quality Assurance
- Materials Requiring Certificates of Compliance
- Materials Requiring Buy America Certificates
- Contract Training (Apprentice) Goals
- Change Order Process
- Dispute Process
- Potential Utility Conflicts

Additional meetings may be advisable where considerable effort and time is required to cover specific areas. A written record of attendance and items discussed should be made by the administering LPA and should be kept in the project files.

16.5 PARTNERING

Partnering is a relationship between the LPA and the contractor, formed in order to effectively complete the contract to the benefit of both parties. Through trust, cooperation and teamwork, the goal is to resolve conflicts at the lowest possible level. More information about the partnering process can be found at the [Partnering with Caltrans website](http://www.dot.ca.gov/hq/construc/partnering.php), <http://www.dot.ca.gov/hq/construc/partnering.php>.

Partnering is not a requirement of the federal-aid program, but it is eligible for participation as part of the construction engineering cost. Generally, the costs are shared between the contractor and the LPA. When formal partnering is desired, the [Caltrans Construction Contract Standards](#) website is available to assist in providing specifications for the process. Informal partnering may also be beneficial and does not require contract provisions to be implemented.

Keep in mind, partnering is not a substitute for a contract dispute resolution process.

16.6 TRACKING CONTRACT TIME

Procedures

Contract time is the maximum time allowed in the contract for completion of all work contained in the contract documents. The LPA must maintain a written record of contract time, often called the Weekly Statement of Working Days (WSWD) or Weekly Project Progress Record. The LPA is responsible for reviewing the contract time requirements, determining the controlling operation, determining if each day is a working day or non-working day, and supporting time extensions.

Documentation similar to [Exhibit 16-A: Weekly Statement of Working Days](#), is an acceptable record of project progress. However, an LPA may use their own form, as long as the required information is recorded. Whichever form is used, as soon as possible and no later than the end of the following week, forward the original statement to the contractor and retain a copy in the project file. Most contracts give the contractor 15 days in which to protest the determinations shown on the form.

Determining the Controlling Operation

Before one can determine if a day was a working day or non-working day, one must know what work activity is the current controlling operation. The controlling operation is the activity that will extend the scheduled completion date if delayed. It is generally determined from the project schedule critical path. The critical path is the longest continuous chain of activities for the project that has the least amount of total float of all chains. If the progress schedule does not accurately represent current conditions, request the contractor to update the progress schedule.

Note, when completing a WSWD, it is important to record the current controlling operation (determined by schedule), not what work was performed that week (determined by the contractor), as they are frequently not the same.

Working Day vs. Non-Working Day

Once the current controlling operation is known, the RE can make the determination if a given day should be recorded as a working day or non-working day. The WSWD must indicate factors which may affect the work, such as weather conditions, utility delays, strikes or labor disputes, and material shortages. Based on these factors and the contract specifications, each day should be recorded as a working day or a non-working day.

The project documents will contractually define a working day. Keep in mind the definition may vary from one LPA to another, or from one project to another. For example, the 2010 Caltrans Standard Specifications, the 2015 Caltrans Standard Specifications and the Greenbook, each offer a slightly different definition of working day. In addition, project special provisions may modify either of these definitions. Therefore, before making a determination it is important to read the specifications for your project, and not just assume they are the same as those from a previous project.

If necessary, discuss the determinations with the contractor. The current controlling activity is the basis of this determination; therefore, the RE must base the decision on conditions effective on the day under consideration. If the contractor does not concur, an opportunity to formally protest is provided.

If your contract defines time in calendar days rather than working days, the RE will need a seven day WSWD form, versus a five day form. Calendar days, generally called out when the project completion date is critical, or when a large volume of traffic is affected, is commonly defined as every day on the calendar, regardless of weekends, holidays or weather. Review your contract specifications for the exact definition on your project. For calendar day projects, the RE must still record the controlling operation and record each day as a working day. Non-working days are rare on calendar day projects and should be clearly explained.

The Effects of Inclement Weather

Do not just assume that rain equals a non-working day and sun equals a working day. If the controlling activity is not dependent upon weather, such as concrete curing or an embankment settlement period, a working day must be charged during inclement weather.

When determining non-working days, loss of time because of inclement weather may extend beyond the period of actual inclement weather. Situations occur where there is no progress toward contract completion though the full crew might have worked the entire day. This may be due to the grade being too wet to work, access to the work needing to be reestablished, or saturated material needing to be removed from the tops of slopes.

Inclement weather can be other than wet or cold weather. For instance, it may be too hot to produce concrete that meets specified temperatures. If all specified precautions have been complied and the concrete work is the controlling activity, a weather nonworking day should be granted. It is helpful to have a column, Working Day No Work Done on Controlling Operation, to record any working day on which no work is done on the project or on the controlling activities. If the reasons are known, note them in the Remarks. Further discussion of

tracking contract progress and the use of [Exhibit 16-A: Weekly Statement of Working Days](#) is contained in Section 3-804, Time, of the [Caltrans Construction Manual](#).

Contract Time Extensions

Contract time extensions must have written approval by the administering agency. Generally the approval is made by a change order for a specified number of working days. Be sure to provide justification of any time extensions in the project files, such as a Time Impact Analysis, or a detailed narrative. Record the time adjustment on the WSWD upon approval of the change order (see [Section 16.10: Change Orders](#) for more information regarding Adjustment to Time of Contract Completion).

Events which do not warrant a time extension since they are generally considered to be under the contractor's control are:

- Maintenance shutdowns,
- Breakdowns,
- Suspensions or stop work orders due to safety, permit or pollution violations,
- Shutdowns due to construction accidents, and
- Material delays.

Liquidated Damages

Considering the various contract time issues and allowances discussed above, should the Contractor exceed the number of construction days (working days or calendar days) specified in the contract, liquidated damages in the dollar amount specified in the contract shall be deducted or not be paid to the Contractor.

16.7 SUBCONTRACTORS

Introduction

Contractors can use subcontractors on their projects, provided the subcontractor and the prime contractor complies with contract requirements, state and federal laws, and regulations. All subcontracts should be in the form of a written agreement and contain all pertinent provisions and requirements of the prime contract, including all the required federal-aid contract language. Refer to [LAPM Chapter 12: Plans Specifications & Estimate](#) for specific details of these requirements.

When projects use subcontractors, the RE must focus on:

- Knowing which subcontractors are working on the project and on which specific items they are working,
- Ensuring that the prime is using the same subcontractors listed in the bid documents
- Ensuring that the prime is performing at least 30% of the total contract work

- Ensuring the subcontractors commit to the bid documents used for the work listed, and are not improperly removed or replaced, and
- Ensuring the prime contractor does not subcontract work they are required to perform using their own forces that exceeds the threshold (more than half a percent of the total bid or \$10,000 whichever is greater)

Approval of Subcontractors Prior to Starting Subcontracted Work

The RE has the responsibility of approving subcontractors on federal-aid projects. In general, approval is necessary for only first-tier subcontractors. Before subcontracted work starts, the contractor must submit [Exhibit 16-B: Subcontracting Request](#) for approval. This form is the first step to ensure all rules and regulations related to subcontracting on federal-aid projects are met.

Section 5-1.13, Subcontracting, of the [2010 Caltrans Standard Specifications](#) requires the contractor to submit this form, and Section 2-3.3, Status of Subcontractor of the 2012, of the Greenbook requires this form or a facsimile. LPA not using either of these standard specifications should include similar contract language. When the contract is awarded, provide the contractor blank Subcontracting Request forms. The contractor may submit them for approval any time prior to the start of a particular subcontracted item of work; there is no need to submit all forms at one time. The last page of the form contains instructions for completing the form.

Upon receipt of the form, and before approving the contractor's request, complete the following:

1. Compare [Exhibit 12-B: Subcontractor List/Bidders List](#)
2. Compare the Subcontracting Request to [Exhibit 15-G: Construction Contract \(DBE\) Commitment](#),
3. Confirm the prime contractor has not subcontracted work they are required to do with their own forces, and (it is okay if it is below the threshold and the prime is doing more than 30% of the contract work)
4. Verify the subcontractors are not on the [Department of Industrial Relation's \(DIR\) debarred contractors list](#) available at: <http://www.dir.ca.gov/dlse/debar.html>.

More information regarding steps one through four can be found below. Upon completing steps one to four, if the Subcontracting Request meets all the requirements, sign and date the form and provide a copy to the contractor.

Place a copy in the project file. If the request does not meet all the requirements, request corrections or explanations and ask the contractor to resubmit.

Step 1: Compare the Subcontracting Request to the bidder's list of Subcontractors

Requirements of the Fair Practices Act in the Bidding Process

Sections 4100 through 4114 of the Public Contract Code are called the Subletting and

Subcontracting Fair Practices Act (Act) and applies to California's construction projects. The Act is designed to prevent prime contractors from bid shopping for subcontractors after bids are opened and the low bidder is known.

The Act requires that subcontracted work in excess of one-half of one percent (0.5%) of the contractor's total bid amount or \$10,000 (whichever is greater), must be listed in the prime

contractor's bid proposal. This is accomplished when the contractor submits [Exhibit 12-B: Subcontractor List/Bidders List](#).

Reviewing the Forms

Compare the Subcontractor Request submitted by the contractor with the Bidder's List of Subcontractors, looking for potential violations. Confirm that the subcontractors and the work percentages are correct.

Verify the Following:

- Any subcontractor listed on the request to perform more than one-half of one percent 0.5% of the contract or \$10,000, whichever is greater, is also shown on the List of Subcontractors.
- No subcontractor is listed on the request to perform work that is shown on the List of Subcontractors to be performed by another company.

When a prime contractor fails to list a subcontractor in its bid, the law requires the prime contractor must perform the work with its own forces. The prime contractor may not add an unlisted subcontractor by requesting a substitution. Exceptions to this requirement are discussed in Public Contract Code 4107 (c) and Public Contract Code 4109. Ensure the listed subcontractor performs the work, or the contractor complies with the substitution procedures in the Act.

Request the contractor make corrections and resubmit the form for approval, if there are any conflicts.

Common Violations of the Subletting and Subcontracting Fair Practices Act

The following are examples of common violations of the Act by a prime contractor:

- Subcontracting additional work to a listed subcontractor where the work was not originally listed as subcontracted work, and is in excess of the threshold requirements,
- Using a subcontractor not listed at bid time whose dollar value of work is in excess of the threshold,
- Substituting subcontractors without the LPA written consent, and
- Performing work with their own forces that the bid documents designated a subcontractor to perform.

If the Prime Contractor is found to be in Violation of the Fair Practice Act:

If these or any other violations actually occur during the work:

- The contractor must be assessed a penalty ranging from 0 to 10 percent of the value of the work, and
- The penalty is taken as an administrative deduction.

Discuss the issue with your LPA Labor Compliance Officer and consult Section 3-507C (4), Violations of the Subletting and Subcontracting Fair Practices Act of the [Caltrans Construction Manual](#) for direction on how to proceed. Consult the Construction Oversight Engineer (COE) for additional guidance, if needed.

Substitution of a Listed Subcontractor

To replace, or substitute, a subcontractor listed in the bid documents per the Fair Practices Act, the prime contractor must submit a written request based on the reasons identified in [Public Contract Code Section 4107](#). Examples of acceptable substitution reasons listed in the code are insolvency, failure to furnish bonds, unlicensed, failure to pay prevailing wages, and failure to execute a subcontract.

When the prime contractor requests a substitution, review the code to determine if the reason provided by the contractor is eligible for substitution. If yes, follow the process outlined in your contract documents, or if not provided, consult [Section 3-507C \(2\)](#), Substitution Process, of the [Caltrans Construction Manual](#). The process generally requires written notice to the subcontractor by certified mail and five business days to submit a written objection to the substitution. Follow the process carefully and maintain documentation in the project files.

Hearing Process when the Subcontractor Objects to being Substituted:

The intent of the substitution hearing is to give both parties the opportunity to explain to the hearing officer why a substitution should or should not occur. For details on the hearing process see [Section 3-5.07C \(3\)](#) of the [Caltrans Construction Manual](#).

Accidental Listing of a Subcontractor not Required to be Listed:

Occasionally, the contractor will include subcontractors on the Bidder's List of Subcontractors that the Act does not require to be listed (those doing less than the greater value of 0.5% of the contract or \$10,000). In this instance, update the Subcontracting Request to identify the new subcontractor. If the subcontractor is a DBE, refer to [Section 16.9: Employment Practice; Labor Compliance, EEO, DRB Construction Records and Accounting Procedures](#) of this chapter for additional requirements.

Step 2: Comparing the Subcontracting Request to the Bidder Disadvantaged Business Enterprise (DBE) Commitment Form

Code of Federal Regulations (CFR) DBE Requirements in the Bidding Process

The Code of Federal Regulations requires that contractors take necessary and reasonable steps to ensure that DBEs have opportunity to participate in federal-aid contracts (49CFR26). The contractor must make work available to DBEs and select work parts consistent with available DBE subcontractors and suppliers.

Thus, the Required Federal-aid Contract Language stipulate that the contractor must meet the DBE goal shown in the project special provisions, or demonstrate that adequate good faith efforts were made to meet the goal. This is accomplished by the contractor's submittal of [Exhibit 15-G: Construction Contract DBE Commitment](#), at bid time. Regardless of how the contractor's DBE commitment compares to the project's DBE goal, (as documented on [Exhibit 15-G](#)), the contractor is bound to utilize all listed DBE subcontractors or suppliers. Any exceptions to this would require the contractor to pursue a substitution approval.

Common Violations of the DBE Commitment Process

The following are examples of common DBE violations by a prime contractor:

- Substituting DBE subcontractors without the LPA written consent
- Performing work with their own forces that the bid documents designated a DBE subcontractor to perform

Compare the Subcontracting Request submitted by the contractor with the certified Bidder DBE Commitment form looking for potential violations. Verify no subcontractors are listed to perform work that should be performed by a DBE. Request the contractor make corrections and resubmit the form for approval, if there are any conflicts.

If the prime contractor is found to be in violation of the DBE commitment requirements:

- The LPA does not pay for work listed on [Exhibit 15-G](#), unless it is performed or supplied by the listed DBE or a substitute authorized in writing
- When the LPA does not pay for the work listed, the value of that work is determined by the contract bid prices, not amount of the subcontract between the prime and the sub
- The penalty is taken as an administrative deduction

If these or any other violations actually occur during the work, discuss the issue with your LPA Labor Compliance Officer and consult Part 1e of [Exhibit 12-G: Required Federal-Aid Contract Language](#), and [Section 8-304A\(2\)](#), *When a Listed DBE Does Not Perform the Work*, of the [Caltrans Construction Manual](#). You may also consult your COE for additional guidance, if needed.

Substitution of a DBE Subcontractor

To replace, also known as substitute, a DBE subcontractor, the prime contractor must submit a written request based on one or more of the 11 reasons identified in [Exhibit 12-G](#). Examples of acceptable reasons are: insolvency, failure to furnish bonds, unlicensed, failure to execute a subcontract, failure to have a valid contractor's license, owner's death, debarment, and failure or refusal to perform.

When requesting a substitution, the prime contractor must include:

- One or more of the reasons listed in [Exhibit 12-G](#),
- A copy of the five-day notice from the prime contractor to the DBE regarding the request,

- A copy of the response to the five-day notice from the DBE to the prime contractor regarding the request, and
- If applicable, the contractor's good faith effort documentation.

The substitute DBE must perform at least the same amount of work as the original DBE under the contract to the extent needed to meet the DBE goal. Refer to Part 1e of [Exhibit 12-G](#) for the detailed substitution process. Also consult [Section 8-304B \(2\), Disadvantaged Business Enterprise Substitutions](#), of the [Caltrans Construction Manual](#). Follow the process carefully and maintain documentation in the project files.

Step 3: Confirm the Prime Contractor has not Subcontracted Work that he is Required to do with their Own Forces

Limits on the Amount of Work Subcontracted

The CFR 635.116 requires the prime contractor perform at least 30 percent of work using the contractor's own organization. An LPA is allowed to increase this percentage through their contract specifications. A contractor's own organization includes only workers employed and paid directly by the prime contractor and who only utilize equipment owned or rented by the prime contractor, with or without operators.

Calculating the Amount of Work Subcontracted

The contractor must state on the Subcontracting Request what percentage and dollar amount of an item will be subcontracted. The RE must verify the amount. Any rational method of estimating the amount will be acceptable, for example:

- The percentage of an area, volume, or length
- The portion applicable to material cost
- The portion of labor and equipment cost

When an entire item is subcontracted, use the prime contractor's item bid price as the dollar amount for the form. When a portion of an item is subcontracted, apply the percentage of the bid item subcontracted to the prime contractor's item bid price as the dollar amount for the form.

Limits on the Work the Prime Contractor can do with their Own Forces

See steps one and two, above, for limits imposed by the Fair Practices Act and DBE Commitments, respectively.

Step 4: Verify the Subcontractors are not on the Department of Industrial Relation's Debarred Contracts List

Visit the Department of Industrial Relation's Debarred Contracts list and confirm that the subcontract is not on the list and has been debarred.

16.8 ENGINEER'S DAILY REPORTS

Procedures

The LPA must write daily reports to document the work in progress. These daily reports may be written by the construction inspector, the Assistant RE and/or the RE, as project and staffing needs dictate. The daily report must document what work was performed, where and how it

was performed, and who performed it. The details must be sufficient so that someone not familiar with the project could re-create the events that occurred and review of the contractor's costs to perform the work in a manner similar to force account. The report should also document significant events or conversations, and activities performed to ensure contract compliance.

The Daily Reports should record the following:

- General Information
 - The date
 - A brief description of the weather
 - The printed name and signature of the author
- For each person working on the project:
 - The full name
 - The labor classification
 - The employer
 - The hours worked, broken down by contract item and/or Contract Change (CO) work
- For each piece of equipment working on the project:
 - The make and model (or contractor's ID number)
 - The hours worked, broken down by contract item and/or CO work

Equipment should be identified sufficiently to enable determination of the applicable rental rates and operator's minimum wage. Consider in the design of your daily report form that it is important to know who operated what equipment, as this may affect the wage rate. In some cases it may be desirable to record dates of arrivals or departures of equipment, as well as idle time for breakdown or other reasons.

The Narrative Portion of the Report should include:

- A description of the contractor's operation
- The location where the work was performed (stations, off sets, depths, etc.)
- Statements made by the contractor or LPA personnel, which are pertinent to the work

- Activities performed by LPA staff to ensure the materials and workmanship complies with the contract specifications
- Sampling
- Acceptance Testing
- Measuring
- Collection of Certificates of Compliance
- Contract Item Quantity supporting information (measurements, tonnage, waste)

The description of the work performed must be sufficient to determine proper labor classification, such as differentiating work performed by a laborer versus work performed by an electrician. Workers must be classified and paid according to the work they actually perform, regardless of union affiliation, other titles, or designations.

See [Exhibit 16-C: Resident and Assistance Engineers Daily Report](#) for an example of both the RE's and Assistant RE's daily report forms used by Caltrans are shown as. The engineer's daily reports discussed herein are required in addition to any extra work reports submitted by the contractor. The daily reports must be kept current and in the project files.

16.9 EMPLOYMENT PRACTICE: LABOR COMPLIANCE, EEO, DBE

Introduction

Labor Compliance

Labor compliance is the LPA's effort to ensure the contractor is complying with all the applicable labor laws, acts and statutes detailed in the contract provisions. This section presents the guidelines for performing labor compliance. These guidelines apply to all state or federally funded projects.

Labor Compliance Requirements

The basis for these labor compliance procedures and the legal authority for local agencies to enforce labor compliance provisions derive from the California Labor Code, the Code of Federal Regulations, regulations of the FHWA, the California Code of Regulations, and the United States Department of Labor.

State and Federal Labor Laws Mandates

State and federal laws require contractors working on public works contracts to pay prevailing wages to their employees. Prevailing wages are predetermined hourly rates for each craft that are set by both the United States Department of Labor and the California Department of Industrial Relations. The prevailing hourly wage rate is composed of the basic hourly wage rate plus fringe benefits.

In addition, these laws:

- Define overtime and overtime pay
- Establish a workday and a workweek
- Require substantiation of wages via certified payrolls
- Determine covered work, (work requiring the payment of prevailing wages), vs. non-covered work

The Federal-aid Highway Acts established that laborers and mechanics employed on federal-aid projects are paid at wage rates generally prevailing for the same type of work on similar construction in the immediate locality. The federal wage rate determinations are included in the contract. The California Department of Industrial Relations determines the general prevailing state wage rates and those rates must be referenced in the contract.

Role of the LPA Labor Compliance Officer

Annually, each LPA must designate a Labor Compliance Officer. The Labor Compliance Officer has the responsibility of overseeing the LPA's labor compliance program. The duties include:

- Providing appropriate labor compliance training for LPA personnel
- Ensuring labor compliance requirements are performed and documented for all state and federally funded projects
- Assisting the RE in determining appropriate deductions or penalties

Many Labor Compliance Officers also perform duties listed below under Role of the Resident Engineer.

Resident Engineer's Role

The RE has the responsibility of enforcing the labor compliance provisions of the contract at the project level. To fulfill this responsibility, the RE and support staff must have a working knowledge of the requirements. A good place to start is a complete review of Form FHWA 1273, Required Federal-aid Contract Language, found in your special provisions.

Early oversight and enforcement of the labor compliance requirements is preferable to investigations of violations and withholding penalties. In order to accomplish this, the RE must perform or delegate the following tasks (each task on the list is detailed further below):

1. Review the labor compliance provisions of the contract with the contractor at the pre-construction meeting
2. Prepare daily reports
3. Obtain certified payrolls and owner operator listings
4. Check certified payrolls
5. Conduct employee interviews

6. Maintain written evidence of apprentices employed on the project
7. Cross check daily reports, interviews, payrolls and prevailing wage rates
8. Document that the required posters and wage rates are displayed at the job site
9. Compare all force account (time and material) billings to certified payrolls

Task Details

Task 1: Review the Labor Provisions of the Contract with the Contractor at the Pre-Construction Meeting

Include Labor Compliance Requirements as a topic on the pre-construction meeting agenda. The Federal-Aid Contract Prejob Checklist found on the [Caltrans Labor Compliance](#) website is a helpful tool for developing a discussion outline. Portions of the checklist require modification to conform to your contract provisions, form numbers and LPA policies.

Task 2: Prepare Daily Reports

See [Exhibit 16-C: Resident and Assistance Engineers Daily Reports](#), earlier in this chapter for the information that is needed to document the presence of the contractor's employees and owner-operators at the job site, and the work performed.

Task 3: Obtain Certified Payrolls and Owner Operator Listings

A payroll is a record of all payments a contractor made to employees working on the project. A certified payroll is one that contains the signed declaration required in Part IV-3, Payrolls and Records, of Form FHWA-1273. The provisions require the contractor and all subcontractors to:

- a. Submit payrolls weekly
- b. Sign a Statement of Compliance with each payroll submitted

The required weekly payroll information may be submitted in any form desired, however, Form WH-347, Payroll, is available for the convenience of contractors. An executed certification on the reverse side of optional Form WH-347 satisfies the requirement for submission of a statement of compliance. The prime contractor is responsible for the submission of all copies of payrolls by all subcontractors.

By signing the Statement of Compliance, the contractor or subcontractor is certifying that the following statements for the pay period are correct:

- a. The information required under 29 CFR 5.5(a)(3)(ii) and 29 CFR 5.5(a)(3)(i) is being maintained and is correct and complete,
- b. Each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract has been paid the full weekly wages earned, without rebate, either directly or indirectly, and no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR Part 3, and

- c. Each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits, or cash equivalents, for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

Develop a system to track the submission of payrolls. Prior to making the monthly progress payment to the contractor, be sure all certified payrolls, owner operator listings and statements of compliance have been submitted for the previous month. If documents are missing, see Discrepant, Delinquent or Inadequate Payrolls later in this section.

Task 4: Check all Certified Payrolls

Review payrolls to verify that each laborer or mechanic has been paid not less than the prevailing hourly wage applicable for the classification of work performed as specified in the contract. When state and federal wage rates differ, the contractor is required to pay the higher of the two.

Overtime must be paid:

- a. For all hours worked in excess of eight in any workday,
- b. For all hours worked in excess of 40 in any workweek,
- c. For the first eight hours worked on the seventh consecutive day of work in a workweek, and
- d. As at least 1.5 times the regular hourly wage plus fringe benefits.

For additional information on checking payrolls, owner-operator listings, calculating wage rates, fringe benefits and overtime, see the Labor Compliance of the [Caltrans Construction Manual](#).

When checking payrolls against the prevailing wage rates, it is recommended that you place checkmarks adjacent to those wage rates verified and initial the pages. It is also recommended that you tab the payrolls that you have checked so you can refer to them quickly during a review or audit. File all payrolls and listings in the project records.

Task 5: Conduct Employee Interviews

Interview contractor employees using [Exhibit 16-N: Employee Interview: Labor Compliance EEO](#), or the Spanish version of this form, [Exhibit 16-P: Employee Interview: Labor Compliance EEO \(Spanish Form\)](#). During the interview, the employee is asked questions regarding wage rates, hours of work, and type of work performed. The interview is used to check the validity of information shown on the certified payroll records. See item seven below for information on cross checking interviews and payrolls.

Interview a minimum of two employees per contract, per month, including at least one interview from the prime contractor and each subcontractor until such time as the contract is accepted or all employees on the project have been interviewed. The number of interviews taken must constitute a representative sample of workers employed on the project, including a variety of crafts and trades.

The contract provisions allow you to interview employees during work hours on the job per Part V-3c, Payrolls and Basic Records, of Form FHWA-1273. However, try to conduct the interviews at times that minimize disruption to the contractor's operation. Assure the interviewees that their statements will be confidential. Interview employees individually and away from supervisory personnel and other contractor staff. Do not disclose to the employer the identity of the employee without the employee's consent. Be sure the interviewer and the RE sign the form and file a copy in the project records.

Task 6: Maintain Written Evidence of Apprentices Employed on the Project

An apprentice is a contractor's employee who is registered in a formal training program governed by an apprenticeship committee. Part V-4a, Apprentices and Trainees, of Form FHWA-1273, permits apprentices to work for less than the prevailing wage rate provided they are registered in bona fide apprenticeship program.

If the contractor uses apprentices, the RE must:

- a. Track apprentices used on the contract in daily reports,
- b. Ensure apprentice classifications are correctly identified on certified payrolls,
- c. Obtain and file written evidence from the contractor that apprentices are registered in an appropriate program, and
- d. Confirm the ratio of apprentices to journeyman is not greater than permitted by the apprenticeship agreement.

Apprentices lacking evidence of registration, and apprentices in excess of allowable ratios must be paid the journeyman wage.

Written evidence of registration can be provided with form DAS-1, Apprenticeship Agreement, or a letter from the Department of Apprenticeship Standards.

On federal-aid projects, evidence of federal registration must be provided on U.S. DOL Form ETA-671, Program Registration and Apprenticeship Agreement, or a letter from the United States Office of Apprenticeship providing notice of registration.

If the number of apprentices is specified in the special provisions, the contractor must submit for a work plan specifying:

- a. Number of apprentices to be trained for each classification,
- b. Training program to be used, and
- c. Training start date for each classification.

The contractor must obtain approval of the plan before starting work. File a copy of the approved plan in the project records.

Task 7: Cross Check Daily Reports, Interviews, Payrolls and Wage Rates in Order to Determine Contractor and Subcontractor Compliance

Each month compare one of the employee interviews to the payroll record and daily reports for the week the interview was performed. Confirm that:

- a. Employee was classified properly for the work the employee was doing at the time of the interview as described in the daily reports,
- b. Correct wage rate was paid for the proper classification, and
- c. Overtime rate was paid for any work in excess of 8 hours in a day or 40 hours in a week, or for the first eight hours work on a seventh consecutive day.

A single worker may perform many different tasks covered by more than one craft or classification during the course of a single day. In this situation, the contractor may break up the work into the different classification and pay accordingly, or it may pay the worker the highest applicable wage rate for the entire day. If the highest wage rate is paid for the entire day, separate entries in the payroll records are not required.

If you find payroll discrepancies through review, random confirmation or worker complaints, see the CT Labor Compliance Policy Bulletin 11-01 for required follow up steps.

Task 8: Document that the Required Posters and Wage Rates are Displayed at the Job Site

Document that the posters and wage rates are legible and posted in plain view where employees are not intimidated to read them. If the project has multiple locations without a single gathering place, the contractor may need to be creative, mounting them to the porta-potty or a sandwich board that can be easily moved.

A photograph of the display is a good way to document that the contractor was in compliance. If you are unable to take a photo, the engineer performing the verification must note compliance in the daily report. Place a copy of the photo or daily report in the project labor compliance file.

A checklist helpful for performing verification is available on the [Caltrans Labor Compliance](http://www.dot.ca.gov/hq/construc/LaborCompliance/posters.htm) website at: <http://www.dot.ca.gov/hq/construc/LaborCompliance/posters.htm>.

Note that the laminated all-in-one posters many contractors purchase do not contain all the required information.

Task 9: Compare all Force Account (time and material) Billings to Certified Payrolls

Confirm the names of employees, wage rates, and hours listed on change order bills match information listed on the contractor's certified payrolls. If the documents do not show identical information, do not approve payment of the change order bill until the discrepancy is corrected.

Delinquent or Inadequate Payrolls

This section covers procedures for payroll delinquencies, discrepancies, and inadequacies.

If the Contractor Fails to Submit all Certified Payrolls, or Submits Incomplete Certified Payrolls

The RE must notify the contractor in writing which certified payroll documents are missing or inadequate, as well as withheld pay due to the contractor on the monthly progress payment. A

withholding up to 10% of the payment is recommended; a minimum of \$1000 and a maximum of \$10,000. However, Part IV-3c, Payrolls and Basic Records, of Form FHWA 1273 states contracting LPA may cause the suspension of any further payments...

Make withholds separately for each payment period in which a new delinquency or inadequacy appears. When all delinquencies or inadequacies for a period have been corrected, release the withholdings covering that period on the next progress payment. Withholdings can only be taken once for each missing document and do not compound on each monthly estimate. See [Labor Compliance Policy Bulletin 11-01](#) for required follow up steps.

Sample Letters that can be used to Notify the Contractor of Certified Payroll Issues

The Notice of Delinquent or Inadequate Certified Payroll Records can be found at the [Caltrans Labor Compliance](#) website. Be sure to use your LPA letterhead and modify the language as appropriate.

If the Contractor Refuses to Provide Payrolls

When contractor does not comply with your request to submit missing or corrected payrolls, the issues become violations and are compiled into a wage case.

If the prime contractor refuses to submit certified payrolls, the RE must notify the contractor by certified mail that payrolls have not been received. The letter advises the contractor that they are in violation of the contract, and if payrolls are not submitted within 10 days of receipt of this letter, penalties will be assessed in accordance with California Labor Code Section 1776(g) in the \$100 per worker for each calendar day the payroll has not been submitted. This type of penalty must be pre-approved by the Department of Industrial Relations prior to deducting any funds from the contractor. Process an administrative deduction in the full amount of labor compliance penalties on a monthly basis. These deductions are penalties and are not refundable to the contractor, regardless of the method used to obtain the payrolls. See Chapter 8: Labor Compliance, of the [Caltrans Construction Manual](#) for further discussion on this matter and consult your Labor Compliance Officer.

Which Workers are Covered by the Labor Provisions of the Contract

Every laborer or mechanic employed at the job site or site of work that performs part of the contract work is subject to the labor provisions of the contract. The laborer or mechanic may be either an employee of the prime contractor, an employee of an approved or listed subcontractor, or some other person or firm who furnishes on-site labor, including;

- Employees of equipment rental firms operating rented or leased equipment used in the work.
- Owner-operators of general construction equipment such as graders, cranes, or excavators.
- Firms that furnish engineering services, such as construction inspection, materials testing, and land surveying, regardless of whether that firm is hired by the contractor or the LPA.
- Suppliers and fabricators who install manufactured products.

- Corporate officers, supervisors or foremen who, regularly and for a substantial period of time, perform journeyman work.

The terms job site or site of the work as applied to labor compliance are not limited to the actual geographic location or limits of the project. These terms include any location or facility established for the sole or primary purpose of contributing to the specific project.

Typical examples include material sites, processing plants, fabrication yards, garages, or staging sites set up for the exclusive or nearly exclusive furtherance of work required by the project. Consult the Labor Compliance chapter of the [Caltrans Construction Manual](#) for more information on Covered and Non-Covered employees.

Equal Employment Opportunity (EEO)

This section presents the requirements for administration of the nondiscrimination and EEO provisions of the contract.

Labor EEO Requirements come from

California nondiscrimination and EEO requirements for public works contractors are located in Title VI, Civil Rights Act; Section 12990, Government Code; Title 2, Fair Employment and Housing Commission; Sections 8107 and 8203, California Code of Regulations, Part II, Nondiscrimination, of FHWA Form 1273 calls the contractor's attention to these and other requirements.

State and Federal Labor Laws Mandate

State and federal laws mandates contractors working on public works contracts not discriminate based on race, religion, sex, color, national origin, age or disability, and to take affirmative action to assure equal opportunity.

What is the REs Role?

The RE must perform the activities listed below:

- Discuss EEO requirements at the pre-construction meeting. The [Federal-Aid Contract Prejob Checklist](#) found on the [Caltrans Labor Compliance](#) website is a helpful tool for developing a discussion outline. Portions of the checklist require modification to conform to your contract provisions, form numbers and LPA policies.
- Perform employee interviews (See item 5 under Labor Compliance).
- Verify EEO posters have been placed. (See item 8 under Labor Compliance). The contractor's EEO Officer must be listed by name in the posted policy.
- Review [Exhibit 16-O: Federal-Aid Highway Construction Contractors Annual EEO Report](#). All contractors, including subs of any tier must submit this form to the RE. The requirement applies to all contractors who have federal-aid contracts exceeding \$10,000 and who worked any part of the last full week of July. The form shows the composition of the contractor's workforce by race and gender for each job category. Withhold \$10,000 if the contractor fails to submit the form by August 15th.
- Counter sign and submit PR-1391 to the DLAE by August 25 of each year.

Report EEO Violations

In accordance with the U.S. Department of Labor (DOL), Executive Order 11246, if you become aware of any possible violations of EO 11246 or 41 CFR 60, you have the authority and responsibility to notify the Office of Federal Contract Compliance Programs.

For contact information, see [Exhibit 16-Q: U.S. Department of Labor, Office of Federal Contract Compliance Programs](#) (offices within California).

Disadvantaged Business Enterprises (DBE)

DBE

Federal regulations define DBE as firms owned and controlled by individuals who are either socially or economically disadvantaged, or both. This section presents the requirements for administration of the DBE requirements of the contract. These guidelines apply to all federally funded projects.

DBE Requirements come from

The DBE requirements comes from the Title 49 Code of Federal Regulations Part 26 (49CFR26), FHWA form 1273, Disadvantaged Business Enterprises, Part 1, and [Exhibit 12-G: Required Federal-Aid Contract Language](#).

