

LOCAL PROGRAMS PROCEDURES LPP 20-01

California Department of Transportation
Division of Local Assistance
Office of Guidance and Oversight



LOCAL PROGRAMS PROCEDURES 20-01

The scope of LPP 20-01 includes the incorporation of the following Office Bulletins (OB) into the noted chapters of the Local Assistance Procedures Manual (LAPM) and Local Assistance Program Guidelines (LAPG).

OB Number	OB Title	Affected Chapters
OB #19-01	Highway Bridge Program Project Delivery Policy	LAPG Chapter 6
OB #19-05	Local Agency Invoicing	LAPM Chapter 5
OB #20-01	Recission of Patented or Proprietary Products, Specification and Proces Regulations	LAPM Chapters 2, 12, 16, 20
OB #20-02	DBE Running Tally	LAPM Chapter 9
OB #20-04	DBE Procedures Updates	LAPM Chapter 9
OB #20-05	Local Agency Oversight of Property Management and Excess Land Disposal	LAPM Chapter 13

Other technical updates including clarifications or corrections have been incorporated into the LAPM/LAPG. LPP 20-01 incorporates changes to the following Chapters/Exhibits:

LAPM Chapter 2	Roles & Responsibilites	
LAPM Chapter 3	Project Authorization	LAPM 3-A
LAPM Chapter 5	Invoicing	LAPM 5-A
LAPM Chapter 6	Environmental Procedures	Exhibits 6-A, 6-B
LAPM Chapter 8	Public Hearings	
LAPM Chapter 9	Civil Rights & DBE	Exhibit 9-C
LAPM Chapter 12	PS&E	Exhibits 12-B, 12-D, 12-E, 12-F, 12-G
LAPM Chapter 13	Right of Way	Exhibits 13-A, 13-B
LAPM Chapter 15	Advertise & Award Project	Exhibit 15-B
LAPM Chapter 16	Administer Construction Contracts	Exhibits 16-T1, 16-Y
LAPM Chapter 17	Project Completion	Exhibits 17-A, 17-H
LAPM Chapter 20	Deficiencies & Sanctions	
LAPG Chapter 6	Highway Bridge Program	

Significant additions are marked with blue text accompanied by a blue margin line on the right margin and are noted in the summary tables preceding each Chapter. Deletions to existing text are marked with red strikethroughs accompanied by a red margin line on the left margin. Minor typographical and grammatical changes were made throughout but are not documented in the summary table. The attached Chapters/Exhibits will only consist of the pages with impacted sections/paragraphs except for LAPG Chapter 6 which is presented in its entirety.

Effective Date: January 2021

Approved: Original Signature By

Dee Lam, Division Chief
Division of Local Assistance

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LAPM C.2 ROLES & RESPONSIBILITIES

LAPM C.2 Roles & Responsibilities

Section / Exhibit	Description of Changes
2.2 National Highway System	<ul style="list-style-type: none">Deleted sentence with outdated links for NHS routes and replaced with the California Highway System Map link.
2.5 Projects of Division Interest	<ul style="list-style-type: none">Figure 2-1 simplified to eliminate internal FHWA procedures.
2.8 Restricted Construction Contract Provisions	<ul style="list-style-type: none">OB #20-01: removed reference to proprietary items for warranty clauses.
2.11 Caltrans Responsibilities	<ul style="list-style-type: none">Removed references to internal Caltrans instructions.
2.12 Project Implementation	<ul style="list-style-type: none">Removed third bullet: "Decision to hold field review for projects off the NHS."

Improvement Program (STIP). Their selections must be done in consultation with the state, cities, counties, and other transportation agencies within the area. The FTIPs are incorporated into the FSTIP. Caltrans works with the non-MPO local agencies to program projects in the FSTIP. [Exhibit 2-B: Federal-Aid Project Responsibilities List for Delegated Projects off the State Highway System](#) outlines the roles and responsibilities of the parties involved in local federal-aid transportation projects. The chapters in this manual provide the details for carrying out these responsibilities.

2.2 National Highway System

The Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) established provisions for Congress to adopt a National Highway System (NHS) to provide an interconnected system of principal arterials that serve major population centers, international border crossings, ports, airports, public transportation facilities, intermodal transportation facilities, and other major travel destinations; meet national defense requirements; and serve interstate and interregional travel.

Until Congress made its official adoption, the NHS was defined as all principal arterials, including the Interstate System. On November 28, 1995, the President signed the legislation defining the NHS to include all Interstate System routes, a selection of urban and rural principal arterials, the defense Strategic Highway Network including Strategic Highway Network connectors, and intermodal connectors. As a result of MAP-21, there are about 230,000 NHS centerline miles nationwide, including 14,160 NHS centerline miles in California. About 5,453 of the 14,160 NHS miles in California are off the SHS.

~~See [LAPG Chapter 3: Federal Aid Routes & Functional Classifications](#) for further discussion and a listing of the local agency NHS routes under [CA Non State Highway NHS Excel worksheet](#).~~

See the [California Highway System Map](#) which displays authoritative, statewide road system information along California's highways, including Functional Classification roadways and the National Highway System:

2.3 Stewardship and Oversight Agreement

The purpose of the FHWA/Caltrans Stewardship and Oversight Agreement (S&O) is to define roles and responsibilities, outline authorities, and assure accountability in effectively and efficiently managing program and project delivery of the Federal-Aid Highway Program (FAHP).

Authority for the Agreement comes from 23 USC 106(c) which requires the United States Department of Transportation (USDOT) and the State to enter into an agreement for the extent to which the State assumes the project approval and oversight responsibilities of the USDOT.

Unlike previous stewardship agreements, the current Agreement utilizes a risk-based approach to manage the FAHP. This innovative way of doing business represents a paradigm shift in the joint and collaborative management of the FAHP. Through this Agreement, FHWA has delegated responsibility for oversight and approval of low-risk project level activities to Caltrans. The approach to high-risk project oversight is conducted in two steps as explained in [Section 2.5: Projects of Division Interest](#): 1) select the projects that traditionally pose a risk to the health of the FAHP (Projects of Division Interest projects), and 2) within each Project of Division Interest project, further delegate approval authorities for activities that pose a low risk to that individual project.

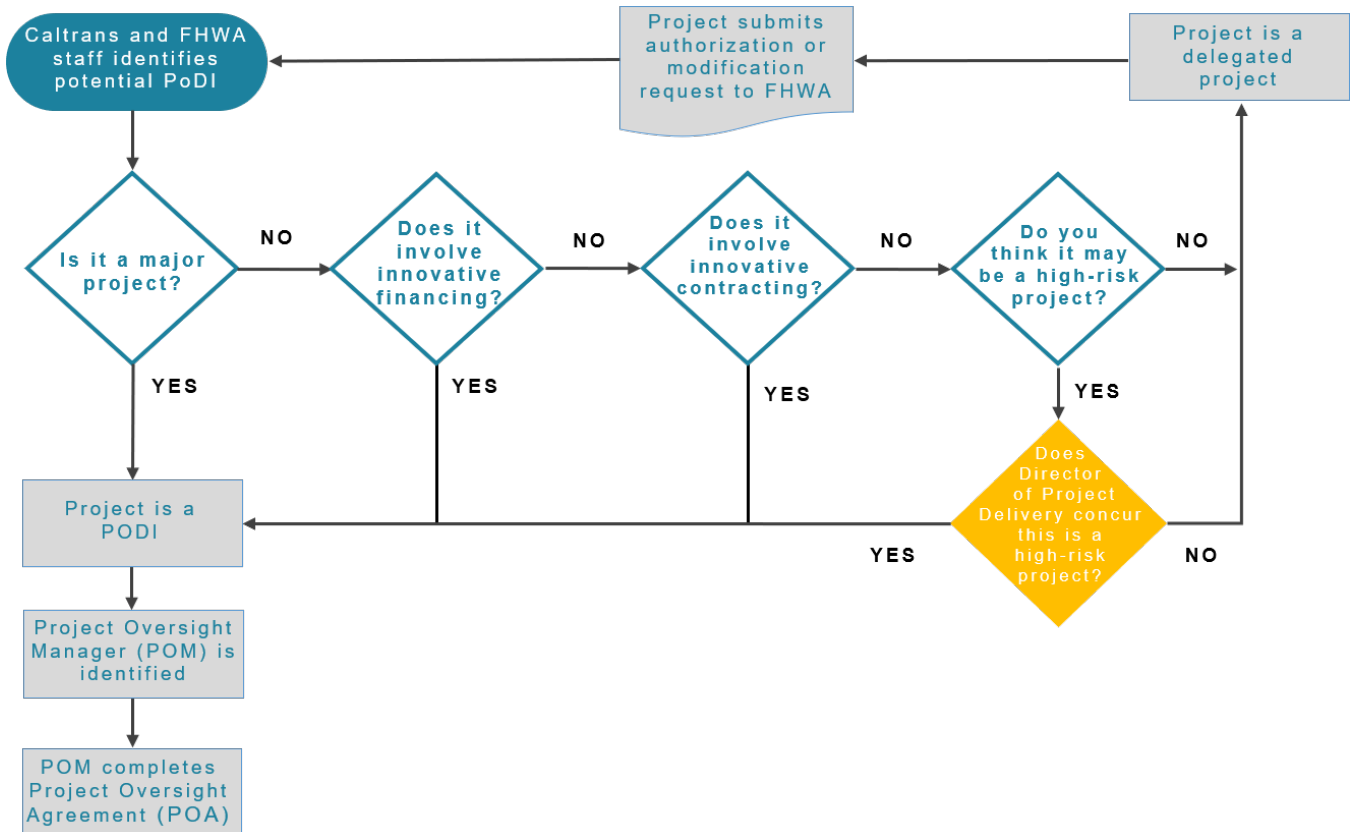


Figure 2-1: PoDI Project Identification

2.6 Right-of-Way Certification Delegation

In addition to the delegations discussed above, guidance regarding Caltrans delegation for RW certification approval is described in [LAPM Chapter 13](#) (Section 13.2: Federal Aid and the Federal/State/Local Agency Relationship).

2.7 Projects Off the National Highway System (Non-NHS)

The reengineering of local assistance procedures in 1995 gave local agencies additional responsibility and accountability for non-NHS projects. Many of the responsibilities delegated to Caltrans under the Stewardship Agreement are further delegated to the local project sponsors. Caltrans preliminary engineering, construction review and approval activities are reduced, and other activities involving environmental reviews, project authorization, Disadvantaged Business Enterprises, consultant selection, and agreement procedures are streamlined to eliminate duplication of effort and multiple reviews.

2.8 Projects on the National Highway System (NHS)

The delegation of responsibilities to local agencies described above for non-NHS projects also applies for NHS projects. With the following exceptions (discussed in detail in the appropriate chapters of this manual), procedures are the same for both types of projects.

Field Reviews

Field reviews are required for significant local agency projects on the National Highway System and encouraged for all other federal-aid projects. If the field review is not performed, document on the field review form the reasons why the field review was not performed, as a completed field review form is required for all federal-aid projects.

PS&E Procedures for Significant NHS Projects

When Caltrans requires a field review for significant NHS projects, plans, specifications and estimate (PS&E) procedures (standards, agencies involved, use of consultants, project management, specifications, etc.) will be discussed. These procedures will be put in writing for Caltrans approval before final design is initiated. With approval, the local agency will then certify their PS&E(s) for these projects the same as they do for non-NHS projects upon completion of the PS&E. Caltrans may review the PS&E(s) if resources are available, or as part of a process review. NHS projects that are not significant will not require these approval procedures.

Design Standards

Local agencies are required to use only American Association of State Highways and Transportation Officials (AASHTO), 3R, and other design standards officially approved for use on NHS projects that are off the SHS. For SHS projects, Caltrans standards are to be used. Locally approved design standards are not allowed on NHS projects, however Caltrans may approve exceptions on a project-by-project basis except on Project of Division Interest projects, which requires FHWA approval.

Method of Construction

In general, an open and competitive bidding process must be used for construction contracts on federal-aid projects. Exceptions to competitive bidding of construction contracts must include a Public Interest Findings approved by Caltrans for Delegated Projects. FHWA approval of the Public Interest Findings may also be required on Project of Division Interest projects.

Restricted Construction Contract Provisions

Warranty clauses are restricted on NHS projects **unless an exception is approved. and the use of proprietary items is restricted on all federal-aid projects unless an exception is approved.**

Construction Administration for Significant NHS Projects

When Caltrans requires a field review for significant NHS projects, the local agency's construction administration procedures (staging, agencies involved, use of consultants, project management, quality assurance, etc.) will be discussed. These procedures will be put in writing for Caltrans approval before the Request for Authorization for Construction is approved. Caltrans will not review the construction administration unless requested and resources are available, or as part of a process review.

2.11 Caltrans Responsibilities

Caltrans is responsible and accountable to the FHWA for administering the successful implementation of federal-aid programs and projects in accordance with laws, regulations, and policies that govern the federal-aid program. Caltrans also administers the implementation of state funded programs and projects for the California Transportation Commission and State Legislature.

These responsibilities are divided into three areas: Policy and Procedures, Program Management, and Project Implementation.

~~It is imperative that Caltrans employees involved in project ranking or scoring, or process reviews, have a completed Conflict of Interest Statement (form ADM-3043) on file.~~

Policy and Procedures

Caltrans establishes uniform policies and procedures to assist the local agencies in meeting the program requirements for their projects. Caltrans, in collaboration with FHWA, interprets federal and state laws, rules and regulations, and provides guidance in the form of manuals, guidebooks, handbooks, reference materials and service, and training to assist the agencies in planning, designing, constructing, and maintaining their transportation systems.

Caltrans policy and procedure development are achieved in coordination and consultation with the FHWA, representatives of local agencies, MPOs, RTPAs, other affected agencies, and organizations.

Program Management

Each specific local assistance program provides funding which requires distribution, management, and oversight control to ensure that the funds are expended in accordance with the program requirements and that allocations and budget authority are not exceeded. Caltrans distributes both state and federal fund allocations to the MPOs, RTPAs, cities, counties and others as specified by law.

Once the distributions are established, Caltrans provides program guidance for their expenditure. Some programs may require annual or periodic project application and selection to establish eligibility lists. Caltrans also monitors project implementation to ensure that the projects are implemented in a timely manner to achieve program goals. The Local Assistance Program Guidelines describes each current program.

Conflict of Interest

49 CFR, Part 19.36 (b)(3) states that grantees and subgrantees will maintain a written code of standards of conduct, governing the performance of their employees engaged in the award and administration of contracts. No employee, officer, or agent of the grantee, or subgrantee, shall participate in selection, or in award of administration of a contract supported by federal funds, if a conflict of interest, real or apparent, would be involved. Such a conflict arises when: (i) the employee, officer, or agent (ii) any member of his immediate family (iii) his or her partner (iv) an organization, which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award. In response to the above requirement and other laws and regulations, Caltrans has issued policy under Deputy Directive DD-09-R3 titled Incompatible Activities and Conflict of Interest. This directive is to ensure that California Department of Transportation employees do not willfully engage in any employment or activities that are illegal, that are or give the appearance of being incompatible or in conflict with their duties as State

employees, that discredit their profession, Caltrans or the State, or that have an adverse effect on the confidence of the public in the integrity of government.

~~Conflict of Interest Form ADM-3043 is to be completed annually by all Caltrans headquarters and district employees that review, rank and rate project applications from local agencies for any federal or state funded programs. Forms must be signed by the employee and their respective supervisor. Signatures from the Acquisition Analyst and Contract Officer are not required for DLA staff who are not acting as a contract manager. Immediate supervisors shall keep copies of the signed ADM-3043. Additional information on conflict of interest is provided by the Division of Procurement on the intranet at: <https://dpac.onramp.dot.ca.gov/#1>. Instructions are also included on the back of the ADM-3043.~~

Compliance with this policy helps safeguard state and federal funds and the public's interest. Non-compliance with this policy could result in the loss of delegated purchasing or contracting authority for the individual or the entire department.

Project Implementation

Some major federal-aid project implementation steps delegated by the FHWA to Caltrans cannot be further delegated to the local agency level and remain Caltrans' responsibility.

These are shown in [Exhibit 2-B: Federal-Aid Project Responsibilities List for Delegated Projects off the State Highway System](#) and include:

- Ensure project in Federal Statewide Transportation Improvement Program (FSTIP)/ Transportation Improvement Program (TIP)
- Identify proposed funding category
- Develop financial plan for federal projects between \$100 million and \$500 million
- All EA/FONSI/ROD, 4(f), 106, 6(f) and other approval actions required by federal environmental laws and regulations included in the FHWA-CA 327 NEPA Assignment MOU
- Airway highway clearance coordination and respective public interest finding (if required) [23 CFR 620.104]
- Provide approval of preliminary plans for unusual /complex bridges or other structures (non-interstate) [23 USC 109109(a) & FHWA policy]
- Retaining right-of-way encroachments [23 CFR 1.23(b) & (c)]
- Use of local force account agreements [23 CFR 635.104 & 204]
- Use of publicly owned equipment [23 CFR 635.106]

Note: For complete listing refer to Attachment A of the [Stewardship and Oversight Agreement](#).

The individual chapters covering these topics should be consulted for details concerning the responsibilities. Where the FHWA has not delegated final approval, Caltrans monitors local agency activities, reviews or prepares documents, and makes recommendations to FHWA.

Caltrans also provides assistance to the local agencies in interpreting the regulations, manuals and guidelines as they apply to specific project conditions. The District Local Assistance Offices and Headquarters DLA personnel are available to aid the local agency through the required process and procedural steps.

Where expertise is not otherwise available, the local agency may also request assistance from Caltrans technical specialists in solving special technical problems. Environmental issues, engineering services, right of way concerns, hazardous wastes, labor compliance, equal employment opportunity, Title VI, and Disadvantage Business Enterprise are among these areas where assistance is available. The use of this expertise must be requested early and be well coordinated to assure that Caltrans limited resources and personnel will be available when needed.

Oversight

As outlined in [LAPM Chapter 19: Oversight and Process Reviews](#), Caltrans and FHWA will use the process review and other oversight methods to determine if local agencies are in compliance with all federal-aid laws, regulations, and procedures. The oversight findings will be used to evaluate all aspects (including Title 23 requirements) of the local agencies federal-aid program and to improve local assistance procedures.

Maintenance Reviews

Annually, Caltrans reviews project maintenance for selected agencies using federal-aid funds so that every agency is covered during a four-year cycle. [LAPM Chapter 18: Maintenance](#) describes these maintenance review procedures in detail.

2.12 City, County and Other Local Public Agency Responsibilities

The cities, counties, joint power authorities, transit agencies and other public agencies have the primary responsibility for implementing the specific projects which carry out the programs described in this manual. Nonprofit entities may also qualify for this. For the purpose of this manual, these agencies/entities are commonly called local agencies.