Federal DBE Laws Mandates

The 49CFR part 26 requires that bidders take all necessary and reasonable steps to achieve a DBE goal, which by their scope, intensity, and appropriateness to the objective, could reasonably be expected to obtain sufficient DBE participation, even if they were not fully successful (49CFR26 Appendix A). The required federal-aid contract language in [Exhibit 12-G](#) requires the contractor meet the DBE goal shown in the project special provisions or submit documents that demonstrate adequate good faith efforts were made to meet the goal.

DBE "goal"

The DBE goal is a percentage of the total contract value that must be performed by a certified DBE contractors. The DBE program is designed to increase DBE participation on federally funded contracts by ensuring nondiscrimination in the award and administration of Department of Transportation assisted contracts, creating a level playing field on which DBEs can compete fairly, and by helping remove barriers to the participation of DBEs.

DBE Commitment Form

[Exhibit 15-G: Construction Contract DBE Commitment](#), provides the RE with a listing of specific work to be done or materials to be furnished by specific DBEs and is based on information the contractor submitted during the bidding process. The commitment is the percentage of work on the contract that the bidder has committed to perform using certified DBE contractors or suppliers. The commitment may be less than, equal to, or greater than the goal depending on the bidder. However, the contractor must meet the DBE commitment, regardless of the contract goal, or submit documents that demonstrates adequate good faith efforts were made to meet the goal. The RE will receive the approved DBE commitment form in the award package.

Role of the RE

The RE has the responsibility of enforcing the DBE provisions of the contract. To fulfill this responsibility, the RE and support staff must have a working acknowledgement of the requirements. A good place to start is a complete review of Part 1, Disadvantaged Business Enterprises, of the [Exhibit 12-G: Required Federal-aid Contract Language](#), found in your special provisions.

Prevention of DBE violations is preferable; in order to accomplish this, the RE must perform or delegate the following activities (details for performing each of these activities are provided below):

Before the work:

1. Review the DBE provisions of the contract and [Exhibit 15-G: Construction Contract DBE Commitment](#) with the contractor and inspection staff at the pre-construction meeting, and
2. Compare the DBE Commitment form and [Exhibit 16-B: Subcontracting Request](#), prior to approving the Subcontracting Request.

During the work:

3. Verify the DBE performs a commercially useful function (CUF),
4. Ensure submittal of [Exhibit 16-Z3: Monthly DBE Payments](#), and
5. Ensure submittal of [Exhibit 16-Z: Monthly DBE Trucking Verification](#).

After the work:

6. Obtain and verify [Exhibit 17-F: Final Report of DBE and First Tier Subcontractors](#),
7. Compare the Final Report - Utilization of DBE to the DBE Commitment form, and
8. Withhold payment if DBE commitments were not met.

Activity 1: Review the DBE Provisions of the Contract and the DBE Commitment form with the Contractor and Construction Staff at the Pre-Construction Meeting

Include DBE Utilization Requirements as a topic on the pre-construction meeting agenda. The Federal-Aid Contract Prejob Checklist found on the [Caltrans Labor Compliance](#) website is a helpful tool for developing a discussion outline. Portions of the checklist require modification to conform to your contract provisions, form numbers and LPA policies. Ensure the field staff knows who should be performing DBE work. Be sure to emphasize the requirements for a DBE substitution, especially the requirement that written approval must be obtained prior to performing the work or payment will be withheld.

Activity 2: Compare the DBE Commitment form (Exhibit 15-G) and the Contractor's Subcontracting Request (Exhibit 16-B), prior to Approving the Subcontracting Request

Do not construe the DBE Commitment form as a request to subcontract as required by the contract specifications. The contractor must still submit a Subcontracting Request form listing

the DBEs for approval. For details on approving the Subcontracting Request, see Item 2, under Approval of Subcontractors Prior to Starting Contracted Work in [Section 16.5: Partnering](#), earlier in this chapter. If the value of the DBE subcontractor's work exceeds the dollar figure threshold (half of one percent of the total bid, or \$10,000, whichever is greater) specified in the Fair Practices Act, the DBE must also be listed on the subcontractor list.

Activity 3: Verify the DBE Performs a Commercially Useful Function (CUF)

A DBE performs a commercially useful function when it does all of the following (as per CFR 26.55[c]):

- Performs at least 30 percent of the total cost of its contract with its own work force and does not subcontract out portions of its contract work that are greater than normal industry practices for the type of work performed.
- Performs, manages, and supervises the work involved.
- Negotiates prices, determines quantity and quality, orders materials and supplies, pays for the materials and supplies, and installs the materials where applicable.
- The listed trucking DBE must own and operate at least one fully licensed, insured operational truck used on the contract.

A DBE firm does not perform a CUF if its role on the contract is limited to being an extra participant in a transaction or contract; through which funds are passed in order to obtain the appearance of participation.

The prime contractor is ultimately responsible for ensuring that a DBE performs a CUF. If a DBE fails to perform a CUF, the LPA should take actions to enforce the contract. These actions can include:

- Deny or limit credit towards the contract DBE goal
- Require the prime contractor to make Good Faith Effort to replace the DBE to meet the goal on remaining work
- Withhold progress payments

For additional information on CUF and failure to comply go to the FHWA website [Federal-Aid Essentials for Local Public Agencies](#) and choose Commercially Useful Function.

Activity 4: Ensure Submittal of Exhibit 16-Z3 Monthly Disadvantaged Enterprise DBE Payments form

Activity 5: Ensure Submittal of Exhibit 16-Z: Monthly DBE Trucking Verification form

This form is used to determine how much credit percentage to allow for the trucking company toward the DBE contract goal. Ensure the contractor submits the Monthly DBE Trucking Verification form by the 15th of the month for the previous month's trucking activities. If the prime contractor fails to submit the form, hold an administrative deduction for missing documents on the progress pay estimate. Randomly confirm the information on these forms

by requesting copies of weight tickets and canceled payment checks from the contractor. Cross-check the information against daily inspection reports as well. Refer to Section 8, Monthly DBE/UDBE Trucking Verification Form, in the [Caltrans Construction Manual](#) for additional information.

Activity 6: Obtain and Verify the Accuracy of Exhibit 17-F: Final Report – Utilization of DBEs

Be sure the contractor submits the Final Report. If the form is not submitted within 90 days of contract acceptance withhold \$10,000 on the next progress pay estimate per the federal requirements. Release the money only upon submission of the completed form. Confirm the form is complete and correct. The description of the work performed, the company performing the work, and the date the work was completed can be checked using the contract records. The contractor is to list the actual dollar amount paid to each entity and the date of the final payment to the entity. If actual DBE utilization (or item of work) was different than that approved at award, the contractor must provide an explanation. Examples of items the contractor would need to explain in writing includes why the names of subcontractors, work items, or dollar figures do not match the contractor's initial plan.

Activity 7: Compare the Final Report – Utilization of DBE to the DBE Commitment form.

Compare the contractor's original dollar commitment with the amount shown on the final DBE report. Review the contractor's calculations to verify the appropriate amount is credited for participation of DBE suppliers and truckers. Below are the criteria for crediting DBE supplier and trucker participation.

Table 16-1: Disadvantaged Business Enterprise (DBE) Materials and Transportation

If the DBE is a ... Supplier	And if the DBE... manufactured the materials*	The credit toward the DBE goal is... 100%
	acts as a regular dealer * (including bulk materials)	60%
	is neither a manufacturer nor a regular dealer .	reasonable fees or commissions for the procurement and delivery
If the DBE is a ... Trucking Company	And if the DBE uses trucks ... it owns , insures and operates using drivers it employs	The credit toward the DBE goal is... 100%
	leased from another DBE firm , including owner-operator who is a certified DBE**	100%
	leased from a non-DBE firm , as along as the DBE firm uses its own drivers	100%

Note:
the

determination above be made on a contract by contract basis.

* 49. CFR 26.55 (d)(6) defines manufacturer and regular dealer.

**A lease must indicate the DBE has exclusive use of and control over the truck. The leased truck may work for others during the term of the lease with the consent of the DBE, as long as the lease gives the DBE absolute priority for use. The lease must be long term and not for the specific project.

If the contractor's does not meet the DBE commitment, hold only the amount of contract funds necessary to meet the original DBE contract goal. If the contractor does not attain the original goal for reasons beyond their control, then no funds should be withheld. For example, if a change order eliminates a portion of an item originally designated to be performed by a DBE, this is beyond the contractor's control. If a change order increases the work allocated to a DBE,

the contractor is not required to have the DBE perform the work but should be encouraged to do so. If no issues with the final utilization reports are identified, sign the final report. For federally funded contracts, the signature of the RE provides written certification of DBE participation through onsite monitoring and record review activities. Additional information regarding DBE enforcement, substitutions, violations and penalties see [Section 16.7: Subcontracting](#) for more information pertaining to Approval of Subcontractors Prior to Starting Subcontracted Work.

16.10 CHANGE ORDER (CO)

Introduction

A change orders is a legally binding document used to make changes to the original construction contract. Change Orders are negotiated agreements with the contractor that affect the cost, time, design or specification requirements, or a combination of the four.

The authority for local agencies to make changes to a contract is located in Section 4-1.05, Changes and Extra Work, of the CTSS and in Section 3, Changes in Work, of the Greenbook.

Change Order

Any change to the approved plans or specifications, or the addition of work, must be covered by a contract change order. In addition, change orders are used for administrative purposes. The following are some of the reasons for writing change orders:

- To change contract plans, specifications, or both
- To describe the work and method of payment for work stipulated in the contract to be paid as extra work
- To describe the work and method of payment for unforeseen work to be paid as extra work
- To authorize a supplemental change order (an increase in extra work funds necessary to complete a previously authorized change order)
- To make payment adjustments
- To implement a value engineering change proposal (Refer to Section 4-1.07 of the CTSS)
- To clarify terms of the contract
- To resolve disputes or potential claims

The RE usually determines the need for and initiates a change order. However, the contractor, other LPA units, outside local agencies, or individuals may request changes. If the change order is requested by the contractor, indicate Change Order Requested by Contractor on the Change Order. For changes requested by any person except the contractor, indicate Change Requested by Engineer.

Preliminary Considerations

When preparing to write a change order, consider the following:

- Is the proposed change order necessary to complete the work as contemplated at the time the plans and specifications were approved?
- Is the proposed work already covered in the contract?
- What is the overall impact on the planned work?
- Will the proposed change order affect or change the contractor's planned method of performing the work?
- Will the ordered change cause a work-character change?
- Will the contract time be affected?
- What are the impacts of adjusting contract time?
- What methods of payment should be used?
- Are there sufficient contingency funds? If not, can additional funds be obtained soon enough to prevent delays?
- Does the proposed change adhere to the approved environmental document, existing permit conditions, utility obligations, and right-of-way agreements?

Any change in environmental mitigation commitments, permit conditions, agreements with resource local agencies, or the introduction of new social, environmental, or economic issues that need to be addressed under applicable federal, state, or local law should be referred to [Caltrans District Local Assistance](#) for further action.

To avoid misunderstanding and to obtain full agreement, discuss with the contractor all elements of a change, including the method of compensation and the effect on time. Failure to identify elements requiring consideration may lead to protests.

Change Order Documents

For each change order, the following documents must be prepared:

- The change order
- A memorandum explaining and justifying the change order

For many change orders, the following documents must also be prepared:

- PE stamped, signed and dated revised plan sheets and Specifications
- Cost estimate calculations performed by the LPA, not the Contractor, supporting any agreed prices
- A time impact analysis justifying any time extensions

Writing the Change Order

The change order must be clear, concise, and explicit. When appropriate, it must include the following (in further detail below the list):

- a. Description of the work to be done
- b. Location and limits of the work
- c. Applicable specification changes and references to specifications
- d. Method and amount of payment
- e. Any adjustment to time of contract completion

If you have properly written the change order, an auditor should be able to understand what work was performed without further explanation from the local agency's staff.

a. Description of the Work to be Done

The change order must clearly describe added work or other changes to the contract. Include appropriate references to special provisions, contract plans, standard plans, or standard specifications. Decide whether a written statement clearly defines the proposed change or if plans or drawings need to be included.

On plans attached to a change order, show pertinent dimensions and the scale, or label the plans not to scale. When using existing plan sheets, clearly show the difference between the proposed (change order) work and the planned (original work). A simple sketch on a letter-sized sheet is adequate for some change orders.

Section 6735, Preparation, Signing, And Sealing of Civil Engineering Documents, of the Professional Engineers Act requires all civil engineering plans and specifications that are permitted or that are to be released for construction shall bear the signature and seal or stamp of the licensee and the date of signing and sealing or stamping. All final civil engineering calculations and reports shall bear the signature and seal or stamp of the licensee, and the date of signing and sealing or stamping.

Plans or specifications attached to a proposed change order must meet this requirement, with the exception that a licensed civil engineer does not need to sign revisions already covered by standard plans, standard specifications, standard special provisions, previously engineered drawings, or minor changes not requiring calculations or determinations by a licensed engineer.

The contractor normally chooses the means and method of performing extra work. However, if the method of payment is force account (time and materials), the method of work is subject to the RE's approval for labor, equipment, and materials. If for any reason the engineer wants to control the means method of performing the work, the method must be specified in the change order.

b. Location and Limits of the Work

Be as specific as possible when describing the location and limits of the work. If available, use stations, off-sets and depths, as applicable. On smaller jobs without stations, use Post Miles,

intersections, street addresses, or other identifying features that unambiguously defines the limits.

c. Applicable Specification Changes and References to Specifications

The specifications for bid item work already included in the contract will apply to added bid item work. You do not need to repeat or reference specifications for added work that is clearly shown to be bid item work. Include directly or by reference, the specifications for extra work paid for at an agreed price or at force account. The contractor must complete this extra work exactly as it is specified in the change order.

d. Method and Amount of Payment

When writing a change order, the RE often can choose the payment method for added or changed work. In other instances, for example, Section 12-1.03, Flagging Costs, of the CTSS, the method of payment is specified. The following lists, in order of preference, the payment methods to be used when no method is specified:

1. Bid items at unit prices
2. Bid items at unit prices with a payment adjustment
3. Agreed price (unit or lump sum)
4. Force account

Method 1: Increases and Decreases in Bid Items at Bid Item Unit Prices

When paying for changes in planned work or for adding or reducing work, the RE will estimate the increases or decreases that will result from changed work initiated by the change order. The actual quantity paid for each bid item will be determined by the method specified for measuring each bid item quantity. Using existing bid items at bid prices preserves the integrity of the open and competitive process.

Increases and decreases (or estimated increases or decreases) in bid items at contract prices may be executed with the contractor's agreement or unilaterally, if necessary.

Method 2: Bid Item Unit Prices with a Payment Adjustment

The second method the RE must consider to pay for changes is the use of the bid items at bid prices plus a payment adjustment. A payment adjustment is a monetary increase or decrease applied to the unit price. Payment adjustments are most commonly used for work character changes and item quantity increases or decreases of more than 25%.

Payment Adjustments for Increased or Decreased Quantities

When a bid item quantity varies by more than 25%, determine the payment adjustment to the bid item unit price following Section 9-1.06, Changed Quantity Adjustments, of the CTSS. The adjustment is the difference between the unit price and the unit cost of the total item pay quantity. For decreases, the department does not pay more than 75 percent of the bid item list.

Unless requested in writing by the contractor, do not adjust a bid item when the total pay quantity is less than 75 percent of the bid item list. You also do not need to adjust, unless

requested in writing by the contractor, if the value based on the contract price for the units of work is in excess of 125 percent is less than \$5,000. When required, make payment adjustments for increased or decreased quantities as soon as the contractor completes work on a bid item. If a contract item quantity overruns in excess of 125% of the original quantity and the RE decides or chooses not to adjust the contract unit price, documentation (usually in the form of a Memo to File) must be contained in the project's (Change Order) file to explain why.

Payment Adjustments for Work-Character Change

Before work can be considered a work-character change, an ordered change to the plans or specifications must occur. If such an ordered change materially increases or decreases the unit cost of a bid item, then a work-character change has occurred. Do not eliminate a bid item and pay for the work at agreed price or force account unless the change is so extensive that the original item no longer applies. A payment adjustment providing for increased or decreased costs due to the work-character change allows the contract price to remain unchanged. The goal is to make a payment adjustment for the costs resulting solely from the change, while avoiding unfairly eliminating the contractor's profit in the original bid item, paying for additional costs resulting from a contractor's bad bid price, or from price escalations

Additional information regarding payment adjustments, including other types of adjustments and how to calculate a payment adjustment, can be found in the Caltrans Standard Specifications and the Construction Manual at the following locations:

- Section 9-1.15, Work-Character Changes, CTSS
- Section 9-1.06, Changed Quantity Payment Adjustments, CTSS
- Section 3-403A, Work-Character Changes, CTCM
- Section 3-904C, Work-Character Changes, CTCM
- Section 5-306C(2) Payment Adjustments, CTCM

Method 3: Extra Work at Agreed Prices (Unit or Lump Sum)

Pay for extra work at agreed prices under the following conditions:

- When no contract item or combination of items exist that apply to the changed or added work
- When the change is so extensive that the original item no longer applies

Agreed prices may be unit or lump sum. When writing the change order, agreed unit prices can be applied to an estimated number of units. Although the unit price remains fixed, the number of units paid may vary from the estimated number shown on the change order as determined by the actual work performed. Use agreed unit price when the quantity to be performed cannot be determined precisely such as, AC dike, traffic striped, HMA etc.

Determining and Justifying the Agreed Price

After the extent of extra work has been determined, do the following:

- Perform, independent of the contractor, a force account cost estimate, including markups to determine a proposed agreed price.
- Request the contractor submit a proposed agreed price.
- Analyze the contractor's price for any errors or omissions, and compare your cost estimate to the contractor's.
- If your force account analysis supports the price proposed by the contractor, write and process the change order.
- If your estimate does not support the contractor's proposed price discuss how and why your estimates differ. If you cannot come to an agreement, perform the work at force account.

It is not sufficient to just review a contractor's proposed price and decide it is reasonable without performing your own independent cost estimate calculations.

Documenting an Agreed Price

File with the contract records any calculations and supporting documentation used to determine agreed prices for extra work payment. If an initial discrepancy exists between the LPA's independent estimate and the contractor's proposal, be sure to document (in the Change Order file) the steps, iterations, and negotiations that resulted in the final agreed price. Documentation could include emails and/or revisions to the LPA's independent estimate to support the agreed price dollar amount shown on the Change Order.

Be sure all calculation pages are signed and dated by the person performing the calculations and the person checking the calculations. These calculations are subject to audit and must be in such a form that they clearly substantiate and justify the amount paid for extra work. Loss of federal funding for the Change Order can occur if the LPA has not fully justified and documented any agreed prices.

In some instances, LPAs wish to use historical data, rather than force account calculations to support agreed prices; this must be done cautiously. The historical data must come from multiple sources and represent recent, like work, including similar quantities and constraints. A bid price for installing 100 units is unlikely to be representative of the cost to install 10,000 units of the same work. Similarly, the bid price to perform nighttime highway work is not reflective of the cost to perform the same work during the day on an urban arterial. Finding multiple recent sources that accurately represent like work is difficult. For this reason, the force account method is recommended.

When an agreed price is to be used to pay for extra work, the RE and the contractor must agree on compensation prior to performing the work. If there is no time to fully execute the change order before performing the work, be sure the agreement is documented in your written authorization to start the work. The contractor must execute the change order before payment

can be made. Do not unilaterally process a change order that uses the agreed price method of payment.

Method 4: Extra Work at Force Account

Pay for extra work using the force account method under the following conditions:

- When methods one and two above cannot be used
- When the work cannot be estimated within reasonable limits of accuracy
- When the RE and the contractor are unable to agree on a unit or lump sum price for the work
- When the contractor refuses to sign a change order

Additional information regarding paying for extra work at force account can be found in Section 3-9, Payment, of the CTSS, Section 3-9 of the CTCM, and your contract specifications.

e. Adjustment to Time of Contract Completion

When change order work modifies the critical path and scheduled completion date of the accepted schedule, a time adjustment is warranted. A change order may specify a positive, negative, or no adjustment to contract time. If the controlling operation is unaffected, an extension of the contract time is not warranted.

Whenever you can estimate an adjustment to time with reasonable accuracy, try to reach an agreement with the contractor. Enter the amount of the time adjustment on the change order (including when there is no adjustment). Regardless of the amount of time actually required to perform the changed work, the agreed adjustment becomes binding on both parties.

Determining a Time Adjustment: For smaller projects request a revised schedule from the contractor to evaluate effects on the completion date. For larger projects, the contractor submits a time impact analysis (TIA) to the RE with each time adjustment request. A TIA illustrates the impact of each change on the scheduled completion date. Review the TIA for logic and duration impacts to determine the time adjustment, or construct an independent TIA to determine the time adjustment. See Section 8-1.02D (8) of the CTSS regarding TIAs.

File the calculations and other data used to determine any adjustments to time with the contract records.

Failure to justify and document a contract time adjustment can result in loss of federal funding.

Deferring a Time Adjustment: If you cannot determine or agree on an adjustment of time in the initial change order, you may defer the adjustment. When doing so, write deferred on the time adjustment line and include a time adjustment deferred clause in the change order. As soon as the change order work is completed, determine the appropriate time adjustment. Include the specific dates in the change order. If you cannot reach agreement with the contractor, issue a unilaterally approved supplemental change order adjusting time. Your objective is to resolve deferred time adjustments as soon possible. Timely resolution of time deferrals allows the contractor to efficiently schedule remaining work to complete the project within the time limits.

The RE may not unilaterally decrease time unless this is permitted by the specifications. Otherwise, the contractor must agree to changes that reduce time. Without this agreement, you can do one of two things:

1. Do not recommend approval of the change if no benefit exists for the LPA.
2. If substantial benefits exist for the LPA, issue a unilaterally approved change order with no time adjustment.

For additional discussion of time of completion and adjustments to time, refer to Section 3-804, Time, and Section 5-306D, Adjustments to Time of Completion, of the CTCM.

Change Order Format

The intent is that the change order clearly specifies the work paid for by each payment method. The following describes the format:

- Describe the work or change that will cause increases and decreases to bid item quantities.
- Show the increases and decreases in bid item quantities. Include the percent change from the original quantity in the bid item list resulting from this change. Also, show the accumulated percent change to the original quantity in the bid item list resulting from all change orders to date.
- Include clauses regarding deferred or actual payment adjustments for overrun or under run situations resulting from actual or estimated increases or decreases in bid item quantities.
- Include clauses for adjustments or deferred payment adjustments due to any cause. Describe the work or change causing the adjustment or deferred adjustment. Show the amounts of adjustments if not deferred.
- Describe work to be paid as extra work at agreed price. Show the price as agreed. Agreed prices may be fixed unit prices and an estimated or actual number of units, or agreed prices may be fixed lump sums.
- Describe the work to be paid for as extra work at force account. Show the estimated cost of the extra work.
- Be sure to reference any attached drawings or documents (sheets __ and ____ of ____).
- Show any time adjustment: + ____ days, -- ____ days, no time adjustment, or deferred time adjustment.
- Include time deferment or time adjustment clauses.

Example change orders can be found in Section 5-315 of the CTCM. The examples follow a generally accepted format for writing change orders.

Change Order Memorandum

A change order memorandum is a one or two page document that explains and justifies the change. While a change order answers the questions of what, where, how and for how much, think of the memorandum as answering the question of why. If you have properly written the memorandum, an auditor should be able to understand the reasons for the work and the reasonableness of the compensation and time adjustments, without help from LPAs staff.

The memorandum is intended for interagency use only. Do not send the memorandum to the contractor.

The Memorandum should include

Include the following in the memorandum.

- In a few sentences, briefly state what the change order provides. Supplemental change orders should also include a description of the original change order. Do not repeat everything on the change order.
- Explain the need for the change, including the contractual basis of the change. When another unit or another LPA requests a change, the correspondence requesting the change should also justify the need for the change. Attach supporting letters to the memorandum.
- State the reasons a particular method of payment was chosen. Include a complete cost analysis, or state that the cost analysis is on file with the project records. State the method used in making the cost analysis.
- If the ordered change causes any work character change, explain the reasons. To substantiate any adjustment in compensation due, you may need to provide a summary of events leading up to the change.
- State the extent of coordination and concurrence with others; other units, LPAs, Caltrans, etc. if applicable.
- For major changes on federal high-profile projects, indicate the name and date of discussion and concurrence, if any, by the FHWA engineer.
- If prior approval of the change order has been obtained, state the name of the person who granted prior approval and the date.
- For a change order that is to be unilaterally approved, explain why the contractor will not sign or why the contractor's signature is not required. Attach a copy of any correspondence from the contractor regarding the change order.
- Include justification for a time adjustment. Describe the method used to determine the time adjustment. State the controlling activity during the delay period.

Whenever possible, and when resolving a previously deferred time adjustment, indicate the specific working days that experienced delay and represent the period of the time adjustment. By indicating the specific working days, you ensure other time adjustments do not cover the

same time period. Specify if any portions of the work are nonparticipating (see [LAPM Chapter 3: Project Authorization](#) for more details regarding nonparticipating work).

Help Writing Change Orders and Change Order Memorandum

Examples of change orders and memorandums, as well as useful clauses can be found in the following sections of the CTCM:

- [Section 306E, Change Order Standard Clauses](#)
- [Section 5-315, Examples of Change Orders](#)

Use these cookbook examples and standard clauses cautiously. The examples are for guidance and general format suggestion only. For instance, the examples contain assumptions that may or may not fit actual project situations. Also, the standard specifications and special provisions in use at the time the examples were written are the basis for the example change orders.

Do not assume that your project uses the same specifications. Base change orders on specifications in your contract. The change order chapter of the [Caltrans Construction Manual](#) can be found at: <http://www.dot.ca.gov/hq/construc/constmanual/chapter5/sec5-3.pdf>.

Participating and Nonparticipating: Federal-Aid Segregation Determination on Change Orders

For a change order, the RE must identify and segregate the funds required from each source. Change order work that is eligible for federal-aid reimbursement is often called participating. A change order may be declared:

- Participating
- Participating in part
- Nonparticipating

In general, most changes are participating provided they are necessary to complete the project as originally contemplated at the time the plans and specifications were approved. A change order is participating in part when some of the work in the CO is eligible for reimbursement and some is not.

Following are some items which often are deemed nonparticipating:

- Work done prior to authorization of federal funds
- Work beyond the scope of work included in the project environmental document
- Work outside project limits as defined in the project authorization document
- Utility work that is not a result or purpose of the road or bridge work
- Payment for work done by an unapproved subcontractor
- Plant establishment periods of over 3 years

- Adjustment of private facilities (signs, fences, sprinklers, etc.) unless included in a right-of-way (R/W) agreement or permit
- Proprietary items unless they meet the requirements for special exceptions
- Work not on a properly designated route
- R/W obligation not programmed
- R/W obligation already compensated
- Work chargeable to other programs
- Maintenance work (except Demonstration Programs)
- Work not in accordance with approved specifications unless quality is not reduced
- Non highway related work
- Work outside of LPA rules or limits
- Work done for COs which exceeds the authorized amount of federal funds
- Work over and above amount programmed
- Deviations from design standards
- Nonconforming materials
- Equipment rental rates in excess of those in the Equipment Rental Rate book
- Proprietary items specified without a Public Interest Finding
- Excessively expensive treatments that do not appear to be in the public interest

LPAs are strongly advised to contact their District Local Assistance Office to discuss the issue of participating vs. non-participating on proposed change orders.

You cannot circumvent federal requirements by classifying work as non-participating.

If any portion of your project, from inception to ribbon cutting, receives federal-aid, all work on your project must meet the federal-aid requirements. For example, you cannot avoid the requirements of the Buy America regulations by declaring the steel in your project non-participating.

All questions regarding work eligibility for federal-aid reimbursement can be directed to the DLAE for guidance.

Other Issues

Quantity Balancing Change Orders

Several LPAs, at or toward the end of a project, like to write a balancing change order, whereby all items for which the actual quantity placed differed from the original bid estimate quantity are captured and tabulated in a change order document. This is more of an accounting mechanism that enables a LPA to accurately update their contingency balance on the project. As such, a balancing change order is not required, but is permissible.

Materials Delays

The contractor is responsible for the timely order and delivery of materials for the project. A delay in delivery of materials does not in itself generally support an extension of contract time. However, if an unusual market condition (i.e., an industry-wide strike, natural disaster, or area-wide shortage) occurs, a time extension may be in order.

Right of Way Delays

The FHWA policy generally does not permit participation in time extensions for delays due to the Right of Way Certification required from the local agencies prior to the FHWA project authorization. Whenever the railroad or utility is permitted to adjust its facilities coincidentally with contract operations, such activities must be clearly addressed in the contract provisions. All parties should understand that any interference by the railroad or utility to the contractor's operations generally will not constitute an allowable delay. In general, an extension of contract time due to R/W delays is very unusual and is the exception rather than the rule. For federal-aid eligibility of an extension, it must be shown that:

- The construction work was actually delayed by the ROW, railroad, or utility difficulty.
- The contractor did everything required by the contract to minimize the delay.
- The LPA was unable to exercise effective control of the situation despite its best efforts.

Process reviews should be conducted by the COE's and the DLAE periodically to monitor approved change orders. If change orders are found to be ineligible during a process review, federal funds paid for the change order should be withdrawn from the project.

Equipment Rental Rates

Federal policy requires that actual costs be used to determine extra work payments; however, actual equipment costs are not always readily available. A state subject to the FHWA's concurrence, may adopt an industry equipment rate guide or it may develop its own guide. In California, the guide is the Caltrans Labor Surcharge and Equipment Rental Rates book. Overtime, multiple shift and delay factors apply to these rates as detailed in the guide.

Equipment rental rates paid in excess of those shown in the guide are not eligible for federal-aid reimbursement.

16.11 QUALITY ASSURANCE PROGRAM

Introduction

A [Quality Assurance Program \(QAP\)](#) is a program that will ensure the materials and workmanship incorporated into each construction project conform to the requirements of the contract plans and specifications including approved changes. The main elements of a QAP are an acceptance program and an independent assurance program.

Each LPA is required to adopt a QAP. Caltrans will not process a Request for Authorization for Construction without verification of an adopted QAP. Prior to adopting a QAP, the LPA must submit it to the Caltrans DLAE for review. The QAP must be signed by the LPA public works director or, if the director is not registered, it must be delegated to the next highest registered Engineer. The QAP must be updated at least every five years. Copies of the approved Quality Assurance Program shall be kept on file and available for state review.

The LPA is required to adhere to their QAP during the construction of the project, but a QAP is not part of the contract. Failure to comply with the QAP and the requirements described in this section may result in loss of federal funds.

A typical QAP is structured as shown below:

1. General Discussion
 - a. Variations for SHS, NHS, Non-NHS Projects
 - b. Materials Acceptance Program
 - c. Independent Assurance (IA) Program
 - d. Dispute Resolution Process
 - e. Materials Certification Process
2. Attachments
 - a. Table of Minimum Sampling and Testing Frequency Requirements (a.k.a. Frequency Table)
 - b. List of Materials Accepted by a Certificate of Compliance per the Contract Specifications
 - c. Sample Testing Results Summary Log

Variations for Projects On or Off the NHS

The requirements of a QAP depend on whether the project is on or off the SHS.

Projects on the SHS

For projects on the SHS, the LPA must adopt the Caltrans QAP detailed in the following manuals and guides:

- [Caltrans Construction Manual](#)
- [Construction Manual Supplement for Local Agency REs](#)
- [Local Assistance Structure Representative Guidelines](#)
- [Independent Assurance Manual](#)

In addition, the Caltrans Standard Specifications (CTSS) must be part of the Plans, Specifications and Estimate (PS&E). Test methods used must be as specified in the CTSS and special provisions.

Projects off the SHS

For projects off the SHS, LPAs may adopt the [Caltrans QAP](#) described above or may develop their own QAP in conformance with the requirements of this manual, the Quality Assurance Program Manual and FHWA regulations. The LPA may use the CTSS, the Greenbook, or the LPAs approved standard specifications in the PS&E. Tests methods used may be either CTM, ASTM, AASHTO, or other nationally recognized test methods, but must be specified in the contract documents.

A template for LPAs developing their own QAP can be found in Appendix Y of the QAP manual. Consult the Quality Assurance Program Manual for complete information on developing and maintaining a QAP.

Materials Acceptance Program

The QAP for all LPA projects shall include a materials acceptance program. A materials acceptance program must be used to determine the quality and acceptability of materials and workmanship incorporated into the project. The program must address soils and aggregates, and manufactured and fabricated materials.

Acceptance of Unprocessed and Processed Soils and Aggregates

The acceptance of processed and unprocessed soils and aggregates includes verification sampling, testing, and inspection, and, in special cases, may include the results of quality control sampling and testing. Examples of unprocessed materials include sand, rip rap, subgrade, and embankment and backfill materials. Examples of processed materials include aggregates, bases, PCC and HMA. The contract and the QAP combine to ensure the quality of the soils and aggregates entering the project.

The contract or the QAP will specify:

- What criteria the material must meet.
- What test method will be used to determine if the material met or failed the criteria.
- The QAP Sampling and Testing Frequency Table will specify the minimum number of samples to be taken and tests to be performed to ensure the material has met the criteria.
- The QAP or the contract will specify where the material to be tested must be sampled.

As an example, for a project on the SHS, the contract specifies that Class 2 Aggregate Base must have a minimum Sand Equivalent of 22 and that California Test 217 must be used to determine compliance; the Frequency Table specifies that the test will be performed every 3000 Tons or 2000 CY and that the material will be sampled at the materials site or stockpile.

Responsibilities of the RE

It is important that the RE read each contract and not assume a new contract has the same specifications as the last contract. The RE must ensure the correct criteria is used to determine if

the material passed or failed. The passing criteria is found in the contract specifications, but in some cases, the specifications allow the contractor to submit mix designs which establish the criteria. For example, the contractor is allowed to submit gradation target values (TV) for HMA mix designs and chose X factors for concrete mix designs. Be sure mix designs are approved prior to work and that the lab and inspectors have been provided a copy of the approved mix design.

The RE must ensure the correct test method is used as specified in the contract. Verification and quality control testing must be performed in accordance with a recognized testing standard. While California Test Methods, the American Society for Testing and Materials (ASTM), and the American Association of State Highway and Transportation Officials (AASHTO) test methods are all acceptable test methods on LPA projects, the test method to be used must be specified in the contract documents at bid time. The RE or lab cannot change the test method without first writing a CO and providing justification. The RE must ensure the correct version of the test method is used. When the specifications reference a test method by number, it indicates the test in effect on the date of the Notice to Bidders. This means the test methods for each project are fixed and are not necessarily the latest revisions.

The California Test Methods are published on the Internet at:

<http://www.dot.ca.gov/hq/esc/ctms/index.html>

ASTM Test Methods are available at the following Internet address:

<http://www.astm.org>

AASHTO Test Methods are available at the following Internet address:

<http://www.transportation.org>

The RE must ensure that field personnel who perform tests for compliance with the specifications are certified to conduct the test method indicated by the contract. This is discussed further under Independent Assurance Program.