Project Implementation

The local agency is responsible for the conception, planning, programming, environmental investigation, design, right of way, construction and maintenance of the projects on their local transportation system. It must ensure that its staff members, consultants, and contractors comply with the applicable state and federal laws, regulations and procedures in developing, and constructing its projects.

If a local agency has never implemented a federal-aid or state funded project, or does so infrequently, it should review the processes with the DLAE prior to beginning any implementation activity. It may wish to seek the administrative services of another agency, which is more familiar with the process and procedure details.

Caltrans exercises its FHWA delegated authority by further delegating federal authority to local agencies to the greatest extent possible for those federal-aid projects that are located off of the State Highway System. The local agency is delegated decision-making authority and responsibility for most design and construction-related activities of federal-aid projects. These include:

- Getting the project into the FSTIP
- Preparing the Request for Authorization for each project phase
- ~~Decision to hold field review for projects off the NHS~~
- Determining Project DBE contract goals

LAPM C.3 PROJECT AUTHORIZATION

LAPM C.3 Project Authorization

Section / Exhibit	Description of Changes
<p align="center">3.1 Terms and Definitions</p>	<ul style="list-style-type: none"> • Definition for “At-Risk PE” added
<p align="center">3.3 Request for Authorization</p>	<ul style="list-style-type: none"> • Deleted instructions to submit Exhibit 3-G as this is an internal Caltrans SOP.
<p align="center">3.3 Preliminary Engineering</p>	<ul style="list-style-type: none"> • Added clarification as to where the line should be drawn between PE and CENG regarding certain support activities.
<p align="center">3.3 Construction and Construction Engineering</p>	<ul style="list-style-type: none"> • Removed “selected and programmed directly by Caltrans” to avoid confusion; Caltrans ultimately has approval authority.
<p align="center">3.3 Project End Date</p>	<ul style="list-style-type: none"> • Replaced first paragraph to create a consistent logical tie between Period of Performance and Project End Date.
<p align="center">3.4 Administrative Procedures</p>	<ul style="list-style-type: none"> • Removed reference to Exhibit 3-G which is part of internal Caltrans SOP.
<p align="center">3.11 Highway Funds Eligible for Transfer</p>	<ul style="list-style-type: none"> • Added ATP bullet.
<p align="center">LAPM 3-A Project Authorization/Adjustment Request</p>	<ul style="list-style-type: none"> • Added language in List of Utilities section from the previous Exhibit 3-C to ensure local agencies are aware of their obligations when seeking federal reimbursement.

Appropriation Period - The six years starting on July 1 of the appropriation year through June 30 of the reversion year that an encumbrance is eligible for reimbursement.

Appropriation Year - The state budget year (July 1 to June 30) that Legislature has approved for enactment and Caltrans Local Programs Accounting (CLPA) has authority to encumber funds.

At-Risk PE - Preliminary Engineering (PE) costs incurred prior to authorization and authorized for reimbursement under Section 1440 of the FAST Act.

Authorization to Proceed - Federal project funding eligibility approval for a particular phase of work by the Federal Highway Administration (FHWA).

Encumbrance - The commitment of funds based on an agreement that permits Caltrans to reimburse eligible costs for an approved phase of a project.

Federal Fiscal Year - The accounting period for the federal budget. The Federal Fiscal Year (FFY) is from October 1 until September 30. The FFY is designated by the calendar year in which it ends. For example, FFY 06 runs from October 1, 2005, until September 30, 2006.

Local Assistance Project - A local surface transportation project funded with federal and/or state funds for the operation, maintenance, and acquisition or development of facilities or land, provided the local entity retains ownership after completion of the project. Examples include:

- Project on Local Street with federal CMAQ funds
- Project on Local Street with RIP (STIP) funds

National Environmental Policy Act (NEPA) - Federal environmental law requiring federal agencies to consider the environmental impacts of their actions, 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.

Obligation - The federal government's legal commitment (promise) to pay or reimburse the states or other entities for the federal share of a project's eligible costs.

Obligation Authority (OA) - Total amount of federal funds that may be obligated in a FFY.

Overall Work Plan (OWP) - The OWP is the MPO/RTPA's transportation planning structure/plan for the state fiscal year, July 1 through June 30.

Preliminary Engineering (PE) - This phase includes all project initiation and development activities (including NEPA approval) undertaken through the completion of PS&E. It may include preliminary utility investigation and engineering work associated with utility relocation and pre-acquisition R/W activities such as estimating, title search and other studies necessary for project agreement approval and NEPA compliance.

Project End Date (PED) - The PED is defined as the date after which no additional costs may be incurred for a project. The PED is calculated by adding twelve (12) months to the estimated date of completing work for the phase of work requesting authorization.

Reversion Date - The last day that Caltrans may legally reimburse an encumbrance per state statute.

State Budget Authority - The state budget year and its period of reimbursement that is assigned to a particular state or federal encumbrance. State budget authority must be applied to all state and federal funds that are passed-through Caltrans to be eligible for reimbursement.

the DLAE by June 30 of each year for the following FFY. (See [LAPM Chapter 9: Civil Rights and Disadvantaged Business Enterprise](#).)

Each local agency must provide the Caltrans DLAE with a completed [Exhibit 9-C: Local Agency ADA Annual Certification Form](#) by June 30 of each year for the following federal fiscal year (October 1 to September 30). The form must be received prior to submitting a Request for Authorization to proceed with a federal-aid project.

If a Cooperative Agreement is necessary for the project, it should be executed prior to requesting authorization to proceed (see [PDPM Chapter 16: Cooperative Agreements](#)).

3.3 Request for Authorization

The project sponsor identified in the FTIP/FSTIP to receive the federal funds is responsible for requesting the federal Authorization to Proceed. The project sponsor must prepare and submit a Request for Authorization to Proceed package to the appropriate Caltrans District Local Assistance Office. The request package should include, as a minimum, the agency's Request for Authorization to Proceed (see [LAPM 3-A: Project Authorization/Adjustment Request](#) and all required support documentations). ~~The Caltrans District Local Assistance Office must submit to Caltrans Headquarters Division of Local Assistance (DLA), [Exhibit 3-G: Federal Project Log Sheet](#) with the appropriate documents attached.~~

If the Request for Authorization package is complete and all federal and state requirements have been satisfied, a minimum of three (3) weeks processing time should be allowed to receive federal Authorization to Proceed for Delegated projects. More time will be required for Projects of Division Interest projects. Additional time may also be required near the beginning or end of the FFY.

If the Request for Authorization to Proceed package is incomplete, unacceptable or missing information that cannot be quickly obtained by FAX, telephone, e-mail, or other source, the package will be returned to the local agency for resubmittal.

Preliminary Engineering

Eligible preliminary engineering (PE) work includes location and environmental studies, NEPA approval ([LAPM Chapter 6: Environmental Procedures](#)), preliminary utility investigations and engineering work associated with utility relocation, final design (Plans, Specifications and Estimates, PS&E) and other related work including the cost of advertising leading to physical construction of a project. Preliminary R/W activities that may be considered eligible and authorized as part of PE include pre-acquisition activities such as estimating, title search and preliminary property map preparation and studies, as needed for NEPA compliance (see [LAPM Chapter 13: Right of Way](#)).

[After a construction contract has been awarded, support activities should typically be included under Construction Engineering rather than the Preliminary Engineering phase.](#)

Only work performed after the date of federal authorization is eligible for federal reimbursement. The preliminary studies portion of PE may be authorized prior to an optional or mandatory field review (see [LAPM Chapter 7](#)). This allows for the reimbursement of selecting consultants and other specialists who may be needed for field review.

Right of Way Utility Relocations

If federal reimbursement is sought for utility relocations (adjustments), all work must be performed in accordance with the FHWA's Alternate Procedure 23 CFR 645.119(e)(2). Refer to [LAPM Chapter 14: Utility Relocations](#), for detailed information and procedures related to eligible costs, required federal actions (Authorization to Proceed [E-76], FHWA Specific Authorization to Relocate Utilities, and FHWA Approval of Utility Agreement[s]), sequence of activities, notifications, support documentation and federal reimbursement.

Note: Investigative and preliminary utility engineering work associated with utility relocation necessary to complete NEPA and PS&E may be authorized under Preliminary Engineering.

Construction and Construction Engineering

Eligible construction costs include the actual cost to construct the highway itself, including its appurtenant facilities and any removal, adjustment or demolition of buildings or major obstruction, utility or railroad work that is a part of the physical construction of the project construction engineering, and administrative settlement of cost for contract claims. Construction costs exclude costs of PE, R/W, and construction engineering.

Federal Authorization to Proceed with construction must be received prior to advertising. Projects advertised for a construction contract prior to federal authorization are not eligible for federal reimbursement.

The request package for Authorization to Proceed with construction must include LAPM 3-A, a copy of the approved NEPA document (either a signed Categorical Exclusion, Finding of No Significant Impact (FONSI), or Record of Decision (ROD)), if not previously submitted, approved Right of Way Certification, engineer's estimate (the engineer's estimate may be included on the LAPM 3-A), [Exhibit 12-D: PS&E Checklist](#) and PS&E package.

For projects of \$100 million or more, but less than \$500 million, a Financial Plan must be prepared and submitted to the DLAE with the request for construction authorization. For major projects of \$500 million or more, a Financial Plan must be submitted prior to the request for construction authorization and submittal of a draft Project Management Plan is required prior to environmental approval. For major projects, the Final Project Management Plan is due 90 days after the environmental decision document (i.e., FONSI or ROD). A Cost Estimate is required to be included in each Financial Plan. Both the Financial Plan and Project Management Plan are to be submitted to the DLAE for FHWA approval. The requirements for both of these plans are discussed in [LAPM Chapter 2: Roles and Responsibilities](#).

Construction Engineering (CE) includes the supervision and inspection of construction activities, additional staking functions considered necessary for effective control of the construction operations, testing materials incorporated into the construction, checking shop drawings, and measurements needed for establishing pay quantities. CE costs must be specifically included in the LAPM 3-A and authorized to be eligible for federal reimbursement. If CE is authorized after construction begins, only those CE costs incurred after the date of the CE authorization are eligible for federal reimbursement.

Local agencies are responsible for maintaining a detailed estimate of project CE costs in their project files. It is highly recommended that local agencies use 15% as a guide for estimating CE costs and maintain justification for higher CE costs. CE costs in excess of 15% on federally funded projects ~~selected and programmed directly by Caltrans~~ will need justification by local

NI will result in a Categorical Exclusion as the NEPA determination. A copy of the PES (NI) Form is available on the [LAPM Forms webpage](#).

Right of Way: Since NI projects will not involve right of way acquisition or utility relocation, FHWA has agreed with Caltrans that Right of Way Certifications will NOT be required.

Plans, Specifications, and Estimates (PS&E): Any NI project requesting authorization to proceed must include a NI project work plan in lieu of the traditional PS&E. The work plan must be of sufficient detail to describe project tasks, schedule, activities, deliverables, and budgets/costs. A sample work plan is shown in [Exhibit 3-R: Non Infrastructure Project Work Plan Sample](#).

Project End Date

~~The Period of Performance is defined as the time frame during which eligible federal project costs can be incurred. The beginning of the Period of Performance is established when the project's first authorization (E-76) is approved by FHWA. The end of the Period of Performance is when the agency has finished incurring federally reimbursable costs. As a result of these eligible costs being incurred within the Period of Performance, they are eligible for reimbursement.~~

The Period of Performance is defined as the date when FHWA authorizes the project agreement to begin incurring costs for the identified phase and scope of work. The E-76 authorization date is the start date for the period of performance for the applicable work phase, such as PE, RW, Construction, State Planning and Research (SP&R), and "Other." The end of the Period of Performance is when the agency has reached the estimated Project End Date of the work phase.

The Project End Date (PED) is the date that an agency must estimate in order to identify the end of the project's Period of Performance. It is defined as the date after which no additional costs may be incurred for an authorized phase of work and coincides with when the agency submits its complete and accurate Final Report of Expenditures (FROE) to the District Local Assistance Engineer (DLAE). Any costs incurred after this date will not be eligible for federal reimbursement. The PED is established by adding twelve (12) months to the local agency's estimated date of completing the 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 construction contract acceptance. Upon adding a future phase of work, the local agency must also revise the PED. Revisions to the PED require Caltrans concurrence and FHWA approval. If the PED is revised after the authorized PED has past, any costs incurred between the expiration of the authorized PED and the revised PED are ineligible for reimbursement.

Establishing the PED

Effective immediately, local agencies are required to estimate the PED and include it at the time of their authorization request. The PED is required to be shown on the [LAPM 3-A: Project Authorization/Adjustment Request](#) and submitted with every Request for Authorization package for the project. When preparing the E-76, the DLAE will enter this date into the Project End Date field in the Caltrans Federal Aid Data System (FADS). After Caltrans concurrence and FHWA approval, Caltrans will notify the local agency of the established PED along with the project authorization.

Revising the PED

The local agency is expected to monitor the progress of its project. If the need arises, the local agency may need to revise the PED to accurately reflect the amount of time needed to complete

3.4 Administrative Procedures

The Caltrans Federal-Aid Data System (FADS) and the FHWA Fiscal Management Information System (FMIS) are the databases used in the federal authorization/obligation process.

Upon receipt of a complete and acceptable Local Agency Request for Authorization to Proceed package, Caltrans District Local Assistance Office creates an electronic project file (E-76) and inputs the required project information into the FADS database. The Caltrans District Local Assistance Office then transmits the E-76 project file and required backup information to Caltrans Headquarters Division of Local Assistance (DLA). The DLA Area Engineer reviews the submittal package for completeness and accuracy, focusing on project eligibility, federal and state requirements, availability of federal funds and obligation authority, and required support documentation (see [Exhibit 3-G: Federal Project Log Sheet](#)). The DLA Area Engineer recommends FHWA approval of Delegated or Projects of Division Interest projects and then transmits the E-76 to FHWA (California Division). FHWA approves/authorizes all projects and transmits all federally funded project records to FMIS.

Upon the federal obligation of funds, the Caltrans DLAE notifies the project sponsor and issues an Authorization to Proceed (see [Exhibit 3-P: Sample "Delegated Project Authorization"](#)) and a federal project summary, and then documents the federal authorization and obligation dates. Costs incurred prior to federal authorization are not eligible for reimbursement. Projects advertised prior to federal authorization are not eligible for federal reimbursement.

For significant changes in Scope of Work and cost increases or reductions, the local agency must submit a modified Request for Authorization to Proceed package. The District, DLA and FHWA will process this E-76 request in the same manner as above.

Budget Authority for Projects on the State Highway System (SHS)

For Caltrans administered projects located on the SHS financed with local assistance funds, the Caltrans Project Manager assigned to the project must submit [Exhibit 3-H: Request for Capital Subvention Reimbursement Allocation/De-Allocation](#), to the DLAE when requesting federal authorization. Once the request is approved, the Division of Budgets will provide an approved reimbursement authority memo to expend the funds for capital outlay costs (utility relocation, right of way acquisition, and construction capital).

If the estimated federal share of project costs has decreased by \$250,000 or more, the Caltrans Project Manager must submit [Exhibit 3-H: Request for Capital Subvention Reimbursement Allocation/De-Allocation](#) to their DLAE to de-allocate the reimbursement authority to comply with 23 CFR 630.106(a)(4).

The capital subvention reimbursement allocation and de-allocation process is detailed in Figure 3-3: Capital Subvention Reimbursement Allocation and De-Allocation Process.

transit activities include transit capital projects and up to three years of operating expenses for new eligible services.

- **Active Transportation Program (ATP)** – ATP funds infrastructure projects, non-infrastructure projects and plans that encourage increased use of active modes of transportation, such as biking and walking and projects that meet at least one of the program goals.
- **FHWA Discretionary Funds** (including: High Priority Demonstration, Ferry Boat Discretionary, Federal Lands Highway Program, and Transportation and Community and System Preservation Pilot Program (TCSP) program). These funds may only be used for the designated purpose (line item description), as authorized by Congress or FHWA.

Federal STIP funds under the programming control of the RTPAs may be transferred to the FTA but must be allocated by the CTC prior to transfer to the FTA.

FTA Grant Programs

FHWA funds may be transferred to three different FTA Formula Grant Programs. These programs are contained in Title 49 (Transportation), Subtitle III (General Intermodal Programs), Chapter 53 (Mass Transportation) of the United States Code (USC). They are the Section 5307 Urbanized Area Formula Grant Program, Section 5311 Formula Grants for Other than Urbanized Areas Program, and Section 5310, Formula Grants and Loans for Special Needs of Elderly Individuals and Individuals with Disabilities Program. These programs vary by population density and whether the purchase of buses and vans for the elderly and disabled are involved.

Section 5307– Urbanized Area Formula Program

- **Section 5307 Grant Program procedures**
Are used by local agencies in urbanized areas of over 200,000 populations, as well as, in urban areas with populations of 50,000 to 200,000. Under Section 5307 Grant Program procedures, each local agency submits one grant application per fiscal year to the FTA. Following the FTA Transfer, the Applicant Agency will deal directly with the FTA on all project-related activities. Remember that the FTA only will accept grant applications from agencies that they have certified (i.e., recognized transit agencies). Noncertified agencies must find a certified project sponsor.
- **Section 5311 – Non-Urbanized Area Formula Program**
Section 5311 Grant Program procedures are used in non-Urbanized areas and cities of under 50,000 populations. Every year, the FTA allocates apportioned Section 5311 Program funds to each state. For California, Caltrans is the delegated recipient of these FTA funds. The Caltrans DMT Office of Rural and Small Transit Operators manages the Section 5311 Program jointly with the assistance of the District Transit Offices.

Under the Section 5311 Program, the Caltrans DMT acts as the grant applicant on behalf of the local agencies and deals directly with the FTA. The Caltrans DMT submits one annual statewide grant application to the FTA that includes both local and state-sponsored projects. Detailed procedures for the processing FTA transfers to the Section 5311 Program are contained in the Caltrans Section 5311 Handbook and Guide and are briefly summarized in [Exhibit 3-K: Administrative Procedures for Transfer of Local Federal-Aid Funds to Federal Transit Administration \(FTA\)](#).

- **Section 5310 – Elderly and Persons with Disabilities Program**
Section 5310 Grant Program procedures are used by nonprofit organizations and public agencies (approved by the state) for the purpose of meeting the transportation needs of the elderly and individuals with disabilities where existing public transportation services

Date	Federal Project Number
------	------------------------

RIGHT OF WAY COST ESTIMATE *Multiple Federal Fund Types*

ESTIMATE SUMMARY

R/W Activity	Count	Cost	Participating Amount	Non-Participating Amount
Parcels to Acquire				
RAP Family Parcels				
RAP Business Parcels				
LRH / Hardship Parcels				
Utilities Cost				
Support Cost				
Total Cost		\$0.00	\$0.00	\$0.00

LIST OF PARCELS

Assessor's Parcel Number	Acquisition Type	Description	Acres	Cost	Participating Amount	Non-Participating Amount
Total				\$0.00	\$0.00	\$0.00

LIST OF UTILITIES *

Utility Owner	Type of Utility	Cost	Participating Amount	Non-Participating Amount
Total			\$0.00	\$0.00

* For a project to be federally eligible, relocation of utilities must be performed in accordance with 23 CFR 645.119 which includes, but is not limited to the submission of the Specific Authorization and Approval of the Utility Agreement(s).