Testing and Sampling Frequency Tables

The RE must also ensure the minimum number of samples are taken and tests are performed as required by the adopted QAP's Testing and Sampling Frequency Table. Often a QAP will call for taking more samples than are used to perform tests. This is beneficial in the case of failing results. The RE can then go back and test additional samples to determine the exact limits of the failing material.

Test Data and Summary Logs

The RE must obtain test data and results from the lab in a timely manner. Keep records of all samples and tests in the project files. The RE must keep a test results summary log for each test method performed more than once. Use Exhibit 16-Z2: Acceptance Testing Results Summary Log or a similar form. On larger projects, it may be necessary to keep multiple logs for the same test method, broken out by salient features such as compaction tests performed on the roadway structural section on one log, and those performed on structural backfill on a separate log. The

use of a summary log facilitates the review of material sampling and testing by Caltrans and FHWA reviewing personnel, and assists the RE in tracking the frequency of testing.

Failing Test

Whenever failing tests occur, sufficient additional acceptance tests must be taken to isolate the affected work. Documentation of the results of such additional tests must be included in the records, including a description of the corrective measures taken. Corrective action or retesting of failing tests must be noted in the remarks column of the test summary log. Documentation of the reason that materials represented by failing tests were incorporated into the project must be in the project files.

Mix Design Approval and Checking

Mix designs must be submitted by the Contractor and include the name of the material plant, the product name, a mix design ID number, and item of work in which it is to be used. The RE must review and approve the mix design in writing. A copy of the approved mix design must be placed in the files. Field inspectors must verify that the mix delivered to the job site matches the approved mix design. The inspector must place a check mark adjacent to the mix ID shown on the weigh tag and initial the tag. Tags are to be collected at the point of delivery to the jobsite.

Acceptance of Minor Quantities of Materials without Testing

Relatively minor quantities of construction materials may be accepted without testing provided acceptance conforms to the conditions stated below in paragraphs one and two. Generally, this provides for accepting minor quantities of materials from a commercial source that is known to supply material conforming to the specifications.

Documentation for acceptance of material as described in paragraphs one and two above must be provided and included in the project records. Documentation should include statements in the project inspector's reports that clearly indicate conditions under which the material was accepted (e.g., description, quantity, location, where placed, certification numbers and/or other accompanying data).

The following list suggests approximate maximum quantities of materials that may be accepted under the conditions indicated above:

- Aggregates other than for use in Portland Cement Concrete; not to exceed 100 tons per day nor more than 500 tons per project
- Bituminous mixtures (includes HMA); not to exceed 50 tons per day (sample at Engineer's discretion if project total is less than 500 tons)
- Bituminous material (includes Asphalt); not to exceed 100 gallons per project

Acceptance of Manufactured or Fabricated Materials

The acceptance of manufactured and fabricated materials is most frequently based on one of the following methods:

- Source Inspection
- Product on Authorized Materials List
- Certificate of Compliance
- Certificate of Compliance with Accompanying Document

Source Inspection

Source inspection is the inspection, sampling and testing of manufactured and prefabricated materials at locations other than the job site. It is most commonly performed on materials involving structural integrity or safety to the public, such as precast pre-stressed concrete members, structural steel, and poles for electrical systems. The purpose is to ensure that structural materials comply with contract requirements in regard to raw materials, fabrication processes, personnel certification, and in-process quality control testing.

The LPA determines which materials will be source inspected. For a list of manufactured or prefabricated materials that are commonly source inspected for Caltrans projects, see Table 6-2.1, Inspection of Fabricated and Manufactured Materials, of the [Caltrans Construction Manual](#). Resources to assist in the development of a Source Inspection Program can be found on the internet at the following address:

<http://www.dot.ca.gov/hq/esc/Translab/OSM/agencyresources.htm>

Source inspection is performed by the LPA or a qualified consultant. Caltrans no longer provides source inspection services for projects off the SHS. Caltrans may provide source inspection for projects on the SHS if terms are detailed in a cooperative agreement or encroachment permit. For more details on the inspection procedures, refer to Section 6-3, Field Tests, of the [Caltrans Construction Manual](#) and the Office of Structural Materials Practices and Procedures (OSMPP) manual.

Due to the costs incurred when traveling to inspect materials sourced far from the job site, Section 6-3.05B, Source Inspection Expense Deductions, of the CTSS provides the details for deductions to be taken when applicable.

Verification at the source of fabrication does not guarantee acceptance at the job site. Table 6-2.1 referenced above also includes items that must be checked or rechecked at the job site to ensure that the materials are acceptable. The RE must inspect the material upon arrival to be sure it meets the requirements of the specifications and is undamaged by shipping and handling. The RE must obtain and file the source inspectors report.

Materials Accepted on the Basis of Authorized Materials List

The CTSS identifies materials that must be on an authorized materials list. The list is available at: http://www.dot.ca.gov/hq/esc/approved_products_list/. For contracts using the CTSS, the RE must ensure materials or products listed in [Exhibit 16-X: Materials Acceptance Based on Authorized Materials List](#), are shown on the appropriate authorized materials list before the material is used on the project. Materials shown on the authorized materials list may also require a certificate of compliance or sampling and testing for acceptance.

Materials Accepted by Certificate of Compliance

An LPA may permit the use of certain manufactured products, materials or assemblies accompanied by a Certificate of Compliance (COC) prior to sampling and testing, provided these products, materials or assemblies do not involve structural integrity or safety to the public. Additionally, these items must have a history of having met specifications based upon previous sampling and testing. The manufacturer of the products, materials or assemblies shall sign the Certificate of Compliance and state that the included materials and workmanship conform in all respects to the project specifications for the material. The contract documents must specify which materials require a Certificate of Compliance. For such specified materials the RE is responsible for insuring that a Certificate of Compliance is furnished with each lot of these materials delivered to the work site. [*Exhibit 16-T: Materials Typically Accepted by Certificate of Compliance*](#), is a listing of materials for which the contractor must submit a COC for projects advertised using 2010 CTSS. The COC must be furnished before the material is incorporated into the work and include:

- Project number
- Certified material lot number matching lot tags affixed or stenciled to the released materials
- Manufacturer's signature
- A statement that the material complies with the specifications of the contract

All materials accepted on the basis of a signed Certificate of Compliance shall be documented in the inspector's daily reports. Inspect the material upon arrival to be sure it meets the requirements of the specifications and is undamaged by shipping and handling before accepting. Manufactured products, materials or assemblies used on the basis of a Certificate of Compliance may be sampled again at the job site and tested at any time during the life of the contract. Items found not in conformance with contract requirements must be rejected whether in place or not.

A Certificate of Compliance for each item shall be kept in the RE's file.

Buy America Certification

Steel and iron products incorporated into the project must comply with Buy America requirements of the CFRs. All steel and iron products must be delivered with a COC stating all manufacturing processes involved in the production of the products occurred within the United States. This includes:

- Rolling
- Extruding
- Machining
- Bending
- Grinding
- Drilling

- Coating
- Welding
- Smelting

In addition to the COC requirements mentioned earlier in this section, a Buy America COC must also include the mill markings or heat numbers.

The Buy America requirements apply to the entire construction contract if any federal-aid money has been authorized for any phase of the project, not just the construction phase. An LPA cannot circumvent the Buy America requirement by declaring that the material is being paid for with the non-federal portion of the funding.

Buy America does not apply to temporary steel such as that used in falsework, sheet piling or shoring. A minimal use of foreign iron and steel is allowed provided that the total delivered cost to the project site is less than \$2,500.00 or 0.1 percent of the contract amount, whichever is greater. Supporting invoices, including the cost of transportation, must be on file in the project records.

An LPA's failure to comply with Buy America provisions will result in the loss of federal funding for not only the applicable contract items, but likely will result in the loss of all federal funding authorized for the construction phase of the project.

Material QA Costs

Material inspection, testing and sampling costs are eligible to be charged to the construction engineering phase of the project.

Agencies using the Greenbook can, as outlined in Section 4-1.3.3, select a consultant laboratory to sample and test materials at distant locations. This specification allows for the agency to have the contractor pay for the costs of this service, however, the contractor shall not select or exercise authority over the consultant laboratory.

Independent Assurance (IA) Program

The other main element of a QAP program is the IA program. The following information regarding IA programs is directed to REs and construction management staff implementing the QAP during project construction. QAP developers and laboratory managers are directed to the QAP Manual and the Independent Assurance Manual for more detailed information on developing and maintaining an Independent Assurance Program.

The IA program consists of activities that are unbiased and are an independent evaluation of all the sampling and testing procedures used in the acceptance program. The requirements are defined Title 23, Code of Federal Regulations, Chapter 1, Part 637 (23 CFR 637).

In the CFR, FHWA requires that:

- Testing equipment be evaluated by using calibration checks and proficiency samples
- Testing personnel be evaluated by observation and proficiency samples

It is often said that an acceptance program tests the material, while an IA program tests the testers. Each IA program must include a schedule for IA evaluation of personnel and equipment. The schedule may be either project based or system based. This is often referred to as the IA frequency schedule. Most QAPs adopt a system based program requiring annual IA evaluation of testers and equipment. An LPA must develop its own IA program or adopt the Caltrans IA program. The Caltrans IA Program is a system based program. The program is detailed in the 2005 Caltrans Independent Assurance Manual. The manual is located on the Internet at the following address:

<http://www.dot.ca.gov/hq/esc/Translab/IAPMasterList/2005%20IA%20Manual.pdf>

Caltrans will provide IA services -accredit the LPA's (or their consultants') laboratory and qualify the acceptance testers, [Exhibit 16-X: Materials Acceptance Based on Authorized Materials List](#) provides the contact information of Caltrans Materials Engineers who perform IA services.

If the LPA's QAP does not include Caltrans test methods, Caltrans will not provide IA services. The LPA is responsible to ensure an adequate IA program is in place and executed.

Responsibilities of the RE

During project construction, the RE must verify that the IA program is being executed by performing the following tasks:

- Obtaining Certifications of all Sampling and Testing Personnel
- Obtaining Qualifications of all laboratories
- Verifying equipment is calibrated

Certification of Sampling and Testing Personnel

All samplers and testers, including project, laboratory and consultant personnel, must possess a current certificate of proficiency for the tests performed. A copy of the certificate must be in the project files. Certification performed by Caltrans must be on form MR-0111, and Exhibit 16-D: Certificate of Proficiency. The certificate must list the Test Methods and Sampling processes which the individual is authorized to perform. Certifications from other entities must provide equivalent information as found on form MR-0111.

It is important that samplers as well as testers are certified to ensure the integrity of the sample and that the sample was taken at the right time, from the right location, using the correct method, and is properly labeled. If California Test Methods (CTMs) are being performed, samplers must be certified in accordance with [CTM 125 and Caltrans will be the IA entity](#).

When CTMs are not used, certifications must be obtained from other acceptable certifying organizations such as ACI, or the LPA (or consultant lab) may need to hire a second lab to perform IA. The process for qualifying sampling and testing personnel should be detailed in the Independent Assurance Program of the QAP. Upon request, Caltrans Materials Engineers will certify qualified LPA samplers and testers (or their consultants) if Caltrans test methods are being used. The independent assurance sampling and testing is not to be used for

determining quality and acceptability of material incorporated into the job. Such tests are used only for the purpose of determining the reliability of testing personnel.

Qualification of Laboratory

All laboratories providing testing services for projects located in California must:

- Possess a current certificate of qualification.
- Be under the responsible engineering management of a California registered Professional Engineer with experience in inspection and testing of construction materials. The Engineer shall certify the results of all tests performed by laboratory personnel under his or her supervision.
- Maintain their laboratory testing equipment in accordance with recognized national calibration standards.
- Participate in one or all of the following:
 - The AASHTO Materials Reference Laboratory (AMRL)
 - The Cement and Concrete Reference Laboratory (CCRL) inspection programs
 - The Caltrans Reference Sample Program

These proficiency sample testing programs conform to the FHWA requirement that each State Transportation Agency must participate in an approved laboratory inspection and comparative sample testing program.

All laboratories which use Caltrans' test methods must participate in the Caltrans Reference Sample Program. Upon request, Caltrans Materials Engineers will qualify LPA laboratories (or their consultants) if Caltrans test methods are being used. Caltrans IA staff will issue Form TL-0113, Caltrans Accredited Laboratory Inspection Report, valid for one year. Those laboratories which do not use Caltrans' test methods may participate in the AMRL and CCRL programs to fulfill proficiency sample testing program requirements.

In addition to their own staff, an LPA may use a laboratory operated by another LPA or a private consultant for sampling and testing materials:

Equipment Calibration General

The LPA laboratory shall calibrate field construction laboratory equipment and portable field test equipment (sand cones, scales, moisture test equipment, slump cones, air meters, etc.) prior to use on construction projects, and re-calibrate as frequently as required. The maximum interval between calibrations is one year. The LPA is responsible for calibration of laboratory testing equipment used for testing on LPA projects, whether or not the equipment is owned by the LPA, a consultant contractor, or sub-contractor. Consultant laboratory-supplied equipment shall be calibrated by the consultant or LPA.

Calibration of test equipment must conform to Section 8-03, Field Tests, of the [Caltrans Construction Manual](#). Two sections in the QAP manual describe the procedures that the IA personnel are to use when calibrating materials testing equipment. Upon proper calibration,

a decal shall be firmly affixed to each piece of calibrated equipment. Decal type and required information are specified on page 63 of Appendix B of the Quality Assurance Program Manual. A manufacturer's or service contractor's decal is acceptable as long as the above-required information is readily available. Should such decal become unreadable or lost, then the equipment is to be re-calibrated as soon as possible. Where such equipment either requires repair or cannot be repaired, a timely repair or replacement shall be secured.

Equipment Calibration-Nuclear gauge

All LPA's and/or consultant's nuclear gauges must be calibrated on National Institute for Standards and Technology (NIST) traceable blocks and have current calibration stickers.

Equipment Calibration- Materials Plants

Plants producing construction materials such as HMA, concrete, cement treated bases, lean concrete bases, etc. must have a current CEM-4204, Material Plant Quality Program (MPQP) Acceptance Sticker or California Test 109, Method for Testing of Material Production Plants approval. This ensures the accuracy and suitability of the scales and meters used to proportion materials, and is important to uniformity and quality of the material. The Materials Plant Quality Program can be found at <http://www.dot.ca.gov/hq/construc/hma/MPQP.pdf>.

Records

All material records of samples, tests, material releases and certificates of compliance for a given project shall be incorporated into the project file. It is recommended that this file be organized as described in [Section 16.3: Maintaining Project Record](#), of this chapter. The complete project file shall be available at a single location for inspection by Caltrans and FHWA personnel at any time during the construction project. The file shall be available at the LPA administrative office for at least three years following the date of final voucher. When two or more projects are being furnished materials simultaneously from a single plant, it is not necessary to secure separate samples for each project; however, individual test reports are to be supplied to complete the records for each project.

Project Certification

Upon completion of the project, the RE must complete [Exhibit 17-G: Materials Certificate](#). The RE and the LPAs Responsible Person in Charge must sign the certificate. All materials incorporated into the work which did not conform to specifications must be explained and justified on the Materials Certificate, including changes by virtue of contract change order. The original is submitted to the DLAE in the Report of Expenditures and a copy is placed in the project file.

16.12 ENVIRONMENTAL STEWARDSHIP

Introduction

The National Environmental Policy Act (NEPA) mandates that steps be taken to prevent or eliminate damage to the environment. This is accomplished through the environmental processes detailed in [LAPM Chapter 6: Environmental Procedures](#). Furthermore, the LPA is

responsible for complying with applicable state and local laws, obtaining necessary permits, and ensuring that mitigation commitments are fully incorporated into the Plans, Specifications and Estimate, and implemented during construction. This section outlines the RE's responsibilities to fulfill these requirements.

Responsibilities of the RE

The responsibility to ensure that all environmental mitigation commitments are incorporated during construction falls on the RE. First, the RE must double check that no mitigation commitments were inadvertently omitted from the PS&E, then the RE must ensure that the commitments are properly executed during construction, and third, the RE must ensure that the execution was adequately documented.

At the start of each project, to ensure no mitigation commitments were omitted from the PS&E, the RE must obtain and read the key documents related to environmental mitigation for the project, including:

1. The approved project environmental document. This document will have been signed by Caltrans and will be one of the following three types:
 - Categorical Exclusion (CE)
 - Finding of No Significant Impact (FONSI)
 - Record of Decision (ROD)
2. The Environmental Commitment Record (ECR). The ECR is a tool for tracking and documenting the completion of all mitigation commitments and is required for all federal-aid projects. It is developed during the PS&E phase and compiles all terms, conditions, and mitigation measures required by all the environmental permits, approvals and agreements from resource and regulatory agencies.
3. The ECR usually comes in a spreadsheet format and includes the following:
 - A brief description of the commitment
 - The name and page number of the document requiring the commitment (for example, Fish and Wildlife Permit, page 24)
 - The phase in which the commitment will be executed (R/W, PS&E or Construction)
 - The name of the local agency person certifying that the commitment was completed and the date

If the project has no mitigation commitments, it is helpful if the project development team note this on a blank ECR in the project file.

4. All environmental permits, approvals and agreements from resource and regulatory agencies. Not all projects will have these documents.

If any mitigation commitments were inadvertently omitted from the PS&E, write a change order to include them. Check the permit dates and obtain extensions if necessary. Consult the agency person in responsible charge, the agency environmental liaison, and the design team, as needed. Before construction begins, bring the environmental commitments to the attention of the contractor and agency staff at the pre-construction meeting. Environmental commitments might include using biological or archeological monitors, installing Endangered Species Act (ESA) fencing, relocating plants or animals, or enforcing dust and noise control, among other things. Be sure the contractor includes mitigation commitments in the project schedule, if appropriate.

During construction, ensure the contractor is complying with all requirements and document compliance using the assistant RE daily reports and photographs. Other documentation might include letters approving the monitors, sign-in sheets from required crew trainings, and copies of required reports or surveys. Sign and fill in the dates on the ECR as mitigation commitments are completed. If the contractor is not complying with the mitigation commitments, document and take action. Actions might range from letter writing to payment withholdings to project suspension. Consult your contract and permits.

After project acceptance, confirm all monitoring reports and post-construction mitigation reports were submitted to permitting agencies, if applicable. Certify on the ECR that all mitigation commitments have been completed and documented.

16.13 PROGRESS PAYMENTS, ACCOUNTING PROCEDURES AND PAYMENT RECORDS

Introduction

Progress payments are compensation to the prime contractor for the value of work completed during a covered period. Contract language generally calls for progress payments to be made at least once each month as the work progresses.

The LPA may request reimbursement for project costs incurred from Caltrans, who in turn requests reimbursement from FHWA. The reimbursement request is typically based on the progress payment made to the contractor. The progress payment is based on an estimate prepared by the engineer. Each estimate reflects the total contract item work completed during the pay period, change order bills submitted, materials on hand, deductions, and withholds.

Since FHWA may only participate in the actual, allowable and allocable costs of a project, it is essential the estimate supporting the reimbursement request be based on accurate quantities. CFR 635.123, Determination and Documentation of Pay Quantities, requires that each state

Department of Transportation have procedures in place which provide adequate assurance that the quantities of completed work are determined accurately and on a uniform basis throughout the state for all federal-aid projects, including those administered by local agencies. This section outlines those procedures.

Procedures

State administered projects and projects on the SHS must follow the procedures outlined in the [Caltrans Construction Manual](#). LPA administered projects must use a similar accounting system.

The essential elements of the system are:

1. Source Documents
2. Contingency Balance Tracking
3. Estimate of the Final Cost of Work

Source Documents

Source documents are the original documents, data, and records containing the details to substantiate a transaction entered in an accounting system. Source documents are the permanent record sheets that create a clear and easily followed accounting trail from the total pay quantities in the proposed final estimate, back to the first measurement or calculation for each bid item; and for extra work at force account payments back to records and costs substantiating performance of the work.

The most common source documents are:

- a. Contract item quantity calculation sheets
- b. Weigh tickets
- c. Daily reports
- d. Material invoices
- e. Force account cost calculations

Contract Item Quantity Calculation Sheets

Contract Item Quantity Calculation sheets, also known as Q sheets, support and document item payments made to the contractor each month. A separate quantity calculation sheet must be prepared for each contract item being paid for each progress payment. For example, if in the month of May, payments were made on 12 contract items, there should be 12 separate item calculation sheets.

Each Q sheet must clearly record the following:

- The appropriate bid item number
- The location of the work or installation. (Sta., depth, offset, etc.)
- The measurements and calculations performed to determine the quantity actually performed by the contractor to be paid (This requirement applies equally to lump sum items)
- The source of any figure, calculation, or quantity shown on the source document (field count or measurement, scale weight, planned dimension)

- The name, date and signature of the person preparing the document
- The name, date and signature of the person who independently checked the document and calculations

Additional Q sheet requirements and considerations:

- Q sheets must be produced by the LPA not by the contractor.
- Quantities should be measured in accordance with the method directed in the measurement or measurement and payment clauses in the contract specifications for each bid item. For more information about measuring quantities for specific bid items, refer to Chapter 4, Construction Details, of the [Caltrans Construction Manual](#).
- Calculation sheets should be checked as soon as practicable, but in any event, prior to payment of a final estimate.
- The quantity paid-to-date shown on the estimate for a bid item must agree with the sum of the quantities on all the source documents for that item.

[Exhibits 16-Y: Monthly Progress Payment Item Quantity Calculations](#), are example of quantity calculation sheets, one for an item paid by the unit and an item paid by lump sum.

Weight Tickets

Weight tickets, sometimes referred to as load slips are used to support both item quantity payments made by weight and extra work paid at force account. Weight tickets must be collected at the point of delivery and validated by a representative of the administering LPA. This is accomplished by LPA employee signing or initialing the load slip upon delivery to indicate the represented material was used in the work (this is also the time to check the proper mix design or specified material has been delivered). If applicable, on the load slip, indicate any quantity of material not included for payment, such as unused or wasted material. When a determination is made to reduce the quantity, advise the contractor's foreman or superintendent of the amount and reason for the reduction. In the daily report, document the reduction and the name of the contractor's employee who you advised of the reduction.

Consider organizing Q sheets and weight tickets by bid item so an easily followed audit trail exists. Total and bundle the tickets by each day worked, and place in the project files.

Daily Reports

Daily reports are required to support quantity calculation sheets and force account payments. See [Section 16.8: Engineer's Daily Report](#) of this manual for information on producing adequate daily reports.

Material Invoices

Payment for material purchased for extra work paid at force account must be supported by a copy of the vendor's invoice whenever possible. If no individual invoice is available, as in the case of materials taken from contractor's stock, a copy of the mass purchase invoice may be used as support. If no invoice is available to support unit purchase prices, submit a statement with the change order bill. In the statement, explain how the unit prices were verified.

Any invoices the contractor submits must represent the material actually used. Invoices must also be supplied to support Material on Hand payments.

Force Account Cost Calculations

These calculations consist of adding specified markups to the actual cost of labor, equipment, and material used to perform the extra work. The contractor must submit bills covering each change order for each day that force account extra work is performed. Compare the force account bills submitted to:

- Labor and equipment hours shown on the daily reports (Tentative Agreements from the Contractor, i.e. with Contractor's letterhead, are not valid for approving payment for Extra Work Bills)
- Material quantities shown on the daily reports
- Prevailing wage rates and payrolls
- Equipment rental rates in the official rental rate book
- Material invoices supplied

Keep a copy of the approved force account bill and the supporting documents in the project files.

Contingency Balance Tracking

The contingency balance must be updated each month to reflect item overruns and approved contract change order work.

Estimate of the Final Cost of the Work

An anticipated changes sheet must be kept in the project files where the current estimated probable final cost of the work is recorded.

Progress Pay Estimates

Each progress pay estimate must include payment for work completed up to the day of the month specified in the contract. Include payments for contract item work, force account change order bills, extra work performed at agreed price, item adjustments, and for Material on Hand, if applicable. The RE should also include any required administrative deductions, such as for delinquent or inadequate payrolls, or other outstanding documents. The RE is responsible for the accuracy of a progress pay estimate. By approval, the RE verifies the quantities are correct, and the data submitted conforms to these policies.

The progress pay estimate, all invoices and supporting documentation are submitted to the DLAE as part of the Invoice Package. See [LAPM Chapter 5: Invoicing](#) for more information. Chapter III, Section 3-9, Payment, of the [Caltrans Construction Manual](#) is a good reference document to assist local agencies in organizing their accounting system for a typical federal-aid project.

16.14 SAFETY PROVISIONS

Introduction

Federal and state laws establish occupational safety and health standards with which all employers must comply. These laws basically require an employer to provide a safe place of employment; i.e., one that is reasonably free from danger to life, or health.

Procedures

The contractor will be required under the contract specifications to comply with safety rules and regulations (see the FHWA Form 1273 section titled Safety - Accident Prevention). The Construction Safety Orders of the California Division of Industrial Safety apply to all federal-aid contracts.

In administering this part of the contract, the engineer is required to verify the contractor properly provides a safe work environment for its workmen. Under no circumstances should the contractor be instructed orally or in writing on how to correct a deficiency. The unsafe condition should simply be identified as well as the specific regulation involved, if it is known. In carrying out the responsibilities of assuring safety compliance as a contract requirement, the following guidelines should be used:

1. **Imminent Hazard** – These are conditions that, if not corrected, would likely result in an accident causing severe or permanently disabling injury, or death.

When an imminent hazard is found to exist or when the contractor permits repeated occurrences of a hazardous condition, the RE should take the following steps:

- a. Advise the contractor verbally of the condition and the need for immediate correction.
 - b. Remove all employees from the hazardous exposure.
 - c. Have the contractor remove all personnel not necessary to make the corrections. Complete all necessary abatement actions.
 - d. If the contractor complies, document the incident in the contract's Safety Diary with appropriate references in the RE's Diary.
 - e. If the contractor does not comply, shut-down the affected operation(s). Document the condition(s) and your action taken in writing. Whenever it is necessary to shut-down a contractor's operation, the LPA Construction Safety Coordinator and the Division of Occupational Safety and Health (Cal/OSHA) should be notified of the hazardous condition and the actions taken. Diaries giving all details leading up to the suspension and copies of orders by the RE and/or the Division of Occupational Safety and Health should be maintained in the contract files (Category 6 if Caltrans' filing system is used).
2. **Dangerous Conditions (Serious Hazards)** – These are conditions that do not present an immediate danger to workers but if not corrected could result in a disabling injury and possibly death, or could develop into an imminent hazard.

When a dangerous condition (sometime referred to as a serious hazard) is found to exist, the RE should take the following steps:

- a. Advise the contractor verbally of the condition and the need for timely correction. If appropriate, set a compliance deadline.
 - b. Remove state and consultant employees from the hazardous exposure.
 - c. If the contractor complies, document the incident in the contract's Safety Diary with appropriate references in the RE's Diary.
 - d. If the contractor does not comply, consider ordering the shut-down of affected operation(s). Document the condition(s) and your action taken in writing. If the operation is ordered to be shut-down, proceed in the same manner as described for an imminent hazard.
3. **Minor or Non-Serious** – These are conditions that could result in minor injuries or that may be classified as a threat to health.

When a non-serious or minor condition is found to exist, the RE should take the following steps:

- a. Advise the contractor verbally of the condition and the need for correction.
- b. If the contractor complies, document the incident in the contract's Safety Diary.
- c. Protect state and consultant employees from exposure.
- d. If the contractor fails to correct the condition or permits its repeated occurrence, the Construction Safety Coordinator should be notified.

Citations & Information Memorandum

Cal/OSHA issues citations if, during an inspection, they observe an employee exposed to an unsafe or unsanitary condition. Citations may also be issued in situations where an employee exposure can be shown to have occurred even though it was not observed during the course of the inspection. Every citation will identify the violation and the gravity of the violation (serious, general or regulatory).

In addition to the authority of issuing citations, Cal/OSHA has the authority to prohibit entry into an unsafe area or to use unsafe equipment (Labor Code Section 6325) when an imminent hazard exists. The violation of this type of order is a misdemeanor.

When an actual exposure cannot be demonstrated, but a condition is found to exist that would be a violation if an exposure were to occur, then Cal/OSHA may issue an Information Memorandum. To allow an employee to be exposed to a condition identified in an Information Memorandum constitutes a willful violation of the Safety Orders.

Should a contractor receive a citation, shut-down order (yellow tag), or an Information Memorandum, the Construction Safety Coordinator should be notified. The RE should react to the Cal/OSHA action as outlined in the previous section. The level of action will be based on the severity as determined by Cal/OSHA.

16.15 TRAFFIC SAFETY IN HIGHWAY AND STREET WORK ZONES

Introduction

The purpose of this section is to ensure adequate consideration is made for traffic safety in highway and street work zones on all federal-aid construction projects.

Procedures

Each LPA must develop and implement procedures consistent with the requirements of this section and [LAPM Chapter 12: Plans, Specification & Estimate](#), Section 12.6: Plans, that will contribute to the safety of motorists, bicyclists, pedestrians and construction workers on all federal-aid highway construction projects. For each construction project, the LPA's procedures must include, but not be limited to the following:

1. Temporary Traffic Control (TTC) plan

- Before work begins, traffic control plans, when developed for handling traffic through a construction or maintenance project, must be approved by the Engineer of the LPA or authority having jurisdiction over the highway. TTC plans may range in scope from a very detailed plan designed solely for a specific project, to a reference of standard plans or manuals. The degree of detail in the TTC plan shall depend on the project complexity and traffic interference with construction activity.
- TTC plans must be developed for all projects and included in the plans, specifications and estimates (PS&Es).
- The TTC plan must comply with Part 6, Temporary Traffic Control, of the California Manual on Uniform Traffic Control Devices (MUTCD).
- The scope of the TTC plan must be determined during the planning and design phases of a project.
- Per the CAMUTCD, the TTC plans must be prepared by a person who understands the fundamental principles of TTC and work activities to be performed. For those agencies using the GreenBook, it specifies the preparer must be a Registered Civil or Traffic Engineer.
- The design, selection, and placement of TTC devices for a TTC plan must be based on engineering judgment.
- Provisions may be incorporated into the project bid documents that enable contractors to develop an alternate TTC plan. This alternate or modified plan must have the approval of the engineer of the LPA prior to implementation.

2. Responsible Person

The LPA should designate a qualified person at the project level who should have the primary responsibility and sufficient authority for assuring the TTC plan and other safety aspects of the contract are effectively administered. While the project or RE may have this responsibility on large complex projects, another person should be assigned at the project

level to handle traffic control on a full-time basis. This individual's name should be included in the Resident Engineer Contract Administration Checklist (see [LAPM Chapter 15: Advertise and Award Project, Exhibit 15-B: Resident Engineer's Construction Contract Administration Checklist](#) if the RE is not given this responsibility.

3. Training

All individuals responsible for the development, design, implementation and inspection of traffic control should be adequately trained.

- Flagger Training: See Construction Safety Orders in the California Code of Regulations (Title 8, Division 1, Chapter 4, Subchapter 4, Article 11, Section 1599, Flaggers)
- Other training as required

4. Accident Analysis

The LPA should analyze construction and maintenance work site accidents for the purpose of correcting deficiencies which are found to exist on individual projects and to improve the content of future traffic control plans.

5. Pay Items

The method of payment for traffic control items should be described in the project specifications.

16.16 FINAL INSPECTION AND CONSTRUCTION ENGINEERING REVIEW BY THE STATE

A final inspection of the work should be made by the LPA. This inspection should occur prior to final completion and before project verification by Caltrans DLAE. Any punch list items resulting from this inspection must be completed by the contractor prior to the expiration of contract time. For details on final inspection, see [LAPM Chapter 17: Project Completion](#), Section 17.3: Final Inspection Procedures for Federal-Aid Projects. The RE must also take this time to do one last review of the project Environmental Commitment Record, confirming all mitigations were performed and finalizing necessary documentation. LPA construction engineering records may be reviewed during the life of the project or up to three years after final voucher, as outlined in [LAPM Chapter 19: Oversight and Process Reviews](#).

16.17 CONTRACT DISPUTES AND CLAIMS

Introduction

All federal-aid projects must include contract provisions containing administrative procedures for dealing with contractor claims. Claim procedures must be included in an LPA's contract special provisions or standard specifications. These procedures must allow for the proper treatment of the following two conditions:

1. Protests or potential claims that have not been resolved during the progress of the work and which have been restated as claims with the return of the proposed final estimate.

2. Situations wherein the first notification of any problem is a claim submitted with the return of the proposed final estimate

The procedures in the contract claims provisions must not be bypassed or modified through the use of change orders.

This section provides guidance to timely address and resolve contract disputes and claims. This section applies to all federal-aid projects.

Background

A contract dispute is a disagreement between the contractor and the LPA, often over the need to revise the contract, which is generally for additional time or compensation. Among other things, disputes stem from disagreements in the interpretation of plans, specifications, bid proposals, material handouts, and field conditions. Administrative disputes also occur and may include the following:

- Contract item quantity payments
- Changed quantity payment adjustments
- Administrative deductions and withholdings
- Extra work: labor, equipment, and materials

Disputes become claims when the contractor lists disputes as exceptions to the proposed final estimate.

Claims Avoidance

Claims avoidance is the most prudent step an RE can take to minimize the number and the size of claims. Claims are minimized or avoided if the RE appropriately engages with the contractor and properly administers the contract. Be knowledgeable about the contract documents, policies, and procedures, including federal and state laws applicable to the proper administration of the contract. Maintain a respectful relationship with the contractor throughout the project.

When disputes occur, try to resolve them as early as possible, in accordance with the contract, and at the lowest responsible level. Take the following suggested actions to resolve disputes and minimize claims:

- Communicate with the contractor
- Define the critical issues
- Gather the facts
- Review appropriate contract specifications and documents
- Determine responsibilities
- Consult subject matter experts
- Work within the contractual constraints

- Communicate your position timely
- Provide clear reasons when no merit exists
- Compensate the contractor promptly when merit exists
- Document resolution and elevate, if appropriate

The inclusion of formal Partnering in the contract may help reduce disputes, or aid in early resolution. See Section 5-1.09, Partnering, of the CTSS. Section 5-1.43 [9-1.04], Potential Claims and Dispute Resolution, of the Standard Specifications requires the contractor to minimize and mitigate the impacts of disputed work or events.

Section 5-5, Delays, of the Greenbook obligates the contractor to avoid losses due to delays by the judicious handling of forces, equipment, or plant.

Alternative Dispute Resolution (ADR) techniques can also be included in the contract provisions to help resolve disputes and claims. ADR is any method of resolving disputes other than by litigation. Techniques include negotiation, mediation; disputes review board (DRB), mini-trial, and arbitration. These methods vary by the amount of assistance from outside sources and the amount of decision responsibility taken away from the disputing parties.