REPLACE CURRENT TEXT with the following:



This Agency agrees to comply with 23 CFR 645.119 "Alternate Procedure" (as explained in LAPM Chapter 13: Right of Way and Chapter 14: Utility Relocations). 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 LAPM Chapter 14: Utility Relocations 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.

LAPM C.5 INVOICING

LAPM C.5 Invoicing

Section / Exhibit	Description of Changes
<p>Multiple Locations</p>	<ul style="list-style-type: none"> • The designation for the LPA acronym has changed from “Local Programs Accounting” to “Local Public Agency” in line with FHWA usage of the same acronym • Local Programs Accounting will be designated as CLPA: Caltrans Local Programs Accounting • Replaced “E&P” with “PA&ED”. • OB #19-05: updated language and/or replaced superseded
<p>Figure 5-1 Invoice Flowchart</p>	<ul style="list-style-type: none"> • OB #19-05: Removed reference to Exhibit 5-J.
<p>5.2 Award Package</p>	<ul style="list-style-type: none"> • Text changes made to address FHWA recommendations to allow invoicing less than 2% or \$1,000 (at least for the first project invoice) and to allow invoicing of CE prior to Construction Award
<p>5.5 Invoice Guidelines, Format, and Checklist</p>	<ul style="list-style-type: none"> • OB #19-05: Revised guidance with the introduction of LAPM 5-A including removal of Detailed Invoice Format subsection which has been replaced with instructions included in LAPM 5-A.
<p>5.5 Detailed Invoice Format</p>	
<p>LAPM 5-A Local Agency Invoicing</p>	<ul style="list-style-type: none"> • Rows will be added to accommodate projects that have both federal and state funds. For a project with both funds, an agency will be able to seek reimbursement for both types of funds (federal and state) in the same column by entering both a state reimbursement percentage and a federal reimbursement percentage. The additional rows will be added to separate the amount being reimbursed for each type of fund (federal and state), as well as help track previous reimbursement amounts and remaining funds. • Add entry for existing PED with modifications to checklist • Other minor changes as marked.

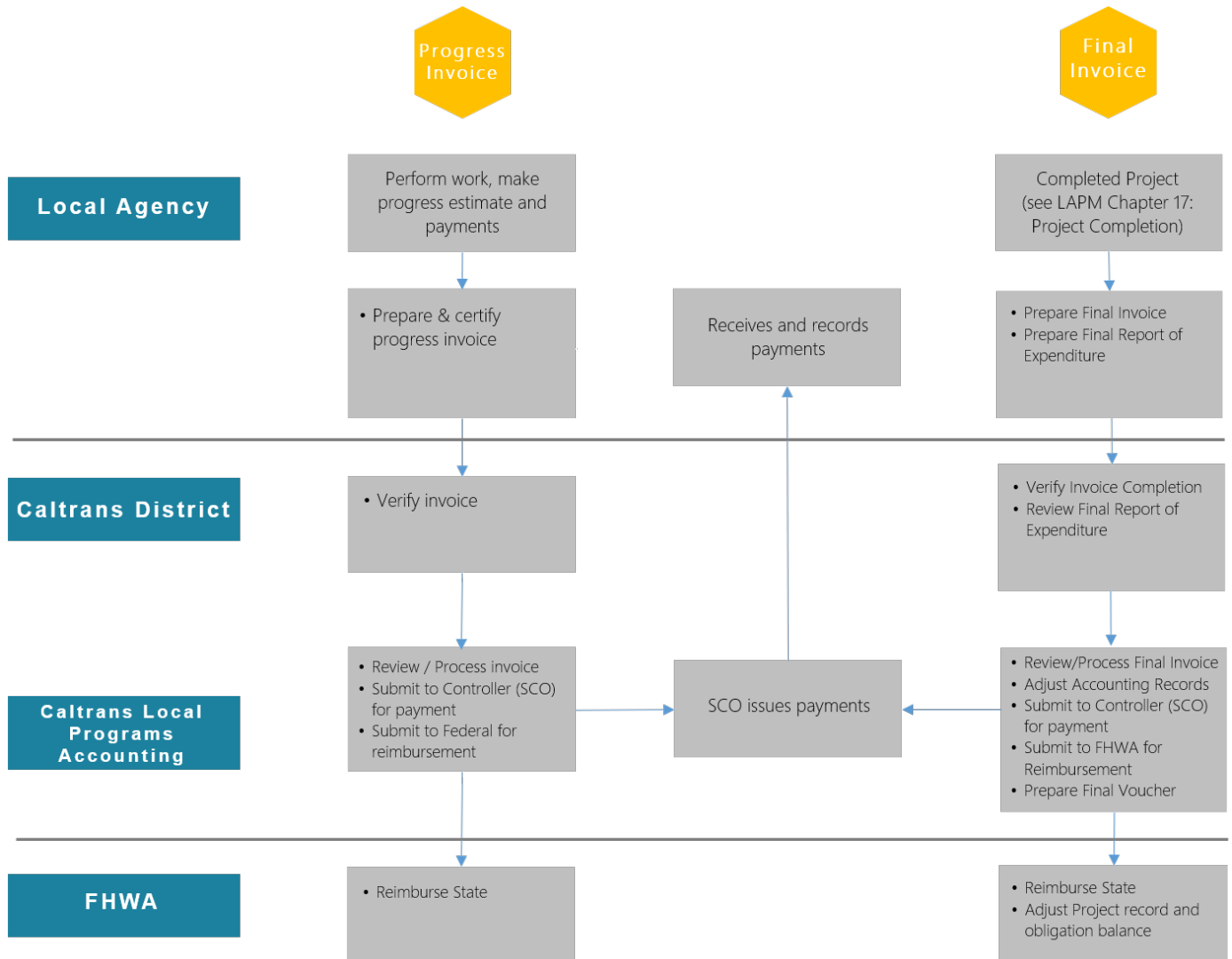


Figure 5-1: Invoice Flowchart

Chapter 5 Invoicing

The purpose of this chapter is to provide local agencies with basic information required to obtain reimbursement for their expenditures on local federal-aid and state funded projects. Additional information may be obtained from [Caltrans](#) Local Program Accounting (CLPA) through the District Local Assistance Engineer (DLAE). Payments made under these provisions are for expenditures paid by the local agency prior to claiming reimbursement from the California Department of Transportation (Caltrans).

5.1 Tracking Status of Invoices

As invoices are processed by CLPA, local agencies can monitor the status of their invoices by viewing the data at the Vendor Payment History website: <https://dot.ca.gov/programs/accounting/vendor-payment-history>. This website is updated daily and contains all invoices for projects for the past 18 months.

5.2 Requirements for Reimbursement

The following conditions must be met prior to reimbursement of costs:

Budget Authority

The State Legislature and Federal Government have provided budget authority and the projects have met all program budget conditions, e.g., timely use of funds.

Agreement

1. The Administering Agency-State Master Agreement (Master Agreement) must be fully executed (all required signatures obtained), if one is used. This is an agreement between the state and a city, county or other local agency defining the general terms and conditions, which must be met to receive federal-aid (Federal Master Agreement) and/or state funds (State Master Agreement).
2. The Program Supplement Agreement (PSA), project agreement, or some other required applicant state agreement must be fully executed. These documents are agreements between the state and local agency (or applicant) identifying the type and amounts of funds used to finance the project and the specific covenants related to the project. The State can only reimburse the agency that signed this contractual document, unless there is a covenant in the PSA authorizing another entity to bill and/or be paid on behalf of the agency signing the PSA.

For additional information about agreements refer to [LAPM Chapter 4: Agreements](#).

Federal-Aid Project Authorization (E-76)

Prior to the beginning of the reimbursable work, the project phase of work eligible for reimbursement from federal funds must be formally authorized (approved) by Caltrans and FHWA. The payment of federal funds is limited to the amounts approved on the Authorization to Proceed or E-76. To initiate a federal project authorization for a phase(s) of work, or to increase a prior authorization, the local agency must prepare the Request for Authorization package (see [LAPM Chapter 3: Project Authorization](#)) that provides the information needed by Caltrans and FHWA to process the request in a timely manner.

Note: Costs incurred prior to the authorization date are not eligible for FHWA reimbursement except for Emergency Opening and Preliminary Engineering work that is part of the Emergency Relief program; see [LAPG Chapter 11: Emergency Relief Program](#) for additional details.

For additional information about phases of work and the project authorization process refer to [LAPM Chapter 3](#).

Invoice Submittal

The local agency may submit monthly invoices for reimbursement of participating costs (costs eligible for state and/or federal reimbursement). Amounts claimed must reflect the cost of completed work, which has been paid for. The local agency must claim all reimbursable work within 180 days of project completion or prior to the expiration date of the project agreement, whichever comes first. Per the Master Agreement, an invoice must be submitted at least every six months to avoid being classified as inactive.

Towards the end of the state fiscal year (June 30), it is very important for local agencies to submit invoices timely for all incurred project costs so that accrued expenditures are properly identified on Caltrans financial statements.

Each fiscal year, the Division of Local Assistance (DLA) will notify local agencies regarding projects funded from lapsing appropriations (funds that will expire/not be available for spending June 30 of that fiscal year). They will be notified of the deadline for submitting invoices for these projects.

Award Package

The local agency must submit a complete Award Package to the DLAE within 60 days of the award of the construction contract and prior to the local agency's first invoice for construction [capital costs](#). The DLAE will forward a copy of the Award Package to DLA and [Exhibit 15-L: Local Agency Contract Award Checklist](#) to CLPA for processing.

If the DLAE does not receive a copy of the Award Package with the first invoice for ~~the~~ construction ~~phase~~ [capital costs](#), the invoice will be returned to the local agency unpaid. No award package is required if the local agency utilizes only its own work forces ([force account](#)); ~~However, an approved Public Interest Finding (PIF) document~~ [however, a Public Interest Finding \(Exhibit 12-F\) approved by the DLAE](#) must be included with the first invoice. Note: an Award Package is not required prior to Construction Engineering reimbursement.

The Award Package for Federal-Aid funded construction contracts must consist of the documents outlined in Award Package; see [LAPM Chapter 15: Advertise and Award Project](#) (Section 15.7: Award Package).

- ~~1. [Exhibit 15-L with attachments](#)~~
- ~~2. [Exhibit 15-M: Detail Estimate](#)~~
- ~~3. [LAPM 3-A: Project Authorization/Adjustment Request](#)~~
- ~~4. [Exhibit 15-B: Resident Engineer's Construction Contract Administration Checklist](#)~~
- ~~5. [Exhibit 15-G: Construction Contract DBE Commitment](#)~~

Award Package for State Transportation Improvement Program (STIP) or Active Transportation Program (ATP) projects

The Award Package for state-only funded construction contracts must consist of the completed Award Information for STIP Projects (see [LAPG Chapter 23: Local Agency STIP Projects](#), Exhibit 23-A, or see [LAPG Chapter 22: Award Information for ATP Projects](#), Exhibit 22-A).

5.3 Reimbursable Project Costs

The costs of salaries, wages and related project costs may be reimbursable for the following activities. All costs must be broken down into eligible direct and/or indirect cost components. For list of ineligible costs see [LAPM Chapter 16: Administer Construction Contracts](#) (Section 16.10: Change Order).

Phases of Work

1. **Preliminary Engineering:** Preliminary Engineering is the initiation, design, and related work preparatory to the advancement of a project to physical construction. For local STIP and ATP projects, the Preliminary Engineering costs must be segregated into:
 - ~~Environmental Studies and Permits (E&P)~~
Project Approval / Environmental Document (PA&ED)
 - Plans, Specifications & Estimate (PS&E)

2. **Right of Way:** Acquisition of Right of Way, real property, or rights thereto is included. It also includes the preparation of Right of Way plans, making economic studies and other related preliminary work, appraisal for parcel acquisition, review of appraisals, preparation for and trial of condemnation cases, management of properties acquired, furnishing of relocation advisory assistance, utility relocation, and other related labor expenses.

Note: Right of Way rental income and the proceeds from the sale of excess land may be retained by local agencies if it is used for a valid Title 23 purpose. It is the local agency's responsibility to assure they comply with Title 23 if this option is selected. For additional information about Right of Way topics, see [LAPM Chapter 13: Right of Way](#).

3. **Construction Engineering:** Construction Engineering is the supervision and inspection of construction activities, additional staking functions considered necessary for effective control of the construction operations, testing materials incorporated into construction, checking shop drawing, and measurements needed for the preparation of pay estimates. Construction Engineering must be authorized to be eligible for reimbursement.

4. **Construction:** Eligible construction costs include the actual costs to construct the transportation facility and its appurtenant facilities. It also includes: removal, adjustment or demolition of buildings or major construction; utilities or railroad work 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 [2 CFR Subpart E – Cost Principles](#) and [2 CFR 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, and the issuance of FHWA Guidance 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirement for Federal Awards, 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 Independent Office of Audits and Investigations (IOAI) 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 [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:

1. Fully funded (federal funds requested at maximum federal reimbursement rate, i.e., 88.53% for Surface Transportation Program projects), or
2. Underfunded (federal funds requested at less than maximum reimbursement rate, i.e., 75% vs. 88.53%. See example below), or
3. There is nonparticipating work (costs that are not eligible for federal reimbursement).

The calculated federal reimbursement ratio is computed by dividing the amount of federal funds authorized by the total participating costs.

- Name, title and phone number of the authorized banking official
- Caltrans will complete Section IV of the Enrollment Form

Caltrans also requires a voided check or a savings deposit slip for the checking or savings account, into which the EFT payments will be electronically deposited, to be mailed to Caltrans along with the Enrollment Form. The voided check or savings deposit slip will aid in verifying the bank account and routing transit numbers.

After the Enrollment Form is completely filled out, mail it along with the voided check or deposit slip to:

Department of Transportation
Division of Accounting - MS 33
P.O. Box 168043
Sacramento, CA 95816-8043
Attn: Payee Data Records Unit

Do not mail the Enrollment Form to Local Program Accounting

Caltrans will process the EFT Enrollment packet and work with the local agency's financial institution to establish the EFT payment processing of local agency invoices. During the initial set up period (up to 30 days), Caltrans will regularly perform pre-note tests to verify that all financial routing and transit numbers are accurate while continuing processing payments of the local agency invoices the usual way. Once the EFT information has been verified, CLPA will begin making all payments via the EFT payment process.

For additional information about the EFT program, please visit the [Caltrans EFT website](#).

5.5 Invoice Guidelines, Format, and Checklist

~~The exhibits to this chapter contain a number of sample invoices and should cover the majority of projects. Local agencies are encouraged to cut and paste the samples to fit their specific need while maintaining the integrity of the invoice format. If there are significant questions, contact LPA through the DLAE for assistance. The sample invoices were designed so that only the information absolutely needed has been requested. Invoices with significant errors will be returned to the local agencies for correction without being processed for payment. At a minimum, an invoice package includes invoice, Exhibit 5-J: Local Agency Invoice Review Checklist, and Exhibit 5-K: Billing Summary. Detailed instructions for preparing invoices for reimbursements are outlined below. Some Programs have specific guidelines for acceptable invoicing formats or procedures (i.e., Bicycle Transportation Account, Environmental Enhancement and Mitigation, Federal Exchange/State Match, Freeway Services Patrol, Planning Programming Monitoring). It is NOT the intention of this chapter to supersede these program-specific guidelines on invoice formats, however, checklists should be submitted with all invoices.~~

The LAPM 5-A: Local Agency Invoice replaces all previous invoice templates and is to be used for all reimbursements (with the exception of PPM funds \$300k or less which can be invoiced upfront with a single lump sum payment). It includes the invoice, billing summary, invoice checklist, and instructions. CLPA no longer accepts invoices created by local agencies.

General Guidelines

1. The local agency may submit invoices once a month for reimbursement, but must submit an invoice at minimum every six months to avoid inactivity on a project.
 - ~~2. Invoices must be submitted on local agency letterhead with the local agency's address. If there is a change of the remittance address, the local agency must notify LPA in writing, so that LPA can update the Payee Data Record file in the Caltrans financial system to reflect the new remittance address. Verbal requests cannot be processed.~~
 3. The first time that a local agency invoices Caltrans, they must fill out a Payee Data Record Form, STD 204. This Payee Data Record Form is required in lieu of IRS Form W-9 when doing business with the State of California. This form is also used to set up the vendor's account in the Caltrans financial system.
 4. Progress and final invoices are submitted directly to the DLAE, and should include, an original invoice and two copies (see Table 5-3).
 5. Final invoices must include the Final Report of Expenditures (FROE) package. The DLAE verifies the project completion and approves payment before forwarding the Final Report of Expenditures package, including the original and two copies of the final invoice to CLPA. More information regarding final invoice procedures are described in [Section 5.6: Final Report of Expenditures & Final Invoice](#).
- Note: According to the Federal/State Master Agreement, the state will withhold the greater of either two percent of the total of all state/federal funds encumbered for each PSA or \$40,000.
6. For ~~local STIP and ATP~~ state-funded projects, the preliminary engineering phase must be separated into **E&P PA&ED** and PS&E.
 7. The first invoice for construction capital must include [Exhibit 15-L: Local Agency Contract Award Checklist](#) (for federally funded projects). State projects should include the Award Information checklist.
 8. For Right of Way Acquisition, if payment is to be made to a Title Company, the invoice and the covenants must identify the Title Company to be paid, address, escrow number, contact name, and include the Remarks and Covenants Form. If payment is to be made to the local agency for locally acquired Right of Way, a Right of Way Report of Expenditures is needed.
 9. Invoices must have a current date when sent to the district or CLPA. If for any reason an invoice is returned to the local agency, the resubmitted invoice must have a revised current date and number (e.g., rejected invoice 1 becomes 1A upon submittal).
 10. Invoices must be certified and signed by the appropriate responsible persons in the local agency.
 - ~~11. The certification statement on the invoice must be the same as shown on the sample invoice(s).~~
 12. Invoices must list the name and phone number of the contact person should Caltrans staff need additional information about invoices.