- **Negotiation:** Negotiation occurs when parties resolve the issues themselves, usually at the project level. The LPA's administrative processes would also be considered as negotiation.
- **Disputes Review Board (DRB):** A DRB is a standing 3-person committee created specifically for the project which meets on a regular basis to review and resolve all disputes before they become formal claims. Both parties choose a member who represents them and selects the third member. The operating procedures are described in the contract and the operating costs are shared by both parties. Written decisions are rendered by the board however, the decisions are typically non-binding.
- **Mediation:** Mediation consists of using a neutral party as a catalyst to depersonalize the dispute. The mediator does not decide the dispute, but instead tries to facilitate communication and help the parties achieve compromise and settlement. Mediation is normally non-binding.
- **Mini-Trial:** A mini-trial is a settlement process in which each party's counsel presents a summary of their respective cases, including any evidence and witnesses, to a panel. The panel consists of senior officials of the LPA and the contractor, plus a neutral official. The officials has authority to settle the dispute FHWA also has a representative at the mini-trial who has the authority to approve any settlement reached by the parties. Mini-Trials are non-binding.
- **Arbitration:** Arbitration is a proceeding in which the dispute is resolved based on fact and law, by one or three arbitrators. The arbitrators are chosen by the parties. Although decisions may or may not be binding and without appeal, in almost all cases, the arbitration decision is accepted by both parties. Usually, the only cases

carried on to litigation are those that involve a point of law. Arbitration is permitted under the State Public Contract Code.

Specifications are available at [California Department of Transportation Standard Specification](#) website. For more information contact the DLAE.

Claim Procedures and Contract Provisions

During the project

For projects using Caltrans Standard Specification during the course of the project and up to receiving the proposed final estimate, the contractor must submit a contract dispute or protest in the form of a Request for Information (RFI). If the RFI leads to a dispute, the contractor must follow the three-part potential claim process specified in the contract. The three parts of the potential claim process begins with [Exhibit 16-UI: Initial Potential Claim Record](#), [Exhibit 16-US: Supplemental Potential Claim Record](#), and [Exhibit 16-UF: Full and Final Potential Claim Record](#). Ensure that on all claims-related documents, the date and time of receipt and the name of the person who received it are noted. Ensure the RFI and potential claim documents are complete and timely. If the information is incomplete, notify the contractor and request the contractor resubmit the document with the complete information within the required timeframe.

Relevant portions of the Caltrans Standard Specifications include, but are not limited to:

- Section 5-1.06, Protests
- Section 5-1.42, Requests for Information
- Section 5-1.43, Potential Claims and Dispute Resolution

Relevant portions of the Standard Specifications for Public Works Construction, also known as the Greenbook, include, but are not limited to:

- Section 3-4, Changed Conditions
- Section 3-5, Disputed Work

LPAs should always review relevant portions of their special provisions.

Additional guidance on responding to RFIs and potential claims on properly documenting the dispute resolution process can be found in the following sections of the [Caltrans Construction Manual](#):

- Section 3-521, Requests for Information and Potential Claim Records
- Section 5- 403, Requests for Information, Potential Claim Records Claims

Sample dispute response clauses are located in the [Caltrans Construction Manual](#), Section 3-521E, Sample Dispute Response Clauses, including sample responses for the following topics:

- RFI to Protest Differing Site Condition
- RFI to Protest a Time Adjustment Determination in a Change Order
- RFI to Protest a Weekly Statement of Working Days

- Potential Claim Record

After the Proposed Final Estimate

LPAs must diligently pursue the satisfactory resolution of claims within a reasonable period of time. It is important to follow your contract claims process to ensure the process is completed within the statutory requirement of 240 days. If the contractor has diligently pursued and exhausted the administrative procedures specified in the contract, the contractor is entitled to file for arbitration of its claims 240 days after contract acceptance, even if the LPA has not issued a claims determination. The LPA is not required to give advance notification to the DLAE or FHWA of the details of claims unless estimated defense and/or settlement costs would require an increase in the amount of federal funds authorized for the project.

Claims that involve difficult, complex, or novel legal issues should be brought to the attention of the DLAE. The DLAE will contact the FHWA for assistance, if appropriate. The DLAE may provide limited engineering and administrative assistance in the claim defense, depending on the complexity and size of the claim, as well as the availability of Caltrans' staff resources.

False Statements Concerning Highway Projects

This section applies to all federal-aid highway construction projects.

Title 18 of the US Code Section 1020 is an anti-fraud statute originating from the Federal-Aid Road Act of 1916. The making or use of false statements is a felony, punishable by fine of not more than \$10,000, or imprisonment of not more than 5 years, or both. Making or using false claims for the purpose of obtaining payment against federal funds, will subjects violators to forfeiture of \$2,000 for each violation.

This section specifically provides that willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of federal law and requires that the false statements poster, Form FHWA-1022, be posted on the project.

The LPA is to conduct investigations on complaints and review records that are potentially vulnerable to fraud. It is also the LPA's responsibility to furnish the prime contractor with the required poster (Form FHWA-1022) and to ensure it is posted accordingly.

Federal-Aid Participation

The eligibility for and extent of federal-aid participation, up to the amount of federal funds authorized for the project, in a contract claim should be determined by the LPA in accordance with the following:

- a. Contract claim defense costs which are directly allocable to a federal-aid project but not including general administrative and other overhead costs, are reimbursable up to the federal statutory share. Such costs are reimbursable at the same participation rate as the related construction project.
- b. Federal funds will participate in contract claim awards to the extent that any contract adjustments made are supported and have a basis in terms of the contract and applicable

- state law, as fairly construed. Further, the basis for the adjustment and contractor compensation should be in accord with prevailing principles of public contract law.
- c. Federal funds can participate in interest associated with a claim if three conditions are met:
 - The interest must be allowable by statute or specification
 - The interest is not the result of delays caused by dilatory action of the LPA or contractor
 - The interest rate does not exceed the rates provided for by statute or specification
 - d. Acts of LPA employees involved in contract administration and contract plan preparation matters which subsequently give rise to claims, are reimbursable to the extent the actions are reasonable and within the standards of the profession. Federal funds will not participate if it has been determined that LPA employees, officers, or agents acted with gross negligence, or participated in intentional acts or omissions, fraud, or other acts not consistent with usual LPA practices in project design plan preparation or contract administration.
 - e. Federal funds will not participate in such cost items as consequential or punitive damages, anticipated profit, or any award or payment of attorney's fees paid by a LPA to an opposing party in litigation; and in tort, inverse condemnation, or other claims erroneously styled as claims under a contract.
 - f. In those cases where LPAs receive an adverse decision in an amount more than the LPA can support prior to the decision, or settles a claim in an amount more than the LPA can support, the contract claim award is eligible for federal-aid participation up to the appropriate federal matching share, to the extent that it involves a federal-aid participating portion of the contract, provided that:
 - The DLAE was consulted and concurred with the proposed course of action
 - All appropriate courses of action have been considered
 - The LPA pursued the case diligently and in a professional manner

Additional Funds

If contract claim defense and/or award costs will exceed the amount of federal funds authorized for the project, the LPA should contact the DLAE for assistance. For regionally programmed federal-aid funds (Regional Surface Transportation Program, Congestion Mitigation and Air Quality Improvement Program, etc.) the Regional Transportation Planning Agency (RTPA) or Metropolitan Planning Organization (MPO) must be involved in authorizing additional funds. For state discretionary funds, the [Caltrans Division of Local Assistance \(DLA\)](#) will make the determination. Many of these programs may also require California Transportation Commission (CTC) approval for the additional funds. [Caltrans Local Assistance Program Guidelines \(LAPG\)](#) should be consulted for procedures for obtaining funding from the various Local Assistance funding programs.

Generally, the LPA must take action to settle the claims that are deemed to have merit first, and then initiate the request for the additional funds. However, if estimated claim defense costs alone will exceed available funds, approval for the additional claim defense costs may be obtained in advance, depending on the funding program. If approval is received, the DLAE will initiate authorization of the additional federal funds upon receipt of a Request for Authorization, and copies of a revised finance letter and detail estimate. It is important to note that while additional funds may be authorized and obligated, reimbursement of costs is still subject to the standards described in this manual. Upon resolution of all contract claims, if additional federal funding is required, the DLAE will review the documentation and recommend the appropriate action depending on program constraints and the circumstances of the claim settlement. The adequacy of the LPA's project supervision and inspection, including the keeping of proper records, will be considered in this determination.

Invoices

Claim defense costs are considered construction engineering if incurred before the final invoice and should be included in progress billing invoices prepared and submitted to Caltrans (see [LAPM Chapter 5: Invoicing](#)).

Contract claim awards are billed as construction contract costs. These costs are usually not known until the final invoice is prepared. Claims award costs are included in the Final Invoice, Final Detail Estimate, and reported on the CO Summary. These documents are included in the mandatory Report of Expenditures submitted to the DLAE (see [LAPM Chapter 17: Project Completion](#)). Documentation of approvals from the appropriate fund manager for additional funds, if required, should also be included in the Report of Expenditures.

Upon receipt of the Report of Expenditures, the DLAE will accept the LPA certification regarding the accuracy of the reported costs and approve payment after verifying the project was completed in accordance with the scope described in the project authorization.

Documentation

The LPA must document the determination of participation by providing in writing the following:

- Legal and contractual basis for the claim
- Cost data supporting any payment made
- Other facts supporting the award or settlement

Federal-aid participation should be supported by an audit of the contractor's actual costs unless:

1. Costs can be substantiated with project records
2. Audit would not be cost effective

Where difficult, complex, or novel legal issues appear in the claim, such that evaluation of legal controversies is critical to the consideration of the award or settlement. The LPA must include in its documentation a legal opinion from its counsel providing the basis for determining the

extent of the liability under local law, with a level of detail commensurate with the magnitude and complexity of the issues involved. All contract records must be retained by the LPA for a minimum period of three years from the date of the final voucher.

Recovery of Compensatory Damages

The federal share pertaining to the recovery of compensatory damages should be equivalent to the federal share of the project or projects involved. In cases where local agencies affirmatively recover compensatory damages through contract claims, cross-claims, or counter claims from contractors, subcontractors, or their agents should be credited to the project or projects from which the claim or claims arose.

16.18 REFERENCES

- [18 USC 1020](https://www.gpo.gov/fdsys/granule/USCODE-2011-title18/USCODE-2011-title18-partI-chap47-sec1020)
<https://www.gpo.gov/fdsys/granule/USCODE-2011-title18/USCODE-2011-title18-partI-chap47-sec1020>
- [23 CFR](https://www.fhwa.dot.gov/legsys/directives/cfr23toc.htm)
<https://www.fhwa.dot.gov/legsys/directives/cfr23toc.htm>
- [23 CFR 637](http://www.ecfr.gov/cgi-bin/text-idx?rgn=div5&node=23:1.0.1.7.25)
<http://www.ecfr.gov/cgi-bin/text-idx?rgn=div5&node=23:1.0.1.7.25>
- [29 CFR 5.7\(b\)](https://www.law.cornell.edu/cfr/text/29/5.7)
<https://www.law.cornell.edu/cfr/text/29/5.7>
- [41 CFR 60](http://www.dol.gov/dol/cfr/title_41/Chapter_60.htm)
http://www.dol.gov/dol/cfr/title_41/Chapter_60.htm
- [48 CFR Part 31 \(provisions for contractor furnished equipment\)](http://files.federalfundmanagement.com/webinar-materials/download_48-cfr-31-2.pdf)
http://files.federalfundmanagement.com/webinar-materials/download_48-cfr-31-2.pdf
- [49 CFR](http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title49/49tab_02.tpl)
http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title49/49tab_02.tpl
- [US DOT, FHWA, 1997 Contract Administration Core Curriculum](https://www.fhwa.dot.gov/programadmin/contracts/coretoc.cfm)
<https://www.fhwa.dot.gov/programadmin/contracts/coretoc.cfm>
- [FHWA Technical Advisory, Construction Contract Time Determination Procedures, T 5080.15 - 10/11/91](https://www.fhwa.dot.gov/construction/contracts/t508015.cfm)
<https://www.fhwa.dot.gov/construction/contracts/t508015.cfm>

- [California Department of Transportation Standard Specifications](http://www.dot.ca.gov/hq/esc/oe/construction_contract_standards/std_specs/2015_StdSpecs/2015_StdSpecs.pdf)
http://www.dot.ca.gov/hq/esc/oe/construction_contract_standards/std_specs/2015_StdSpecs/2015_StdSpecs.pdf
- [California Public Contract Code Chapter 4](http://www.leginfo.ca.gov/cgi-bin/calawquery?codesection=pcc)
<http://www.leginfo.ca.gov/cgi-bin/calawquery?codesection=pcc>
- [49 CFR part 23](http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title49/49cfr23_main_02.tpl)
http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title49/49cfr23_main_02.tpl
- [Form FHWA 1273 Contract Provisions](http://www.dot.ca.gov/hq/LocalPrograms/DLA_OB/office-bulletins/dla-12-05.pdf)
http://www.dot.ca.gov/hq/LocalPrograms/DLA_OB/office-bulletins/dla-12-05.pdf
- [State of California DOT, Quality Assurance Program Manual for use by Local Agencies, December 2008](http://www.dot.ca.gov/hq/LocalPrograms/public/QAP_Manual.pdf)
http://www.dot.ca.gov/hq/LocalPrograms/public/QAP_Manual.pdf
- [California Division of Industrial Safety - Construction Safety Orders](http://www.dot.ca.gov/hq/construc/safety/)
<http://www.dot.ca.gov/hq/construc/safety/>
- ["An Informational Guide on Occupational Safety" 1972 AASHTO publication](http://www.ce.memphis.edu/3137/Powerpoint%20Handouts/8%20-%20Thickness%20Design%20(1972%20AASHTO%20Method).pdf)
[http://www.ce.memphis.edu/3137/Powerpoint%20Handouts/8%20-%20Thickness%20Design%20\(1972%20AASHTO%20Method\).pdf](http://www.ce.memphis.edu/3137/Powerpoint%20Handouts/8%20-%20Thickness%20Design%20(1972%20AASHTO%20Method).pdf)
- [California Public Records Act \(Government Code Section 6253\)](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV§ionNum=6253)
http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV§ionNum=6253
- [California Information Practices Act \(Civil Code Sections 1798, et seq.\)](http://www.leginfo.ca.gov/cgi-bin/displaycode?section=civ&group=01001-02000&file=1798-1798.1)
<http://www.leginfo.ca.gov/cgi-bin/displaycode?section=civ&group=01001-02000&file=1798-1798.1>
- [Federal Aid Programming Guide \(NS 23 CFR 635A\) \(Materials and right of way delays\)](https://www.fhwa.dot.gov/construction/contracts/0635asup.cfm)
<https://www.fhwa.dot.gov/construction/contracts/0635asup.cfm>
- [Technical Advisories \(TA\): T 4540. Equipment Rental Rates](https://www.fhwa.dot.gov/construction/techadvisories.cfm)
<https://www.fhwa.dot.gov/construction/techadvisories.cfm>
- [Washington State Department of Transportation, Local Agency Guidelines,](http://www.wsdot.wa.gov/localprograms/LAG/)
<http://www.wsdot.wa.gov/localprograms/LAG/>
- [Section 52.3 "Quality Control" - 1994 Department of Transportation Traffic Manual - January 1996](http://www.dot.ca.gov/trafficops/camutcd/traffic-manual.html)
<http://www.dot.ca.gov/trafficops/camutcd/traffic-manual.html>

- [Local Agency Resident Engineer Construction Manual Supplement](http://www.dot.ca.gov/hq/construc/CPDirectives/LARE.pdf)
<http://www.dot.ca.gov/hq/construc/CPDirectives/LARE.pdf>
- [Caltrans Construction Manual](http://www.dot.ca.gov/hq/construc/constmanual/construction_manual.pdf)
www.dot.ca.gov/hq/construc/constmanual/construction_manual.pdf
- [Local Assistance Structure Representative Guidelines](http://www.dot.ca.gov/hq/construc/CPDirectives/LASR_Guidelines.pdf)
www.dot.ca.gov/hq/construc/CPDirectives/LASR_Guidelines.pdf
- [Bridge Construction Records and Procedures Manual. V 1](http://www.dot.ca.gov/hq/esc/construction/manuals/OSCCompleteManuals/BCRPVol1_Terms.pdf)
http://www.dot.ca.gov/hq/esc/construction/manuals/OSCCompleteManuals/BCRPVol1_Terms.pdf
- [HQ Division of Local Assistance Web page](http://www.dot.ca.gov/hq/LocalPrograms/training.html)
<http://www.dot.ca.gov/hq/LocalPrograms/training.html>
- [HQ Division of Local Assistance Web page](http://www.dot.ca.gov/hq/LocalPrograms/)
<http://www.dot.ca.gov/hq/LocalPrograms/>
- [Partnering with Caltrans](http://www.dot.ca.gov/hq/construc/partnering.php)
<http://www.dot.ca.gov/hq/construc/partnering.php>
- [Caltrans Construction Contract Standards](http://www.dot.ca.gov/hq/esc/oe/construction_standards.html)
http://www.dot.ca.gov/hq/esc/oe/construction_standards.html
- [Federal-Aid Contract Prejob Checklist](http://www.dot.ca.gov/hq/construc/LaborCompliance/documents/Federal-AidContractPrejobChecklist.pdf)
<http://www.dot.ca.gov/hq/construc/LaborCompliance/documents/Federal-AidContractPrejobChecklist.pdf>
- [Caltrans Local Compliance Website](http://www.dot.ca.gov/hq/construc/LaborCompliance)
<http://www.dot.ca.gov/hq/construc/LaborCompliance>

EXHIBIT 16-A WEEKLY STATEMENT OF WORKING DAYS

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION

WEEKLY STATEMENT OF WORKING DAYS

CEM-2701 (REV. 04/2015)

JOB STAMP

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REPORT NUMBER: _____

CONTRACTOR: _____

WEEK ENDING (month, day, year): _____

Date (A)	Day (B)	Weather Conditions or Other Explanation ¹ (C)	Working Day (D)	Nonworking Day (E)	Working Day No Work Done on Controlling Activity ⁶ (F)
1					
2	Monday				
3	Tuesday				
4	Wednesday				
5	Thursday				
6	Friday				
7					
8	Days this week (Total Lines 1 thru 7)				
9	Days previously reported (Take from pervious week's report)				
10	Total working days to date (Lines 8 + 9)				
Change Order Time Adjustment			Change Order Days Approved	Change Order Numbers²	
11	Days this report -----				
12	Days previously reported (Taken from previous week's report)				
13	Total change order days to date (Lines 11+ Line 12)				
Computation of Extended Date for Completion			Number of Days	Numbered Day⁴	Date
14	First working day -----				
15	Original working days specified in contract -----				
16	COMPUTED DATE FOR COMPLETION (Line 14 + Line 15 minus 1)				
17	Total change order days approved to date (From Line 13)				
18	Total Nonworking days to date ³ (From Box 10E)				
19	EXTENDED DATE FOR COMPLETION (Line 16 + Line 17 + Line 18)				
20	Revised working days for contract (Line 15 + Line 17)				
21	Total working days to date (From Box 10D)				
22	WORKING DAYS REMAINING (Line 20 - Line 21)				

CONTROLLING ACTIVITY(IES)⁵ :

REMARKS:

The contractor will be allowed fifteen (15) days in which to protest in writing the correctness of the statement; otherwise, the statement shall be deemed to have been accepted by the contractor as correct.

NOTE: Footnote Instructions to Resident Engineer are on reverse side.

RESIDENT ENGINEER SIGNATURE: _____	DATE: _____
------------------------------------	-------------

Distribution: Original--Contractor; Copy--Resident Engineer

Footnote Instructions To Resident Engineer

1. When determining if the day is a working day or non-working day, first determine the controlling operation (taken from the critical path of the updated approved project schedule.), second, If you determine the day is a "nonworking day", provide the contractual reason - for example, "clear-wet grade" to describe conditions when the weather is clear, but the grade is too wet. Do not list days merely as "Unworkable". When recording nonworking days due to "other", provide explanation - contract lane closure restrictions, State of emergency, area-wide labor strike, etc.
2. List numbers of change orders providing for time extensions.
3. Do not include nonworking days which occur after expiration of the **Extended Date of Completion**. On contracts that are overtime, the total under Working Days Shall not be greater than the total of revised Working Days (line7). After approved total of working days has been reached, continue recording working and nonworking days but do not add into the totals. Make a statement under Remarks that working and nonworking days are shown for record only since the contact time has elapsed.

If an extension of time is subsequently approved, determine the new **Extended Date** by taking into account all nonworking days that are reachable.
4. From the calendar issued by the Division of Construction with working days numbered for convenience in computations.
5. Determine the controlling activity from the updated approved contract schedule. If the controlling activity is completed in the middle of the week and a new one begins, make this clear. For example, "Class 2 base - M, T, W; HMA - Th, Fri." This is not the place to list all the operations the contractor worked on for the week. Record that information in the Daily Report or under "remarks" if you wish.
6. Column F (lines 1-10) is informational only and tracks those days determined in column D to be working days, but the Contractor failed to work on the controlling operation.

Link to Caltrans Form CEM 2701

<http://cefs2.dot.ca.gov/v2Forms/servlet/FormRenderer?frmId=CEM2701>

Exhibit 16-B SUBCONTRACTING REQUEST

CONTRACTOR NAME				COUNTY	ROUTE		
BUSINESS ADDRESS				CONTRACT NUMBER			
CITY AND STATE			ZIP CODE	FEDERAL-AID PROJECT NUMBER			
A. SUBCONTRACTOR (Name, Business Address, Phone)	B. BID ITEM NUMBER (S)	C. PERCENTAGE OF BID ITEM SUBCONTRACTED	D. SUB LISTED AT BID TIME		E. CERTIFIED DBE	F. DESCRIBE WORK WHEN LESS THAN 100% OF WORK IS SUBCONTRACTED	G. DOLLAR AMOUNT BASED ON THE BID AMOUNT
			Yes <input type="checkbox"/>	No <input type="checkbox"/>	Yes <input type="checkbox"/>	No <input type="checkbox"/>	
			Yes <input type="checkbox"/>	No <input type="checkbox"/>	Yes <input type="checkbox"/>	No <input type="checkbox"/>	
			Yes <input type="checkbox"/>	No <input type="checkbox"/>	Yes <input type="checkbox"/>	No <input type="checkbox"/>	
			Yes <input type="checkbox"/>	No <input type="checkbox"/>	Yes <input type="checkbox"/>	No <input type="checkbox"/>	
			Yes <input type="checkbox"/>	No <input type="checkbox"/>	Yes <input type="checkbox"/>	No <input type="checkbox"/>	
			Yes <input type="checkbox"/>	No <input type="checkbox"/>	Yes <input type="checkbox"/>	No <input type="checkbox"/>	

I certify that

- The Standard Provisions for labor set forth in the contract apply to the subcontracted work
- If applicable, Form FHWA- 1273 of the Special Provisions have been inserted in the subcontracts and should be incorporated in any lower-tier subcontract. Written contracts have been executed for the above noted subcontracted work.

Contractor Signature	Date
----------------------	------

This section is to be completed by the resident engineer.

1. Total of bid items	\$	_____
2. Contractor must perform with own forces (lines 1 X contract req. %)	\$	_____
3. Bid items previously subcontracted (taken from previously approved 16-B)	\$	_____
4. Bid items subcontracted (this request)	\$	_____
5. Total (lines 3 + 4)	\$	_____
6. Balance of work contractor to perform (lines 1 minus 5)	\$	_____

Approved	
RESIDENT ENGINEER'S SIGNATURE	DATE

Copy Distribution : Original-Contractor Copy- Resident Engineer Copy- OBEO- smallbusinessadvocate@dopt.ca.gov or fax to (916) 324-1949

INSTRUCTIONS FOR COMPLETING SUBCONTRACTING REQUEST FORM**All first-tier subcontractors must be included on a subcontractor request**

Before subcontracting work starts, the contractor will submit an original CEM-1201 according to the Standard Specifications. After approval, the RE returns the original to the contractor and complete the remaining distribution as listed on the bottom of the form.

When an entire item is subcontracted, show the contractor's bid price.

When a portion of an item is subcontracted, describe the portion and show the percentage of the bid item and value.

In August 2008, the Standard Specifications were amended to eliminate specialty items. Enter Zeros or applicable amounts for specialty items should be entered in lines 2 and 3 of this form, depending on whether the contract includes the amendment.

THIS FORM IS NOT TO BE USED FOR SUBSTITUTIONS OF SUBCONTRACTORS AND UDBE, DVBE OR SMALL BUSINESS ENTITIE

EXHIBIT 16-C RESIDENT AND ASSISTANT ENGINEER'S DAILY REPORT

PROJECT NO. _____ REPORT NO. _____
 FEDERAL PROJECT NO. _____ DATE: _____
 PROJECT NAME: _____
 CONTRACTOR: _____ DAY: S M T W TH F S (CHECK ONE)

SHIFT HOURS START: _____ STOP: _____
 TEMP MIN: _____ MAX: _____

LOCATION OF WORK (ROADWAY and STATIONS):			HOURS – BID ITEM NO./DESCRIPTION								WEATHER CONDITION (TEMP)
NAME	CLASSIFICATION	EQUIPMENT TYPE	BID ITEM							IDLE OR DOWN	REMARKS

DESCRIPTION OF WORK PERFORMED FOR THE DAY:

NAME _____ SIGNATURE _____ TITLE _____

EXHIBIT 16-I NOTICE OF MATERIALS TO BE USED

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION

NOTICE OF MATERIALS TO BE USED

CEM-3101 (REV 09/2015)

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Resident Engineer: _____

Date: _____

Materials required for use under contract number (1): _____

District: _____ County: _____ Route: _____

Post Miles: _____

will be obtained from the following sources:

Contract Bid Item Number (2)	Item Code (3)	Contract Item Description (4)	Item Component (5)	Manufacturer/Provider Name and Address (6)	Manufacturer/Provider Email Address (6)

It is requested that the contractor arrange for sampling, testing, and inspection of materials prior to delivery in accordance with Section 6 of the Standard Specifications. It is understood that source inspection does not relieve the prime contractor of the full responsibility for incorporating into the work, materials that comply in all respects with the contract plans and specifications, nor does it preclude the subsequent rejection of materials found to be unsuitable.

Contractor		
Address		
Business Phone	Business Fax	E-Mail Address

Distribution: 1. Lab Manager 2. Project File

**NOTICE OF MATERIALS TO BE USED
INSTRUCTIONS TO CONTRACTOR**

Section 6 of the Standard Specifications states that, "Before the preconstruction conference, submit material source information on a "Notice of Materials to Be Used form".

In order to avoid delay in approval of materials, the Department of Transportation must receive, in a timely manner, Form CEM-3101, "Notice of Materials to Be Used." When filing this form, please comply with the following instructions:

1. The Contract Number and job limits should be the same as they appear on the special provisions.
2. The column headed "Contract Bid Item Number" refers to the sequential item number of the contract.
3. The column headed "Item Code" refers to the number for which the material is to be used. It is a six-digit number.
4. The column headed "Contract Item Description" refers to an item description of the material as described in the special provisions.
5. The column headed "Item Component" refers to the specific description of material to be used, not necessarily the name of the contract item.

For example:

Contract Bid Item Number	Item Code	Contract Item Description	Item Component
01	520101	Bar reinforcing steel	Coupler (service splice)

6. The column headed "Manufacturer/Provider" refers to the manufacturer/fabricator of the item. List the name, address and e-mail address of the Manufacturer/Fabricator. Also, list the name and address of the location here inspection will occur, if different from the Manufacturer/Fabricator.
7. Form CEM-3101, "Notice of Materials to Be Used," must be submitted to the resident engineer (RE). The RE will email Form CEM-3101 to the materials administrator to, MaterialsAdministratorMETS@dot.ca.gov or fax to (916) 227-7084, Attn: Materials Administrator or postal mail to: Material Engineering & Testing Services, 5900 Folsom Blvd., Sacramento, CA 95819, MS-5.

If the sources of materials are not known at the beginning of a contract, submit a Form CEM-3101, "Notice of Materials to Be Used," for a given bid item as soon as a provider is known. Multiple submittals may be necessary. Resubmit a Form CEM-3101, "Notice of Materials to be Used," for all changes or revisions.

When placing orders for materials that require inspection prior to shipment, be sure to indicate on your request form that state inspection is required before shipment.

EXHIBIT 16-N EMPLOYEE INTERVIEW: LABOR COMPLIANCE/EEO

ADA Notice

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CONFIDENTIAL

This document contains personal information and pursuant to Civil Code 1798.21, it shall be kept confidential in order to protect against unauthorized disclosure. INSTRUCTIONS - (SEE REVERSE SIDE)

CONTRACT NO

FED NO

1. TO BE FILLED IN BY INTERVIEWER (Data may be obtained from payroll records or during source document review)

EMPLOYEE NAME		LABOR CLASSIFICATION
MINIMUM BASE WAGE PER CONTRACT	BASE RATE	FRINGE BENEFITS
MINIMUM BASE WAGE PER CONTRACT	BASE RATE	FRINGE BENEFITS
EMPLOYER		PRIME CONTRACTOR ON THE PROJECT (IF SAME, SO STATE)
WORK BEING PERFORMED AT TIME OF INTERVIEW		

2. QUESTIONS TO BE ASKED OF EMPLOYEE (For owner-operators skip to Section 3)

A. HOW LONG HAVE YOU WORKED FOR YOUR PRESENT EMPLOYER? _____ **HOW LONG ON THIS PROJECT?** _____

B. DESCRIBE THE TYPE OF WORK YOU HAVE BEEN DOING THIS PAST WEEK

C. WHAT IS YOUR WAGE [Include Base and Fringe Benefits (Compare to Payroll)] _____ **DO YOU KEEP A RECORD OF THE HOURS YOU WORK?**
 YES NO

D. DO YOU WORK OVERTIME? FREQUENTLY SELDOM NONE **ARE YOU PAID TIME AND ONE-HALF FOR OVERTIME?** YES NO **IF NO, EXPLAIN**

E. HAS YOUR EMPLOYER DIRECTED YOUR ATTENTION TO THE REQUIRED WAGE RATE POSTERS ON THE PROJECT? YES NO **HAVE YOU SEEN THOSE POSTERS?** YES NO **IF NO, EXPLAIN**

F. ARE YOU AWARE OF THE CONTRACTOR'S EEO POLICIES? YES NO **DOES THE CONTRACTOR HOLD REGULAR EEO MEETINGS?** YES NO **HOW OFTEN?**

WHO CONDUCTS THE MEETINGS? _____ **WHO IS THE EEO OFFICER FOR YOUR EMPLOYER?** _____ **WHO IS THE EEO OFFICER FOR THE PROJECT?** _____

G. ARE YOU INTERESTED IN / OR HAS YOUR EMPLOYER INFORMED YOU OF INF UPGRADING AND TRAINING POSSIBILITIES? YES NO **IF YES, EXPLAIN**

3. QUESTIONS FOR OWNER-OPERATORS

A. EQUIPMENT DESCRIPTION _____ **TRUCK LICENSE NO.** _____ **TRUCK CA #** _____

ON WHAT DO YOU BASE YOUR EQUIPMENT RENTAL RATE? HOURLY WEEKLY MONTHLY

B. DO YOU OWN THE EQUIPMENT? YES NO **MAY I SEE YOUR CERTIFICATE OF OWNERSHIP?**
 (Interviewer Note Response)

LEGAL OWNER _____ **REGISTERED OWNER** _____

4. EMPLOYEE COMMENTS

DO YOU HAVE ANY COMMENTS OR COMPLAINTS ABOUT WAGES OR EEO POLICIES? BE SPECIFIC

5. INTERVIEWER'S COMMENT

NAME OF INTERVIEWER (PRINT)	DATE	NAME OF INTERVIEWER (PRINT)	DATE
SIGNATURE OF INTERVIEWER		SIGNATURE OF RESIDENT ENGINEER	

DIRECTIONS TO INTERVIEWER

1. **Fill in Section 1 from payroll records, if available, after interview.**
2. **Fill in Section 2 completely. (does not apply to owner-operators)**
3. **Fill in Section 3 completely. (for owner-operators only)**
4. **Employee comments optional in Section 4.**
5. **Interviewer comments on findings and recommends further actions to be taken. Attach additional sheets if necessary.**

Caltrans Test Method- ASTM Test Method Conversion Chart

CALTRANS TEST METHOD - ASTM TEST METHOD CONVERSION CHART

Testing Procedures - for local agency use only

Use this CTM - ASTM conversion chart to assist you in determining acceptance test requirements and frequencies, as detailed in Caltrans *Construction Manual* Chapter 6, "Sampling and Testing." Refer to the Agency, special provisions, contract plans, and applicable standard specifications, for correct sampling and test methods (ASTM-CTM).

CTM	ASTM Book of Standar	TEST PROCEDURE	NOTES
105		Calculations Pertaining to Gradings and Specific Gravities	2
125	D75 4.02 D979 4.03	Sampling Highway Materials (when approved) Standard Practice for Sampling Aggregates Practice for Sampling Bituminous Paving Mixtures	3 3
201	C702 4.02	Soil & Aggregate Sample Preparation Reducing Field Samples of Aggregate to Testing Size	13
202	C136 4.02 C117 4.03	Sieve Analysis of Fine and Coarse Aggregate Sieve Analysis of Fine and Coarse Aggregate Material Finer Than 75-um (#200) Sieve in Mineral Aggregates by Washing	
205		Percentage of Crushed Particles	1
206	C127 4.02	Specific Gravity and Absorption of Coarse Aggregate Specific Gravity and Absorption of Coarse Aggregate	
207	C128 4.02	Specific Gravity and Absorption, Fine Aggregate Specific Gravity and Absorption, Fine Aggregate	
208		Apparent Specific Gravity of Fine Aggregate	1
211	C131 4.02	Abrasion of Coarse Aggregate by Use of the Los Angeles Rattler Machine Resistance to Degradation, Small-Size Coarse Agg. by Abrasion & Impact, L.A. Machine	
213	C40 4.02	Organic Impurities in Concrete Sand Organic Impurities in Fine Aggregate for Concrete	
214	C88 4.02	Soundness of Aggregates by Use of Sodium Sulfate Soundness of Aggregates by Use of Sodium Sulfate or Magnesium Sulfate	1
216	D1556 4.08 D1557 4.08	Relative Compaction of Untreated and Treated, Soils & Aggregates Density of Soil In-place by the Sand Cone Method Moisture-Density Relations of Soils & Soil-Agg. Mixtures, 10-lb. Rammer, 18-in	11
217		Sand Equivalent (only authorized method per Caltrans 07, District Materials)	1,9
223		Surface Moisture in Concrete Aggregate	1
226	C566 4.02	Moisture Content in Soils by Oven Drying Total Moisture Content of Aggregate by Drying	
227		Evaluating Cleanness of Coarse Aggregate	1
229	D3744 4.03	Durability Index Aggregate Durability Index	1
231	D2922 4.08	Relative Compaction of Soils by the Area Concept Utilizing Nuclear Gages Density of Soil & Soil-Aggregate In-place by the Nuclear Method	4 4

Caltrans Test Method- ASTM Test Method Conversion Chart

CTM - ASTM Testing Procedures - for local agency use only

Use this CTM - ASTM conversion chart to assist you in determining acceptance test requirements and frequencies, as detailed in Caltrans *Construction Manual* Chapter 6, "Sampling and Testing." Refer to the Agency, special provisions, contract plans, and applicable standard specifications, for correct sampling and test methods (ASTM-CTM).