~~13. Invoices must have two copies of the Billing Summary. Local agencies must maintain all supporting backup documentation for costs incurred and claimed for reimbursement in their project files (made available to DLAEs only upon request).~~

Table 5-3: Invoice Documents

Document	Agency Submits to DLAE	DLAE Submits to CLPA	CLPA Submits to SCO
Invoice	Original plus 2 copies	Original plus 1 copy	Original
Invoice Review Checklist	2 signed copies	1 signed copy by Agency & the DLAE	None
Billing Summary	2 copies	1 copy	None

Detailed Invoice Format

~~The invoice format may vary (see Exhibits 5-A, 5-B, 5-C, 5-D, 5-E, and 5-F), but the following information must be included:~~

- ~~1. Date of invoice. Invoices must have a current date. If an invoice is returned to the local agency for any reason, it must be re-dated when resubmitted to the district.~~
- ~~2. Billing number. This is a serially assigned number that begins with #1. This progress billing number allows CLPA to determine that they have received all the invoices for the project. Corrected invoices will include a letter along with the serial number (e.g., 1A for a first revised invoice).~~
- ~~3. Invoice number. This invoice number is assigned by local agency's Account Receivable Accounting system, if applicable.~~
- ~~4. Federal aid or state project number, e.g. prefix project number, STPL-5012 (005), CML-5006 (089), ER-3632 (002), etc.~~
- ~~5. Local agency's Federal Tax Identification Number.~~
- ~~6. Date project accepted by the local agency (for final invoice only). Show On going if project is not completed.~~
- ~~7. Project Location.~~
- ~~8. Project Expenditure Authorization No. or Advantage project ID.~~
- ~~9. Local Agency/State Agreement, PSA numbers and date executed.~~
- ~~10. Phase of work headings such as Preliminary Engineering, Right of Way, Construction Engineering, Construction Contract. For STIP and ATP projects, the Preliminary Engineering phase must be segregated into E&P and PS&E.~~
- ~~11. Federal Appropriation codes such as Q240, Q110, etc.~~

- ~~12. Federal Authorization/Agreement date for each phase of work. Costs incurred prior to the Federal Authorization/Agreement date (E-76) are not eligible for federal reimbursement.~~
- ~~13. Time period for which claimed project participating costs were incurred and paid for each phase of work from the beginning of the project to date.~~
- ~~14. Cost breakdown by Federal Appropriation codes for Preliminary Engineering (E&P and PS&E for STIP and ATP projects), Right of Way, Construction Engineering and Construction phases as follows:
 - ~~Total Indirect Costs of project to date, if claimed and approved by Caltrans IOAI by phases of work. Indirect Costs are described in Section 5.2: Requirements for Reimbursement. When calculating an Indirect Cost Rate, the most common Direct Cost Base used is direct salaries and wages plus fringe benefits. If this Direct Cost Base is used, when applying the Indirect Cost Rate, it should be applied to direct labor costs only (not to other direct costs, such as payment of construction contracts and Right of Way purchases).~~
 - ~~Complete the Indirect Cost Calculation Section of the invoice and transfer the computed Indirect Costs to date to the front of the invoice.~~
 - ~~Total direct costs of the project to date by phases of work. Direct costs are the labor, material, contract payments, and Right of Way acquisition for project-related activity.~~
 - ~~Less total retention amount withheld from the contractor. Retention is not eligible for reimbursement until it has been paid to the contractor or deposited into an escrow account. At the end of the project and after all retention has been released, the amount should be zero.~~
 - ~~Less liquidated damages.~~
 - ~~Less nonparticipating costs to date.~~
 - ~~Total federal participating costs to date. Participating costs are project costs paid for by the sponsoring local agency that are eligible for reimbursement in compliance with laws, regulations, and policies.~~
 - ~~Less total federal participating costs shown on the previous invoice.~~
 - ~~Change in participating costs.~~
 - ~~State and/or federal reimbursement ratio. Federal reimbursement rate may vary depending on the type of funding used, i.e., 80%, 88.53%, etc. If state funds are matching the federal funds, the state reimbursement rate should be shown. If a federal project is not fully funded, see the discussion in Section 5.3: Reimbursement Project Costs, for detailed instructions on how to compute the reimbursement ratio.~~
 - ~~When multiplying the change in participating costs by the reimbursement ratio, the result must be rounded down to the lowest cent. Federal rules do not allow rounding up.~~
 - ~~Federal reimbursement ratio.~~
 - ~~State reimbursement ratio.~~~~

- ~~Amount of the claim.~~

~~15. Certification statement, printed name, title, and signature of the local agency representative. The certification statement on the invoice must be the same as shown on the sample invoice(s).~~

~~16. Contact Name. Provide the name and phone number of the person Caltrans can contact if there are questions about the invoice.~~

Invoice Checklist

Local agencies are required to complete and sign ~~Sections 1 & 2 of Exhibit 5-J: Local Agency Invoice Review Checklist~~ [LAPM 5-A, Section 4: Checklist](#) and submit ~~the checklist~~ as part of the Invoice Package for each invoice. ~~At a minimum, the invoice package includes:~~

- ~~Exhibit 5-A: Sample Federal Aid Invoice (Except for STIP Projects)~~
- ~~Exhibit 5-J~~
- ~~Exhibit 5-K: Billing Summary - Support Phases~~
- Additional documents ~~as required by~~ [may be required per](#) the Checklist

The DLAE will ensure that the checklist and appropriate documentation are included, will concur ~~with Sections 1 & 2,~~ and complete and sign ~~Sections 3 & 4~~ [the Section 4: Checklist](#).

Provided Local Agencies adhere to the format described in this chapter, invoices are typically paid by warrant within 60 days after being received by the DLAE, or 50 days if the agency is signed up for EFT. Please refer to and use ~~Exhibit 5-J~~ [Section 4: Checklist](#) prior to sending invoices to the district for reimbursement. Invoices with significant errors will be returned to the local agencies for correction.

5.6 Final Report of Expenditures & Final Invoice

The local agency must submit the Final Report of Expenditures, which includes the final invoice, to the DLAE within six months of project completion. If the submittal deadline occurs in the year funds will lapse, the Final Report of Expenditures must be submitted to the DLAE by April 1 of that year. The Final Report of Expenditures is to be signed by the person in responsible charge of the project for the local agency. After the DLAE approves the Final Report of Expenditures, including the final invoice, he/she will forward them to Local Programs Accounting for processing of the final invoice. Refer to [LAPM Chapter 17: Project Completion](#) for detailed instructions on completing the Final Report of Expenditures.

Note: For EEM projects, the final report (including the final invoice) must be submitted to the DLAE, 60 days prior to the expiration of the Budget Authority. This report provides key information required to initiate timely closure and payment.

If the final invoice is returned to the local agency for error correction, it must be re-dated with a current date and number before being resubmitted to the DLAE.

When preparing the Final Expenditure Report, follow the instructions in [Chapter 17: Project Completion](#). At a minimum, ensure that:

Billing No:

SECTION 1: INVOICE

Local Agency Name		Remittance Address				Tax ID	
Date	Caltrans District	Federal/State Proj. No.	Advantage Project ID	Invoice No.	Billing No.	Final Invoice <input type="checkbox"/>	Inactive Project <input type="checkbox"/>
Project Description						PED	
Fund Type(s):	<input checked="" type="checkbox"/> Federal <input checked="" type="checkbox"/> State	Authorized Phase(s):	<input type="checkbox"/> PA&ED <input type="checkbox"/> PE <input type="checkbox"/> E&P <input type="checkbox"/> PS&E	<input type="checkbox"/> R/W <input type="checkbox"/> R/W Util <input type="checkbox"/> R/W Eng <input type="checkbox"/> R/W Acq	<input type="checkbox"/> CE <input type="checkbox"/> CON	<input type="checkbox"/> NI <input type="checkbox"/> FA	

Federal Authorization Date			Total
State Allocation Date			
Federal Appropriation Code			
Participating Cost (E-76 Auth. Date) From:			
Participating Cost To:			
delete: "(E-76 Auth. Date)"			
Total Indirect Cost to Date:	\$		\$ 0.00
Total Direct Cost to Date:	\$		\$ 0.00
Total Cost to Date:	\$	0.00	\$ 0.00
Less: Non-Participating Cost	\$		\$ 0.00
: Other	\$		\$ 0.00
: Other	\$		\$ 0.00
: Other	\$		\$ 0.00
Total Participating Cost to Date:	\$	0.00	\$ 0.00
Less: Participating Cost not Reimbursed (Local Funds)	\$		\$ 0.00
Total Participating Cost:	\$	0.00	\$ 0.00
State Reimbursement Ratio:			
Federal Reimbursement Ratio:			
Reimbursable Amount to Date:	\$	0.00	\$ 0.00
Less: Cumulative Amount Paid on All Previous Invoices	\$		\$ 0.00
Reimbursable Participating Cost:	\$	0.00	\$ 0.00
Less: State Withheld Retention	\$		\$ 0.00
Amount of This Claim	\$	0.00	\$ 0.00
TOTAL INVOICE			\$ 0.00
Refer to your Invoice Letter			
Authorized Fund Amount	\$		\$ 0.00
Less: Cumulative Amount Paid on All Previous Invoices	\$		\$ 0.00
Funds Remaining Prior to this Claim	\$	0.00	\$ 0.00

Add date field to enter PED

Add row for "Federal Authorization Date" when "Federal" is checked in Fund Type(s) box

Add "to Date" after "Non Participating Cost"

Delete two rows

Needs to be split into two rows: one for State and one for Federal

Needs to be split into two rows: one for State and one for Federal

Insert "Federal" between "Authorized" and "Fund"

Insert "Federal" before "Funds"

Insert new cluster of three rows similar to above with space in between stating "Authorized State Fund Amount" and "State Funds Remaining Prior to this Claim" instead of "Federal"

Instructions

Reset Form

Print Invoice

Billing No:

REQUIRED SUPPORTING DOCUMENTS FOR FINAL INVOICE

Include the following documents with the LAPM 5-A for final invoices as applicable. Make sure to use the current version for each applicable document which can be found here: <https://dot.ca.gov/programs/local-assistance/forms/local-assistance-procedures-manual-forms>

For Federal projects:	
LAPM 5-A Local Agency Invoice	
LAPM Exhibit 17-A Cover Letter/Federal Report of Expenditures Checklist	
LAPM Exhibit 17-B Final Inspection of Federal-Aid Project	
LAPM Exhibit 17-C Final Inspection Form	
LAPM Exhibit 17-E Change Order Summary	
LAPM Exhibit 17-F Final Report Utilization of DBE	
LAPM Exhibit 17-F1 A&E On-Call Final Report of Utilization	
LAPM Exhibit 17-G Materials Certificate	
LAPM Exhibit 17-O DBE Certification Status Change	
LAPM Exhibit 17-M Final Project Expenditure Report	
LAPM Exhibit 17-H Cover Letter and Final Report of Expenditures Checklist (PE ONLY PROJECTS)	
LAPM Exhibit 17-I Cover Letter for Report of Completion of Structures (HBP Projects)	
LAPM Exhibit 17-J Report of Completion of Structures on Local Streets and Roads (HBP Projects)	
LAPM Exhibit 17-K Report of Completion Right of Way	
LAPM Exhibit 17-L Report of Expenditures for Force Account Projects	
LAPM Exhibit 17-N EEM Program Final Report of Right of Way Expenditures	
For State Only Funded Projects:	
LAPM 5-A Local Agency Invoice	
LAPM Exhibit 17-M Final Project Expenditure Report	

Replace with "LAPM Exhibit 15 M Final Detail Estimate"
hyperlink: [https://dot.ca.gov/
/media/dot_media/programs/local
assistance/documents/lapm/c15/15m.pdf](https://dot.ca.gov/media/dot_media/programs/local_assistance/documents/lapm/c15/15m.pdf)

Billing No: _____

SECTION 4: CHECKLIST

Local Agency Name: _____
 Billing No: _____ Federal / State Project No: _____

	Frequency	Local Agency		Caltrans
		Confirm	N/A	Concur
1 Executed Program Supplement Agreement (PSA) on file with Local Agency.	All Invoices	<input type="checkbox"/>		
2 Submittal of one signed original and one copy of completed Local Agency Invoice (LAPM 5-A) which includes Section 1: Invoice, Section 2: Indirect Cost Calculation, Section 3: Billing Summary (submit contractor pay estimate for construction invoices), and Section 4: Checklist.	All Invoices	<input type="checkbox"/>		<input type="checkbox"/>
3 Reimbursable work claimed is after E-76 (Federal Authorization to Proceed) date and/or California Transportation Commission (CTC) State Allocation date.	All Invoices	<input type="checkbox"/>		<input type="checkbox"/>
4 Work performed is prior to any lapsing / expiring funds. • Check Finance Letter Reversion Date (Federal) • Verify Cooperative Work Agreement Approval (Federal / State) • CTC State Allocation Letter Fund Expiration Deadline (State)	All Invoices	<input type="checkbox"/>		<input type="checkbox"/>
5 Invoice is consistent with current approved Finance Letter. • Phases of Work • Fund Types (e.g., CMAQ, RSTP, etc.) • Reimbursement Ratios • Available Balance of Federal / State Funds • Cost incurred prior to authorized Agreement End Date (AED)	All Invoices	<input type="checkbox"/>		<input type="checkbox"/>
6 Invoiced amount shall be greater than 2% of the total Federal and/or State funds or \$1,000, whichever is greater, unless authorized by District Local Assistance Engineer (DLAE) to prevent inactivity.	All Invoices	<input type="checkbox"/>		<input type="checkbox"/>
7 Percentage of work complete is consistent with total Federal / State funds invoiced (i.e., project should not be 80% expended in a single invoice).	All Invoices	<input type="checkbox"/>		<input type="checkbox"/>
8 Remaining balance should not be less than Caltrans reimbursement minimum (\$40,000 or 2% of the Federal / State funds, whichever is greater).	All Invoices prior to Final Invoice	<input type="checkbox"/>		<input type="checkbox"/>
9A All consultant agreements / amendments must be approved through the oversight processes outlined in Local Assistance Agreement Exhibit 10-01. The following Exhibits must be sent to and invoiced: • Submit Exhibit 10-C to Division of Local Assistance Oversight • Submit Exhibits 10-O1 and 10-O2 to District Local Assistance Engineer (DLAE) • Submit Exhibit 10-K to Independent Oversight				
9B • Submit copy of executed contract to the DLAE within 30 days of contract award or concurrently with first invoice, whichever is earlier. • For on-call contracts, submit copy of issued task order and Exhibit 10-O2 for the task order.	Contracts > \$150K All First Construction Invoices	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10 Verification of Project Award: Attach LAPM Exhibit 15-L (Federal projects), LAPG Exhibit 22-A (State ATP projects), and/or LAPM Exhibit 23-A (STIP projects).	First Construction Invoice	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
11 Submit contractor pay estimate with Billing Summary.	Construction Invoices	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Delete strikethrough and replace the following text after "greater,"
 "if the agency is submitting an invoice more frequently than once every six months. If the agency is submitting an invoice once every six months, there is no invoice minimum."

Replace Exhibit 10-O2 with Exhibit 10-G

Insert word "Capital" between
 "Construction" and "Invoice"

Add "12. All of the expenses claimed on this invoice were incurred prior to the PED."

"All invoices" for #12.

#12. Add check boxes for Local Agency - Confirm and Caltrans - Concur.

Signature of Local Agency Representative: _____ Print Name and Title: _____
 Signature of Caltrans Representative: _____ Print Name/Title/Phone Number: _____
 Comments: _____

This Local Agency invoice is a dynamic invoice builder that will assist local agencies in preparing Federal and State invoices to submit to the Caltrans District Local Assistance Engineer (one signed hard copy and one copy required). This Local Agency Invoice is the preferred format for efficient review and concurrence for payment. There are built in calculation formulas and error validations. Below are step-by-step instructions to build your invoice.

SECTION 1: INVOICE	
Field	Instructions
Local Agency Name	Enter your agency name.
Remittance Address	Enter your agency remittance address. Note: If Electronic Funds Transfer (EFT) payment is set up with Caltrans Local Program Accounting (LPA), use that address to avoid reimbursement delay. If there is a change of the remittance address, the local agency must notify LPA in writing.
Tax ID	Enter your agency tax identification number.
Date	Select the invoice date. Note: Invoices must have a current date. If an invoice is returned be re-dated when resubmitted to the District.
Caltrans District	Select the California Department of Transportation (Caltrans) District from the list. Note: All invoices must be submitted to the appropriate Caltrans District (except for Vehicle Transportation Account invoices). For a complete list of district addresses, visit https://foramp.dot.ca.gov/sites/default/files/files/CT_Map_24x36.pdf
Federal/State Project No.	Enter the project number assigned by the Caltrans District Local Assistance Engineer (DLAE). The number is a prefix-project number like CML-5006(089). Note: The Federal-Aid project number must match the number identified on the Authorization to Proceed (E-78) document and other project documents.
Advantage Project ID	Enter the Advantage project identification number also known as the project expenditure authorization number found on the Finance Letter.
Invoice No.	Enter the invoice number. Note: The invoice number is generated by your local agency accounting system as applicable.
Billing No.	Enter the sequentially assigned number that begins with #1. It is sequential and is independent of project phase. It allows LPA to determine that they have received all the invoices for the project. Revised invoices will include a letter along with the serial number (e.g., 1A for a first revised invoice) with resubmittal.
Final Invoice	Add these instructions: Check the Final Invoice box if this invoice is final. A list of required supporting documents will appear. Complete and submit the applicable documents with the final invoice. Make sure to use the current version for each applicable document which can be found here: https://dot.ca.gov/programs/local-assistance/forms/local-assistance-procedures-manual-forms
Inactive Project	Check the inactive project check box if it has been six months since the previous invoice was processed. The inactive project status document will appear. Go to the inactive project list posted on https://dot.ca.gov/programs/local-assistance/projects/inactive-projects to determine if your project is marked as "Inactive" or "Future." Then select the correct status option in the drop down list. This document flags LPA to expedite the invoice to mitigate current inactive projects or avoid future inactive projects. Note: An invoice must be submitted at least every six months to avoid being classified as inactive.
Project Description	Describe the type, location, and limits of work for your project (e.g., Pavement rehabilitation of Miner Ave from Arch Road to March Lane). Note: Project description must match the description identified on the E-78 document and other project documents.
Fund Type(s)	Check the Federal, State, or both Federal and State fund types (if you are billing for both Federal and State funds). Based on the selected fund type, the appropriate authorized phase options will activate. Note: Refer to your Federal Transportation Improvement Program (FTIP) / Metropolitan Transportation Improvement Program (MTIP) / California Transportation Improvement Program System (CTIPS) / Allocation Letter for the approved fund type(s) for your project.


Replace URL with:
<https://dot.ca.gov/contact-us>

Delete text

Add "or fund types." at the end of sentence.