CTM	ASTM	Book of Standards	TEST PROCEDURE	NOTES
301	D2844	4.08	R-Value of Treated & Untreated, Bases, Subbases & Basement Soils R-Value and Expansion Pressure of Compacted Soils	1
302	D1664	4.03	Film Stripping Coating and Stripping of Bitumen-Aggregate Mixtures	
303			Centrifuge Kerosene Equivalent	1
304	D1561	4.03	Preparation of Bituminous Mixtures for Testing Prep. of Bituminous Mixture Test Specimens by Means of Calif. Kneading Compactor	1
305			Swell of Bituminous Mixtures	1
307			Moisture Vapor Susceptibility of Bituminous Mixtures	1
308	D1188	4.03	Bulk Specific Gravity and Weight Per Cubic Foot of Bituminous Mixtures Bulk Sp.G. and Density of Compacted Bituminous Mixtures, Paraffin-Coated Specimens	
310	D2172	4.03	Asphalt and Moisture Contents of Bituminous Mixtures by Hot Solvent Extraction of Bitumen from Bituminous Paving Mixtures (Method A, B, or C)	5 6,10
312			Design and Testing of Class "A" and "B" Cement Treated Base	1
338			Cement or Lime Content in Treated Aggregate by the Titration Method	1
339	D2995	4.03	Determination of Distributor Spread Rate Determining Application Rate of Bituminous Distributors	
362	D2172	4.03	Asphalt Content of Bituminous Mixtures by Vacuum Extraction Quantitative Extraction of Bitumen from Bituminous Paving Mixtures	5 6
366			Stabilometer Value	1
367			Recommending Optimum Bitumen Content (OBC.)	1
370	D4643	4.08	Determining Moisture Content of Asphalt Mixtures or Mineral Agg., Microwave Ovens Determination of Water (Moisture) Content of Soil by the Microwave Oven	
375	D2950	4.03	In-place Density & Relative Compaction of AC Pavement (nuclear) Density of Bituminous Concrete In-place by the Nuclear Method	5,7,12 6,7
379	D4125	4.03	Asphalt Content of Bituminous Mixtures by use of the Troxler Nuclear Gage Asphalt Content of Bituminous Mixtures by the Nuclear Method	5,8 6,8
405			Chemical Analysis of Water	1
415			Chloride Content in Organic Additives for Portland Cement Concrete	1

Caltrans Test Method- ASTM Test Method Conversion Chart

CTM - ASTM Testing Procedures - for local agency use only

Use this CTM - ASTM conversion chart to assist you in determining acceptance test requirements and frequencies, as detailed in Caltrans *Construction Manual* Chapter 6, "Sampling and Testing." Refer to the Agency, special provisions, contract plans, and applicable standard specifications, for correct sampling and test methods (ASTM-CTM).

CTM	ASTM	Book of Standard	TEST PROCEDURE	NOTES
504	C231	4.02	Air Content of Freshly Mixed Concrete by the Pressure Method Air Content of Freshly Mixed Concrete by the Pressure Method	
515			Relative Mortar Strength of Portland Cement Concrete Sand	1
518	C138	4.02	Unit Weight of Fresh Concrete Unit Weight, Yield, and Air Content (Gravimetric) of Concrete	
521	C39	4.02	Compressive Strength of Molded Concrete Cylinders Compressive Strength of Cylindrical Concrete Specimens	
523	C293 C78	4.02 4.02	Flexural Strength of Concrete (using simple beam with center-point loading) Flexural Strength of Concrete (using simple beam with center-point loading) Flexural Strength of Concrete (using simple beam with third-point loading)	1
528			Freeze Thaw Resistance of Aggregates in Air-Entrained Concrete	1
529			Proportions of Coarse Aggregate in Fresh Concrete	1
530			Determining the Effect of H ₂ O-Reducing and Set-Retard. Admix. Drying Shrinkage PCC	1
533	C360 C143	4.03 4.02	Ball Penetration in Fresh Portland Cement Concrete Ball Penetration in Fresh Portland Cement Concrete Slump of Freshly Mixed PCC	
539	C172	4.02	Sampling Fresh Concrete Sampling Freshly Mixed Concrete	
540	C31	4.02	Making, Handling, & Storing Concrete Compressive. Test Specimens in the Field Making & Curing Concrete Test Specimens in the Field	
541			Flow of Grout Mixtures (flow cone method)	1
543	C173	4.02	Air Content of Freshly Mixed Concrete by the Volumetric Method Air Content of Freshly Mixed Concrete by the Volumetric Method	
548			Evaluation of Aggregate for Lean Concrete Base (LCB.)	1

Notes

1. Use the CALTRANS Method.
2. Use the methods of calculation within the applicable test method first. Refer to CTM 105 as necessary.
3. Use the Caltrans Construction Manual procedures as necessary when ASTM D75 or D979 do not adequately cover the item to be sampled.
4. Use the direct transmission method only, the air gap method shall not be used. All nuclear gages must have local Caltrans District calibration within the last year. The data sheets provided by the local Caltrans District shall be used when determining the in-place density.
5. Sample from the job site, across the mat, immediately behind the paving machine (Caltrans Construction Manual).
6. Sample per ASTM D 979 paragraph 4.2.3., sample from the job site, across the mat, immediately behind the paving machine.
7. All nuclear gages used for this test must be calibrated on the six (6) DNTM&R AC Standard Blocks. The Data sheets provided by the local Caltrans District shall be used when determining the in-place density.
8. Recommended Percent (%) AC method for Rubberized Bituminous Paving mixtures.
9. The hand method of shaking is not authorized and shall not be used. An electro-mechanical or hand- operated mechanical. Sand Equivalent shaker must be utilized for this test.
10. This Method covers hot solvent, centrifuge, and vacuum extraction.
11. Compaction Apparatus shall be calibrated in accordance with ASTM D 2168, Method B (ASTM Book 4.08).
12. Test Maximum Density (TMD) shall be performed by Caltrans Test Method 375, Section F. Test Max. Density.
13. Splitters must be of the fixed riffle type (no adjustable splitters).

Exhibit 16-T Materials Accepted By Certificate of Compliance

Table 6-2.3 Materials Accepted by Certificate of Compliance (1 of 7)

Material/Product	Remarks (Including Requirements for Additional Back-Up Information Required with Certificate of Compliance)
Asphalt	
Asphaltic emulsion	Certificate of compliance must include the following: 1. Shipment number and shipment date. 2. Source refinery, consignee, and destination. 3. Type and description of material with specific gravity and quantity. 4. Contract or purchase order number. 5. Signature by the manufacturer of the material and a statement that the material complies with the contract.
Asbestos cement pipe	
Asbestos sheet packing	
Asphalt modifier	Test results required with each truck load.
Asphalt rubber joint sealant	A certified test report of the results for the required tests performed within 12 months before the proposed use.
Backer rods	Must include manufacturer's statement of compatibility with the joint sealant to be used.
Barbed Wire	
Blast cleaning material	
Bonding Material	
Brick	
Cable-type restrainers Lock nuts	Certificate of compliance must be submitted with a copy of each required test report.
Cast iron pipe	
Cast iron manhole rings and covers	
Chemical adhesive for bonding tie bars and dowel bars in concrete pavement	
Chemical adhesive for structures	Certificate of compliance must state compliance with ICBO AC 58 and Caltrans. Augmentation/Revisions to ICBO AC 58.
Concrete Admixture	Certificate of compliance from the manufacturer must certify that the admixture furnished is the same as that previously authorized or the authorized materials list.
Concrete Cementitious material	Certificate of compliance must include the source name and location. If the cementitious material is delivered directly to the job site, the certificate of compliance must be signed by the cementitious material supplier. If the cementitious material is used in ready-mixed concrete, the certificate of compliance must be signed by the concrete manufacturer. If blended cement is used, the certificate of compliance must include a statement signed by the blended cement supplier that shows the actual percentage of SCM, by weight, in the blend.
Concrete Curing compound	Certificate of compliance must include: 1. Test results for the tests specified in Section 90-1.01D(6) [90-7.01B] of the <i>Standard Specifications</i> . 2. Certification that the material was tested within 12 months before use.
Concrete Minor concrete	Before placing minor concrete from a source not previously used on the contract, a certificate of compliance stating that the minor concrete to be furnished complies with the contract requirements, including the specified minimum cementitious material content.
Ceramic tile	
Chain link fencing and railing	Certificate required for protective coating system.
Concrete anchorage devices	

Materials Accepted by Certificate of Compliance**Table 6-2.3 Materials Accepted by Certificate of Compliance (2 of 7)**

Material/Product	Remarks (Including Requirements for Additional Back-Up Information Required with Certificate of Compliance)
Concrete pipe Circular reinforced direct design method	Certificate of compliance must: 1. Be signed by the manufacturer's quality control representative. 2. State that all materials and workmanship comply with the specifications and authorized shop drawings.
Copper pipe	
Corrugated metal pipe	
Crack sealant	Certificate of compliance must include: 1. Manufacturer's name 2. Production location 3. Product brand or trade name 4. Product designation 5. Batch or lot number 6. Crack treatment material type 7. Contractor or subcontractor name 8. Contract number 9. Lot size 10. Shipment date 11. Manufacturer's signature
Crash cushions	
Crumb rubber modifier	Test results required with each truck load.
Culvert markers	
Delineators	Certificate of compliance required for: 1. Metal target plates 2. Enamel coating 3. Retroreflective sheeting
Dowel bar baskets	
Drop inlet grates and frames	
Drain tile	
Drip irrigation line	
Elastomeric Bearing Pads Plain	Certified test results for the elastomer.
Elastomeric Bearing Pads Steel-reinforced	Certified test results.
Electrical Battery back-up system	Certificates of compliance is required for: • External cabinet • Batteries
Electrical Conductor	
Electrical Conduit (galvanized and plastic)	
Electrical Equipment	
Electrical Pull boxes (concrete and plastic)	
Electrical Service cabinets	

Materials Accepted by Certificate of Compliance

Table 6-2.3 Materials Accepted by Certificate of Compliance (3 of 7)

Material/Product	Remarks (Including Requirements for Additional Back-Up Information Required with Certificate of Compliance)
Erosion control	Certificate of compliance is required for: <ul style="list-style-type: none"> • Straw • Fiber • RECP • Fasteners Certificate of compliance with attachments are required for: <ul style="list-style-type: none"> • Tackifier • Bonded fiber matrix • Polymer-stabilized fiber matrix Certificates of compliance attachments include: <ol style="list-style-type: none"> 1. Material Safety Data Sheet. 2. Product label. 3. List of applicable nonvisible pollutant indicators for soil amendment and stabilization products as shown in the table titled "Pollutant Testing Guidance Table" in the Caltrans Construction Site Monitoring Program Guidance Manual. 4. Report of acute and chronic toxicity tests on aquatic organisms conforming to EPA methods. 5. List of ingredients, including chemical formulation. 6. Properties of polyacrylamide in tackifier including (1) percent purity by weight, (2) percent active content, (3) average molecular weight, and (4) charge density.
Epoxy	
Epoxy powder coating for dowel bars and tie bars	
Expansion joint filler	
Fiberglass pipe	Certificate of compliance must be submitted with laboratory test results.
Gabions	If PVC coating is shown, a suitable UV resistance additive must be blended with the PVC and the additive must be shown on the certificate of compliance.
Geocomposite drain	Certificate of compliance must certify that the drain produces the specified flow rate. The certificate must be accompanied by a flow capability graph for the geocomposite drain showing flow rates and the externally applied pressures and hydraulic gradients. Verification must be by an authorized laboratory for the flow capability graph.
Geosynthetics	Test sample representing each lot and minimum average roll value.
Glass beads	
Glue laminated timbers and decking	
Guide markers	
Irrigation hose	
Irrigation pipe	Certificate of compliance required for: <ul style="list-style-type: none"> • Polyethylene pipe. • Plastic pipe supply line for pipe with wall thickness of the bell less than the specified minimum wall thickness of the pipe.
Joint filler material	
Joint seals (Type A and AL)	Certified test report for each batch of sealant.

Materials Accepted by Certificate of Compliance**Table 6-2.3 Materials Accepted by Certificate of Compliance (4 of 7)**

Material/Product	Remarks (Including Requirements for Additional Back-Up Information Required with Certificate of Compliance)
Joint seal (Type B)	Certificate of compliance required for: <ul style="list-style-type: none"> • Elastomeric joint seal • Lubricant-adhesive Certificate of compliance must be submitted with certified test report for each lot of elastomeric joint seal and lubricant-adhesive. Test reports must include the seal movement rating, the manufacturer's minimum uncompressed width, and test results.
Joint seal assemblies with a movement rating of 4 inches or less	For alternative joint seal assemblies, a certificate of compliance must be submitted for each shipment of joint seal materials. The certificate must state that the materials and fabrication involved comply with the specifications and the data submitted in obtaining the authorization for the alternative joint seal assembly.
Joint seal assemblies with a movement rating over 4 inches	
Lime	Certificate of compliance must include a statement certifying the lime furnished is the same as on the authorized material source list.
Machine spiral wound PVC pipeliners	Certificate of compliance for each reel of PVC strip must include: <ol style="list-style-type: none"> 1. Name of manufacturer 2. Plant location 3. Date of manufacture and shift 4. Cell classification 5. Unit mass 6. Average pipeliner stiffness and profile type
Markers	Certificate of compliance required for: <ol style="list-style-type: none"> 1. Metal target plates 2. Enamel coating 3. Retroreflective sheeting
Masonry block	Certificate of compliance required for: <ol style="list-style-type: none"> 1. Concrete masonry units 2. Aggregate for grout 3. Grout
Micro surfacing emulsion	
Mulch	
Open steel flooring and grating	
Overside drains	Certificate of compliance based on steel materials, aluminum materials or plastic materials.
Parking area seal material	
Pavement markers	
Pavement marking Paint or thermoplastic	
Plastic lumber	Laboratory test report.
Plastic traffic drums	
Plastic pipe for drainage	Certificate of compliance must include average pipe stiffness, resin material cell classification, and date of manufacture. For corrugated polyethylene pipe, manufacturer's copy of plant audits and test results from the National Transportation Products Evaluation Program for the current cycle of testing for each pipe diameter furnished.
Portable changeable message sign	
Precast concrete Cementitious material used in precast concrete products	Certificate of compliance must be signed by the precast concrete product manufacturer.

Materials Accepted by Certificate of Compliance**Table 6-2.3 Materials Accepted by Certificate of Compliance (5 of 7)**

Material/Product	Remarks (Including Requirements for Additional Back-Up Information Required with Certificate of Compliance)
Precast concrete Box culverts	Certificate of compliance must signed by the manufacturer's QC representative for each shipment.
Precast raised traffic bars	
Preformed compression seal for concrete pavement	
Preformed membrane sheet	Must include type of sheet and the conditioner or primer application rates.
Rapid strength concrete	Certificate of compliance is required for each delivery of aggregate, cementitious material, and admixtures used for calibration tests. The certificate of compliance must state that the source of the materials used for the calibration tests is the same source as to be used for the planned work.
Reinforcement	You may request that the contractor submits with certificate of compliance: <ol style="list-style-type: none"> 1. Copy of the certified mill test report for each heat and size of reinforcing steel showing physical and chemical analysis. 2. Two copies of a list of all reinforcement before starting reinforcement placement.
Reinforcement Epoxy-coated	Certificate of compliance for each shipment of epoxy-coated reinforcement must be submitted with: <ol style="list-style-type: none"> 1. Certification that the coated reinforcement complies with ASTM A 775/A 775M for bar reinforcement or ASTM A 884/A 884M, Class A, Type 1, for wire reinforcement 2. All certifications specified in ASTM A 775/A 775M for bar reinforcement or ASTM A 884/A 884M for wire reinforcement.
Reinforcement Epoxy-coated prefabricated reinforcement	Certificate of compliance for each shipment of epoxy-coated prefabricated reinforcement must be submitted with: <ol style="list-style-type: none"> 1. Certification that the coated reinforcement complies with ASTM A 934/A 934M for bar reinforcement or ASTM A 884/A 884M Class A, Type 2 for wire reinforcement. 2. All certifications specified in ASTM A 934/A 934M for bar reinforcement or ASTM A 884/A 884M for wire reinforcement.
Reinforcement Epoxy-coating patching materials	Certificate of compliance for the patching material must include certification that the patching material is compatible with the epoxy powder to be used.
Reinforcement Headed bar	Certificate of compliance for each shipment of headed bar reinforcement must be submitted with: <ol style="list-style-type: none"> 1. Mill test reports for the: <ol style="list-style-type: none"> 1.1. Bar reinforcement 1.2. Head material 2. Production test reports 3. Daily production logs
Reinforcement Splicing	Certificate of compliance for each shipment of splice material must be submitted with: <ol style="list-style-type: none"> 1. Type or series identification of the splice material, including tracking information for traceability. 2. Grade and size number of reinforcement to be spliced. 3. Statement that the splice material complies with the type of mechanical splice on the authorized material list. 4. For resistance-butt-welded material: <ol style="list-style-type: none"> 4.1. Heat number 4.2. Lot number 4.3. Mill certificates

Materials Accepted by Certificate of Compliance**Table 6-2.3 Materials Accepted by Certificate of Compliance (6 of 7)**

Material/Product	Remarks (Including Requirements for Additional Back-Up Information Required with Certificate of Compliance)
Sheet metal	
Sign panels	Certificates of compliance required for: <ol style="list-style-type: none"> 1. Aluminum sheeting 2. Retroreflective sheeting 3. Screened-process colors 4. Nonreflective, opaque, black film 5. Protective-overlay film
Silicone joint sealant	A certified test report of the results for the required tests performed within 12 months before the proposed use.
Slotted edge drain	
Snow poles	
Snow plow deflectors polyethylene material	
Soil amendment	
Steel crib wall	
Sheet metal	
Sign panels	Certificates of compliance required for: <ol style="list-style-type: none"> 1. Aluminum sheeting 2. Retroreflective sheeting 3. Screened-process colors 4. Nonreflective, opaque, black film 5. Protective-overlay film
Silicone joint sealant	A certified test report of the results for the required tests performed within 12 months before the proposed use.
Slotted edge drain	
Snow poles	
Snow plow deflectors polyethylene material	
Soil amendment	
Steel crib wall	
Steel pipe piles	The certificate of compliance must be signed by the plant's QC representative. The QC representative must be on record with the Department's Office of Structural Materials. certificate of compliance must include: <ol style="list-style-type: none"> 1. Statement that all materials and workmanship incorporated in the work and all required tests and inspections of this work have been performed as described. 2. Certified mill test reports for each heat number of steel pipe piles being furnished. 3. Test reports for tensile, chemical, and any specified non-destructive test (NDT). 4. Test reports must be based on test samples taken from the base metal, steel, coil or from the manufactured or fabricated piles. 5. Calculated carbon equivalent. The carbon equivalent may be shown on the mill test report.
Steel sheet piling	
Structural plate culverts	Certificate of compliance required for: <ol style="list-style-type: none"> 1. Structural metal plate pipe 2. Arches 3. Pipe arches 4. Metal liner plate pipe

Materials Accepted by Certificate of Compliance**Table 6-2.3 Materials Accepted by Certificate of Compliance (7 of 7)**

Material/Product	Remarks (Including Requirements for Additional Back-Up Information Required with Certificate of Compliance)
Structural shape steel piles	Certificate of compliance must include: 1. Test reports for tensile, chemical, and any specified NDT. Test samples must be taken from the base metal, steel, or from the manufactured or fabricated pile. 2. A statement that all materials and workmanship incorporated in the work and all required tests and inspections of this work have been performed as described.
Structural composite lumber used in falsework	
Structural steel thermal spray coat	
Wire feedstock	
Styrofoam filler	
Subsurface drain	
Temporary concrete washout	Certificate of compliance required for: <ul style="list-style-type: none"> • Gravel-filled bag • Plastic liner
Temporary fence (Type ESA)	Certificate of compliance required for: <ul style="list-style-type: none"> • High visibility fabric • Safety caps for metal posts
Temporary linear sediment barrier	Certificate of compliance required for: <ul style="list-style-type: none"> • Fiber roll • Safety cap for metal posts • Silt fence fabric • Sediment filter bag • Foam barrier • Gravel-filled bag fabric
Temporary railing (Type K)	
Thermoplastic	
Tie bars	
Tie bar baskets	
Timber products (treated and untreated)	Certificate of compliance for timber and lumber must state the species of the material to be shipped and include a certified grading report. If treated, certified treating report.
Threaded tie bar splice couplers	
Traffic stripe	
Paint or thermoplastic	
Turf sod	
Underdrains	Certificate of compliance required for: <ul style="list-style-type: none"> • Type of pipe • Tubing • Fitting
Waterproofing fabric	
Waterstop	Certificate of compliance for waterstop material must state compliance with paragraph 6 of Army Corps of Engineers CRD-C 572.
Welded wire fabric	
Wire mesh fencing	

Exhibit 16-UI Initial Potential Claim Record

FOR AGENCY USE ONLY
Received by: _____ (For Resident Engineer)
Date: _____

TO (RESIDENT ENGINEER)	CONTRACT NUMBER	DATE	IDENTIFICATION NUMBER

This is an Initial Potential Claim Record for additional compensation and/or days submitted as required under the provisions of Section 5-1.43, "Potential Claims and Dispute Resolution," of Standard Specifications. The Engineer's response to the Request for Information was received on: _____

The particular nature and circumstances of this potential claim are described as follows:

Exhibit 16-UF Full and Final Potential Claim Record

FOR AGENCY USE ONLY
Received by: _____ (For Resident Engineer)
Date: _____

TO (RESIDENT ENGINEER)	CONTRACT NUMBER	DATE	IDENTIFICATION NUMBER
------------------------	-----------------	------	-----------------------

This is the Full and Final Potential Claim Record for additional compensation and/or days submitted as required under the provisions of Section 5-1.43, "Potential Claims and Dispute Resolution," of Standard Specifications. The completion date of the potentially claimed work was: _____

The complete and factual narration of events which fully describe the nature and circumstances that caused the dispute or disagreement and potential claim are attached. (attach sheets as required for full documentation)

The basis of this claim including all relevant contract provisions and a statement of the reasons these provisions support and provide basis for entitlement of the potential claim are attached. (attach sheets as required for full and final documentation)

The exact dollar amount requested and an itemized breakdown of individual costs segregated by labor, materials, equipment and other are attached. (attach sheets as required for full and final documentation)

The exact amount of any time adjustment requested including time impact analysis is attached. (attach sheets as required for full and final documentation)

The identification and copies of any documents and substance of any oral communication that support the potential claim are attached. (attach sheets as required for full and final documentation)

Relevant information, reference, and arguments that support the potential claim.

The undersigned originator (contractor or subcontractor as appropriate) certifies that the above statements and attached documents are made in full cognizance of the California False Claims Act, Government Code Sections 12650-12655. The undersigned also understands and agrees that this potential claim to be further considered, unless resolved, must fully conform to the requirements in Section 5-1.43, "Potential Claims and Dispute Resolution," of the *Standard Specifications* and must be restated as a claim in the contractor's written claim statement in conformance with Section 9-1.17D, "Claims Statement" of the *Standard Specifications*.

SUBCONTRACTOR CONTRACTOR

For a subcontractor potential claim

This potential claim record is acknowledged, certified, and forward by:

PRIME CONTRACTOR

(Authorized Representative)

Exhibit 16-US Supplemental Potential Claim Record

FOR AGENCY USE ONLY
Received by: _____ (For Resident Engineer)
Date: _____

TO (RESIDENT ENGINEER)	CONTRACT NUMBER	DATE	IDENTIFICATION NUMBER
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This is a Supplemental Potential Claim Record for additional compensation and/or days submitted as required under the provisions of Section 5-1.43, "Potential Claims and Dispute Resolution," of Standard Specifications. The initial potential claim record was submitted on: _____

The particular nature and circumstances of this potential claim are described as follows:

(attach additional sheets as needed)

The basis of this potential claim including all relevant contract provisions and a statement of the reasons these provisions support and provide basis for entitlement of the potential claim is as follows:

(attach additional sheets as needed)

The estimated dollar cost of the potential claim including a description of how the estimate was derived and an itemized breakdown of individual costs are attached.

(attach additional sheets as needed)

A time impact analysis of the disputed disruption has been performed and is attached. The effect on the scheduled project completion date is as follows:

(attach additional sheets as needed)

The undersigned originator (contractor or subcontractor as appropriate) certifies that the above statements and attached documents are made in full cognizance of the California False Claims Act, Government Code Sections 12650-12655. The undersigned also understands and agrees that this potential claim to be further considered, unless resolved, must fully conform to the requirements in Section 5-1.43, "Potential Claims and Dispute Resolution," of the *Standard Specifications* and must be restated as a claim in the contractor's written claim statement in conformance with Section 9-1.17D, "Final Payment and Claims" of the *Standard Specifications*.

SUBCONTRACTOR CONTRACTOR

(Authorized Representative)

For a subcontractor potential claim

This potential claim record is acknowledged, certified, and forward by:

PRIME CONTRACTOR

(Authorized Representative)

State of California-Department of Transportation

Exhibit 16-Z1 Monthly DBE Trucking Verification

Contract No.			Month			Year	
Truck Owner	DBE Cert No.	Company Name and Address	Truck No.	California Highway Patrol CA. No.	Commission of Amount Of Amount Paid*	Date Paid	Lease Arrangement (if applicable)
					\$		Lease Agreement with NON-DBE <input type="checkbox"/> with DBE <input type="checkbox"/>
					\$		Lease Agreement with NON-DBE <input type="checkbox"/> with DBE <input type="checkbox"/>
					\$		Lease Agreement with NON-DBE <input type="checkbox"/> with DBE <input type="checkbox"/>
					\$		Lease Agreement with NON-DBE <input type="checkbox"/> with DBE <input type="checkbox"/>
					\$		Lease Agreement with NON-DBE <input type="checkbox"/> with DBE <input type="checkbox"/>
					\$		Lease Agreement with NON-DBE <input type="checkbox"/> with DBE <input type="checkbox"/>
					\$		Lease Agreement with NON-DBE <input type="checkbox"/> with DBE <input type="checkbox"/>
					\$		Lease Agreement with NON-DBE <input type="checkbox"/> with DBE <input type="checkbox"/>
					\$		Lease Agreement with NON-DBE <input type="checkbox"/> with DBE <input type="checkbox"/>
Total Amount Paid					\$		

Prime Contractor	Business Address	Business Phone No.
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*Upon Request all Lease Agreements Shall be made available, in accordance with the special Provisions

I CERTIFY THAT THE ABOVE INFORMATION IS COMPLETE AND CORRECT

Contractor Representative Signature	Title	Date
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MONTHLY DBE TRUCKING VERIFICATION

The top of Form CEM-2404(F) contains boxes to put in the Contract Number, the Month of the reporting period and the Year of the reporting period.

The Form CEM-2404(F) has a column to enter the name of the Truck Owner, the DBE Cert. No. (if DBE certified) and the Name and Address of the trucking company. The Form CEM-2404(F) also requires the Truck No. and the California Highway Patrol CA No.

Form CEM-2404(F) is to be submitted prior to the 15th of each month and must show the dollar amount paid to the DBE trucking company(s) for trucking work performed by DBE certified trucks and for any fees or commissions of non DBE trucks utilized each month on the project. The amount paid to each trucking company is to be entered in the column called "Commission or Amount Paid," in accordance with the Special Provisions Section 5-1.X.

Payment information is derived using the following:

- 1.) 100% for the trucking services provided by the DBE using trucks it owns, operates and insures.
- 2.) 100% for the trucking services provided by the trucks leased from other DBE firms.
- 3.) The fee or commission paid to non DBEs for the lease of trucks. The Prime does not receive 100% credit for these services because they are not provided by a DBE company.

The total dollar figure of this column is to be placed in the box labeled "Total Amount Paid." The column "Date Paid" requires a date that each trucking company is paid for services rendered. The next column contains information that must be completed if a lease arrangement is applicable. Located at the bottom of the form is a space to put the name of the "Prime Contractor," their "Business Address" and their "Business Phone No."

At the bottom of the form there is a space for the Contractor or designee "Contractor Representative's Signature, Title and Date" certifying that the information provided on the form is complete and correct.


Exhibit 16-Z2 Acceptance Testing Results Summary Log

Test Method Name: _____

Test Method Number: _____

Project Name: _____

Contract Number: _____

Test Number	Date Sampled	Name of Sampler or Tester		Production		Test Results			Remarks
		Tester Certification on file?		Location (Stations, depths, etc)	Production Quantity Represented	Required Result	Actual Result	Pass/Fail	
1									
2									
3									
4									
5									
6									
7									
8									
9									
10									
11									
12									
13									
14									
15									
16									
17									
18									
19									
20									
21									
22									
23									
24									
25									

17.3 FINAL INSPECTION PROCEDURES FOR FEDERAL-AID PROJECTS

Local agencies shall document fulfillment of environmental mitigation commitments for final inspection Report of Expenditures and ultimate accountability as follows:

- **Categorical Exclusion (CE)** – Local agency shall provide the DLAE with a list of environmental mitigation commitments when requesting CE determination.
- **Environmental Assessment (EA)** – Local agency shall summarize when environmental mitigation commitments in the draft Finding of No Significant Impact (FONSI).
- **Environmental Impact Statement (EIS)** – Local agency shall summarize environmental commitments in the draft Record of Decision (ROD).

In addition, they shall acknowledge any long-term commitment to maintenance of those mitigation measures.

Delegated Projects

Final Inspection by Local Agency – The local agency representative or his/her staff shall make the final inspection using [Exhibit 17-C: Final Inspection Form](#). The local agency representative or staff performing final inspection or signing the Final Inspection Form shall be one with authority for accepting the completed contract on behalf of the local agency and authorizing final payment to the contractor, as well as directing corrective action(s) to be undertaken by the contractor.

The inspection of work performed by contract shall be made sufficiently in advance of contract acceptance to allow time for possible corrective action. Neither FHWA nor Caltrans inspection is required at this time. However, timely submittal of [Exhibit 17-C](#) may provide an opportunity for Caltrans inspection prior to acceptance of the contract.

The construction contract may not include all of the work contemplated in the project authorized such as striping by day labor. This work should nonetheless be completed in a timely manner.

Upon successful completion of all corrective actions undertaken by the contractor and completion of all additional work required for the authorized project, but prior to contract acceptance, the local agency representative should complete items 1-10 of the Final Inspection Form and forward it to the Caltrans DLAE.

Project Verification by DLAE – The DLAE or his/her staff depending on the district organization and type of project, will review the job site and verify that the project was constructed in accordance with the scope and description of the project authorization document. Any safety, design or construction deficiencies noted should be immediately brought to the attention of the local agency for correction or resolution. Upon satisfactory review by Caltrans staff, the DLAE shall ensure that Items 1-10 have been completed by the local agency prior to completing Items 11-13 on the Final Inspection Form. The DLAE shall retain the Final Inspection Form and send a copy to the local agency for the Report of Expenditures.

EXHIBIT 17-C FINAL INSPECTIONS FORM

INSTRUCTIONS: Local agency is to complete Items 1-10. DLAE completes Items 11-13 and submits original plus two (2) copies to the Division of Local Assistance.

1. PROJECT NO.:	2. DIST-CO-RTE-AGENCY:	3. COMPLETION DATE:
4. LOCATION OF IMPROVEMENTS AS PROGRAMMED:		
5. TYPE OF WORK:		
6. CONTRACTOR'S NAME:		7. CONTRACT AMOUNT:
8. DATE OF CONTRACT ACCEPTANCE		
<p>9. FINAL INSPECTION. The above listed project was completed and a final inspection has been made. The project was completed as programmed and in compliance with all state and federal requirements.</p> <p>(Check appropriate box)</p> <p><input type="checkbox"/> This project is Delegated and not subject to FHWA oversight. FHWA Final Inspection not required.</p> <p><input type="checkbox"/> This project is an FHWA High Priority project. FHWA Final Inspection required.</p>		
_____ SIGNATURE (Local Agency Rep)		_____ DATE:
_____ TITLE:		
10. REMARKS:		
11. DISTRICT REVIEW MADE BY (print name):		12. DATE OF PROJECT REVIEW:
<p>13. PROJECT VERIFICATION: This verification of completion also constitutes approval to pay costs shown in the Final Invoice included in the Report of Expenditures. The person listed above has reviewed the job site and found the project constructed in accordance with the scope and description of the project authorization document and in reasonable conformance with the plans and specifications.</p>		
SIGNATURE: _____		DATE: _____
District Local Assistance Engineer/ Oversight Engineer		

Distribution: (1) Local Agency – Retain a copy

SAMPLE FEDERAL-AID FINAL INVOICE
Single-Phase EA
Two Appropriation Codes (33D and 33T)
(Letterhead of Local Agency)

Date of Final Invoice
(For Final Invoice)

_____ District Local Assistance Engineer
Department of Transportation
Attention: _____

Billing No: _____
Invoice No: _____
Federal Aid Project No: _____
Tax Identification No: _____
Date Accepted by City/County: _____
Project Location: _____

Reimbursement for Federal Funds are claimed pursuant to Local Agency-State Agreement

No. _____, Program Supplement No. _____, executed on _____.

	Preliminary Engineering	Construction Engineering	Construction Contract	Total
	<u>Preliminary Engineering</u>	<u>Construction Engineering</u>	<u>Construction Contract</u>	<u>Total 33D</u>
Federal Appropriation Code	33D	33D	33D	
Expenditure Authorization No	969696	969696	969696	
Federal Authorization Date	06/30/94	01/02/95	01/02/95	
Federal participating costs from	07/05/94	01/30/95	02/15/95	
to	12/30/94	04/30/95	04/30/95	
Total Costs	\$3,500.60	\$8,400.30	\$200,000.10	\$211,901.00
Less: Retention	(0.00)	(0.00)	(20,000.00)	(20,000.00)
Non participating Costs	<u>(350.00)</u>	<u>(840.00)</u>	<u>(16,000.00)</u>	<u>(17,190.00)</u>
Subtotal	\$3,150.60	\$7,560.30	\$164,000.10	\$174,711.00
Plus: Payment of Previously Withheld Retention	0.00	0.00	20,000.00	20,000.00
Federal Participating Costs to Date	\$3,150.60	\$7,560.30	\$194,000.10	\$194,711.00
Less: Participating Costs on Previous Invoice	(3,150.60)	0.00	85,345.02	<u>88,495.62</u>
Change in Participating Costs	0.00	7,560.30	98,655.08	\$106,215.38
Reimbursement Ratio				<u>88.53%</u>
Amount This Claim				\$94,032.48

	<u>Construction Engineering</u>	<u>Construction Contract</u>	<u>Total 33T</u>
Federal Appropriation Code	33T	33T	
Expenditure Authorization No	969696/30600	969696/30600	
Expenditure Authorization No	969696/30600	969696/30600	
Federal Authorization Date	01/02/95	01/02/95	
Federal participating costs from	01/30/95	02/15/95	
to	04/30/95	04/30/95	
Total Costs	\$2,100.10	\$50,000.00	\$52,100.10
Less: Retention		(5,000.00)	(5,000.00)
Non participating Costs	<u>(210.00)</u>	<u>(4,000.00)</u>	<u>(4,210.00)</u>
Subtotal	\$1,890.10	\$41,000.10	\$42,890.10
Plus: Payment of Previously Withheld Retention		5,000.00 <u>0.00</u>	5,000.00 <u>0.00</u>
Federal Participating Costs to Date	\$1,890.10	\$46,000.00	\$47,890.10
Less: Participating Costs on Previous Invoice	(0.00)	(21,470.00)	<u>21,470.00</u>
Change in Participating Cost Reimbursement Ratio	1,890.10	24,530.00	\$26,420.10 <u>100.00%</u>
Amount This Claim			<u>\$26,420.10</u>
INVOICE TOTAL			<u>\$120,452.58</u>

I certify that the work covered by this invoice has been completed in accordance with approved plans and specifications; the costs shown in this invoice are true and correct; and the amount claimed, including retention as reflected above, is due and payable in accordance with the terms of the agreement.