Delete sentence

Delete "Environmental Studies and Permits". Keep Project Approval / Environmental Document without quotes. Add semicolon after "(PA&ED)"

	<p>Select the authorized phase(s) of work as identified on the Finance Letter and E-76. The associated invoice column(s) will appear in the main body of the template. Click  button to add each authorized phase.</p> <p>Each phase of work must have its own column. All phases previously and currently used will show on the invoice (i.e. cumulative totals). Phases are further segregated to separate columns if you have different reimbursement ratios. Use one column if you have the same reimbursement ratios for multiple appropriation codes in a phase.</p> <p>Note: Preliminary Engineering (PE): Is the initiation, design and related preparatory work to advance a project to physical construction. For local STIP and ATP projects, the PE cost must be segregated into:</p> <ul style="list-style-type: none">- Environmental Studies and Permits (E&P): Also referred to as "Project Approval / Environmental Document (PA&ED). A project development phase that involves performing preliminary engineering and environmental studies, preparing the Project Report (PR) and Environmental Document (ED), and obtaining approval of the PR and ED.- Plans, Specifications and Estimate (PS&E): A final design phase and the resulting document that includes preparing construction bidding/contract documents, acquiring right of way, and securing permits. <p>Right of Way (R/W): Acquisition of right of way, real property, or rights thereto is included. It also includes the preparation of right of way plans, making economic studies and other related preliminary work, appraisal for parcel acquisition, review of appraisals, preparation for and trial of condemnation cases, management of properties acquired, furnishing of relocation advisory assistance, utility relocation, and other related labor expenses.</p> <p>Review your current executed Finance Letter to help you select the correct R/W phases. Select R/W only if R/W Engineering and R/W Acquisition are combined as one phase on the Finance Letter. If R/W Eng and R/W Acq are separated into two phases on your Finance Letter, select the R/W Eng and R/W Acq phases as appropriate.</p> <p>Right of Way Utility Relocations (R/W Util): Cost of adjustment to the impacted utility facility required by the proposed transportation project.</p> <p>Construction Engineering (CE): CE is the supervision and inspection of construction activities, additional staking functions considered necessary for effective control of the construction operations, testing materials incorporated into construction, checking shop drawing, and measurements needed for the preparation of pay estimates. CE must be authorized to be eligible for reimbursement.</p> <p>Construction (CON): Eligible construction cost include the actual cost to construct the transportation facility and its appurtenant facilities. It also includes: removal, adjustment or demolition of buildings or major construction; utilities or railroad work that is a part of the physical construction of the project; and administrative settlement cost of contract claims.</p> <p>Non-Infrastructure (NI): Transportation-related projects that will NOT involve engineering design, right of way acquisition, and the eventual physical construction of transportation facilities. Examples of non-infrastructure projects include public awareness campaigns and outreach, Traffic Demand Management (TDM), traffic education and enforcement in the vicinity of schools, student sessions on bicycle and pedestrian safety, freeway service patrol, ridesharing activities, commuter incentives, and the purchase of alternative-fueled vehicles.</p> <p>Force Account (FA): Federal regulations (23 CFR 835.203) defines force account as the direct performance of construction work by a local agency, railroad, or public utility using labor, equipment, materials and supplies furnished by them and under their direct control. Payment under force account is based on the actual cost of labor, equipment, and materials furnished, with consideration for overhead and profit.</p>
State Allocation Date (if applicable)	Enter the State Allocation Date designated by the California Transportation Improvement Program (STIP), etc.).
Federal Appropriation Code	Enter the Federal Appropriation Code found on the Finance Letter and E-76. These codes are generated by the Federal Government pertaining to specific programs (e.g. CMAQ appropriation code is Z400). For additional info about Federal Appropriation Codes, visit https://www.fhwa.dot.gov/cfo/appropriated_pc.cfm Note: Each appropriation code must have a separate column unless the reimbursement ratio is the same for multiple appropriation codes under a phase.

Delete this part of sentence

Less: Cumulative Amount Paid on All Previous Invoices	Enter the cumulative amount <u>paid</u> on all previous invoices after the reimbursement ratio is applied. Note: There is a distinction between the cumulative <u>paid versus claimed</u> on all previous invoices. The amount claimed may not necessarily be what was paid to date.
Reimbursable Participating Cost	<i>This field is automatically calculated.</i> This is the eligible cost requesting reimbursement with this invoice. The amount is automatically rounded down to the nearest cent per federal requirement for payment.
Less: State Withheld Retention	Generally 2% or \$40,000 of the total grant funding (whichever is greater) per Master Agreement. Note: Be cautious of your funding amount nearing the threshold of being expended. In which, you need to show the state withheld retention in this field. State withheld retention amount can only be claimed at final invoice.
Amount Exceeding Authorized Fund	Cost that are eligible but not reimbursed due to insufficient Federal / State funds. Note: See instructions for "Funds Remaining Prior to this Claim" field to carry over any applicable participating cost not reimbursed. Do not enter this amount if you already entered it in the "Participating Cost not Reimbursed (Local Funds)" field.
Other	Use this field for corrections or repayments to the State, if applicable.
Amount of This Claim	<i>This field is automatically calculated.</i> Note: This is the subtotals of actual dollar amount requested for each phase for this invoice.
Total Invoice Amount	<i>This field is automatically calculated.</i> Note: This is the actual dollar amount requested for all phases combined. The total invoice amount is automatically rounded down to the nearest cent per federal requirements for payment.
Authorized Fund Amount	Enter the actual (Federal or State) fund amount authorized on this project. Note: Refer to the Finance Letter or E-76 for the authorized fund amount.
Less: Cumulative Amount Paid on All Previous Invoices	Enter the cumulative amount paid on all previous invoices after the reimbursement ratio is applied.
Funds Remaining Prior to this Claim	<i>This field is automatically calculated.</i> Note: Compare this amount to the amount you entered in the "Amount Exceeding Authorized Fund" field. If the amount is greater than "Funds Remaining Prior to this Claim", enter that amount in the "Amount Exceeding Authorized Fund" field.

Delete this sentence.

Add new sentence: "Please remember to account for any shifted funds and de obligations."

SECTION 2: INDIRECT COST CALCULATION	
Field	Instructions
Phase	Select the applicable authorized phase.
FY	Enter the fiscal year (e.g. 14/15) that Independent Office of Audits and Investigations (A&I) approved the proposed rate.
Office / Department	Enter the name of the office or department with the granted approved rate (e.g. Maintenance, Traffic, Design, Lab / Materials Testing, etc.).
Direct Cost Base Expense	Enter the direct cost base expense (i.e., direct salaries and wages plus fringe benefits).
Approved Indirect Cost Rate	Enter A&I approved rate. Note: An indirect cost rate must be approved by A&I every fiscal year to be used for only those cost incurred for that year.
Subtotal	<i>This field is automatically calculated.</i>
+ -	Click the + - button to add or delete rows.
Total Indirect Cost to Date	<i>This field is automatically calculated for the authorized phase selected.</i>
Signature of Local Agency Representative	Signature from the local agency representative certifying the invoice.
Print Name	Enter the first and last name of the local agency representative.

Title	Enter the title of the local agency representative.
Contact Name	Enter the name of the person who is the primary contact for the invoice to help address any questions or request for additional information.
Title	Enter the title of the contact person.
Phone No.	Enter the contact person's phone number.
Email	Enter the email address of the contact person.
Comments	Enter any comments as needed.

SECTION 3: BILLING SUMMARY	
Field	Instructions
Description	Enter the expenditure description detailed enough to verify the accuracy of the charge.
Work Performed Dates (From and To)	Enter the work performed dates when the expenditures occurred. Expenditures for work performed prior to authorization are not eligible for reimbursement.
Vendor Receipt Number (if applicable)	Enter the vendor receipt number to identify and track the origin of the expenditures in your supporting documents kept with your agency file.
Total Direct Cost (current invoice period only)	Enter the direct cost for each expenditure for the current invoice period only. Take the "Total Direct Cost" prior to subtracting the non-participating cost from the "Total Direct Cost" on the invoice. Show that value as the "Total Direct Cost" on the invoice.
Less Non-Participating Cost (current invoice period only)	Enter the non-participating cost for each phase of work. This cost is automatically calculated for each phase of work. Show that value as the "Non-Participating Cost" in the appropriate phase of work. Note: Any amounts after Billing #1 are not eligible for reimbursement.
Comments	Enter any comments as needed.
SECTION 4: CHECKLIST	
Instructions	
Complete and submit signed checklist as part of the invoice.	

Insert "and/or the State allocation dates" between "authorization" and "are"

LAPM C.6 ENVIRONMENTAL PROCEDURES

LAPM C.6 Environmental Procedures

Section / Exhibit	Description of Changes
6.5 Step-by-Step Procedures - PES Form	<ul style="list-style-type: none">Title VI information added to Step #5.
Exhibit 6-A PES Form	<ul style="list-style-type: none">Title VI information added to Question #23.
Exhibit 6-B Instructions for Completing the PES Form	<ul style="list-style-type: none">Title VI information added to Instruction #23.

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).

Upon completion of the PES Form, if questions 23-32 are marked “yes,” or if the PES results in an Environmental Assessment or Environmental Impact Statement:

- a) Title VI implementation and outreach may be triggered. Any vital public communication must be translated and accessible when a significant number or percentage of the population is eligible to be served, or likely to be directly affected by the program/activity, needs, services or information in a language other than English to communicate effectively.
 - b) The local agency must contact the District Senior Environmental Planner and the District Senior Right of Way Agent to inform them the agency may implement Title VI and outreach for this project.
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. NOTE: Field reviews are required for local agency projects on the National Highway System and encouraged for all other federal-aid projects. If the field review is not performed, document on the field review form the reason why the field review was not performed, as a completed field review form is required for all federal-aid projects.

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.

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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Floodplain			
13. Is the construction area located within a regulatory floodway or within the base floodplain (100-year elevation of a watercourse or lake)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Wild and Scenic Rivers			
14. Is the project within or immediately adjacent to a Wild and Scenic River System?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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.)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
17. Is there a potential for wetlands to occur within or adjacent to the construction area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
18. Is there a potential for agricultural wetlands to occur within or adjacent to the construction area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
19. Is there a potential for the introduction or spread of invasive plant species?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
21. Does the project have the potential to affect properties acquired or improved with Land and Water Conservation Fund Act (Section 6[f]) funds?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Visual Resources			
22. Does the project have the potential to affect any visual or scenic resources?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Relocation Impacts			
23. Will the project require the relocation of residential or business properties? <i>(If the answer to questions 23-32 is "yes," then Title VI Implementation and outreach may be triggered)</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
25. Is the project inconsistent with plans and goals adopted by the community?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
26. Does the project have the potential to divide or disrupt neighborhoods/communities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
27. Does the project have the potential to disproportionately affect low-income and minority populations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
28. Will the project require the relocation of public utilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
29. Will the project affect access to properties or roadways?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
30. Will the project involve changes in access control to the State Highway System (SHS)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
31. Will the project involve the use of a temporary road, detour, or ramp closure?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
32. Will the project reduce available parking?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
33. Will the project construction encroach on state or federal lands?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
34. Will the project convert any farmland to a different use or impact any farmlands?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Cultural Resources			
35. Is there National Register listed, or potentially eligible historic properties, or archaeological resources within or immediately adjacent to the construction area? <i>(Note: Caltrans PQS answers question #35)</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
36. Is the project adjacent to, or would it encroach on Tribal land?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

certain level of analysis, circumstances associated with any one of the ten question-areas may necessitate elevating the VIA to a greater level of detail.

Scores between 6-9 indicate a low potential for the project to affect a visual or scenic resource. When this is the case, check the “No” box next to Question #22 in Section A of the PES form. No further analysis is required. Print out a copy of the completed questionnaire. In the “Preliminary Environmental Investigation Notes to Support the Conclusions of the **PES Form**” indicate the score and attach a copy of the questionnaire.

Scores between 10-14 require that the Local Agency prepare a brief **Technical Memo** providing clarification for the two or three highest scores on the questionnaire.

Scores between 15-19 require the preparation of an abbreviated VIA report consistent with the **Minor VIA Annotated Outline**.

Scores between 20-24 require the preparation of a VIA report consistent with the **Moderate VIA Annotated Outline**.

Scores between 25-30 require the preparation of a VIA report consistent with the **Advanced/Complex VIA Annotated Outline**.

When a Minor, Moderate or Advanced/Complex VIA report is required, check the appropriate box next to Question #22 in Section A of the PES Form and indicate under Section B of the PES form whether a VIA Technical Memorandum, Minor VIA, Moderate VIA or Advanced/Complex VIA will be prepared.

Relocation Impacts

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

Note: The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 provides important protections and assistance for people affected by federally funded projects. This law was enacted by Congress to ensure that people whose real property is acquired, or who move as a result of projects receiving federal funds, will be treated fairly and equitably and will receive assistance in moving from the property they occupy. Responsibility for the enforcement of this Act has been delegated to the FHWA and is carried out by the Office of Real Estate Services. Title 49: Transportation, Part 24—Uniform Relocation Assistance And Real Property Acquisition For Federal and Federally Assisted Programs, Section 24.205, Relocation Planning, Advisory Services and Coordination, requires that during the early stages of development, an agency shall plan federal and Federally Assisted Programs or projects in such a manner that recognizes the problems associated with the displacement of individuals, families, businesses, farms, and nonprofit organizations and develop solutions to minimize the adverse impacts of displacement. Such planning, where appropriate, shall precede any action by an agency which will cause displacement, and should be scoped to the complexity and nature of the anticipated displacing activity including an evaluation of program resources available to carry out timely and orderly relocations.

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

If “No,” check the “No” box next to Question #23 in Section A of the PES form. No further study is needed.

If “Yes,” or “To Be Determined,” check the appropriate box next to Question #23 in Section A of the PES form. Under Section B of the PES form indicate whether a Relocation Impact Memo, Relocation Impact Study or Relocation Impact Report will be prepared. Consult with the DLAE and district SEP (or designee) when determining which level of analysis will be necessary based on the scope of the project. Indicate coordination with and approval by Caltrans under Section C and P of the PES form.

The Relocation Impact Study or Report shall be prepared according to the guidance provided in the SER, Chapter 24, “Community Impacts” at:

<http://www.dot.ca.gov/ser/vol1/sec3/community/ch24cia/chap24cia.htm#laws>

Note: If the answers to Questions 23-32 is “yes,” then Title VI Implementation and outreach may be triggered. Please reference LAPM Chapters 6.5, 8.4 and 9.2 for details.

LAPM C.8 PUBLIC HEARINGS

LAPM C.8 Public Hearings

Section / Exhibit	Description of Changes
8.4 Public Notification	<ul style="list-style-type: none">Title VI information added.

Exception to the Public Hearing Process

Compliance with the public hearing process is not required for emergency opening work on disaster assistance projects (see [LAPG Chapter 11: Emergency Relief](#)).

8.3 Opportunity for Hearing and Withdrawal of Request for Hearing

If there is reason to believe that the project is noncontroversial and that it is unlikely that a hearing would be requested, either by the public or any agency, a Notice of Opportunity for a Public Hearing may be utilized rather than directly scheduling a hearing.

When only a small number of requests for a hearing are received, it is permissible to meet with the parties at a convenient time and location, explain the project and answer any questions. These meetings must be very carefully documented and made a part of the project record. If satisfied, the requesting party may withdraw the request for a hearing in writing. If the requesting party does not wish to withdraw the request, a hearing must be held.

8.4 Public Notification

Public notices are published as a means to inform the public of various proposals and to invite public participation. Methods of public notification include:

- Paid public notice in a local newspaper
- Supplemental news releases and special paid notices
- Flyers or bulk rate circulars distributed to residents
- Notices on bulletin boards in public places such as city halls, libraries, supermarkets
- [Posters, brochures, flyers, and Frequently Asked Questions related to Title VI public rights distributed to residents](#)
- Television and radio
- Distribution of notices through schools and service clubs
- Indication in the draft environmental document that a hearing will be held or a notice of opportunity for a hearing will be published
- Electronic media such as websites, email, blogs, etc.

40 CFR 1506.6(b) requires that a public notice of NEPA related hearings, public meetings, and the availability of environmental documents be provided to inform those persons and agencies who may be interested or affected. This includes groups, agencies or individuals who:

- Have requested notification, or
- By nature of their function, interest, or responsibility may be interested in or affected by the proposal

~~In all cases where non-English speaking people are affected by the proposal, the local agency determines if the language barrier is of such magnitude as to warrant special publicity in the language of those affected. Particular effort is to be made to seek out and invite minority leaders and representatives of low mobility groups. In lieu of sending the representatives of low mobility groups the notice, a letter containing the pertinent data can be sent.~~

Note: It is important to ensure that written materials routinely provided in English also are provided in regularly encountered languages other than English. It is particularly important to ensure that vital documents are translated into the non-English language of each regularly encountered Limited English Proficient (LEP) Individuals eligible to be served or likely to be affected by the program or activity.

In the case of an action with effects primarily of local concern, notification may include:

- Notice to state and area-wide clearinghouses
- Notice to Indian tribes when effects occur on reservations
- Publication in local newspapers (in papers of general circulation rather than legal papers)
- Notice through other local media
- Notice to potentially interested community organizations including small business associations
- Publication in newsletters that may be expected to reach potentially interested persons
- Direct mailing to owners and occupants of nearby of affected property
- Posting of notice on and off site in the area where the action is located

Content of the Notice

Both the Notice of Public Hearing and the Notice of Opportunity for Public Hearing must include:

- Sufficient detail of the surrounding area to enable the reader to readily identify the proposal location
- An appropriate schematic map depicting the proposal limits. Alternative design features are to be either displayed by schematic inserts or described in the notice. Indicate if any alternatives would be located in wetlands.
- A statement to the effect that project maps, drawings, the environmental assessment or draft environmental impact statement, and other pertinent information received and/or developed by the local agency will be available for inspection and copying at the local agency's office or other convenient location in the vicinity of the proposal. In addition to the required information, any other data that will make the notice more informative should be included.
- A specific note that an open forum format will be used when this is the case. To ensure widespread and comprehensive project notification, the local agency must establish and maintain a list upon which any federal agency, local official, public advisory group or agency, civic association, community group, or individual may enroll to receive notices of proposals in the area specified.