Signature, Title and Unit of Local Agency Representative

Phone No.

Questions regarding this invoice please contact:

Name

Phone No.

Note: When multiplying "Change in Participating Costs" by "Reimbursement Ratio," the result is be rounded to the lowest cent. Federal rules do not allow rounding up.

Distribution: (1) Original-included in Report of Expenditures
(2) Copy retained by Local Agency Project File

Exhibit 17-H Cover Letter and Final Report of Expenditures Checklist (PE Only)

Name of District Local Assistance Engineer
Department of Transportation
Caltrans- Local Assistance

Project No.: _____

Dear

Submitted for your consideration is:

FINAL REPORT OF EXPENDITURES CHECKLIST (PE ONLY)

LOCAL AGENCY AWARDED

CONTRACT (COUNTRY OF SOMEWHERE)

PROJECT: (PROJECT LOCATION)

CONTRACTOR: (CONTRACTOR NAME)

RESIDENT ENGINEER: (RESIDENT ENGINEER NAME)

Sincerely,

Local Agency Representative

Reviewed By

District Local Assistance Engineer

Final Report of Expenditure Checklist

Federal-Aid Project Number: _____

Project Name: _____

Project Location: _____

_____**1. Category** Planning Study Final Study/Report Finance Letter (Exhibit 3-O) Subsequent Phases Funded Under Separate Federal Project(s) FPN for Subsequent Phase: _____ FPN for Subsequent Phase: _____ FPN for Subsequent Phase: _____ Finance Letter (Exhibit 3-O) Subsequent Phases Funded With Non-Federal Funds: Date of RW Acquisition or Construction Award: _____ Funding Source(s): _____ Finance Letter (Exhibit 3-O) Environmental Determination – No Build: Date of FHWA Approved No Repayment: _____ Finance Letter (Exhibit 3-O)**2. Consultant Utilization** Consultant Contract(s) (Include Final Report-Utilization of Disadvantaged Business Enterprises, (Exhibit 17-F) Disadvantaged Business Enterprise (DBE) Certification Status Change, LAPM (Exhibit 17-O) Force Account**3. Final Invoice** Federal Aid Final Invoice (Exhibit 17-D) Local Agency Invoice Review Checklist (Exhibit 5-J) Billing Summary (Exhibit 5-K)

Distribution: (All projects): (1) Final Report of Expenditures
(2) Local Agency project files

EXHIBIT 10-K SAMPLE REPORT OF COMPLETION OF RIGHT OF WAY EXPENDITURES

CITY OF MORELAND

One Dollar Square, Moreland, CA 90007
(999) 333-3030 • Fax # (999) 333-7059

Community Development/Redevelopment
Building and Code Enforcement
Public Works and Engineering
Recreation and Senior Services
Housing Authority
Housing
Planning

Date: August 1, 1993

Mr. Joe Smoe
District Local Assistance Engineer
Department of Transportation
Caltrans
P. O. Box 23660
Yourcall, CA 96007

Attention: Phil N. Blank
District Local Assistance Engineer

Subject: 04-CC-0-MRL
Federal-Aid Project No.: BRM-A751(001)
City of Moreland Project No.: PW-114
Boondoggle Bridge Replacement @ Rabble-rouser River (Bridge No. 99C-007)

Dear Mr. Smoe:

Submitted for your consideration is:

**REPORT OF COMPLETION
AND
REPORT OF EXPENDITURES
FOR LOCAL AGENCY RIGHT
OF WAY
CITY OF MORELAND**

Sincerely,

Seymore Land

Local Agency Representative

Reviewed by,

Phil N. Blank

District 13 Local Assistance Engineer

I. REPORT OF COMPLETION OF RIGHT OF WAY

A. Location and Description of Project

1. Federal-aid Project BRM-A751(1) in the City of Moreland, on the Boondoggle Bridge Replacement Project at Rabble-rouser River, Bridge No. 99C-007.

B. Chronological Statement

1. First date right of way expenditures eligible for reimbursement 12/23/91
2. Right of Way work began: 1/1/92
3. Right of Way work completed: 7/7/93

II. REPORT OF EXPENDITURES OF RIGHT OF WAY

A. Final Report of Right of Way Expenditures See Attachment #1

B. Parcel List See Attachment #1

C. Final Maps Submitted on: June 21, 1993 with R/W certification. D. Final Invoice See Attachment #2.

IV. I certify that to the best of my knowledge and belief the above data is correct; that adequate title to the necessary right of way has been acquired for the herein above described federal-aid project in the name of the City of Moreland, for the amount of just compensation based on bona fide appraisals duly qualified as required by the right of way procedures of the Federal Highway Administration and other written justification now contained in the City/County files, in accordance with procedures as submitted to and accepted by the Director.

I further state that this certification is made in my official capacity as Chief Financial Officer, pursuant to Section 121 of Title 23, United States Code, for the purpose of securing, pursuant thereto, by the City of Moreland, federal-aid funds in connection with the above designated federal-aid highway project, and that neither I nor, to the best of my knowledge, any other officer, agent or employee of the City/County authorized in an official capacity to perform services in connection with the appraisal or acquisition of any of such right of way has any interest or contemplates any benefit from any transaction which involved the acquisition of property for right of way for such project, other than as herein disclosed.

Mark A. Space
Signature of Local Agency Representative

800-123-CASH
Phone Number

Chief Financial Officer
Title

August 1, 1993
Date

SAMPLE FINAL REPORT OF RIGHT OF WAY EXPENDITURES

CITY OF MORELAND

One Dollar Square, Moreland, CA 90007
(999) 333-3030 Fax # (999) 333-7059

Project Nos.: _____

Federal No: BRM-A751(001)

State No (EA): 13-199129

Local Agency City of Moreland

Agreement No. 00001

I. Project Costs	Participating	Non- Participating	Total
1. Capital Costs			
Acquisition	\$1,028,543	\$20,000	\$1,048,543
RAP	\$15,000		\$15,000
Utility Relocation	\$69,614	\$750	\$70,364
Other			
Total Capital	\$1,113,157	\$20,750	\$1,133,907
2. Incidental	\$179,286	\$64,356	\$243,642
3. Subtotal	\$1,292,443	\$85,106	\$1,377,549
4. Less Rental & Sales Income	\$-12,250		\$-12,250
5. Project Total	\$1,280,193	\$85,106	\$1,365,299
II. RAP: Business	\$0		
Family	15,000		

III. A. The acquisition, final tabulation of all appraisals, the costs reported, and the maps submitted are unchanged when compared with the final construction lines.

B. Parcel List: See attached

Attachment #1

Federal Project No. BRM-A751(001)
State Project No.. 13-1991229
Map No.. F17192

B. PARCEL LIST.

As Acquired					REMARKS	Per Final R/W Map			
PARCEL NO.	TYPE TAKE	Acquired Area (SF or				Map Sheet No.	Acquired Area (SF or acres)		
		TOTAL	R/W	EXCESS			Total	R/W	Excess
41042-1	Part					3,4	49,901(SF)	50,830(SF)	0
-2	S. Ease				207170 0.476 AC. Slope Easement	3,4			
-4	D. Ease				17980 0.041 AC Drainage Easement	4			
-5	D. Ease				8000 0.018 AC. Drainage Easement	4			
41043-1	Part					3	1,714 (SF)	1,714(SF)	0
-2	S. Ease				20150 Slope Easement	3			
-3	D. Ease				4640 Drainage Easement	3			
41044-1	Part					3	19.5(SF)	19.5(SF)	0
-2	S. Ease				0.020 AC. Slope Easement	3			
-3	D. Ease				0.009 AC. Drainage Easement	3			

1. Right of Way lines as claimed on progress claims submitted to Caltrans for reimbursement of acquisition costs (Section 4.1)
2. Area by square feet or acres.
3. Type Take: F = Full P= Partial
4. If change in area is indicated in "Per Final R/W Map" column, the local agency must include the revisions to the final lines on the Final Progress Payment Request to account for the differences between the original amounts claimed through progress invoices and the final amounts as adjusted to reflect the final right of way lines, i.e., acquisition costs, rental income credits.

Form FM 1592A

FINAL INVOICE
MULTI PHASE EA
RIGHT OF WAY
(LETTERHEAD CITY OF MORELAND)

Name, Joe Smoe
District Local Assistance Engineer
Department of Transportation
P. O. Box 23660
Yourcall, CA 96007

Attention: Phil N. Blank
District Local Assistance Engineer

Billing No: **Final**
Invoice No: **Local Agency's Invoice No.**
Federal-Aid Project No: **Prefix-Proj. No. (Fed. Agreement No.)**
Tax Identification No: **Agency IRS ID Number**
Project Completion Date: **Date of Contract Completion**
Date Project Accepted by City/County: **Final Date or "Ongoing" if not Final**
Project Location: **Project Limits**

Reimbursement for federal funds is claimed pursuant to Local Agency-State Agreement No. **Number**, Program Supplement No., **Number** , executed on **Date** .

	Phase 9 Capital	Phase 2 Incidental	Total
Federal Appropriations Code	33D	33D	33D
District - Expenditure	03-023459	03-023452	
Authorization No. Federal	08/30/94	08/30/94	
Federal participating costs from	10/05/94	08/30/94	
to	02/30/95	02/30/95	
Federal-aid Agreement Amount	\$2,400,000	\$300,000	
Total Costs	\$1,133,907	\$ 243,642	
Less: Rental Income	0	(12,250)	
Nonparticipating Costs	(\$20,750)	(64,356)	
Federal Participating Costs to Date	\$1,113,157	\$167,036	
Less: Participating Costs on Previous Invoice	\$980,165	\$150,794	
Change in Participating Costs	\$132,992	\$16,242	
Reimbursement Ratio	88.53%	88.53%	
Amount of this claim	\$117,737.81	\$14,379.04	\$132,116.85

INVOICE TOTAL: \$132,116.85

Note: When multiplying "Change in Participating Costs" by "Reimbursement Ratio," the result is rounded to the lowest cent. Federal rules do not allow rounding up. Form FM 1592A

EXHIBIT 17-L SAMPLE REPORT OF EXPENDITURES FOR FORCE
ACCOUNT PROJECTS

Mr. Joe Smoe
(040) District Local Assistance Engineer
Caltrans
P. O. Box 23660
Upickit, CA 99999

Federal Project No.: ER-1600

Attention: Mr. Roland N. DaWins, District Local Assistance Engineer

Dear Mr. Smoe:

Submitted for your consideration
is: REPORT OF COMPLETION
AND
REPORT OF EXPENDITURES
FOR LOCAL AGENCY FORCE ACCOUNT WORK
CITY OF _____

Sincerely,

Max Competition

Local Agency
Representative

Reviewed by,

Roland N. DaWins

District 13 Local Assistance
Engineer

I. REPORT OF COMPLETION OF FORCE ACCOUNT WORK**A. Location and Description of Project**

1. Work required per Traffic Management Plan approved by Damage Assessment Form (DAF) # KK569. On Green Bay Way from Bart Starr Avenue to Superbowl Road. Replace existing controllers at 15 intersections with solid State fixed time equipment capable of providing 4 signal timing plans and offsets. Adjust timing for Am inbound (NB) progression, PM outbound (SB) progression, special program for events at Candlestick Park and off-peak program

B. Chronological Statement

1. Date of approved Public Interest Finding (attached): 1/15/91
2. First date expenditure eligible for reimbursement: 12/23/91
3. Force account work began: 1/1/92
4. Force account work completed: 3/7/92

II. REPORT OF EXPENDITURES

A. Liquidated Damages: None

B. Pending Contractors Claims: None

C. Contract Change Order Summary: None

D. Final Inspection Form:

Attached E. Final Detail Estimate:

Attached F. Materials Certification:

Attached

G. Maps: Attached

19.7 A&E OVERSIGHT PROGRAM

The Architectural and Engineering (A&E) Oversight Branch is responsible for the oversight of consultant contracts procured by local agencies complying with federal regulations 23 Code of Federal Regulations (CFR) 172 and 23 United States Code (USC) 112, and state regulations California Government Code 4525.

For locally administered federal-aid highway projects, A&E consultant contract oversight reviews will be performed by Caltrans' Local Assistance A&E Oversight Engineers (A&EOEs). DLAE staff may participate in the reviews, if necessary.

Types of Reviews

The purpose of A&E consultant contract oversight reviews is to verify local agency compliance with federal and state consultant contract administration requirements. A risk-based approach has been identified by the A&E branch to aid the local agencies with compliance that includes requiring agencies to send their completed [Exhibit 10-C: Consultant Contract Reviewers Checklist](#) to HQ at aeoversight@dot.ca.gov for review and acceptance prior to contract award. The objective is to create a database documenting all consultant contracts and perform process reviews on a sample of contracts for the annual performance measures report.

Although the risk-based approach is the review of [Exhibit 10-C](#), a process review may be conducted on projects for reporting purposes and to determine accuracy of [Exhibit 10-C](#) information.

Exhibit 10-C Review

The purpose of the [Exhibit 10-C](#) review is to provide oversight and guidance to a local agency regarding consultant contract administration on a federal or state funded project prior to the award of the contract. Exhibit 10-C includes items considered critical for compliance with federal and state regulations.

Subsequent process reviews may be performed on selected state and/or federal projects requiring a greater degree of oversight if deemed necessary for agencies with a noncompliance history.

The following factors may be used when selecting projects for subsequent review:

- Local agencies with identified deficiencies during an Incurred Cost Audit
- Projects administered by agencies with previous sanctions/findings
- Lack of experienced/trained local agency personnel
- Request by local agency for assistance

- Per request by the local agency or DLAE for additional assistance

During subsequent process reviews, the A&EOE will meet with the local agency's consultant contract administration team and discuss project record documentation requirements using [Exhibit 10-C](#). The timing of these types of reviews is targeted for pre-advertisement, pre-negotiations, and pre-award of the consultant contract. This will allow for any changes to take place prior to execution or termination of negotiations for re-advertising. The A&EOE will

also explain new policies or procedures, discuss available training, and highlight common problem areas and the means to avoid them.

Review Findings

Review findings or acceptance of [Exhibit 10-C](#) reviews will be forwarded to the local agency and the DLAE within five business days. Any major deficiency identified during a review will require submittal of a corrective action plan by the local agency to Caltrans within 30 days of receipt of the major deficiency notification, unless the agency disagrees with the major deficiencies identified and appeals the decision as discussed below. As defined in [LAPM Chapter 20: Deficiencies and Sanctions](#), major deficiencies are those errors of commission or omission, which violate federal or state law or regulation, and if uncorrected, would prevent federal or state participation in all or a portion of the project.

Corrective action plans will identify actions the local agency will take to address each major deficiency noted. Corrective actions may include re-advertising, modifications of local agency policies and procedures, and participation in training to address systemic related deficiencies, while project specific issues may require additional measures to remedy deficiencies to ensure compliance with federal and state requirements and ensure reimbursement eligibility.

Corrective action plans must also include timelines for each action to be implemented. Failure to provide and implement corrective actions may result in sanctions or federal/state ineligibility notices against the project or local agency.

Certain deficiencies may be unrecoverable as described in [LAPM Chapter 20](#).

In the event the local agency disagrees with the major deficiencies identified, the local agency will have 30 days from receipt of the major deficiency notification to submit their written request for appeal in accordance with [LAPM Chapter 20, Section 20.4: Local Assistance Dispute Resolution Process](#). If the appeal is denied, the local agency will have 15 days from receipt of the decision to submit their corrective action plan.

Roles and Responsibilities

The following procedures, including roles and responsibilities, will be used to perform consultant oversight on federal and state funded projects being administered by local agencies.

A&E Oversight Engineers

- Review [Exhibit 10-C](#) prior to award of consultant contract;
- Coordinate consultant oversight process reviews with local agencies;
- Consult with the A&E Oversight Program Manager on randomly selecting projects for process reviews;
- Perform consultant oversight process reviews through review of project records and discussions with local agency's contract administration staff;
- Communicate with DLAE of oversight process reviews so they may participate, if available;

- Provide Exhibit 10-C review findings to the local agency, consultant oversight coordinator, and DLAE. Review findings are to be sent to the local agency within five business days;
- Identify any major deficiencies that will require a local agency corrective action plan;
- Issue a letter to the local agency notifying them of the major deficiencies requiring corrective action with copies sent to the consultant oversight coordinator and DLAE;
- Consult with the DLAE regarding major deficiencies and corrective action plans;
- Monitor local agency corrective action plan development and implementation. Ensure the A&E Consultant Oversight Database is populated and kept up-to-date with major deficiency information and related corrective action plan information;
- Assist the DLAE with quantification of any sanctions related to unresolved major deficiencies;
- Participate in consultant phase reviews and audits by others (e.g., Office of Inspector General, FHWA, State Controller's Office, Audits and Investigations, etc.). Assist in formal response to project specific findings from these reviews and audits on Caltrans' behalf;
- Assist local agencies and DLAE staff with questions that may arise concerning consultant contract related issues;
- Provide guidance and training to local agencies and DLAE staff concerning consultant contract administration, including federal and state requirements;
- Assist DLAE and DLAE staff with review and approval of solicitation documents;
- Attend monthly consultant oversight meetings to discuss programmatic issues concerning consultant contract oversight, and share experiences and concerns;

A&E Oversight Program Manager

- Maintain A&E Consultant Oversight Database, monitoring for consistency and accuracy utilizing major deficiency notification letters;
- Issue annual report for A&E oversight (programmatic findings) to FHWA Division Administrator, DLA Division Chief, DLAEs, and A&EOEs. Report should include reviewed metrics, common problem areas, recommendations for improvements, programmatic actions/improvements taken (e.g., policy, procedures, and training), performance measure trend analysis to establish first year baseline and subsequent performance, and sanctions taken;
- Analyze process review findings to identify common problem areas where modifications to policies, procedures, or training related to consultant oversight may be needed;
- Assist in development and delivery of new or revised policies, procedures, and training related to consultant oversight;

- Participate in consultant contract reviews and audits by others (e.g., Office of Inspector General, FHWA, State Controller's Office, Audits and Investigations, etc.). Assist in formal response to project specific and programmatic findings from these reviews and audits on Caltrans' behalf;
- Hold monthly meetings with A&EOEs to discuss programmatic issues with consultant oversight as a means to maintain statewide consistency and identify common concerns;
- Perform consultant oversight engineer duties as the need arises or in the absence of an A&EOE;
- Assist DLA Division Chief with issues referred to the Local Assistance Dispute Resolution Process;

District Local Assistance Engineer (DLAE)

- Provide representation at consultant oversight reviews, as available;
- Discuss major deficiency notification letter and corrective action plan requirements with the A&EOE;
- Perform DLAE role in Local Assistance Dispute Resolution Process;
- Issue sanctions on projects resulting from unresolved major deficiencies.

19.8 REFERENCE

- [Caltrans/FHWA Joint Stewardship Agreement](http://www.dot.ca.gov/hq/oppd/stewardship/)
<http://www.dot.ca.gov/hq/oppd/stewardship/>

on eligible projects) shall make the contract ineligible for federal reimbursement (see [LAPM Chapter 12](#)).

- For local agencies that pay for equipment rental above approved equipment rental rates, the local agency will be responsible for the amounts above the approved rates (see [LAPM Chapter 16](#)).
- Permanently incorporating steel or iron or coatings thereon from a foreign source in amounts exceeding the minimal use provisions shall make the construction phase not eligible for reimbursement with federal funds (see [LAPM Chapter 12](#)).
- For maintenance items performed by the contractor as a contract item or under a contract change order, those items shall not be eligible for federal reimbursement (see [LAPM Chapter 12](#)).
- Payments to a contractor for items of work that was designated for a DBE but performed by others, and there is no documentation for the substitution that was approved, then those items shall not be eligible for reimbursement with federal funds (see [LAPM Chapter 9: Civil Rights and Disadvantaged Business Enterprises](#)). (This applies to Contracts executed before May 1, 2006 with race-conscious DBE goals).
- Local agencies that do not enforce the requirement that the contractor posts all specified posters, notices, wage determinations, etc. at the job site will lose all or part of their reimbursement (see [LAPM Chapter 16](#)).
- Local agencies that do not enforce contract requirements, whether express or implied, relating to federal statutes and/or contract provisions pertaining to nondiscrimination, non-segregated facilities, equal opportunity, health and safety and work site safety, Title VI, Davis-Bacon Act, Copeland Act, Clean Air Act as amended, Federal Water Pollution Control Act, Lobbying Certification, Non-collusion, False Statements, Buy America, On-the Job Training, or incorporating required contract provisions in subcontracts, etc., including reporting shall result in loss of all, or part of the federal reimbursement (see [LAPM Chapter 10: Consultant Selection](#), [LAPM Chapter 12](#), and [LAPM Chapter 16](#)).

Some most common examples (found by Caltrans) of Unrecoverable Project Deficiencies (State) are:

- Any capital work (Right of Way acquisition and Construction) done on EEM and projects in advance of CTC's allocation vote is not eligible for reimbursement (see [LAPG Appendix A: Financial Guidelines for Local Agency Reimbursement](#)).

The following are considered unrecoverable deficiencies on A&E consultant contracts and shall result in the withdrawal of all or a portion of the federal and/or state funds from the project:

- No records or documentation to support consultant procurement.
- No support for scoring and/or ranking of consultants.

Two or more of the following are considered unrecoverable deficiencies on A&E consultant contracts and shall result in the withdrawal of all or a portion of the federal and/or state funds from the project:

- No justification for sole-sourcing.
- Could not support contract was advertised at all.
- No independent cost estimate performed.
- Local preference used.
- Price used as an evaluation factor.
- Scoring evaluation factors or weights do not match those identified in the RFQ/RFP.
- Did not include any evaluation factors in the RFQ/RFP.
- Cost proposal does not break down job classifications and types of costs by amount and/or rates.
- Missing Title VI requirements [per Title 23 CFR 172.9 (c)(1)(vi)] from contracts (Federal Funded Only).
- Missing DBE requirements [per Title 23 CFR 172.9 (c)(1)(vii)] from contracts (Federal Funded Only).

20.3 SANCTIONS

All Major Project Deficiencies (until they are corrected) and Unrecoverable Project Deficiencies require sanctions by Caltrans. Process Review Committee or DLAE shall impose one of the following sanctions, depending on the severity and circumstances of the deficiency:

- Freeze on all future programming of federal or state funds until corrective action is implemented.
- Freeze progress payments for a federal-aid project until the project's Major Project Deficiency is corrected.
- Percentage of federal or state funds for a project withdrawn.
- All federal or state funds withdrawn from a project.

DLAE will be responsible for notifying the local agency of sanctions imposed.

Whether or not sanctions are imposed against a local agency, the local agency shall be expected to develop an action plan and implement it to correct the deficiencies. Local agencies will be given adequate time to develop and implement their action plan. Failure to correct the deficiencies in a timely manner shall be grounds for imposing additional sanctions.

20.4 LOCAL ASSISTANCE DISPUTE RESOLUTION PROCESS

The Local Assistance Dispute Resolution Process (LADRP) is an appeal process for local agencies to use when they disagree with the decision they receive from the Caltrans district office concerning their local assistance funded project on or off the State Highway System (SHS). Prompt payment rules may be suspended when the local agency enters into the LADRP. This process is intended to address all local assistance funded project disputes off the SHS.

Chapter 6 Highway Bridge Program

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EXHIBITS

Exhibits applicable to this Chapter can be found at:

<http://www.dot.ca.gov/hq/LocalPrograms/hbrr99/hbrr99a.htm#forms>

[*Exhibit 6-A HBP Application/Scope Definition Form*](#)

[*Exhibit 6-B HBP Special Cost Approval Checklist*](#)

[*Exhibit 6-C PIN for Barrier Rail Replacement Projects*](#)

[Exhibit 6-D HBP Scope/Cost/Schedule Change Request](#)

[Exhibit 6-E Sample Funding Commitment Letter](#)

[Exhibit 6-F Sample Funding Sheet for Commitment Letter](#)

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Chapter 6 Highway Bridge Program

6.1 INTRODUCTION

The Highway Bridge Program (HBP) is a safety program that provides federal-aid to local agencies to replace and rehabilitate deficient locally owned public highway bridges. This chapter explains eligibility requirements, the reimbursable scopes of work, how to apply for HBP or Bridge Preventive Maintenance Program (BPMP), and the general programming process.

This program is funded by the Federal Highway Administration (FHWA) authorized by United State Code (USC) Title 23. This program is subject to Obligation Authority (OA) limits. See [Local Assistance Program Guidelines \(LAPG\), Chapter 2: Financing the Federal-Aid Highway Program, Section 2.2](#), for more information regarding OA.

The programming of HBP projects is managed through a 15-year plan. This multi-year plan provides the HBP funding to be programmed in the Federal Statewide Transportation Improvement Program (FSTIP). The FSTIP provides four years of HBP programming. See [LAPG Chapter 2: Financing the Federal-Aid Highway Program](#), Section 2.3, for information regarding what type of HBP projects may use the HBP programmed in the FSTIP.

The HBP has many statutory, regulatory, and policy limitations on how HBP funds can be utilized on bridge projects. The purpose of these rules is to ensure that federal funds are dedicated to solving bridge safety problems. Since local agencies are financially accountable for meeting these requirements, it is essential that local agency decision-makers understand these guidelines.

The intent of the HBP is to remove structural deficiencies from existing local highway bridges to keep the traveling public safe. The HBP goal is to keep local highway bridges in good condition through a preventive maintenance program, to fix bridges that are in fair condition. A bridge that is in poor condition must be considered for rehabilitation or replacement.

Local agencies assume full liability for the safety of their bridges and eligibility of participating costs of their projects.

Definition of Terms

AASHTO - American Association of State Highway and Transportation Officials

AC- Advance Construction. The local agencies provide local funds initially to be programmed with a conversion to federal funding at a later time.

ADT- Average Daily Traffic

BIC - Bridge Investment Credit

CEQA - California Environmental Quality Act (1970)

CCO - Construction Change Order

Authorization to Proceed - Federal project funding eligibility approval for a particular phase of work by the Federal Highway Administration.

CFR - Code of Federal Regulations. The CFR are not legislated statutes but do have the force of law.

BIR - Bridge Inspection Report

Bridge - 23 CFR 650.305 defines a bridge as a structure including supports erected over a depression or an obstruction, such as water, highway, or railway, and having a track or passageway for carrying traffic or other moving loads, and having an opening measured along the center of the roadway of more than 20 feet between under copings of abutments or spring lines of arches, or extreme ends of openings for multiple boxes; it may also include multiple pipes, where the clear distance between openings is less than half of the smaller contiguous opening.

BPMP - Bridge Preventive Maintenance Program. A program to provide federal funding for preventive maintenance for bridges that are in good condition.

DLAE - District Local Assistance Engineer.

E-76 - Electronic Authorization to Proceed

EPSP - Expedited Project Selection Procedures

Fair Condition - When the lowest rating of the 3 National Bridge Inventory (NBI) items for a bridge (Items 58-Deck, 59-Superstructure, 60-Substructure) is 5 or 6, the bridge will be classified as Fair. When the rating of NBI item for a culvert (Item 62-Culverts) is 5 or 6, the culvert will be classified as Fair.

FAST Act - Fixing America's Surface Transportation Act was signed into law by President Obama on December 4, 2015 providing funding for highways, highway safety and public transportation for the six year period 2016-2020.

FHWA - Federal Highway Administration

FSTIP - Federal Statewide Transportation Improvement Program, a four-year list of all state and local transportation projects proposed for federal surface transportation funding with the state. This is developed by Caltrans in cooperation with MPOs and in consultation with local non-urbanized government. The FSTIP, includes FTIPs, which are incorporated by reference and other rural federally funded projects. The FSTIP, including incorporated FTIPs, is only valid for use after FHWA/FTA approval.

Good Condition - When the lowest rating of the 3 NBI items for a bridge (Items 58-Deck, 59-Superstructure, 60-Substructure) is 7, 8, or 9 the bridge will be classified as Good. When the rating of NBI item for a culvert (Item 62-Culverts) is 7, 8, or 9, the culvert will be classified as Good.

High Cost Bridge Project - A bridge project with a Right of Way or Construction phase in excess of \$20 million of federal funds.

LAPG - Local Assistance Program Guidelines manual provides local project sponsors with complete description of the federal and state programs available for financing local public transportation related projects.

LAPM - Local Assistance Procedures Manual describes the processes, procedures, documents, authorization, approvals and certifications, which are required in order to receive federal-aid and/or state funds for many types of local transportation projects.

Mandatory Seismic Retrofit Program - The 1989 Mandatory Seismic Safety Retrofit program is a finite list of projects established under the Proposition 1B (Prop 1B) funding program

MPO - Metropolitan Planning Organization.

NRHP - National Register of Historic Places. A listing of historically or archaeologically significant sites maintained by each state. The NRHP does not contain all significant sites. It only lists those currently identified and that the owner has allowed to be listed. There are many eligible sites that have not been registered, either because they have not been found or they have not yet been nominated.

NBI - National Bridge Inventory. This is an FHWA database containing bridge information and inspection data for all highway bridges on public roads, on and off Federal-aid highways that are subject to the National Bridge Inspection Standards.

NBIS - National Bridge Inspection Standards. 23 CFR 650 Subpart C.

NCHRP - National Cooperative Highway Research Program. Administered by the Transportation Research Board (TRB) and sponsored by the member departments (i.e., individual state departments of transportation) of AASHTO and FHWA. The NCHRP was created in 1962 to conduct research in acute problem areas that affect highway planning, design, construction, operation, and maintenance nationwide.

NEPA - National Environmental Policy Act. Federal environmental law requiring federal agencies to consider the environmental impacts of their action, evaluate least damaging alternatives and ensure decisions are made in the public's best interest based on a balanced consideration of the need for safe and efficient transportation.

NHS - National Highway System. Legislative designation of highways that are of national importance.

Nearly Ready to Advertise - A project is considered "nearly ready to advertise" when NEPA is clear, ROW will be certified prior to June 1 of the current federal fiscal year and completion of final design plans are at 95% or greater. The ROW certification must be verified with Caltrans ROW staff.

Non-Participating Cost: A cost that is included in the project, but is not eligible for Federal reimbursement.

OBBSP - Office of Bridge, Bond and Safety Programs

OPI - Office of Project Implementation

Off System - Functional classification given to rural and urban local streets and roads and rural minor collectors, these routes are off the federal-aid system.

On System - Functional classification given to all roadways that are on the federal-aid system.

Participating Costs - A participating cost is an actual project cost paid for by the sponsoring local agency that is eligible for federal reimbursement in compliance with laws, regulations and policies.

PCI - Paint Condition Index is a 0–100 ranking system that utilizes the current paint condition of the various painted steel elements on a bridge. The PCI weighs the quantity and condition states of the various painted elements as well as the importance of that element in the bridge.

PE - Preliminary Engineering phase includes all project initiation and development activities undertaken after its inclusion in the approved FSTIP through the completion of PS&E. It may include preliminary Right of Way engineering and investigations necessary to complete the environmental document.

PS&E - Plans, Specifications and Estimate.

Poor Condition - When the lowest rating of the 3 NBI items for a bridge (Items 58-Deck, 59-Superstructure, 60-Substructure) is 4, 3, 2, 1, or 0, the bridge will be classified as Poor. When the rating of NBI item for a culvert (Item 62-Culverts) is 4, 3, 2, 1, or 0, the culvert will be classified as Poor.

PM - Preventive Maintenance. See [BPMP Guidelines, December 2015 \(12/23/2015\)](#) to determine eligibility for HBP participation.

Public Road - Any road or street under the jurisdiction of and maintained by a public authority and open to public travel.

Ready to Advertise - A project that has an approved NEPA document, approved Right of Way Certification and PS&E is complete.

RTPA - Regional Transportation Planning Agency.

R/W - Right of Way. This phase includes the work necessary to appraise and acquire project right of way, relocate individuals or businesses, and revise or relocate utilities.

Scour Critical - A bridge with a foundation element that has been determined to be unstable for the observed or evaluated scour condition. (When the NBI item 113 is 3 or less.)

SHS - State Highway System. The network of public highway systems that is owned and maintained by the California Department of Transportation (Caltrans).

Structurally Deficient (SD) - A classification given to a bridge which has any component in poor or worse condition. (23 CFR 490.405)

SI&A - Structure Inventory and Appraisal

SLA - Caltrans Structures Local Assistance. See Section 6.8.

Sufficiency Rating (SR) - A method of evaluating highway bridge data by a complex formula defined in Appendix B of the National Bridge Inventory Coding Guide.

STIP - State Transportation Improvement Program. The STIP is a five year list of projects proposed in RTIPS and the Proposed STIP that are approved and adopted by the California Transportation Commission.

STBGP - Surface Transportation Block Grant Program. A category of federal-aid for general purpose transportation uses. See 23 USC 133.

USC - United State Code. The USC is the codification by subject matter of the general and permanent laws of the United States. Title 23 relates to Highways.

VA - Value Engineering Analysis – The systematic process of review and analysis of a project during the concept and design phases, by a multi-disciplined team of persons not involved in the project. For local HBP projects, a VA should be done when either the R/W or construction phase exceed \$20 million of federal funds. See [LAPM Chapter 12: Plans, Specifications, & Estimate](#), Section 12.5 for further procedures.

HBP Website

The HBP website provides information and references for local bridge owners. The website contains training opportunities, listings of local agency bridges, the HBP FTIP/FSTIP Program Lists, various reports, as well as the HBP and BPMP guidelines. The HBP website can be accessed from the following link:

www.dot.ca.gov/hq/LocalPrograms/hbrr99/hbrr99a.htm

Eligibility Requirements for HBP Funds

To be eligible to receive HBP funds, a bridge must be owned and maintained by a California local agency, in the National Bridge Inventory (NBI), be structurally deficient and have a Sufficiency Rating (SR) less than or equal to 80, or be seismically vulnerable, or scour critical. The information should be obtained from the most current Bridge Inspection Report (BIR) at the time of the application submittal. If a local agency needs to obtain a copy of a BIR, they should contact their DLAE.

Applying for HBP Funds

The steps to initiate and develop a HBP project are discussed throughout this chapter. A local agency should be knowledgeable about their bridge inventory and utilize an asset management system to prioritize their bridges for inclusion into the HBP for rehabilitation or replacement or into a BPMP Plan list.

Agencies that have executed or that have the authority to execute State/Local Federal-Aid Master Agreements with Caltrans may apply for HBP funds. Federal funds provided under these guidelines may only be spent on bridges carrying public highways (including local streets and roads) not included in the State Highway System and not owned by Caltrans.

The following is an overview of the process:

1. The local agency should contact the DLAE to review the program requirements. The DLAE may schedule an optional pre-field review meeting and coordinate with SLA as needed.
2. The local agency sends an application, Exhibit 6-A, for HBP funds or a BPMP plan list and certification letter to the DLAE.

3. The DLAE reviews the application package for minimum requirements, makes recommendations, and forwards copies of the application to HBP Managers and if requested by the local agency to SLA.
4. If the project is eligible, it gets entered into the HBP database. HBP Managers review and notify the DLAE the candidate project can be accepted into the program. After the project is adopted into the FTIP by the MPO, the PE funds can be authorized. See [Section 6.7: Project Implementation](#).
5. The DLAE coordinates a field review with the local agency, if required. It may be scheduled after consultants have been retained by the local agency. The scheduling of optional cursory PS&E reviews should be discussed.
6. Work begins on the preliminary design and environmental process.
7. Once the environmental documents are approved, the local agency may commence with final design and proceed with R/W if needed.
8. When the PS&E is 65% complete, the local agency may request that Caltrans perform an optional cursory review of the PS&E. If this service is requested, the PS&E should be sent to the DLAE. The local agency must be clear regarding review deadlines to ensure the project meets the schedule of the local agency.
9. Once R/W is certified and the PS&E package is complete, the local agency may submit the request for construction authorization.
10. The DLAE processes the request for authorization and notifies the local agency. The local agency may now advertise the project.

6.2 ROLES AND RESPONSIBILITIES

Local Agency

The local agency is the project manager and is responsible for all aspects of the project. They assume full liability for the safety of their bridges and eligibility of participating costs of their projects. The local agency is accountable for how it spends federal funds on eligible projects and is responsible for following these program guidelines and the procedures in the LAPM.

The local agency is responsible for requesting Caltrans funding approval for certain participating costs identified in [Exhibit 6-B: HBP Special Cost Approval Checklist](#).

Those local agencies that are performing their own seismic analysis and design are responsible for developing seismic retrofit projects from start to finish. This includes, but is not limited to, initiating the projects, performing (or overseeing consultant performance of) seismic analyses, presenting the retrofit strategy to Caltrans at mandatory strategy meetings, ensuring environmental compliance, preparing PS&E, advertising and administering the construction contracts.

Caltrans, District Local Assistance Engineer

The DLAE is the point of contact for all local assistance projects. Written communication, includes email, from Caltrans to the local agency that provides official policy direction (including eligibility, scope, or funding decisions) to the local agency will be from the DLAE. Copies of all written correspondence and appropriate email will be kept in the DLAE project files.

The DLAE is responsible for providing expertise in understanding these program guidelines and the federal process as documented in the LAPM and the LAPG.

The DLAE is also responsible for ensuring that all “official” written (including e-mail) controversial correspondence to local agencies is “cc’d” to the HBP Managers and the Office of Project Implementation. Controversial correspondence includes any denial of funds to a local agency or an action on the part of Caltrans that delays the construction authorization of a local HBP project.

The DLAE is to coordinate all Caltrans internal activities for local assistance projects. The DLAE is pro-active in ensuring that local agencies are aware of HBP scoping issues and offering help to local agency to resolve those issues. The DLAE is to utilize the HBP Managers, Office of Project Implementation, SLA, District geometricians, District R/W and Environmental experts, and be familiar with the standards and AASHTO references identified in [LAPM Chapter 11: Design Guidance](#).

The DLAE is also responsible for ensuring that local agencies are aware of all Caltrans services available to local agencies that can improve the quality and timely delivery of HBP projects.

For current names, addresses, and email addresses, see the DLAE website:
<http://www.dot.ca.gov/hq/LocalPrograms/dlae.htm>.

Caltrans, Structures Local Assistance

SLA provides and coordinates technical services related to bridge projects in the areas of field reviews, feasibility studies, cost estimation, inspection, design, analysis, construction, consultant selection and contracting, including expertise in explaining these program guidelines. SLA works directly with local agency staff and management in coordination with the DLAE. However, all Caltrans official correspondence to local agencies is transmitted through the DLAE and HBP Managers.

SLA, at the request of the DLAEs, is responsible for working with local agencies in promoting the HBP and helping local agencies identify deficient bridges. SLA, in this function, should also promote the above mentioned services to improve the quality and timely delivery of local HBP projects.

Note: When SLA receives questions regarding bridge inspections, SLA may forward the questions to the appropriate bridge inspection engineering staff (either Caltrans staff or local agency staff authorized to inspect bridges).

Caltrans, Office of Bridge, Bond, and Safety Programs

HBP Managers work in this office and this office is responsible for:

- Programming funds for local agency projects.
- Approving special costs identified in [Exhibit 6-B: HBP Special Cost Approval Checklist](#).
- Managing the statewide Local HBP apportionment fund balance.
- Establishing program policy and procedures to maximize the use of federal funds and comply with federal requirements.
- Working with the DLAE and SLA to resolve difficult project related policy issues.
- Conducting program reviews to determine local agency compliance with federal and State laws, regulations, and policy.
- High Cost Bridge Projects.

Caltrans, Office of Project Implementation

This office is responsible for the actual authorization of federal funds and the development of program supplemental agreements on projects processed by the DLAE.

It is the responsibility of this office to ensure that federal funds are authorized on projects in compliance with the LAPM. The OPI relies on information provided by the HBP Managers and the DLAE regarding the amount of participating HBP funds on a project. Funds authorized on a project shall not exceed amounts programmed in the HBP program lists.

6.3 REIMBURSABLE PROJECT SCOPES

Local agencies that develop HBP projects are required to ensure their projects are cost-effective and that the project scope address the bridge deficiencies. The three general project scopes participating under the HBP are bridge rehabilitation, replacement and seismic safety retrofit. However, the HBP does allow some limited stand-alone project scopes for painting, scour countermeasure and local seismic safety retrofit.

Bridge Inspection Program

The Bridge Inspection Program is a federally mandated program established under 23 USC 144(b), 23 USC 144(d), and 23 USC 151.

The intent of the program is to:

- Establish an inventory of bridges carrying public highways.
- Help local agencies manage their bridges.
- Identify safety problems related to bridges.

Generally, each bridge in the State carrying a public highway that has a minimum span of greater than 20 feet is inspected every two years. Caltrans maintains the master bridge inventory for the State. The statewide inventory of bridges is available from the HBP website. Whenever a bridge is inspected, the owner of the bridge is sent a bridge inspection report that

discusses the health of the bridge including recommended maintenance work. The report also includes a SI&A sheet. The SI&A sheet provides all the detailed ratings required by federal law.

Local agencies may request copies of the bridge inspection reports from the DLAE or SLA. Agencies that inspect their own bridges should work with their own inspection departments to acquire the reports.

A “deficient” bridge is defined as being SD.

When developing a rehabilitation or replacement strategy for a bridge it is necessary to understand the current deficiencies with the bridge to develop an appropriate scope of work that resolves the deficiencies of the bridge.

Local Seismic Safety Retrofit

The purpose of this scope of work is to address local bridge seismic safety concerns of publically owned bridges that may be in danger of collapse under a maximum credible earthquake. There are two types of seismic safety retrofit projects, Mandatory and Voluntary.

The 1989 Mandatory Seismic Safety Retrofit program is a finite list of projects established under the Proposition 1B (Prop 1B) funding program. The funds for these projects are a combination of HBP and Prop 1B as the local match. New projects cannot be added to this list and are Voluntary.

For Voluntary Seismic Safety Retrofit projects when a local agency has new information about a bridge such as a new fault or vulnerability, and if they perform self-funded seismic analysis calculations that shows a potential for collapse of the bridge under a maximum credible earthquake, they should submit the analysis to Caltrans for review. If Caltrans concurs with the submitted document, a voluntary seismic retrofit project may be programmed under HBP for further analysis and possible retrofit. Once the voluntary seismic retrofit project is programmed, the process is identical to the Mandatory Seismic Safety Retrofit projects. See the Seismic Safety Retrofit flowchart below for an overview of the necessary processes.

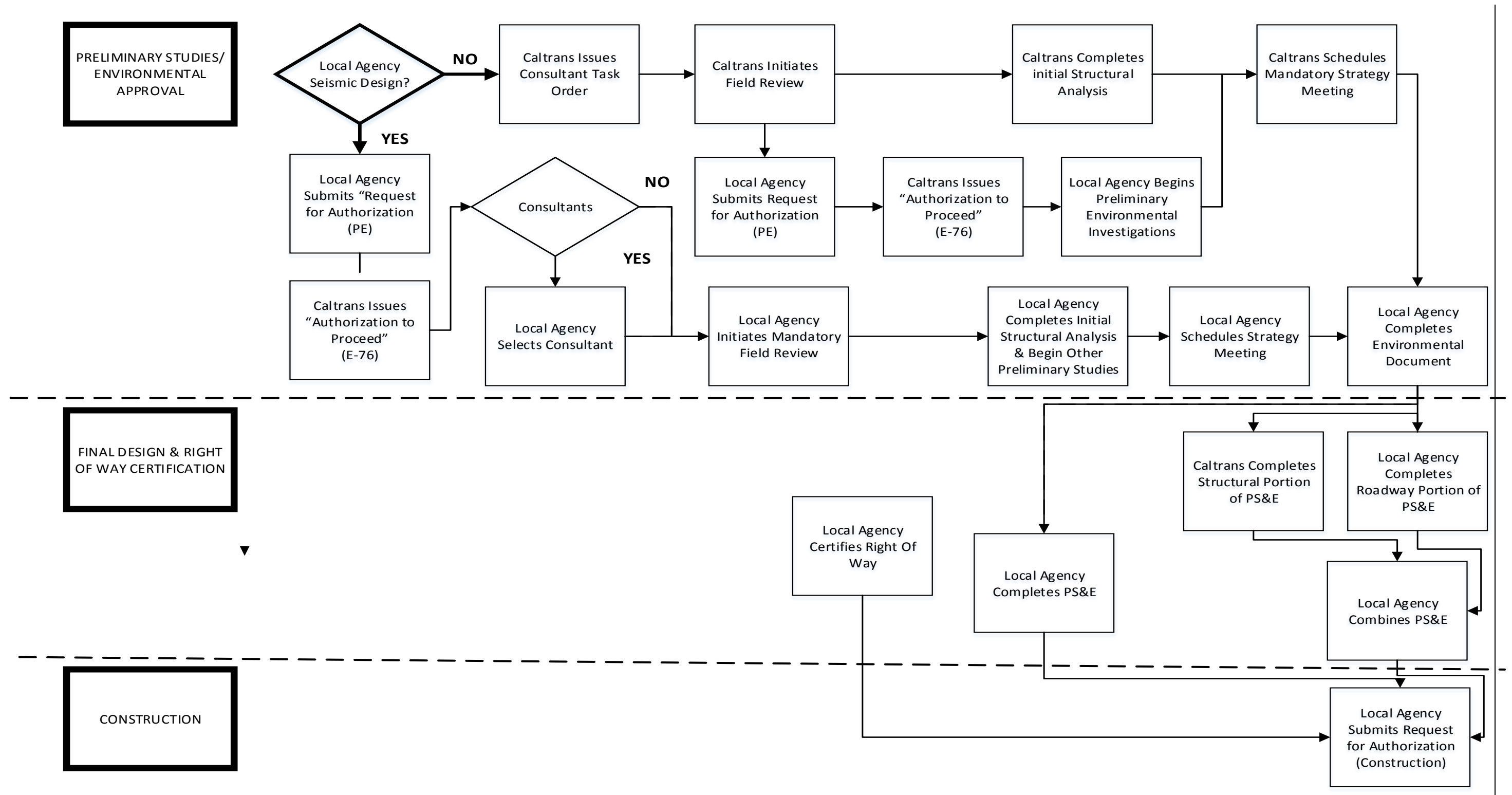


Figure 6-1: Seismic Safety Retrofit Flowchart

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Bridge Rehabilitation

Bridges must be rated SD with a $SR \leq 80$ to be eligible candidates for rehabilitation. See the HBP website for instructions on determining SD and SR. All deficiencies of the bridge shall be reviewed to determine the project scope. See Section 6.9 regarding how the ratings are derived from the bridge inspection report data.

1. Rehabilitation funding is for major reconstruction of a bridge to meet current standards anticipating the transportation needs for a minimum of 10 years into the future. The development of a rehabilitation project shall correct major deficiencies including structural problems, load capacity improvement, bridge deck replacement, deficient deck geometry, seismic deficiencies, scour problems, and painting. Major reconstruction not triggered by the above deficiencies is not participating. (23 CFR 650.405(b)(2))
2. Constructing additional lanes (including turn lanes) on an existing bridge requires approval by the HBP Managers. Local agencies shall raise this issue for Caltrans review through the DLAE by providing supporting documentation demonstrating the need for widening. Supporting documentation may include discussion of specific AASHTO standards, planning studies, and master plans developed by MPOs or RTPAs. Discussion of proposed widening (including construction schedule) of the transportation corridor shall also be included if the corridor has not yet been widened to current standards.

Local agencies must have prior RTPA approval to program the capacity increasing project into the HBP.

3. Bridge replacement may be an appropriate “rehabilitation” option if a detailed cost analysis (HBP participating if requested by HBP Managers) shows that replacement is the most cost-effective solution. Cost-effectiveness studies may include life cycle cost analysis. SLA written concurrence is required for bridge replacement projects where the $SR > 50$. Concurrence must be obtained prior to approving the environmental documents and proceeding with final design and R/W. The local agency shall discuss the level of detail in the cost analysis with SLA prior to its development. The level of detail will vary on a case-by-case basis. In cases where rehabilitation is not constructible or where the cost-effectiveness is self-evident, the detailed cost analysis may not be required, but SLA concurrence will still be required. HBP Managers concurrence is required prior to SLA written concurrence to the DLAE.
4. The cost comparison between rehabilitation and replacement shall not be the sole factor in deciding the best alternative. In special cases where the best alternative is not the most cost-effective, HBP eligibility approval shall be elevated to the HBP Managers through the DLAE.

Bridge Replacement

1. Bridges must be rated SD with the $SR < 50$ to be eligible candidate for replacement.
2. Even though a bridge may be eligible for replacement, rehabilitation shall still be considered to ensure the most cost-effective solution is selected. When appropriate, a

cost analysis should be included in the local agency's project file. The SR, by itself, shall not be the sole justification for bridge replacement. HBP Managers' prior approval is required to ensure the cost analysis is HBP eligible.

Bridge Painting

The purpose of this scope of work is to help local agencies fund eligible bridge painting projects as a stand-alone scope of work when the local agency does not wish to rehabilitate or replace a subject bridge.

1. The PCI for a bridge must be 65 or less or SLA must provide concurrence for a bridge painting project to participate in the HBP. The PCI is available from the bridge inventory listing from the HBP website:
<http://www.dot.ca.gov/hq/structur/strmaint/local/localbrlist.pdf>
2. Minor rehabilitation of corroded structural members is an eligible participating cost under stand-alone paint projects. The cost of the rehabilitation effort shall not exceed 10 percent of the cost of the painting project (paint contract items only).
3. The costs of resolving major deficiencies causing the bridge to be SD are not participating in a painting project. If the bridge is SD with SR<80, rehabilitation should be considered prior to the development of a painting project. Background information supporting this consideration should be documented in the local agency's project file.
4. HBP funded bridge painting is for major scopes of work. Minor spot painting is considered preventive maintenance and is not participating work under the HBP. Minor spot painting can be programmed under the BPMP.

Scour Countermeasure

The purpose of this scope of work is to help local agencies implement scour countermeasures as a stand-alone scope of work when the local agency does not wish to rehabilitate or replace a subject bridge.

1. To receive funds the bridge must have a rating of NBI Item 113 ≤ 3 or SMI Hydraulics must provide a recommendation that scour countermeasure is necessary.
2. The participating cost of a scour countermeasure project is limited to installation of monitoring devices and/or modifying the bridge foundation or bank protection to resist scour damage. The repair of damage caused by scour without mitigating the scour problem is considered maintenance work and is not participating.
3. Correcting major deficiencies on a bridge is not a requirement of a scour countermeasure project. If the bridge is eligible for rehabilitation or replacement it should be considered prior to the development of a scour countermeasure project.

Bridge Preventive Maintenance Program

The purpose of program is to help local agencies fund bridge preventive maintenance work to keep their bridges in good condition. There are specific requirements for a local agency to request funding for BPMP projects, but the total cost of the proposed work needs to exceed

\$100,000 for programming purposes. The BPMP has separate guidance that can be found on the HBP website that layout the application requirements and timelines for submittal. Once programmed, BPMP projects follow the policy found in this chapter. See [BPMP Guidelines](#) for preventive maintenance requirements.

6.4 ELIGIBLE COSTS

Participating Cost Limits

To ensure the purpose of the HBP is being fulfilled by local agency projects, certain costs and types of work have participation limits. These limits apply to all projects funded under this chapter. See [Exhibit 6-B: HBP Special Cost Approval Checklist](#) for a summary of participating costs that require specific HBP Managers approval.

Approach Roadway Work

Federal participation for approach roadway shall be limited to the minimum necessary to make the facility operable consistent with current design standards. The approach roadway length is measured from the bridge abutment to the touchdown on the existing roadway alignment. The approach length from each abutment in excess of 200ft for on federal-aid system projects and 400ft for off federal-aid system projects requires advance approval by the HBP Managers.

The following quote from the CFR identifies work that is not eligible for participation under the HBP:

"23 CFR 650.405(2)(c) Ineligible work. Except as otherwise prescribed by the Administrator, the costs of long approach fills, causeways, connecting roadways, interchanges, ramps, and other extensive earth structures, when constructed beyond the attainable touchdown point, are not eligible under the bridge program."

Preliminary Engineering (PE) Costs

HBP funds may not be used for general feasibility or general transportation corridor planning studies even if federally deficient bridges are on a corridor being studied for improvement. HBP participation in PE is for the development of specific HBP projects where the local agency is required to deliver a construction project.

Typical PE costs run 15-18% of bridge construction costs and Federal participation of total PE costs is limited to actual costs up to 25% of the estimated participating construction cost (excluding construction engineering and contingency). Participation beyond 25% must be approved by the HBP Managers.

HBP participation in consultant contract management and quality assurance costs shall not exceed 15% of a consultant's total charges.

For exceptions, local agencies must submit a justification in writing to the DLAE. The DLAE will review the request, provide recommendations and forward to the HBP Managers for approval.

For additional information, see [LAPM Chapter 3: Project Authorization](#), Section 3.1, for eligible participating work.

Contingency Including Supplementary Work Costs

HBP participation in Contingency and Supplementary Work in the planning phase of a project should not exceed 25% of the participating construction contract item costs. Contingency and Supplementary Work in the final engineer's estimate must not exceed 10% of the participating construction contract item costs, unless approved by the HBP Managers.

Construction Engineering Costs

HBP participation in total Construction Engineering must not exceed 15% of the participating construction contract item costs, unless approved by the HBP Managers. Local agencies must contact the DLAE for assistance.

Architectural Treatments

Architectural treatments (decorative fascia, tile work, architectural lighting, exotic bridge railing, belvederes etc.) generally are not participating. Location, public input, availability of funds, and cost-effectiveness play a role in the determination of HBP participation.

Architectural treatments should not exceed 2% of the total construction contract item cost. Local agencies are required to justify architectural treatments in their project files for future audits.

Local agencies shall notify the DLAE to request HBP participation of architectural treatments.

Environmental Mitigation

HBP funds can be used to reimburse local agencies for environmental mitigations for which the mitigation proposed actually results from the bridge project. Mitigations beyond the bridge project limits will require approval of the HBP Managers prior to sign off of the environmental document. The Caltrans District local assistance Senior Environmental Planner (SEP) is responsible for advising local agencies, the DLAE and the HBP Managers when proposed mitigation is excessive and/or if any of their mitigation may not be reimbursed with HBP funds.

HBP funds may be used for mitigation measures necessary to mitigate adverse impacts when the DLAE, HBP Manager and SEP mutually determines that:

- The impacts for which the mitigation is proposed actually result from the Administration action; and
- The proposed mitigation represents a reasonable public expenditure after considering the impacts of the action and the benefits of the proposed mitigation measures.

The following items may be considered eligible for HBP funding:

- Mitigation that is accomplished within the scope of the project.
- Plant establishment and monitoring up to three years to allow for the permanent establishment of plants. The funding of plant establishment may be accomplished using an escrow account. Plant establishment and monitoring longer than three years must be approved by the SEP, DLAE and HBP Manager.

- Other participating mitigation, such as land bank mitigation purchases, may be required and must be documented in the NEPA documents and be approved by FHWA.

Federal funds (including HBP funds) may not be used for:

- Endowment funds for biological monitoring or maintenance activities in perpetuity;
- Maintenance work. Maintenance is the fiscal obligation of the local agency.

Local agencies should contact the DLAE for detailed discussion and field review to scope appropriate mitigation strategies. The DLAE will work with the District environmental reviewer and the HBP Managers to resolve difficult issues.

“Replaced” Bridges to Remain In Place

Sometimes when a bridge is “replaced” with a new bridge on a new alignment but on the same corridor, the old bridge does not need to be demolished. The old bridge can remain in place to carry pedestrian and bicycle traffic. The old bridge may not be rehabilitated with HBP funds unless it is of historical significance and is limited to the estimated cost of removal.

The CFR provides the legal background and an additional example:

23 CFR 650.411(c)(2) Whenever a deficient bridge is replaced or its deficiency alleviated by a new bridge under the bridge program, the deficient bridge shall either be dismantled or demolished or its use limited to the type and volume of traffic the structure can safely service over its remaining life. For example, if the only deficiency of the existing structure is inadequate roadway width and the combination of the new and existing structure can be made to meet current standards for the volume of traffic the facility will carry over its design life, the existing bridge may remain in place and be incorporated into the system.

Proposed work outside these examples requires HBP Managers approval. The local agency is responsible for requesting Caltrans approval.

Railroad Car Bridges

Permanent installation of railroad car bridges is not HBP eligible. Temporary railroad car bridges required for construction will be eligible.

The basis for not allowing HBP participation in the permanent installation of railroad car bridges is the following:

- It is very difficult for an engineer to certify that the structural members can meet Caltrans/ AASHTO structural design standards.
- It is difficult to establish material properties.
- There are potential problems associated with meeting AASHTO minimum geometrics.
- It is expensive to inspect railroad car bridges due to the number of structural elements and welds.

Local agencies are encouraged to consider slab deck bridges as an appropriate cost-effective alternative.

Seismic Safety Retrofit Projects with Different Scope

A local agency may decide to develop a construction project that is more extensive than that approved at the strategy meeting. For example, a local agency may choose to replace a bridge when the strategy meeting recommended retrofit. Agencies may also expand the retrofit project to design to a higher performance standard than no-collapse, or to include bridge rehabilitation to address general bridge deficiencies. When these situations occur, the local agency is responsible for the extra cost beyond the program's committed funding towards the no-collapse retrofit project as recommended by the strategy. The program's funding commitment is the cost estimate included in the final strategy approval document. This funding commitment may be increased if additional cost items needed to complete the recommended project are identified by the local agency. Caltrans DLAEs and HBP Managers will review these additional costs. Appropriate costs will be allowed and added to the total project cost.

If a bridge qualifies as an HBP project and the extra work qualifies for HBP program funding, the extra cost may be participating. On combined Mandatory Seismic Safety Retrofit projects, the local agency should take the project to the strategy meeting to establish estimated capital costs for the seismic project. For capital cost of the combined project (R/W and construction), the state will provide the matching funds up to the estimated seismic retrofit cost established at the strategy meeting and the local agency will provide the matching funds to the cost in excess of the seismic cost.

Bicycle/Pedestrian Access

HBP funds are eligible to accommodate bicycle and pedestrian access on replacement and rehabilitation bridge projects, however the funds will be reimbursed at the minimum American Association of State Highway and Transportation Officials (AASHTO) Standard Specification for Highway Bridges, or Caltrans Highway Design Manual design standards for bicycle and pedestrian facilities which is typically 6 feet. When a bridge is being replaced or going under major reconstruction with HBP funds, replacing bicycle and pedestrian facilities in-kind, or providing new bike and pedestrian facilities as needed for consistency with the existing corridor is eligible for HBP funds. In addition, HBP funds can be used to provide bicycle and pedestrian access on bridges that are within corridors that have adopted bicycle and pedestrian corridor plans.

If a local agency disagrees with an eligibility determination, and is unable to reach agreement with the HBP Program Managers, they may appeal to the Advisory Committee. The local agency should prepare all necessary handouts and presentations, and contact one of our HBP Program Managers to schedule a time in the next available Advisory Committee meeting.

For rehabilitation projects, HBP may participate in the widening when other major deck reconstruction or lane/shoulder widening is needed. (Costs for bridge widening for bicycle facilities only are not participating.)

New bicycle facilities must be identified as "betterments" in the HBP application ([Exhibit 6-A: HBP Application/Scope Definition Form](#)) and must be justified. The justification must show that the betterments are needed by the community and are appropriate for the location.

Temporary Bridges

If a project is programmed and a bridge collapses, the HBP may participate in the installation and rental of a temporary bridge for up to three years. Rental costs exceeding three years will not be HBP reimbursable. Special covenants shall be included in the E76 and program supplemental agreement to this effect.

All NEPA documents must be approved according to the standard process ([LAPM Chapter 6: Environmental Procedures](#)). Additionally, the installation of the temporary bridge shall not preclude other more cost-effective bridge replacement options. In essence, the scope of the final project shall be determined prior to the installation of the temporary bridge.

The basis of this eligibility determination is that the work to install the temporary bridge is simply an advance of the detour work needed for the final bridge replacement construction. These participating costs would have occurred anyway; therefore, the costs are participating.

Limited HBP Participation in Replacement Projects

When an agency intends to design a bridge project beyond the recommended standards or intends a betterment in a design element (i.e. sidewalks exceeding the 6-foot minimum) or when a bridge is eligible for replacement and a cost analysis shows that a rehabilitation alternative is more cost-effective, the HBP may participate in the project up to the costs of a minimum standard project as in the rehabilitation project (support and capital costs) with the local agency using other funds for the remainder. Other funds could be but not limited to STBGP, STIP, or local funds. Note that federal funds may not be used to match federal funds.

Special Historic Bridge Work

It is the intent of the HBP to place value on maintaining the historic integrity of qualifying historic bridges. The requirements associated with bridge rehabilitation and replacement apply to this section, except where discussed below.

1. A “historic bridge” is a bridge that is listed on or eligible for listing on the National Register of Historic Places. This data may be downloaded from the Structure Maintenance website at <http://www.dot.ca.gov/hq/structur/strmaint/historic.htm>. For qualifying bridges, NBI data item 37, Historical Significance, is rated 1 or 2.
2. 23 USC 144(g)(4)(A) authorizes the use of HBP funds for the reasonable costs associated with actions to preserve, or reduce the impact of a HBP project on the historical integrity of a designated bridge.
3. When a rehabilitation project is proposed the local agency shall notify the DLAE to ensure that the proposed work is participating under the HBP. The DLAE will consult with SLA to ensure all reasonable rehabilitation strategies have been considered. Local agencies will be required to process the appropriate design decisions per [LAPM Chapter 11: Design Guidance](#), as necessary.
4. For a historic bridge replacement project, where a new bridge will be on a new alignment, the historic bridge may be rehabilitated using HBP funds. The participating costs of the rehabilitation shall not exceed the estimated cost of demolition of the historic bridge.

5. A local agency that proposes to demolish a historic bridge for a replacement project with HBP funds shall first make the bridge available for donation to the State, another local agency, or to a private entity. This can be accomplished by notifying the State Historic Preservation Officer, Caltrans, or other cities or counties in the State.

The costs incurred by the local agency to preserve the historic bridge, including funds made available to the receiving entity to enable it to accept the bridge, shall be HBP participating up to an amount not to exceed the cost of demolition. The bridge will no longer be eligible for any federal-aid under Title 23. Local agencies should consider using other federal programs before using HBP for this purpose.

If HBP funds are involved in the preservation of the historic bridge, the donation may only take place if the receiving entity enters into an agreement with the local agency to:

- A. Maintain the bridge and the features that give it its historic significance; and
- B. Assume all future legal and financial responsibility for the bridge, which may include an agreement to hold the local agency harmless in any liability action.

6.5 DESIGN STANDARDS

Standards for local assistance projects are available in [LAPM Chapter 11: Design Guidance](#). Note that the bridge inspection ratings must never be used as design criteria for meeting AASHTO standards. The minimum ratings triggering HBP eligibility do not necessarily reflect good design practice established by AASHTO in the "[A Policy on Geometric Design of Highways and Streets](#)."

The goal of the HBP is to remove deficiencies from bridges through rehabilitation or replacement. On rare occasions, local standards or design decisions appear to compromise the intent of the HBP. For this reason, local agencies, as a condition for HBP funding on all rehabilitation and replacement projects, shall ensure the scope of work will result in a bridge that will not be rated SD. Local standards or design decisions processed under [LAPM Chapter 11: Design Guidance](#), do not provide exemption to this requirement. Decisions based on cost-effectiveness or in the public interest of historic structures must be approved by the HBP Managers.

Basic No-Collapse Standards

The primary philosophy for the Local Seismic Safety Retrofit scope of work is to prevent bridge collapse. The result of a retrofit project should be a bridge that is safe from collapse in the event of a maximum credible earthquake. It is possible that the designer may demonstrate by analysis that a bridge will not collapse without any retrofit. In this case a "do nothing" strategy is an acceptable assessment. The designer must be cautioned to follow all load path demands and assure that no one portion of the resisting structural frame is deficient. Bridge replacement may also be an acceptable strategy when the existing bridge is in poor structural condition and the cost of retrofitting the bridge exceeds the cost of a new bridge with a similar configuration.

Some agencies may desire to retrofit their bridges to a service level performance standard. They would like to retrofit their bridges not only to withstand earthquakes but to suffer only minor damages that could be quickly repaired to allowing resumption of service. This would typically

require extra or different retrofit measures that cost more than the standard no-collapse retrofit. Requests like this will be treated the same way as those with expanded scope. The local agency will be responsible for any cost above and beyond that of the standard no-collapse retrofit.

Exceeding AASHTO Standards

Where proposed design solutions exceed AASHTO's "[A Policy on Geometric Design of Highways and Streets](#)" guidelines, the associated extra costs are not HBP participating. Minimum standards may be exceeded based on intermodal transportation considerations, serviceability issues, and good geometric design practice, and may not be HBP eligible. The decisions and background information driving the design requirements in these cases must be documented in the local agency's project file for future Caltrans review.

Establishing Bridge Geometrics

Many areas of California are experiencing population growth and are demanding more diverse modes of transportation than in recent years. Major capital projects such as bridge rehabilitation and replacement projects can involve difficult environmental problems and expensive construction. For this reason it is important that local agencies properly plan their bridge projects from a transportation facility point of view rather than just a "replace in kind" approach or simply rehabilitate a bridge using current ADTs.

Local agencies need to work closely with their RTPA and consult AASHTO's "A Policy on Geometric Design of Highways and Streets" or "Geometric Design of Very Low Volume Roads" to ensure that their bridge rehabilitation and replacement projects will meet their needs.

Bridge geometrics should be established based on future ADTs, but may also be based on other appropriate transportation planning studies involving Design Hourly Volume analysis or other rational analysis. In many cases RTPAs have adopted transportation models that should be inputted to the geometric design of new or rehabilitation bridge projects.

6.6 APPLICATION PROCESS

Agencies that have executed or that have the authority to execute State/Local Federal-Aid Master Agreements with Caltrans may apply for HBP funds. Federal funds provided under these guidelines may only be spent on bridges carrying public highways (including local streets and roads) not included in the State Highway System and owned by the local agency applying.

When Caltrans receives the application, the DLAE and HBP Managers will review the proposed work to ensure HBP eligibility. Compliance with eligibility requirements is the responsibility of the local agency. This is especially the case where the project evolves during PE phase. Local agencies needing further assistance in eligibility review should ask the DLAE for a field review.

When Caltrans determines that the project is eligible for HBP funds, Caltrans programs the project in the HBP. Once the project is programmed and in an approved FTIP, the local agency may request federal authorization to proceed with PE. PE includes the development of project studies (if needed) prior to NEPA document approval. See [LAPM Chapter 3: Project Authorization](#), for instructions.

Note: Federal authorization for any phase of work must be in place BEFORE reimbursable work is performed. Do not confuse the programming process with the federal authorization process as reimbursement work done prior to authorization is not eligible.

Application Period

For all projects other than those considered High Cost Bridge Projects, applications will be accepted on a continuing basis. High Cost Bridge Project requirements are discussed in [Section 6.7: Project Programming Policy and Procedure](#).

Application Requirements

The following information must be included in a HBP application package:

1. A cover letter from the local agency requesting that Caltrans program the project.
2. The HBP Application form, [Exhibit 6-A: HBP Application/Scope Definition Form](#), and attachments must be complete. Local agencies needing help with the application should contact the DLAE.
3. [Exhibit 7-B: Field Review Form](#) and [Exhibit 7-C: Roadway Data](#) from [LAPM Chapter 7: Field Review](#)). The local agency should fill out only known data.
4. Applications for High Cost Bridge Projects will only be accepted by the DLAE after a solicitation for candidates has been transmitted from the DLAE's to local agencies. See [Section 6.7: Project Programming Policy and Procedures for](#) information on High Cost Bridges.

The DLAE is responsible for ensuring the application package meets the above requirements prior to forwarding copies of the package to the HBP Managers. The DLAE should identify any potential difficulties and provide recommendations.

Optional SLA Review of Application

The HBP Managers or DLAE may request SLA review of a project. This level of oversight is consistent with [LAPM Chapter 7](#), which places the responsibility of project scoping on the local agency. Local agencies requesting optional technical support for project scoping may request an optional field review in the application. The level of service provided by Caltrans will be dependent on available staffing.

When HBP Managers request SLA to review an application or scope change, a request for construction authorization shall not be processed by the DLAE until SLA's review is complete. At the discretion of the HBP Managers, PE authorization may be withheld pending the results of the SLA review.

SLA shall notify the DLAE and the HBP Managers of any findings as a result of the application review. The HBP Managers will also notify the DLAE and SLA of the status of the application package. Any issues raised need to be resolved by the local agency, SLA, the DLAE, District R/W or the District Environmental Reviewer. The DLAE is responsible for the coordination of the resolution of issues raised.