Notice of Public Hearing

The Notice must be published at least twice in a newspaper having a general circulation in the vicinity of the proposal and in any newspaper having a substantial circulation in the area concerned such as foreign language and community newspapers. The first Notice must be published at least 30 days prior to the scheduled hearing. The second Notice should be

LAPM C.9 CIVIL RIGHTS & DBE

LAPM C.9 Civil Rights & DBE

Section / Exhibit	Description of Changes
Multiple Locations	<ul style="list-style-type: none"> Replaced Office of Business and Economic Opportunity (OBEO) with Office of Civil Rights (OCR) to reflect name change.
<p>9.2 Title VI of the Civil Rights Act of 1964 and Related Statutes</p>	<ul style="list-style-type: none"> Reorganized and made some improvements to content in an effort to assist with the oversight and nondiscrimination requirements for LPAs. Provide guidance to LPAs for processing complaints filed under Title VI; the information outlined details actions taken by FHWA, FTA, LPAs and OCR when processing Title VI complaints.
<p>9.6 Local Agency Responsibilities under Caltrans DBE Program Plan</p>	<ul style="list-style-type: none"> OB #20-04: edits incorporated.
<p>9.7 DBE Participation on the Contract</p>	<ul style="list-style-type: none"> OB #20-04: edits incorporated.
<p>9.7 Submitting Exhibit 9-D</p>	<ul style="list-style-type: none"> Clarify response time from DLA is 15 business days.
<p>9.7 Local Agency Bidder or Proposer DBE Commitment and DBE Information Forms</p>	<ul style="list-style-type: none"> Changed “A copy of a DBE’s quote <u>will</u> serve as ...” to “A copy of a DBE’s quote <u>may</u> serve as” Added language regarding failure to submit Exhibits 15-G or 10-O2 within 30 days of contract execution may result in de-obligation of federal funds on contract.
<p>9.7 Running Tally of Actual Attainments</p>	<ul style="list-style-type: none"> OB #20-02: New subsection for submitting an invoice for reimbursement that includes a payment to a DBE.
<p>9.7 Commercially Useful Function</p>	<ul style="list-style-type: none"> Added language that include steps that LPAs need to take to ensure CUF.

LAPM C.9 CIVIL RIGHTS & DBE

9.8 Good Faith Efforts	<ul style="list-style-type: none"> OB #20-04: edits incorporated.
9.8 Termination and Substitution of DBE Subcontractors	<ul style="list-style-type: none"> Added full list of reasons for substitutions.
9.8 Submitting the GFE & Supporting Document for Review	<ul style="list-style-type: none"> Clarify response time from DLA is 15 business days.
Exhibit 9-C Local Agency ADA Annual Certification Form	<ul style="list-style-type: none"> Provided clarification in responding to certification questions.

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 [and subrecipient](#), 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).

[Agencies that receive federal funds from Caltrans are referred to as subrecipients. Subrecipients that receive FHWA funds through Caltrans are required to establish a Title VI program that is subject to review by Caltrans pursuant to 23 CFR 200.9\(b\)\(7\). The purpose of the program is to prohibit discrimination and ensure non-discrimination through establishing policies and procedures and conducting regular subrecipient program reviews.](#)

[Caltrans's Division of Local Assistance, Office of Guidance and Oversight \(OGO\) monitors Caltrans subrecipients for Title VI compliance. The following is a listing of items that are required as part of a subrecipient's Title VI program.](#)

1. Title VI Implementation Plan

[The local agency must develop a written plan that sets priorities and procedures for Title VI compliance. This plan must be updated every 3-5 years or as needed, and made available to the public and address matters such as the procedures for handling complaints, the provision of civil rights training for its staff, the allocation of staff to different compliance functions, department area reviews, data collection methods, dissemination of Title VI information, Limited English Proficiency analysis, and Title VI accomplishments and goals \(23 CFR 200.9\(b\)\(11\)\).](#)

[The plan must contain the following:](#)

a. Designation of a Title VI Coordinator

[The local agency must 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 must be disseminated to the public via such methods as posting in public areas or on the agency's website \(23 CFR 200.9\(b\)\(1\)\).](#)

b. Title VI Assurances in Contract Documents and Agreements

[Local agencies sign assurances as part of 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.](#)

[The local agency must include the provisions indicated in Appendices A - E to Exhibit B of the Title VI Assurances, 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.

c. Title VI Nondiscrimination Statement

The local agency must develop a Title VI policy statement for signature by the head of the agency. The statement must give reasonable guarantee that the programs administered by the agency are conducted in compliance with all Title VI nondiscrimination requirements. The signed statement must be disseminated to the public via such methods as posting in public areas and/or on the agency's website (49 CFR 21.7(b)).

d. Dissemination of Title VI Information

The local agency must develop Title VI information for dissemination to the general public and, where appropriate, in languages other than English. The purpose of the information must 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, etc. Alternative formats must be offered and made available at no cost to the requester, where applicable (23 CFR 200.9(b)(12)).

e. Title VI Training

The local agency must provide Title VI training for its managers, supervisors, and staff with frequent public contact every two years (23 CFR 200.9(b)(9)).

Sample of Title VI training, please refer to [Federal-aid Essentials for Local Public Agencies](#).

f. Title VI Complaint Process

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 (23 CFR 200.9(b)(3)).

Any person who believes they have been discriminated against based on race, color, or national origin by Caltrans or a subrecipient may file a Title VI complaint by completing and submitting the agency's Title VI Complaint Form. The [Office of Civil Rights \(OCR\)](#) processes complaints received no more than 180 days after the alleged incident. OCR will only process complaints that are complete, which include the complainant's contact information, details of the alleged discrimination, and the complainant's signature.

The subrecipient must forward the completed complaint form to OCR upon receipt. Once the Title VI complaint is received, OCR will determine the federal administering agency that has jurisdiction to investigate/process the complaint.

Title VI Complaints Processed Under the Federal Highway Administration (FHWA):

Title VI complaints filed with Caltrans in which Caltrans is named as the Respondent will be forwarded to the FHWA Division Office. The Complainant will receive an acknowledgement letter informing them that the complaint has been received and forwarded to the FHWA.

NOTE: Per the FHWA Guidance Memorandum, Processing of Title VI Complaints, dated June 13, 2018, all Title VI complaints received by a subrecipient are to be forwarded to Caltrans to be submitted to FHWA Division Office. Complaints should be sent within one business day of receipt via email to Title.VI@dot.ca.gov. If the Headquarters Office of Civil Rights (HCR) determines a Title VI complaint against a subrecipient can be investigated by Caltrans, HCR may delegate the task of investigating the complaint to Caltrans.

Title VI Complaints Processed Under the Federal Transit Administration (FTA):

Title VI complaints filed with Caltrans in which Caltrans is named as the Respondent will be investigated by Caltrans. Per FTA, Title VI complaints are to be handled at the local level or elevated to FTA under egregious Title VI discriminatory circumstances. The Complainant will receive an acknowledgement letter informing them that the complaint has been received and whether the complaint will be investigated by Caltrans or forwarded to FTA.

Title VI complaints filed with Caltrans against a subrecipient will be investigated by Caltrans. If the complaint is filed with the subrecipient, the subrecipient is responsible for investigating the complaint in accordance with [FTA Circular 4702.1B, Title VI Requirements and Guidelines for Federal Transit Administration Recipients](#).

FTA – Filing a Local Complaint

FTA recommends, but does not require, that individuals first file a complaint directly with their transit provider to give the provider an opportunity to resolve the situation. FTA grantees are required under the ADA, Title VI, and EEO to have local complaint procedures.

Caltrans Office of Civil Rights Investigation Process

If OCR is delegated the responsibility of performing an investigation, OCR has 90 days to investigate the complaint. If additional time is needed, OCR will call the Complainant and inform them.

If more information is needed to resolve the case, the OCR investigator may contact the Complainant. The Complainant has 10 business days from the date of the letter to send the requested information to the investigator assigned to the case.

If the investigator is not contacted by the Complainant or does not receive the additional information within 10 business days, OCR can administratively close the case. A case can be administratively closed also if the complainant no longer wishes to pursue their case.

OCR will consult with HCR regarding the disposition of the complaint. Disposition of Title VI complaints will be undertaken by HCR, through either (1) informal resolution or (2) issuance of a Letter of Finding of compliance or noncompliance with Title VI. A copy of the Letter of Finding will be sent to all parties via the FHWA Division Office.

A person may also file a complaint directly with:

Federal Transit Administration
Civil Rights Division
Attention: Complaint Team
East Building, 5th Floor – TCR
1200 New Jersey Avenue, SE
Washington, DC 20590

Federal Highway Administration
U.S. Department of Transportation
Office of Civil Rights
1200 New Jersey Avenue, SE
8th Floor E81-105
Washington, DC 20590

g. Data Collection and Analysis

The subrecipient must 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 must analyze the data collected to determine the effectiveness of outreach methods to ensure that all groups are included during the decision-making process and are given an opportunity to voice their opinions or concerns (23 CFR 200.9(b)(4)).

2. Limited English Proficiency

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.

The local agency is required to ensure programs and activities normally provided in English are accessible to LEP persons. Each local agency must 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, must 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 must be made available in languages understood by the affected population and in other languages by request. Interpreters must 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.

3. Environmental Analysis

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](#).

Upon completion of the Exhibit 6-A PES Form, if questions 23-32 are marked yes, or if the PES results in an Environmental Assessment or Environmental Impact Statement:

- a. Title VI implementation and outreach may be triggered. Any vital public communication must be translated and accessible when a significant number or percentage of the population is eligible to be served (5% or 1,000 individuals, whichever is less of the population to be served), or likely to be directly affected by the program/activity, needs services or information in a language other than English to communicate effectively.
- b. The local agency must contact the District Senior Environmental Planner and the District Senior Right of Way Agent to inform them the agency may implement Title VI and outreach for this project.

If a project requires that a Relocation Impact Study and/or Community Impact Assessment be conducted, the local agency must 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.

Each agency must make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority and low-income populations.

4. Accomplishments and Goal Report

Develop a Title VI Annual Accomplishments and Goals Report. List the goals accomplished in the past year, and goals for the next year. For instance, a goal may state where Title VI issues were identified and discrimination prevented, activities and efforts of the Title VI specialist and program area personnel in monitoring Title VI, etc. (23 CFR 200.9(b)(10)).

~~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](#).~~

~~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.~~

Public Hearings, Public Involvement Meetings and Community 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 must 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](#)). **In order to further comply with Title VI, agencies must notify residents prior to construction that they may be impacted by construction zones (e.g. detours, noise, parking, pollution, etc.).**

Title VI Monitoring

The local agency must 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.

- Maintain a file with an index of all local agency's [Exhibit 9-A: DBE Implementation Agreement for Local Agencies](#) and [Exhibit 9-B: Local Agency DBE Annual Submittal Form](#) Information from these forms is entered into LP2000.

Local Agency Responsibilities

Local agency responsibilities are detailed in [Section 9.6: Local Agency Responsibilities Under Caltrans DBE Program Plan](#) of this chapter, and the responsibilities include:

- Submit the [Exhibit 9-A](#) and amendments to the DLAE.
- Designate a DBE Liaison Officer, accountable to the Chief Executive Officer of the local agency, to administer the Caltrans DBE Program as it pertains to local agencies.
- Ensure prompt and full payment to the prime consultant/contractor and subconsultants/subcontractors in compliance with the prompt payment clauses of the contract.
- Ensure [Exhibit 10-O2: Consultant Contract DBE Commitment](#) and [Exhibit 15-G: Construction Contract DBE Commitment](#) are reported to the DLAE within 30 days of contract execution.
- Ensure that [Exhibit 17-F: Final Report-Utilization of DBE and First-Tier Subcontractors](#) is reported by the prime contractor or consultant upon completion of the contract.

9.6 Local Agency Responsibilities under Caltrans DBE Program Plan

Local agency recipients of federal financial assistance must comply with all the elements of Title 49 CFR 26 entitled Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs. These provisions apply to all federal-aid transportation projects. Local agency responsibilities are detailed in the Caltrans DBE Program Plan. A copy of this plan is available from the DLA DBE [website](#):

As an initial step, each local agency must submit [Exhibit 9-A](#) form to formally acknowledge the local agency's commitment to implement the Caltrans DBE program, and to comply with all the prescribed responsibilities detailed in the LAPM.

Each local agency must also submit the [Exhibit 9-B: Local Agency DBE Annual Submittal Form](#) which is explained in the following subsection. ~~This annual form provides information for the upcoming Federal Fiscal Year (FFY), which will include:~~

- ~~1. Identification of the DBE Liaison Officer~~
- ~~2. Plan of race-neutral measures to implement for the forthcoming FFY~~
- ~~3. Prompt payment provisions to be used in contracts~~
- ~~4. Monitoring and enforcement mechanisms to ensure that subcontractors are promptly paid~~

DBE Implementation Agreement for Local Agencies

[Exhibit 9-A: DBE Implementation Agreement for Local Agencies](#) form must be completed and submitted to the DLAE for execution by each agency before a request for authorization is processed. This agreement will need to be signed by a representative who is authorized by the governing body to take such action.

Some of the elements of the Agreement are highlighted below.

Objective/Policy Statement

Each agreement contains a policy statement expressing a commitment to the Caltrans DBE Program, stating its objectives, and outlining responsibilities for its implementation. Each local agency will circulate the statement throughout its organization and to the DBE and non-DBE business communities that perform work on its federal-aid contracts.

Local Agency DBE Annual Submittal Form

Each local agency must provide the DLAE with a completed [Exhibit 9-B](#), by June 30 of each year for the following Federal Fiscal Year. This form must be received prior to submitting a Request for Authorization to proceed with a federal-aid project.

This form will include:

1. Designated DBE Liaison Officer Information (name, address, phone number, and e-mail address).
2. Detail of planned race-neutral measures to be implemented as required by 49 CFR 26.51 and as outlined in the local agency's [Exhibit 9-A](#).
3. The local agency's choice for method of Prompt Payment of Withheld Funds to Subcontractors, as well as a brief explanation of the monitoring and enforcement mechanisms the local agency has in place to ensure that all subcontractors, including DBEs, are promptly paid.

Overall Statewide DBE Goal

The overall statewide DBE goal is obtained through race-conscious and race-neutral components. The overall statewide goal is shown on the OCR DBE [website](#).

Race-Neutral Component

The race-neutral component of the overall statewide DBE goal is important because the race-neutral methods recipients can promote the participation of DBEs and other small businesses in their contracting programs by allowing all small business to compete with each other, including DBEs, to meet the DBE goal. The race-neutral component of the overall statewide DBE goal is accomplished when the prime consultant is a DBE firm or when DBE participation exceeds the contract DBE goal. Examples of race-neutral DBE participation are:

- A DBE wins a prime contract through customary competitive procurement procedures.
- A DBE is awarded a subcontract on a prime contract that does not carry a DBE goal.
- The DBE commitment exceeds the DBE contract goal.

Race-neutral means include, but are not limited to, the following:

- Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate DBE and other small business participation (e.g., unbundling large contracts to make them more accessible to small businesses, and requiring or encouraging prime contractors to subcontract portions of work that they might otherwise perform with their own forces).

- The contractor or subcontractor must not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor must carry out applicable requirements of 49 CFR 26 in the award and administration of ~~federal-aid 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 recipient deems appropriate.

Prompt Payment from the Agency to the Contractors

Section 20104.50 of California Public Contract Code requires that local agencies pay contractors no more than 30 days after receipt of contractor's request for payment. The penalty is assessed, on the balance owed at 10% per annum. Section 7107 of California Public Contract Code provides that the Agency must pay the prime contractor within 60 days after the date of completion (retention payment due). The penalty for failing to comply with this statute is the assessment of 2% per month on the balance owed in lieu of interest. In the event a lawsuit is filed, the prevailing party is entitled to attorneys' fees and costs.

Section 3329 of California Civil Code requires that local agencies pay design professionals within 30 days of their demand if it is progress payment, and within 45 days if retention is due. A penalty of 1½ % per month in lieu of interest plus attorneys' fees accrue to the prevailing party. If there is a good faith dispute as to an amount due, the local agency may withhold from the retention payment an amount not to exceed 150% of the disputed amount.

Prompt Progress Payment to Subcontractors

~~Attention is directed to Section 7108.5 of the California Business and Professions Code and Section 10262 of the California Public Contract Code which require a prime contractor or subcontractor to pay any subcontractor not later than seven (7) days of receipt of each progress payment, unless otherwise agreed to in writing.~~

~~These requirements apply to both DBE and non-DBE subcontractors.~~

As the implementing agency of federal funds, the DBELO or their designee (e.g. resident engineer, project manager, contract manager, etc.) must ensure that prompt progress payments are made by prime contractors, subcontractors, lead consultants, and subconsultants. Section 7108.5 of the California Business and Professions Code (CBPC) requires a prime contractor or subcontractor (i.e. builders) to pay any subcontractor not later than seven (7) days after receipt of each progress payment received, unless otherwise agreed to in writing. The payment cannot be delayed because of disagreements on other contracts. This requirement applies to both DBE and non-DBE subcontractors.

Section 3321 of the California Civil Code (CCC) requires prime design professionals (prime consultants directly in contract with a public agency) to pay any subconsultant not later than fifteen (15) days after receipt of each progress payment or final retention payment. The payment cannot be delayed because of disagreements on other contracts. This requirement applies to both DBE and non-DBE subcontractors.

Prompt Payment of Withheld Funds to Subcontractors

Federal Regulation (49 CFR 26.29) requires one of the following three methods be used in federal-aid contracts to ensure prompt and full payment of any retainage kept by the prime contractor or subcontractor to a subcontractor:

1. The local agency may decline to hold retainage from prime contractors and prohibit prime contractors and subcontractors from holding retainage from subcontractors.
2. The local agency may decline to hold retainage from prime contractors and include a contract clause, obligating the prime contractor and subcontractors to make prompt and full payment of any retainage kept by the prime contractor or subcontractor to all subcontractors within ~~thirty (30) days after the subcontractor's work is satisfactorily completed.~~ the following timeframes:
 - a. For construction subcontracts, retainage must be paid within seven (7) days of receipt unless otherwise agreed to in writing for construction work completed (Section 7108.5 of the CBPC and Section 10262 of the CPCC), and
 - b. For consultant contracts, retainage must be paid not later than fifteen (15) days after receipt of final retention received after the subconsultant's work is satisfactorily completed (Section 3321 of the CCC).
3. The local agency may hold retainage from the prime contractor and provide for prompt and regular incremental acceptances of portions of the contract, pay retainage to prime contractors based on the acceptances and include a contract clause obligating the prime contractor and subcontractors to pay all retainage owed to all subcontractors ~~for satisfactory completion of the accepted work within thirty (30) days of local agency payment to the contractor.~~ within the following timeframes:
 - a. For construction subcontracts, retainage must be paid within seven (7) days of receipt unless otherwise agreed to in writing for construction work completed (Section 7108.5 of the CBPC and Section 10262 of the CPCC), and
 - b. For consultant contracts, retainage must be paid not later than fifteen (15) days after receipt of final retention received after the subconsultant's work is satisfactorily completed (Section 3321 of the CCC).

In the above methods, a subcontractor's work is satisfactorily completed when all tasks called for in the subcontract have been accomplished and documented as required by the agency. The work of a subcontractor covered by that acceptance is deemed to be satisfactorily completed, when an agency has made an incremental acceptance of a portion of the contract work. Annually, the local agencies choose one of the above three methods to ensure prompt pay. The local agency's choice will be reported to Caltrans when it completes [Exhibit 9-B: Local Agency DBE Annual Submittal Form](#).

Monitoring and Enforcement Mechanism for Prompt Payment

Per 49 CFR 26.29(d), the Agency is required to stipulate the monitoring and enforcement mechanisms in the contract to ensure that all subcontractors, including DBEs, are promptly paid. These mechanisms may include appropriate penalties for failure to comply with the terms and conditions of the contract. The mechanisms may also provide that any delay or postponement of payment among the parties may take place only for good cause with the Agency's prior written approval.