After the project is programmed, the DLAE will initiate the field review if required by [LAPM Chapter 7: Field Review](#), if the field review has not yet taken place. Field reviews should be scheduled appropriately to include the local agency's consultants.

6.7 PROJECT PROGRAMMING POLICY AND PROCEDURE

Policy

This policy and procedure provide details for compliance with the FTIP regulations and CTC Policy. The CTC policy is to maximize the use of federal HBP funds. CTC Resolution LBS1B-G-0708 establishes the Proposition 1B Seismic Program as the top priority for programming HBP funds.

It is CTC's intent that the Department also program funds for the bridge inspection program and critical safety non-seismic projects. Bridges with serious structural deficiencies as a top priority for funding.

The statewide program list will be prioritized based on the Ranking Policy in compliance with federal regulations and developed in cooperation with the Local Assistance Highway Bridge Program Advisory Committee.

The HBP will be programmed consistent with the delivery schedule for Proposition 1B seismic projects provided by local agencies constrained by available federal funds.

These procedures will provide a basis for fully utilizing HBP funds and obtaining the policy goals of the HBP through the federal transportation programming process.

Procedure

1. At the beginning of every FTIP Cycle, the FTIP (all years) will be programmed to reflect the most current cost and schedule data for the Proposition 1B Seismic projects. Safety non-seismic bridge projects may also be programmed based upon the Department's project ranking policy.
2. The DLAEs shall date stamp every seismic and non-seismic Request for Authorization (all phases) when the DLAE determines the package is complete and ready to obligate. The DLAE shall update the FileMaker HBP programming database with the revised funds and schedule in the current year of the FTIP. The date stamp shall be keyed into the FileMaker HBP programming database when funds cannot be obligated due to problems including but not limited to scope issues, delays in modifying the FTIP, or if the project phase is programmed in a future year. The DLAE shall not transmit the FTA for obligations until scope and FTIP issues are resolved.
3. Post programming changes for construction phase for HBP or seismic projects must be elevated to HBP Managers for funding approval as soon as the DLAE has reviewed the RFA package for completeness. Complete [Exhibit 6D: HBP Scope/Cost/Schedule Change Request](#) to provide justification for cost increase. The DLAE must sign the [Exhibit 6D](#) recommending approval.
4. Beginning in January of every year and completed on February 15th of every year:

- a. The HBP Managers will review the quarterly status updates that local agencies are required to maintain through the LA-ODIS database. This review will flag which seismic projects in the current year cannot be delivered and which seismic projects can be advanced.
 - b. The DLAEs will review projects programmed in the current year to evaluate if the project phases programmed can potentially be delivered. DLAEs, depending on staff resources, may need to coordinate with Local Agencies to ensure request for authorization packages are being developed.
 - c. The DLAEs will maintain the “ready to advertise” or “nearly ready to advertise” flags in the HBP FileMaker database. These flags impact a project’s prioritization and must be maintained by the DLAE.
 - d. The HBP Managers will select the projects ready to obligate for inclusion into the FTIP, if needed, or for funding projects advanced under EPSP or post programming changes.
5. Revised program lists may be released to the MPOs on March 30th of every year to ensure all current year federal funds are obligated. These lists would advance projects outside the 4 year element of the FTIP so the projects could be obligated by September 30th of the current year, provided OA and apportionment are available at that time.
 6. After March 30th of every year, EPSP and Post-Programming procedures will be implemented for all projects funded in the 4 year element of the FTIP until federal apportionment or OA is exhausted. Some reserves may be held if there were delays in processing FTIP amendments based on the previous October program lists. The HBP Managers will review this situation on a case by case basis.
 7. Starting in July of each year, the DLAEs will survey their local agencies for next year’s needs. The surveys will be provided by the HBP Managers to the DLAEs. The HBP FileMaker database must be updated by DLAEs by the end of September. The HBP Managers will release new statewide program lists to the MPOs for inclusion into the FTIP by the end of October of each year.

The HBP Managers update program lists every October and March to incorporate project cost and schedule updates and new funding requests from local agencies. Once developed, the HBP Managers release program lists to the MPOs for inclusion in to the FTIP and the program lists are posted on the Division of Local Assistance website at http://dot.ca.gov/hq/LocalPrograms/hbrr99/HBP_FSTIP.html.

Note that these program lists do not fulfill the federal programming requirements. Inclusion into the FTIP by MPOs must precede fund authorization for any activity for which HBP funds are being sought.

The HBP programming process is summarized in the following table:

Table: 6-1: HBP Programming Process Summary

Start	End	Responsible Party	Action
Oct. 1	Mar. 30	HBP Manager	EPSP, Post-Programming changes suspended, unless approved by HBP Managers.
Jan. 1	Feb. 15	HBP Manager	Review LA-ODIS for project slippage/advancement.
Jan. 1	Feb. 15	DLAE	DLAEs review current year programmed projects, reprogram funds in FileMaker database as needed.
Feb. 15	Mar. 30	HBP Manager	Determine if new statewide program lists need to be developed and released to regions.
Mar. 30	Sept. 30	HBP Manager	EPSP, Post programming changes enabled. Fund obligated until balances are zero. Statewide programming lists should be sent to MPOs if needed.
Jul. 1	Sept. 30	DLAE	DLAEs survey local agencies for next year’s needs and update HBP database. HBP managers provides DLAE with survey forms.
Oct. 1	Oct. 30	HBP Manager	New program lists developed and released to MPOs to amend their FTIPs.

Programming Tools to Advance Projects

Expedited Project Selection Procedures allow any project programmed in the 4 year element of the FTIP to be advanced for authorization and obligation provided OA and apportionment are available to fund the project and programming capacity is available in the year of obligation of funds. For local assistance federal HBP, EPSP is managed by the HBP Managers.

Post-programming changes are changes to phases of work that have already been authorized /obligated and require additional funds. No pre-approved FTIP amendment is required to obligate additional funds for a post-programming change provided there is not scope change to the project. Post programming changes must be reflected in future FTIP amendments to ensure that the FTIP always reflect total project costs and is financially constrained. Post programming changes are subject to approval of the HBP Managers.

1. EPSP and post programming Policy

- a. Due to limited federal funds, funds programmed in the current year of the FTIP will be reserved specifically for the project in the current year of the FTIP. These funds will be held in reserve until March 30th of any given year.
- b. Effective October 1st of every year, EPSP and Post programming changes will be suspended for all projects, unless otherwise approved by the HBP Managers. Exceptions will be granted provided there will be no impact to the delivery of current year programmed projects. The HBP Managers will try to hold back a reserve of un-

programmed capacity each year to fund construction change orders, cost overruns, and other mid-phase cost increases to help ensure smooth project development activities.

2. Advancing non Proposition 1B Seismic Project (other HBP projects)

- a. “Advancing” means obligating funds on a project where the funds are not programming in the current year of the FTIP.
- b. If there is a schedule slippage or savings in current year programmed projects, and no Proposition 1B Seismic projects can be advanced to use current year funds, the Department will make HBP funds available to other HBP funded bridge projects programmed in future years within the 4 year element of the FTIP.
- c. The priority for programming federal HBP funds will be based on having a complete request for authorization package in the possession of the DLAE, the type of work, the deficiencies with the bridge, and having approved scopes of work.

Project Ranking Policy

Subject to budgetary constraints, the PE phase for eligible projects is programmed in the year requested to facilitate the development of new projects.

Also subject to budgetary constraints, the R/W phase for eligible projects is programmed in the last year of the FTIP. Funding for the R/W phase may be advanced to the year requested once full compliance with the provisions of NEPA has been documented and approved by Caltrans.

The ranks below will be used to determine funding priorities of the construction phase for developing the financially constrained HBP program lists. After projects are prioritized and funds reserved, the Caltrans submits the financially constrained program lists to the MPOs for inclusion into the FTIP.

The lowest number rank is the highest priority for construction. Within each rank, projects are sorted by the AASHTO Sufficiency Rating to reflect the general condition of the bridge. The lowest SR is the highest priority. This means that lower priority projects will have PE and R/W funded even though construction may be pushed out of the 4 year element of the FTIP. When these projects are ready for construction authorization, the ranking system will allow these project to receive a high priority for construction programming within updated statewide program lists.

These priority ranks will be applied to programmed projects to financially constrain any program list needed to update the FTIP. The DLAEs are responsible for maintaining fields in the HBP FileMaker database that indicate a project’s readiness to advertise. Local agencies are responsible for closely coordinating with the DLAEs on project status, schedule, and estimates as documented in these guidelines.

Rank 0

This is not technically a priority rank. All projects with HBP funds obligated for construction fall in this rank for listing purposes only. These projects cannot be pushed out of the 4 year element of the FTIP because funds have been obligated for construction. Local funded Advance

Construction projects not subject to cash management commitments. Local funded AC conversion can be converted to HBP funds when programming capacity is available.

Rank 1A

Projects for the general support of the federally mandated Bridge Inspection Program.

Rank 1B

Projects that are ready to advertise AND;

Are critical HBP funded rehabilitation or replacement projects. These bridges must have major structural deficiencies causing the bridge to be posted or closed. The NBI data item 41 must be coded B, D, E, K, P, or R.

Rank 1C

Cash management projects with future AC conversion commitments by the Department. Projects may or may not be ready to advertise for construction. Federal HBP funding commitments are case by case, approved by the Department.

Rank 1D:

Projects are ready to advertise AND;

Are Proposition 1B funded projects or;

Are scour countermeasure projects, rehabilitation or replacement of scour critical bridges (NBI item 113≤3) or are functionally obsolete due to overtopping (NBI item 71 ≤3).

Rank 1E:

All other projects ready to advertise.

Rank 2A:

BPMPs are grouped listings of bridges that need PM work. This means construction funds are distributed over multiple years based on how projects in the BPMP are actually authorized. Stand-alone PM projects not part of a BPMP are excluded from this rank and will be treated like rehabilitation projects.

Rank 2B: Individually listed projects with Construction in the 4 year element of the FTIP.

High priority regionally significant or non-air quality exempt (line item) projects that are not subject to cash management. Construction funding year is determined based on readiness to deliver and subject to Department case by case review. This rank highlights the sensitivities in rescheduling projects impacting regional air quality conformity determinations.

In the event of construction schedule slippage, the Department may push the project funding in the FTIP a minimum of two years out, after consultation with the MPO. If no programming capacity can be found, the project will need to be pushed out until the next FTIP cycle. Local agencies will be required to program local funded AC if the project is only slipping one year or

the HBP cannot afford to fund the project according to the new project schedule. Local agencies will need to work with their MPOs/RTPAs to ensure the AC is programmed correctly in the FTIP.

If NEPA or R/W is not clear and R/W includes lengthy property acquisition, the construction funding should be pushed outside the 4 year element of the FTIP.

Rank 3A:

All projects nearly ready to advertise within six months of a new reprioritized program list being generated AND;

Are critical HBP funded rehabilitation or replacement projects. These bridges must have major structural deficiencies causing the bridge to be posted or closed. The NBI data item 41 must be coded B, D, E, K, P, or R.

Rank 3B:

All projects nearly ready to advertise within six months of a new reprioritized program list being generated AND;

Are Proposition 1B funded projects or;

Are scour countermeasure projects or rehabilitation or replacement of scour critical bridges (NBI item 113 \leq 3) or are functionally obsolete due to overtopping (NBI item 71 \leq 3).

Rank 3C:

All projects nearly ready to advertise within six months of a new reprioritized program list being generated.

Rank 4:

Projects that are not ready to advertise. NEPA documents and R/W are not clear. Bridge must have major structural deficiencies causing the bridge to be posted or closed. NBI data item 41 coded B, D, E, K, P, or R.

Rank 5:

Includes Proposition 1B seismic projects that are not ready to advertise. NEPA and R/W are not clear. Includes scour countermeasure projects and rehabilitation or replacement of scour critical bridges (NBI data item 113 \leq 3) or are FO due to overtopping (NBI item 71 \leq 3) and that are not ready to advertise. NEPA and R/W are not clear.

Rank 6:

All types of projects with STIP matching funds or other federal STBGP funds for enhanced project scopes. Projects are not ready to advertise. NEPA and R/W are not clear.

Voluntary seismic retrofit projects (no Proposition 1B seismic involvement). Projects are not ready to advertise. NEPA and R/W are not clear.

Rank 7:

General bridge rehabilitation or replacement and other stand-alone scopes of work, including stand-alone PM. Projects are not ready to advertise. NEPA and R/W are not clear.

Annual Project Survey

Prior to the development of program lists in October, the DLAE will request that status of currently programmed projects from local agencies. Cost and schedule information provided from the survey will be incorporated into the program lists. Failure to provide status may result in project cancellation. The programming as provided in the financially constrained lists provided to the MPOs may have different funding in a different federal fiscal year than requested by the local agency in the survey. The financially constrained program lists are based upon the Rank Policy.

High Cost Projects Programming Policy

To ensure that HBP funds are made available throughout the state on a fair and equitable basis, in compliance with federal regulations, high cost projects have additional programming policy. It has been demonstrated that high cost project commit large sums of federal funds but cannot spend the funds in one year due to local agency contract processes, time to mobilize the contractors and the time it takes to actually construct large project. These idle federal funds could be used to advance other projects. Cash management of high cost projects is critical to effective stewardship of the local HBP. The HBP Managers will identify the high cost project and through the DLAE, make contact with the project sponsors to explain the policy.

When a high cost project phase is ready to be programmed in the 4 year element of the FTIP, the local agency will notify the DLAE and discussions on programming the phase will begin.

- A funding commitment letter will be issued when a high cost phase of work need to be programmed in the FTIP or as needed for a FHWA required High Profile Project Financial Plan. NEPA and/or R/W clearance along with status of the PS&E package will play a role in determining the need for the funding commitment letter.
- The HBP Managers will issue a funding commitment letter, Exhibit 6-E, and associated funding sheet, Exhibit 6-F, to the local agency for a high cost project that commits the Department, subject to state and federal budget legislation and other limitation, to specify HBP in the FTIP over a multiple year period.
- Local agencies will need to secure the availability of local funds (budget authority) to back the AC commitment.
- Local agencies that cannot obtain a source of local funds for AC will not have R/W or construction programmed within the 4 year element of the FTIP using HBP funds. These agencies may appeal this policy and request a meeting with the Department for review the specific situation. Members of the Local Assistance Highway Bridge Program Advisory Committee (Committee) representing the League of California Cities and the California State Association of Counties may be invited to the meeting to offer advice to the Department on implementing the policy as applied to the project in question.

- The sum of cash managed high cost projects in any federal fiscal year should not exceed 50% of the annual revenue for that federal sub-apportionment for which the project is eligible without concurrence from the Committee.
- Funds allocated to a project for AC conversion should not exceed \$20 million per year without concurrence from the Committee.
- High Cost projects will not be accepted into the local assistance HBP if all (including high cost projects) projects cannot be funded over a 15 year period. If the project is not accepted into the local assistance HBP, local agencies have the option of proceeding with their own funds using AC, but the Department will not budget the project(s) for AC conversion using HBP funds.
- AC conversion in the year programmed will not be obligated unless at least 50% of the prior years' federal funds have been invoiced. This keeps the federal funds available to advance other projects that could be delivered.
- In reference to non-high cost project FTIP programming procedures, the advancement of future year AC conversion using EPSP for high cost projects will be after April 15th of each year instead of after March 30th. This will provide smaller projects programmed in future years the opportunity to advance before the high cost project us up available HBP funds.
- After April 15th of any year, conversion of AC for high cost projects will be prioritized and prorated as follows:
 - High cost projects with eligible costs that could be immediately reimbursed with AC conversion will be first priority for conversion and proration will be based on outstanding reimbursable expenditures.
 - Second priority will be advancing AC conversion amongst the high cost projects with remaining AC even if there are no project expenditures that could be immediately reimbursed.
 - Depending on current year delivery of the HBP and other local assistance programs, the Department may delay AC conversion of eligible projects in the above two bullets.

Bridge Investment Credit

Federal-aid highway funds provides valuable financial resources to local agencies in making improvements to transportation facilities on local roads. Federal funding also comes with many requirements that need to be met in carrying out a project. Ideally, the most efficient use of federal funds is to maximize federal funds on fewer, larger projects, funding smaller projects with non-federal funding sources such as local funds.

The BIC is a new element in the HBP aimed at encouraging local agencies to invest in making improvements to bridges on local roads using local or non-federal funds and receive credit to use as match funds for future HBP projects. The BIC allows local agencies to replace, rehabilitate and do PM work on HBP eligible bridges using local funds, the receive credit for up

to 100 percent of the eligible work. The credit, in turn, serves as the required non-federal match for a future local federal-aid bridge project.

To be eligible for BIC, a bridge must meet the current eligibility criteria for HBP as outlined in the current Bridge Preventive Maintenance Program Guidelines and this Chapter of the LAPG. Eligible HBP projects determined to be noncontroversial and PM projects are the best candidates to be funded by local agencies under this policy.

Eligible HBP projects that local agencies choose to design and build with local funds do not need to comply with Federal requirements, however the project must meet current minimum AASHTO design standards with the California amendments to received credit.

1. Project Programming for Banking BIC:

Local agencies using local funds on an eligible HBP project to earn credits under the BIC must submit an Exhibit 6-A which clearly defines scope and cost of the project. For BPMP's they must submit a certification letter and a BPMP plan list. Cost on the submittals should be 100% local funds. HBP Managers approval of the scope and cost for the BIC program is required prior to commencing work. If scope and cost is approved, the project will be programmed in the HBP database with 100% local funds.

2. Project Administration for Banking BIC:

The project sponsor is responsible for following all the applicable state and local laws and requirements in designing and constructing the project. Upon completion of the project, the sponsor must submit documentation including final project cost and as-built plans to Caltrans.

Caltrans will review the documentation and may field review the completed project to confirm it was constructed in accordance with all applicable standards and to the approved scope. Caltrans will approve the credit as it was originally requested or as shown in the final project cost, whichever is lower. Upward cost adjustment is not allowed. Credit will be banked at the completion of the project and the sponsor notified.

3. Project Programming for using BIC:

Local agencies may apply to use their banked BIC to cover their local match for any phase of a HBP eligible project as long as their banked credit is 200% of required local match for PE and R/W and 125% of required local match for Construction at the time of obligation. The higher percentages are required to ensure that there are sufficient credits to cover cost increases and scope changes.

As for any other HBP project, the project sponsor must submit an Exhibit 6-A which clearly defines scope and cost of the project. Cost on the submitted exhibit should be 100% federal funds. In addition to the Exhibit 6-A, the project sponsor must provide a letter requesting their banked credit be applied to the phase or phases of the project that they want funded at 100% federal funds. The letter should include a table showing available credit and deduction based upon the percentages mentioned above. Caltrans approval of scope and cost for the BIC program is required prior to programming the project. When scope and cost is approved, and if the available credit is sufficient, the

project will be programmed in the HBP database with 100% federal funds for the appropriate phase(s).

4. Project Administration for using BIC:

Project administration for bridges using banked BIC to cover the required local match is the same as any other HBP project, except the reimbursement ration will be at 100% federal. Since federal funds are involved, all the applicable federal, state and local laws and requirements in designing and constructing the project must be followed.

When the project completion paperwork is submitted to Caltrans, a reconciliation of the credit balance will be done based on the final invoice and the project sponsor notified.

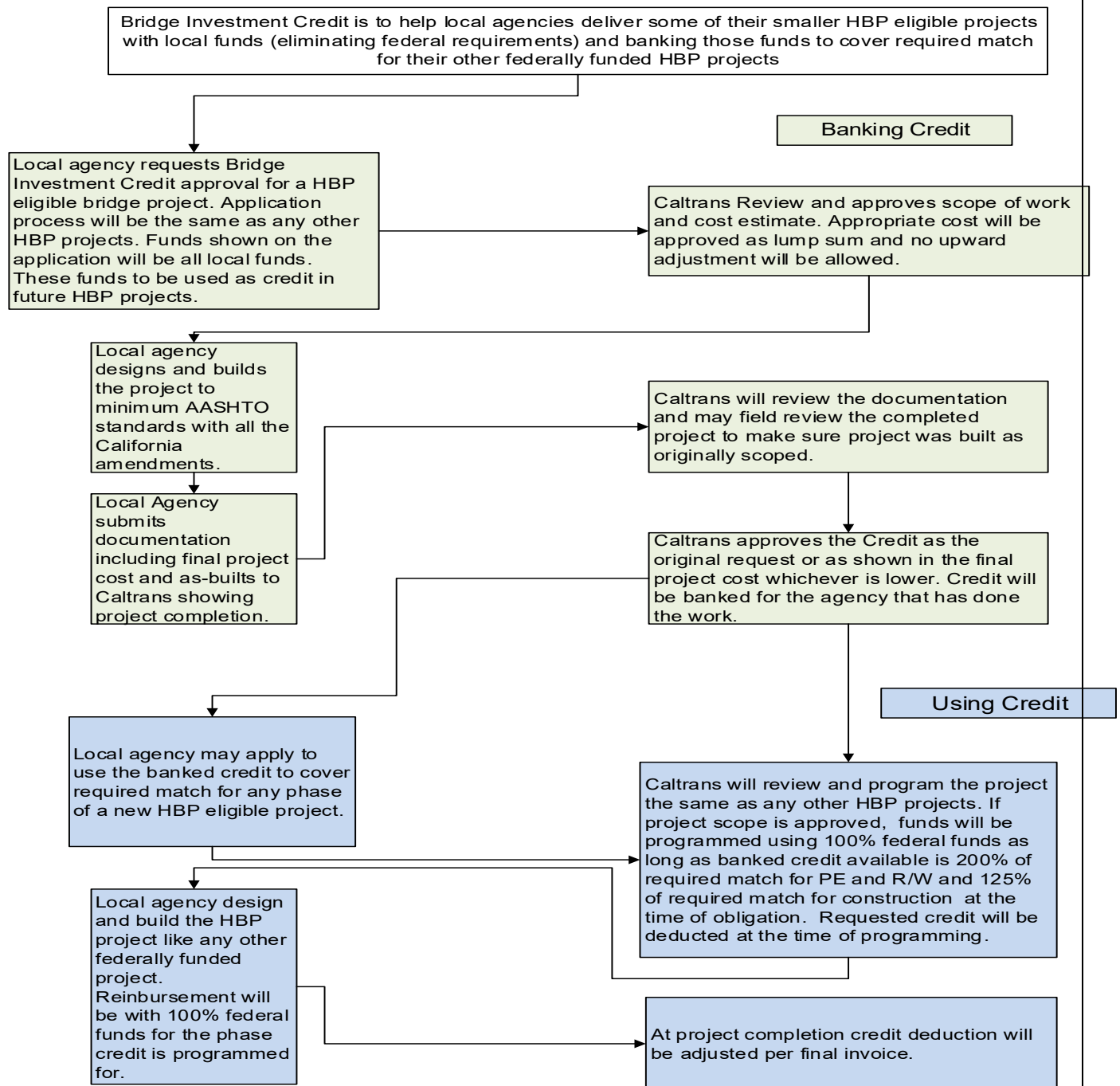


Figure 6-2: Bridge Investment Credit Concept Flowchart

6.8 PROJECT IMPLEMENTATION

Once the project is programmed in an approved FTIP, local agencies may request PE authorization for preparation of environmental documentation for NEPA clearance. The DLAE shall ensure that funds authorized do not exceed what is programmed as shown in the HBP program lists.

Mandatory Field Reviews for Local Seismic Safety Retrofit Projects

Field reviews for seismic retrofit projects are mandatory. The objectives of field review for seismic retrofit projects are also different in several ways from typical local agency projects. The objectives of a seismic project field review are to:

- Begin to scope the project. The project will not be fully scoped until after the strategy meeting.
- Verify that the as-built plans accurately represent the existing conditions.
- Check for modifications that would affect the seismic response of the structure.
- Dimension any members that are not accurately shown on the as-built plans.
- If no as-built plans are available, measure and dimension all pertinent structural members.
- Check for new conditions that would be affected by construction work.
- Discuss environmental considerations.

Important items to keep in mind for retrofit project field reviews include access, clearance, coordination, detours, environmental, falsework, obstructions, utilities, modifications, hydraulics and permits.

The field reviews should be attended by:

- Consultants, if any.
- Local agency staff knowledgeable of utilities, R/W, environmental, traffic, etc.
- Caltrans SLA, DLAE staff and District Environmental.

The field review results:

- The scope of the project is discussed.
- The existing conditions are verified and any modifications documented.
- Construction controls are discussed.
- Responsibilities are reviewed.

Mandatory Strategy Meetings for Local Seismic Safety Retrofit Projects

The objectives of the strategy meetings are to:

- Offer seismic designers support or alternative approaches.
- Determine that standard seismic retrofit details are being fully utilized.

- Establish alternative acceptable procedures to satisfy retrofits when unusual problems are encountered.
- Recommend alternative analysis when appropriate.
- Inform the project engineer of solutions to similar problems encountered by Caltrans, consultants, or other local agencies.
- Provide local agency personnel with information regarding potential traffic control, right-of-way, utility, and environmental problems.
- Achieve consensus agreement on economical and practical retrofit strategies.

The strategy meeting should be attended by:

- Design Consultants (Structural, Geotechnical, and Traffic if necessary)
- Local agency staff
- Caltrans Structure staff from Earthquake Engineering, Design, Construction, Maintenance and/or Geotechnical.
- Structures Local Assistance Representative
- District Local Assistance Engineer

The designer or project engineer is expected to have performed the diagnostic analysis using the appropriate static and dynamic analysis, summarized the condition of columns, restrainers/hinges and abutments, and a proposed solution prior to scheduling a strategy meeting. The designers should be prepared to discuss solutions considered and reasons for rejection of alternatives. At a minimum, a General Plan employing a legend of retrofit work and location of work, along with a table outlining the controlling design ductility ratios, should be presented. Additional tables and proposed details may also be necessary.

The following materials are required for the Mandatory Strategy Meeting:

- Draft Strategy Report, including the General Plan, Sufficiency Rating, as-built plans, photographs, and an estimate of costs (capital and engineering). These materials (a minimum of 10 copies) should be submitted to the DLAE. The DLAE should forward the package to Structures Local Assistance Office in Sacramento two weeks prior to the scheduled strategy meeting.
- Any plans or reports pertinent to the proposed work (utility layout, right-of-way maps, etc.)

The Strategy meeting should result in a general consensus regarding the acceptable analysis and retrofit approach should be reached by the strategy meeting attendees. Additional strategy meetings should not be necessary if all the information noted above is provided prior to and during the meeting. The conclusions reached should be outlined and summarized by the agency responsible for seismic design in "strategy meeting minutes" and documented in the Final Strategy Report. A copy of the minutes should be sent to all attendees. A copy of the Final Strategy Report will be kept on file in the Structures Local Assistance Office

Cost/Scope/Schedule Changes

If a cost/scope/schedule change occurs, the local agency shall notify the DLAE immediately of the changes. A cover transmittal letter shall be sent to the DLAE with the following attachments:

- An updated application with attachments, if there is a major scope change. Local agencies should contact the DLAE for advice on whether an updated application is needed.
- A cost/scope/schedule change form ([Exhibit 6-D: HBP Scope/Cost/Schedule Change Request](#)).

The DLAE will forward copies of the scope change request package to the HBP Managers and SLA. The HBP Managers and SLA will process the package the same way a new project application is handled. Major changes in scope will require a new federal project number be established.

Optional Cursory PS&E Review

Optional PS&E reviews are cursory in nature involving the scope (plans), specifications, and engineer's estimate. These reviews can help identify issues regarding roadway safety, constructability, obsolete or expensive standard specifications, and HBP eligibility that might have been overlooked

Cursory PS&E reviews are not design checks and findings are usually advisory in nature. Findings that are significant to the cost-effectiveness or safety of the project must be addressed by the local agency or federal authorization or reimbursement will be withheld. Tort liabilities resulting from design decisions, mistakes and omissions in the design are solely the responsibility of the local agency.

Local agencies may request an optional cursory PS&E review by contacting the DLAE.

1. The DLAE is responsible for coordinating the cursory PS&E review with the local agency, SLA, and other units within Caltrans. SLA is the point of contact for technical services provided by the Caltrans Division of Engineering Services.
2. See [LAPM Chapter 12: Plans, Specifications & Estimates](#), Sections 12.2 and 12.14, for procedures relating to cursory PS&E review. These reviews should occur when the PS&E is about 65% complete for HBP projects. At this stage of completion, all the design calculations and plans have been completed but are unchecked. PS&E reviews at 100% completion are required for Mandatory Seismic Projects that have Prop 1B as local match.
3. Local agencies requesting optional cursory PS&E reviews are strongly encouraged to have field reviews with Caltrans involvement.
4. Because these reviews are optional, incomplete PS&E packages may be submitted. Only what is submitted by the local agency will be reviewed.
5. Local agencies may withdraw the request for PS&E review, at any time if Caltrans staff is not available to meet local agency deadlines. If it appears that a PS&E review cannot

- be completed within the timeframe required by the local agency, the local agency shall be the decision maker as to whether the PS&E review should be completed with the possible delay in advertising their project.
6. Prior to processing any work authorizations, the DLAE shall coordinate with SLA and the local agency to ensure that the needs of the local agency are appropriately met. Under no circumstances is a DLAE to withhold prompt action on a request for authorization due to optional PS&E review.
 7. Change orders or cost increases due to amending the PS&E after the project has been advertised may not necessarily be HBP participating. If there are significant changes to an advertised project, Caltrans may require the local agency to re-advertise the project. To avoid project delays, it is important that local agencies requesting help with their projects do so early in the project development cycle.
 8. The PS&E packages submitted for review should include an electronic copy of all documents. The local agency should contact SLA prior to submittal, to verify the submittal requirements.

Proceeding to Final Design

Proceeding to final design and preparation of the PS&E may not commence until the DLAE has notified the local agency that the environmental documents have been approved and eligibility issues have been resolved. See [LAPM Chapter 12: Plans, Specifications & Estimate](#), for detailed discussion of procedures.

Scope Changes during Final Design

Minor scope changes may be resolved with a letter from the local agency to the DLAE. The local agency must contact the DLAE for a decision on whether the scope change is minor.

Major scope changes may invalidate the environmental documents and cause the project to be ineligible for federal funding. HQ HBP Managers decides how to proceed in major scope changes during final design. The DLAE should consult with SLA, Caltrans District Environmental and the HBP Managers.

Where a major scope change is required, HQ HBP Managers require the project application be revised and resubmitted to the DLAE. If needed, the environmental documents may need to be reevaluated. If there are changes to the environmental documents, the DLAE must provide direction to the local agency if PS&E work may continue. The DLAE will need to work with District Environmental and HQ HBP Managers to resolve complex environmental issues.

Construction Change Orders

Local agencies assume full liability for the safety of their bridges and eligibility of participating costs of their projects.

Where the change orders exceed contingency, the local agency must contact the DLAE explaining the need for additional funds and submit an Exhibit 6-D to document the reason and amount of additional HBP funding. The following instructions must be followed:

- If the project is programmed with the lump sum item in the FSTIP, only the HBP Managers need to be consulted to ensure sufficient funds are available for the CCO.
- If the project is identified as a line item in the FSTIP, the local agency must obtain concurrence from the RTPA/MPO and the HBP Managers.

Local agencies will work through the DLAE to obtain approval from the HBP Managers. If the FTIP needs to be amended for a project line item, the local agency must work with their appropriate RTPA/MPO for proper processing.

Project Closure during PE

If, during project development, it is determined that no work is needed (choosing the “no build” option), the local agency may close out the project in the PE phase. Sometimes during the project development phase, environmental, R/W, or legal issues arise that make the project not feasible or cost-effective. In these situations, the local agency will be reimbursed for the work performed under the E76 authorizing PE. When the local agency submits the final invoice, a final report must be included documenting the conclusion with supporting information. See [LAPM Chapter 17: Project Completion](#), for detailed instructions.

If a local agency develops a final PS&E and the project is never advertised due to local match funding constraints, the HBP participation will be limited to the costs of scoping the project and developing the federal environmental documents. The engineering work to develop the final PS&E will be non-participating. Federal law does not authorize federal funds to be used to develop shelf projects.

Any other reasons for canceling a project may not be grounds for reimbursement of PE costs. If a local agency cancels (as opposed to choosing the “no build” option) a project, all PE funds must be returned to the State. The State will then return the funds to FHWA.

6.9 MAJOR DEFICIENCIES (FROM SI&A SHEET)

Scour Potential

National Bridge Inventory (NBI) item 113 is the scour criticality rating. This is a calculated rating based on a potential major hydraulic event. Scour potential should always be reviewed when developing a rehabilitation project. For detailed information regarding the NBI data “items” see the [National Bridge Inventory Coding Guide](#). This guide can be downloaded from the HBP website.

Structural Deficiency-SD, and Sufficiency Rating-SR Defined

For a bridge to be considered structurally deficient a highway bridge must have the ratings described below.

For Structural Deficiency (SD) a condition rating of 4 or less for:

- Item 58 - Deck or
- Item 59 - Superstructures or
- Item 60 - Substructures or

- Item 62 - Culvert and Retaining Walls.
- [Item 62 applies only if the last digits of Item 43 are coded 19.]

The **Sufficiency Rating (SR)** is an overall “health” indicator for the bridge and is calculated by a complex formula defined in Appendix B in the National Bridge Inventory Coding Guide. Local agencies requesting help with the SR calculations should contact SLA or the DLAE for assistance.

6.10 REFERENCES

[Local Assistance Program Guidelines](http://www.dot.ca.gov/hq/LocalPrograms/lam/lapg.htm)

<http://www.dot.ca.gov/hq/LocalPrograms/lam/lapg.htm>

[Local Assistance Procedures Manual](http://www.dot.ca.gov/hq/LocalPrograms/lam/lapm.htm)

<http://www.dot.ca.gov/hq/LocalPrograms/lam/lapm.htm>

[California Transportation Commission Resolution G97-05](http://www.dot.ca.gov/hq/transprog/ctcliaison/resolutions/GRes-1978-1997.pdf)

<http://www.dot.ca.gov/hq/transprog/ctcliaison/resolutions/GRes-1978-1997.pdf>

[California Streets and Highways Code Sections 2411 and 2413](https://leginfo.legislature.ca.gov/faces/codesTOCSelected.xhtml?tocCode=SHC)

<https://leginfo.legislature.ca.gov/faces/codesTOCSelected.xhtml?tocCode=SHC>

[United States Code Title 23, Section 144](http://uscode.house.gov/view.xhtml?req=(title:23%20section:144%20edition:prelim))

[http://uscode.house.gov/view.xhtml?req=\(title:23%20section:144%20edition:prelim\)](http://uscode.house.gov/view.xhtml?req=(title:23%20section:144%20edition:prelim))

[Code of Federal Regulations](https://www.archives.gov/federal-register/cfr)

<https://www.archives.gov/federal-register/cfr>

[National Bridge Inventory Recording and Coding Guide](https://www.fhwa.dot.gov/bridge/nbi.cfm)

<https://www.fhwa.dot.gov/bridge/nbi.cfm>