9.7 DBE Participation on the Contract

Participation Opportunities

The local agency should structure its contracts and cost estimates by task to provide opportunities for DBE participation. Participation by DBEs is possible during the Preliminary Engineering, Environmental, Final Design, Right of Way, and Construction phases of the project, and includes work as lead consultants, prime contractors, sub-consultants, subcontractors, suppliers, vendors and truckers.

DBE Contract Goals

All federal-aid contracts that have subcontracting opportunities must have a DBE goal set. This includes, but is not limited to: construction, consultant services such as project specific Architectural & Engineering (A&E), and master on-call A&E contracts. A DBE contract goal is a percentage of the total contract amount that is expected to be performed by certified DBE firms. The DBE contract goal will vary depending on the type of work involved, the location of the work, and the availability of DBEs for the work of the particular contract.

The contract goal may be zero in situations such as extremely limited subcontracting opportunities, the lack of certified DBEs available in the District for the work to be performed, or other reasons. The local agency will need to keep documentation in the project file when a zero percent DBE contract goal is deemed appropriate.

Some contracts, such as Emergency Opening, Sole-source, Nonprofit do not require a DBE goal. Work performed through Force Account also does not need a DBE goal. In these cases, there is no contract goal (different from zero percent goal).

Setting the DBE Contract Goal

When setting a DBE goal, the Agency may use contract goals only on those federal-aid contracts that have subcontracting possibilities. The goal for a specific contract may be higher or lower than the percentage level of the statewide overall goal, depending on such factors as the type of work involved, the location of the work, and the availability of DBEs for the work of the particular contract. However, over the period covered by the State's overall goal, the Agency must set contract goals, and these individual contract goals will cumulatively result in meeting any portion of the state's overall goal. The actual DBE participation for each of the local agency's contracts contributes to the calculation used to determine if the statewide goal has been met.

Caltrans approval of each contract goal is not necessarily required. However, Caltrans may review and approve or disapprove any contract goal the Agency establishes. The Agency's contract goals must provide for participation by all certified DBEs and must not be subdivided into group-specific goals.

DBE contract goals are established to encourage more participation of DBEs for federal-aid transportation contracts. The bullets below provide a summary guidance of how to set the DBE contract goal. For a detailed set of instructions and a template example, please refer to [Exhibit 9-D: DBE Contract Goal Methodology](#).

- The project analysis starts with finalizing the cost estimate and determining potential sub-contractable items of work in the Exhibit 9-D: DBE Contract Goal Methodology template.

- The local agency must consider the type of work involved (Work Category Code), location of the work (by Caltrans District number), and the potential number of DBEs listed in the database. For each work category code, determine the number of available DBE subcontractor / subconsultants by conducting a search in the California Unified Certification Program (CUCP) database geographically by Caltrans District only. Use the District where the work will take place.
- Determine the DBE Work Factor for each task:
 - If the number of available DBE subcontractors or sub-consultants is 7 or more, use 100 percent.
 - If there are less than 7 DBEs available: for consultant contracts, use 0 Work Factor; for construction projects, determine whether or not there is a component of trucking or material supply, and apply a 10 or 12 percent DBE Work Factor, respectively, otherwise use 0.

Submitting Exhibit 9-D

All federal-aid contracts must have an [Exhibit 9-D: DBE Contract Goal Methodology](#) submitted to the DLAE. The following are responsibilities and a flowchart for local agencies, DLAEs, and HQ DLA.

Local Agency Responsibilities

- Local agencies must submit an [Exhibit 9-D, DBE Contract Goal Methodology](#) in Microsoft Excel format to their DLAE for all federal-aid contracts, including master on-call A&E contracts, prior to advertisement and/or with the request for authorization (RFA) package as applicable.
- Local agencies may not advertise the contract before receiving DLAE feedback on the DBE goals ~~and notification from the DLAE that the authorization to proceed (E-76) has been issued~~
 - For construction contract estimates greater than \$2 million and consultant contract estimates greater than \$500,000, the DBE goal will need to be reviewed and approved by Caltrans. Local agencies will have an opportunity to discuss and resolve any differences in the respective goal calculations; however, the final decision rests with Caltrans.

DLAE Responsibilities

- For construction contract estimates greater than \$2 million and consultant contract estimates greater than \$500,000, e-mail the Exhibit 9-D: DBE Contract Goal Methodology in Microsoft Excel format to HQ DLA: DBEgoal.GFE@dot.ca.gov.
 - Once the Exhibit 9-D: DBE Contract Goal Methodology has been reviewed by the Office of Civil Rights (OCR), send a confirmation e-mail to the local agency with the recommended DBE contract goal.
- For construction contract estimates less than or equal to \$2 million and consultant contract estimates less than or equal to \$500,000, conduct a cursory review of the Exhibit 9-D and send an email to the local agency to confirm the DBE contract goal.

DLA Responsibilities

The following applies to DBE goal setting for construction contract estimates greater than \$2 million or consultant contract estimates greater than \$500,000:

- Send confirmation to the DLAE that Exhibit 9-D is being processed.
- After processing, reply to the DLAE with the recommended DBE contract goal.
- If the agency disagrees with the DBE contract goal, review the reasoning and make a decision if the goal needs to be adjusted. [The OCR is involved in the decision process to make an adjustment in the DBE contract goal.](#)

It will not take more than 15 business days to review the Exhibit 9-D after receipt from the District. If there is no response from DLA after 15 [business](#) days, the DLAE has the discretion to move forward.

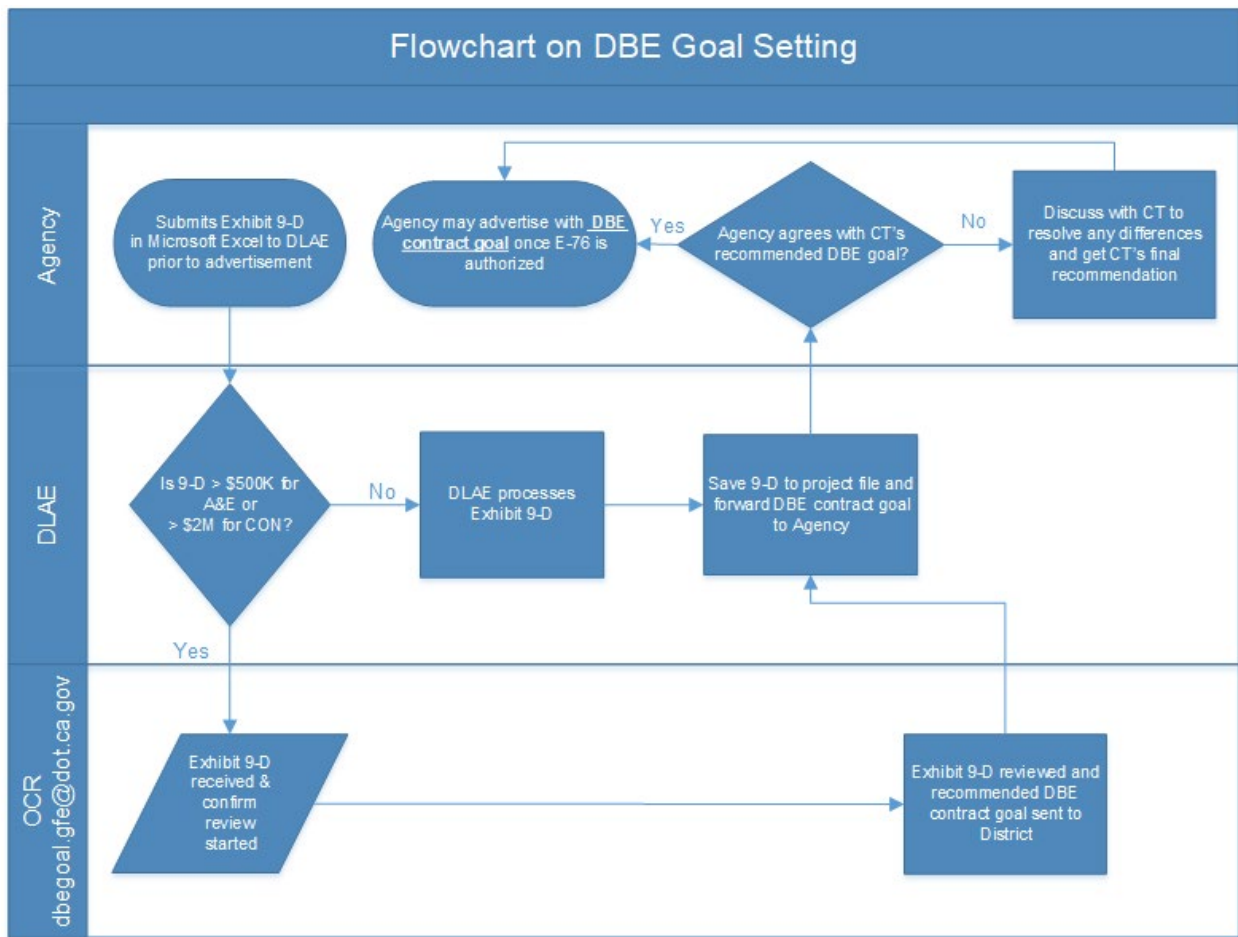


Figure 9-1: DBE Goal Setting Flowchart

Local Agency Bidder or Proposer DBE Commitment and DBE Information Forms

On construction contracts, the [Exhibit 15-G: Construction Contract DBE Commitment](#) must be provided by each bidder and submitted no later than 4pm on the 5th day after bid opening. On consultant contracts, [Exhibit 10-O1: Consultant Proposal DBE Commitment](#) must be included in

each consultant's proposal and the [Exhibit 10-O2: Consultant Contract DBE Commitment](#) form must be included in best qualified consultant's executed consultant contract. [Exhibits 15-G](#), [Exhibit 10-O1](#), and [Exhibit 10-O2](#) must include the names, addresses and phone numbers of DBE firms that will participate, and a complete description of work or supplies to be provided by each. [Exhibits 15-G](#) and [Exhibit 10-O2](#) must also include the dollar value of each DBE work item or service to be performed ([Exhibit 10-O1](#) will not have the dollar values since they are not known prior to consultant contract negotiation).

When 100% of a contract item of work is not to be performed or furnished by a DBE, a description of the exact portion of that work to be performed or furnished by that DBE should be included in the DBE information, including the planned location of that work. A bidder certified as a DBE should describe the work it has committed to perform with its own forces, as well as any other work that it has committed to be performed by DBE subcontractors, suppliers, and trucking companies. The bidder or proposer is required to provide written confirmation from each DBE participating in the contract. [For construction contracts](#), a copy of a DBE's quote ~~will~~ [may](#) serve as written confirmation that the DBE is participating in the contract. If a DBE is participating as a joint venture partner, the bidder or proposer is encouraged to submit a copy of the joint venture agreement. [Exhibit 15-G](#) or [Exhibit 10-O2](#) must be included in the construction or consultant contract whether or not there is a DBE goal on the contract. The local agency must submit this form to the DLAE within 30 days of contract execution for timely reporting. [Failure to submit Exhibit 15-G or Exhibit 10-O2 to the DLAE within 30 days of contract execution may result in de-obligation of federal funds on contract.](#) The purpose of these forms is to capture all DBE proposed participation, or in instances when there is no DBE contract goal, DBE proposed participation acquired through normal contracting procedures as required under 49 CFR 26.

Running Tally of Actual Attainments

[After submitting an invoice for reimbursement that includes a payment to a DBE, but no later than the 10th of the following month, the prime contractor/consultant must complete and email the Exhibit 9-F: Disadvantaged Business Enterprise Running Tally of Payments to \[business.support.unit@dot.ca.gov\]\(mailto:business.support.unit@dot.ca.gov\) with a copy to the local agency.](#)

Final Report

Upon completion of the construction or consultant contract, regardless of whether DBE participation was obtained, a summary of the DBE records must be prepared, certified correct, and submitted on the [Exhibit 17-F: Final Report-Utilization of DBE and First-Tier Subcontractors](#), or equivalent by the contractor to the local agency showing total dollars paid to each subcontractor and supplier whether DBE or non-DBE. [Exhibit 17-F](#) is reviewed by the local agency and certified as complete and accurate. The information in this report is required by the DBE Program and the FHWA to demonstrate DBE participation on local agency projects.

The local agency must send one copy of the completed [Exhibit 17-F](#) to the DLAE as part of its Final Report of Expenditure package before final payment (see [LAPM Chapter 17: Project Completion](#)).

Counting DBE Participation

Actual payment to subcontractors that are certified DBEs performing a commercially useful function will be counted as DBE participation. If the prime contractor is a qualified DBE, his/her work is reported and counted.

- The prime contractor has the responsibility to ensure a DBE firm performs a commercially useful function. At the same time, local agencies are required by federal and state regulations to monitor worksites to make sure work committed to a DBE is performed by the respective firms and ensure a commercially useful function. For additional information on how to monitor the worksite, refer to LAPM Chapter 16 (Section 16.9: Disadvantaged Business Enterprises).
- If a DBE does not perform or exercise responsibility for at least 30% of the total cost of its contract with its own work force, or the DBE subcontracts a greater portion of the work of a contract than would be expected on the basis of normal industry practice for the type of work involved, one must presume that it is not performing a commercially useful function.
- When a DBE is presumed not to be performing a commercially useful function, as provided in the previous bullet, the DBE may present evidence to rebut this presumption.
- The local agency's determination as to whether the firm is performing a commercially useful function to accurately credit DBE services should be based upon the amount and type of work involved and normal industry practices. A resident engineer should certify CUF in writing, and a signed and documented CUF review would meet the monitoring requirement of the agency.
- Local agencies' decision on commercially useful function matters are subject to review by the DLAE.

DBE Trucking

Use 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 getting credit on a particular contract, and there cannot be a contrived arrangement for the purpose of counting DBE participation.
- 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 also lease trucks from a non-DBE firm, including an owner-operator. The DBE who leases trucks from a non-DBE is entitled to credit only for the fee or commission it receives as a result of the lease arrangement. The DBE does not receive credit for the total value of the transportation services provided by the lessee, since these services are not provided by a DBE.
- A lease must indicate that the DBE has exclusive use of 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.

Certification Unit
1823 14th Street, MS-79
Sacramento, CA 95811

Or email: DBE_Certification@dot.ca.gov. The form may also be downloaded [here](#).

Decertification

If a DBE firm becomes ineligible in the middle of a contract (i.e., due to decertification), ~~only that portion of work performed while certified will count toward DBE participation claimed by the local agency and Caltrans. If the DBE is already under contract prior to becoming ineligible, its participation is eligible to be counted toward meeting the contract goal by the prime contractor/consultant.~~ the prime contractor may continue to use the DBE firm on the contract and may continue to receive credit toward its DBE goal for the DBE firms' work. In this case, or in a case where the DBE firm is already under contract prior to becoming ineligible, the portion of the ineligible DBE firm's performance of the contract remaining after the notice of its ineligibility must not count toward the State-wide DBE overall goal, but may count toward the contract goal.

If the DBE's ineligibility is caused solely by its having exceeded the size standard during the performance of the contract, the local agency may continue to count its participation on that contract toward overall and contract participation.

Appeal

When the CUCP makes an administratively final removal of a firm's eligibility, the firm may appeal the removal to the DOT under Section 26.89 of 49 CFR 26. Caltrans will provide information for an appeal with the removal of eligibility.

9.8 Good Faith Efforts

Note: For purposes of this section bidder also includes proposer, contractor includes consultant and subcontractor includes subconsultant.

When a Local Agency establishes a DBE contract goal on a federal-aid contract, a bidder must, in order to be responsive, make Good Faith Efforts (GFEs) to meet the DBE contract goal. The bidder can meet this requirement in either of two ways. First, the bidder can meet the goal, documenting commitments for participation by DBE firms sufficient to meet the goal. Second, if the bidder does not meet the goal, the bidder can provide documentation in support of their adequate GFEs. This means that the bidder must show that they took all necessary and reasonable measures to achieve the DBE contract goal. The bidder could reasonably be expected to obtain maximum possible DBE participation even if they were not fully successful in meeting the DBE contract goal. A Local Agency must require a bidder to meet the DBE contract goal or meet the burden of proof of GFEs in order to be awarded a contract. In any situation in which a DBE contract goal has been established, the use of GFEs must be allowed. [The local agency can adopt a sample GFE procedure \(Exhibit 9-G\) to use verbatim or revise as necessary.](#)

Each Local Agency must make a fair and reasonable judgment whether a bidder that did not meet the set goal made adequate GFEs. It is important to consider the quality, quantity, and intensity of the different kinds of efforts that the bidder has made. The efforts employed by the bidder should be those that one could reasonably expect a bidder to take if the bidder were

actively and aggressively trying to obtain DBE participation sufficient to meet the DBE contract goal. Mere pro forma efforts are not GFEs to meet the DBE contract requirements. ~~We emphasize~~ **It is important to note** that the local agency's determination concerning the sufficiency of the bidder's GFEs is a judgment call ~~and meeting quantitative formulas is not required~~ **and the determination should not be made using quantitative formulas.** Caltrans strongly cautions local agencies against requiring that a bidder meet a DBE contract goal in order to be awarded a contract, even though the bidder makes an adequate GFE showing. Title 49 CFR 26 specifically prohibits federal-aid recipients from ignoring bona fide GFEs.

Anticipated Good Faith Efforts

The following types of actions should be considered by a Local Agency as part of the bidder's Good Faith Efforts (GFEs) to obtain DBE participation. It is not intended to be exclusive or exhaustive. Determining the adequacy of a bidder's GFEs to achieve DBE contract goals is a judgment call. Other factors or types of efforts may be relevant in appropriate cases.

- Soliciting through all reasonable and available means (e.g., attendance at pre-bid meetings, advertising and/or written notices) the interest of all certified DBEs that are capable of performing the work of the contract. The bidder must solicit this interest by allowing the DBEs sufficient time to respond to the solicitation. The bidder must determine with certainty if the DBEs are interested by taking appropriate steps to follow up the initial solicitation to the DBEs.
- Selecting portions of the work to be performed by DBEs in order to increase the likelihood that the DBE contract goal will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate DBE participation, even when the prime contractor might otherwise prefer to perform these work items with their own forces.
- Providing interested DBEs with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation.
- Negotiating in good faith with interested DBEs. It is the bidder's responsibility to make a portion of the work available to DBE subcontractors and suppliers, and to select those portions of the work or material needs consistent with the available DBE subcontractors and suppliers, so as to facilitate DBE participation.

Evidence of such negotiation includes: names, addresses, and telephone numbers of DBEs that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why agreements could not be reached with the DBEs who were not selected to perform the work.

- A bidder using good business judgment would consider a number of factors in negotiating with subcontractors, including DBE subcontractors, and would take a firm's price and capabilities as well as the DBE contract goals into consideration. However, the fact that there may be some additional costs involved in finding and using DBEs is not in itself sufficient reason for a bidder's failure to meet the DBE contract goal, as long as such costs are reasonable. Also, the ability or desire of a prime contractor to perform the work of a contract with its own organization does not relieve the bidder of the

Bidder/Offeror's Requirements for Good Faith Efforts

Good faith efforts documentation must include the following information, and supporting documents, as necessary:

1. The bidder/offeror's overall DBE commitment.
2. Items of work the bidder/offeror has made available to DBE firms. The bidder/offeror identifies and describes those items of work the bidder/offeror might otherwise perform with the bidder/offeror's own forces and those items that have been broken down into economically feasible units to facilitate DBE participation. For each item listed, the bidder/offeror must show the dollar value and percentage of the total contract. It is the bidder/offeror's responsibility to demonstrate that sufficient work to meet the goal was made available to DBE firms.
3. Names of certified DBEs and dates on which they were solicited to bid on the project. The bidder/offeror must include the items of work offered. The bidder/offeror must 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. The bidder/offeror must attach supporting documents such as copies of letters, memos, facsimiles sent, telephone logs, telephone billing statements, and other evidence of solicitation. The bidder/offeror is reminded to solicit certified DBEs through all reasonable and available means and provide sufficient time to allow DBEs to respond.
4. Name of selected firm and its status as a DBE for each item of work made available. The bidder/offeror must 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, the bidder/offeror must provide the reasons for the selection.
5. Name and date of each publication in which the bidder/offeror requested DBE participation for the project. The bidder/offeror must attach copies of the published advertisements.
6. 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, the bidder/offeror must provide copies of supporting documents.
7. 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 the bidder/offeror has provided information, they must identify the name of the DBE assisted, the nature of the information provided, and date of contact. The bidder/offeror must provide copies of supporting documents, as appropriate.
8. 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 bidder/offeror or its affiliate. If such assistance is provided by the bidder/offeror, they must identify the name of the DBE assisted, nature of the assistance offered, and date assistance was provided. Provide copies of supporting documents, as appropriate.
9. Written documentation of the bidder/offeror's commitment to use a DBE subcontractor whose participation it submits to meet a contract goal.
10. Written confirmation from each listed DBE firm that it is participating in the contract in the kind and amount of work provided in the bidder/offeror's commitment.
11. Written documentation of reason(s) for rejecting DBE quotes.
12. Any additional data to support demonstration of good faith efforts.

The Agency may consider DBE commitments from other bidders when determining whether the low bidder made good faith efforts to meet or exceed the DBE goal.

Administrative Review and Reconsideration

An administrative review (see 49 CFR 26.53) and evaluation of the Good Faith Efforts (GFEs) should be made prior to award in each instance by the Local Agency. If the Local Agency determines that the apparent successful bidder has failed to meet the GFEs requirements, the Local Agency, before awarding the contract, must provide the apparent successful bidder the opportunity for administrative reconsideration in accordance with 49 CFR 26.53. [A sample procedure for reconsideration hearing \(Exhibit 9-H\) can be found here.](#)

Termination and Substitutions of DBE Subcontractors

After a contract, which specified goals for the DBE participation, has been executed, adequate Good Faith Efforts (GFEs) are required for any ~~needed~~ necessary substitution of DBE subcontractors to the extent needed to meet the DBE contract goal.

Local Agencies must require a prime contractor not to terminate for convenience a DBE subcontractor listed in [Exhibit 15-G: Construction Contract DBE Commitment](#) or an approved substitute DBE subcontractor ~~and have the work performed~~ in order to perform the work of the terminated subcontract with its own forces or those of an affiliate without the Local Agency's prior written consent.

The local agency must include in each prime contract a provision stating that the contractor must utilize the specific DBEs listed to perform the work and supply the materials for which each is listed unless the contractor obtains the local agency's written consent due to the following, but not limited to, good reasons such as:

- The listed DBE subcontractor fails or refuses to execute a written contract
- The listed DBE subcontractor fails or refuses to perform the work of its subcontract in a way consistent with normal industry standards
- The listed DBE subcontractor fails or refuses to meet the prime contractor's reasonable, nondiscriminatory bond requirements
- The listed DBE subcontractor becomes bankrupt, insolvent, or exhibits credit unworthiness, ~~as stated in 49 CFR 26.53(f)~~
- The listed DBE subcontractor is ineligible to work on public works projects because of suspension and debarment proceedings pursuant 2 CFR Parts 180, 215 and 1,200 or applicable state law
- The local agency has determined that the listed DBE subcontractor is not a responsible contractor
- The listed DBE subcontractor voluntarily withdraws from the project and provides you written notice of its withdrawal
- The listed DBE is ineligible to receive DBE credit for the type of work required
- A DBE owner dies or becomes disabled with the result that the listed DBE contractor is unable to complete its work on the contract

- Other documented good cause that the local agency determines compels the termination of the DBE subcontractor

Before transmitting to the local agency its request to terminate and/or substitute a DBE subcontractor, the prime contractor must give notice in writing to the DBE subcontractor, with a copy to the local agency, of its intent to request to terminate and/or substitute, and the reason for the request.

The prime contractor must give the DBE five days to respond to the prime contractor's notice. The DBE shall advise the local agency and the prime contractor of the reasons, if any, why it objects to the proposed termination of its subcontract and why the local agency should not approve the prime contractor's action.

When a DBE subcontract is terminated or when a DBE subcontractor fails to complete its work on the contract for any reason, the Local Agency must require the prime contractor to make GFEs to find another DBE subcontractor to substitute for the original DBE subcontractor. These GFEs must be directed at finding another DBE subcontractor to perform at least the same amount of work under the contract as the DBE subcontractor that was terminated to the extent needed to meet the DBE contract goal.

Monitoring and Enforcement Mechanism for DBE Termination and Substitution

Local agencies are required to implement appropriate mechanisms to ensure compliance with the requirements related to the termination and substitution of subcontractors by all program participants. The local agency needs to stipulate legal and contractual remedies available under federal, state and local law in the contract and must set forth these mechanisms in the local agency's DBE program.

The local agency's DBE program must also include a monitoring and enforcement mechanism to ensure that work committed to DBEs at contract award or subsequently (e.g., as the result of modification to the contract) is actually performed by the DBEs to which the work was committed. This mechanism must include a written certification that the local agency has reviewed contracting records and monitored work sites in the local agency's jurisdiction for this purpose (for example, a resident engineer certifies CUF in writing).

Noncompliance

Local Agencies must include in each prime contract a provision for appropriate sanctions that will be involved if the prime contractor fails to fulfill the DBE commitments made at the time of execution of the contract. The Local Agency must deny payment to the prime contractor for the portion of the contract that was committed at the time of contract execution to be performed by a DBE subcontractor but was completed by the prime contractor or a substitute non-DBE subcontractor, unless agreed by the Local Agency in writing.

Submitting the GFE and Supporting Document for Review

For construction contracts less than or equal to \$2 million and consultant contracts less than or equal to \$500,000, the agency must perform the GFE review if DBE goal is not met.

For construction contracts greater than \$2 million and consultant contracts greater than \$500,000 that had their DBE goal approved by Caltrans, if the low bidder or the most qualified consultant did not meet or exceed the DBE contract goal, the local agency must submit the GFE documentation to their DLAE for review.

The following are responsibilities and a flowchart on Good Faith Effort Review (see Figure 9-2) for local agencies, DLAEs, and DLA.

Local Agency Responsibilities

- The local agency must obtain, complete, and review all of the following documentation prior to determining if the low bidder or the most qualified consultant made a GFE:
 - A bid tabulation summary sheet such as included in [Exhibit 15-D: Bid Tabulation Summary Sheet](#) or [Exhibit 10-O1: Consultant Proposal DBE Commitment](#).
 - All bidders' [Exhibits 15-G: Construction Contract DBE Commitment](#) or [Exhibit 10-O1: Consultant Proposal DBE Commitment](#).
 - All bidders' [Exhibit 15-H: Proposer/Bidder Good Faith Efforts](#) or other documentation that all bidders' submit in lieu of Exhibit 15-H. If bidders did not submit GFE documentation within five (5) days after bid opening, it should be noted in [Exhibit 9-E: Local Agency Good Faith Effort Review](#).
 - [Exhibit 9-E: Local Agency Good Faith Effort Review](#).
- For construction contracts less than or equal to \$2 million and consultant contracts less than or equal to \$500,000, the agency has responsibility to perform the GFE review.
- For construction contracts greater than \$2 million and consultant contracts greater than \$500,000 [that had their DBE goal approved by Caltrans](#), if the low bidder or the most qualified consultant did not meet or exceed the DBE contract goal, the local agency must submit the above GFE documentation to their DLAE **prior to awarding a contract or starting the negotiation**.
 - Local agencies **may not** award a contract to the low bidder or negotiate with the most qualified consultant without first receiving a memorandum from their DLAE that Caltrans has determined that they made a GFE.
 - If Caltrans determines the GFE was inadequate, the local agency will take Caltrans feedback on GFE into consideration and re-evaluate the GFE. After the re-evaluation:
 - If the local agency still thinks the GFE is adequate, they can award the contract or start the negotiation process.
 - If the local agency concludes that the GFE is inadequate, they must invite the low bidder or the most qualified consultant to an Administrative Reconsideration.

DLAE Responsibilities

- For construction contracts greater than \$2 million and consultant contracts greater than \$500,000 [that had their DBE goal approved by Caltrans](#), e-mail all completed GFE documentation including the local agency's bid summary (Exhibit 15-D or Exhibit 10-O1), DBE commitments (Exhibit 15-G or Exhibit 10-O1), the bidders' GFEs (Exhibit 15-H), and the local agency's GFE evaluation (Exhibit 9-E) to DBEgoal.GFE@dot.ca.gov.
- Communicate the outcome of Caltrans GFE review to local agencies.

DLA Responsibilities

The following applies to the GFE evaluation for construction contracts greater than \$2 million and consultant contracts greater than \$500,000 that had their DBE goal approved by Caltrans:

- After receiving a complete GFE package from the DLAE, reply to the DLAE when evaluation starts on the GFE review.
- Once the GFE review has been finished, reply to the DLAE with Caltrans' GFE review conclusion in a memorandum.

The process will not take more than 15 business days after receipt of the GFE package from the District. If there is no response from DLA after 15 business days, the DLAE has the discretion to move forward.

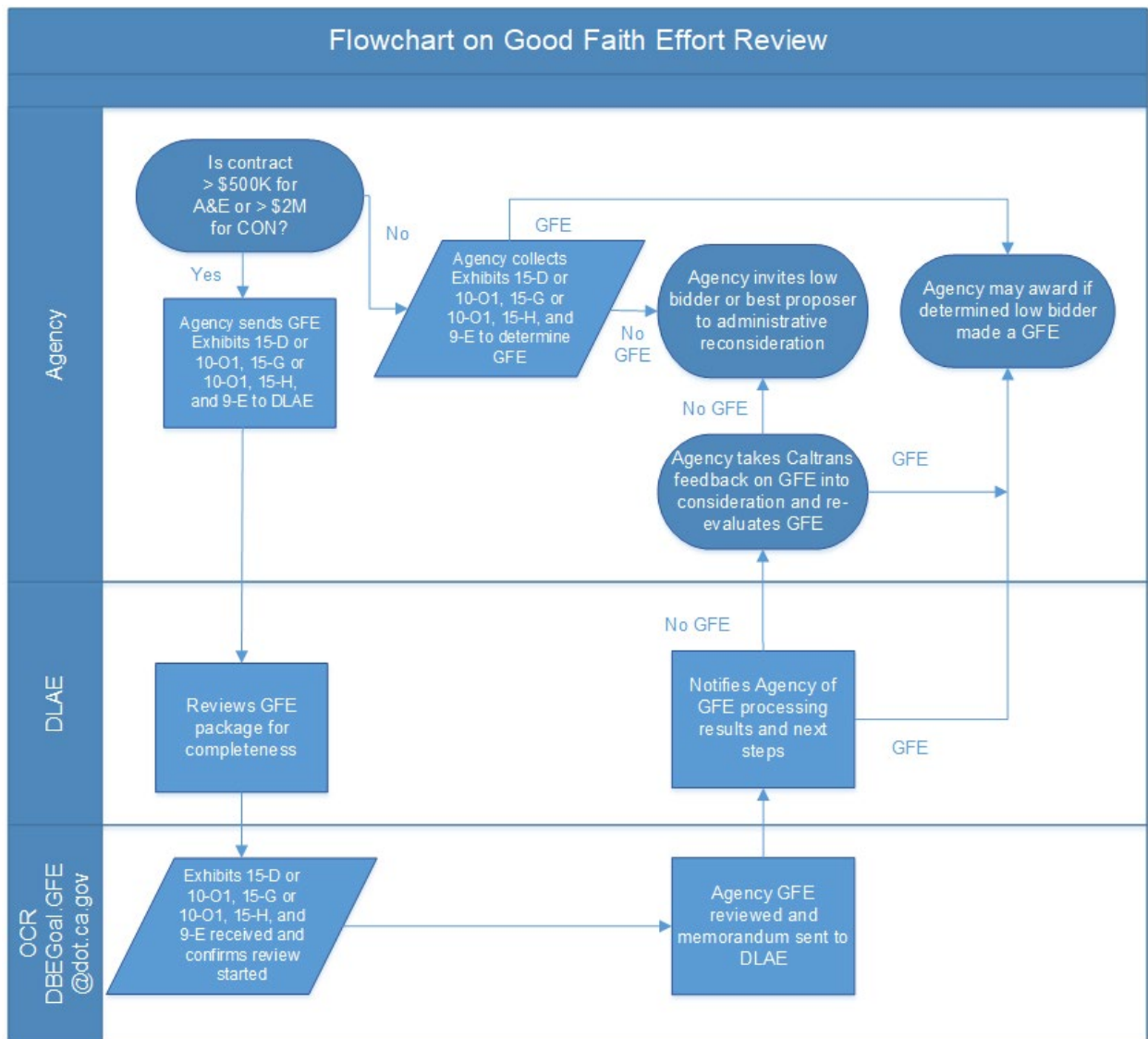


Figure 9-2: Good Faith Effort Review Flowchart

**Exhibit 9-C: Local Agency Americans with Disabilities Act (ADA)
Annual Certification Form**

Local Agency ADA Annual Certification Form
49 CFR 27: Nondiscrimination on the Basis of Disability in
Programs or Activities
Receiving Federal Financial Assistance

Local Agency: _____

State Fiscal Year (July 1-June 30): _____

I. Name of ADA / 504 Liaison Officer: _____
Telephone Number: _____
E-mail Address: _____

NOTE: Section 504 applies to federally funded programs and **ADA** applies to state and local government funded programs (Title II). An ADA Officer is only required if the agency has 50 or more employees.*

II. ADA Grievance / Complaint Procedure Adopted?

Yes: _____ No: _____

If yes, date of **adoption completion/last updated**: _____

If no, planned date of adoption: _____

NOTE: An ADA Officer is only required if the agency has 50 or more employees.*

III. Self-evaluation completed?

Yes: _____ No: _____

If yes, date of completion/**last updated**: _____

If no, planned date of completion: _____

NOTE: All public entities receiving federal funds are required to complete a self-evaluation. Agencies are required to review and make modifications as needed to the self-evaluation to ensure there is non-discrimination on the basis of disability. Local agencies shall implement a system for periodically reviewing and updating self-evaluations and, if applicable, transition plans. As a best practice, it is recommended to review the self-evaluation every three years prior to submitting or adopting the four-year Transportation Improvement Program.

* The Section 8.1000 in Title II, Technical Assistance Manual states, "How does a public entity determine whether it has 50 or more employees? Determining the number of employees will be based on a governmentwide total of employees, rather than by counting the number of employees of a subunit, department, or division of the local government. Part-time employees are included in the determination."

IV. Transition Plan completed?

Yes: _____ No: _____

If yes, date of completion/last updated: _____

If no, planned date of completion: _____

NOTE: In the event that structural changes to facilities will be undertaken to achieve program accessibility, a public entity with 50 or more employees are required to develop a transition plan.*

The transition plan is the action plan developed from the results of the self-evaluation. As a best practice, it is recommended to update the transition plan every three to five years after completion of the recommended self-evaluation and to update the schedule of ADA compliant changes that will be accomplished.

V. Have **your agency's** ~~the~~ policies, procedures, and criteria for implementing ADA compliance improvements in maintenance and capital improvement programs been reviewed **and have the required revisions been made?**

Yes: _____ No: _____

Were deficiencies found?

Yes: _____ No: _____

If deficiencies were found, have the agency's ADA plans been revised to correct those deficiencies?

Yes: _____ No: _____

VI. Does the agency have procedures to obtain approval from the Division of State Architect (DSA) for design packages consistent with State law?

Yes: _____ No: _____

DSA website: <https://www.dgs.ca.gov/DSA/Resources/Page-Content/Resources-List-Folder/Accessibility-Plan-Review>

Reminder: State of California Government Code Sections 4450 - 4454 requires DSA to review and approve the plans and specifications to all buildings, structures, sidewalks, curbs and related facilities constructed in the state, using state, county or municipal funds, or the funds of any political subdivision of the state. These facilities shall be accessible to and usable by persons with disabilities. Please reference Section 9.3 of the Local Assistance Procedures Manual for submittal of design packages to DSA.

The DSA has limited their review to "Safe Routes to School" projects. For ATP Projects, the California Transportation Commission considers Safe Routes to School projects as those "that directly increase safety and convenience for public school students to walk and/or bike to school. Safe Routes to Schools infrastructure projects must be located within two miles of a public school or within the vicinity of a public-school bus stop and the students must be the intended beneficiaries of the project."

VII. Are agency's Standard Plans reviewed and updated on an ongoing basis for full ADA and California Accessibility compliance?

Yes: _____ No: _____

Signature
(ADA Liaison Officer) Date: _____

Distribution: (1) Original - DLAE

LAPM C.12 PS&E

LAPM C.12 PS&E

Section / Exhibit	Description of Changes
<p>12.7 Acceptable Standard Specifications and Special Provision</p>	<ul style="list-style-type: none"> Replace “the Caltrans’ Bridge Design Specifications” with “Caltrans Standard Specifications”
<p>12.8 Liquidated Damages</p>	<ul style="list-style-type: none"> Existing formula and Table12-1 for the calculation of liquidated damages (LD) are out of date; new table values which are currently used in the Caltrans Standard Specifications have been added and can be adopted for local projects.
<p>12.11 Proprietary Items</p>	<ul style="list-style-type: none"> OB #20-01: Revised text
<p>12.11 Public Interest Findings</p>	<ul style="list-style-type: none"> OB #20-01: Deleted sub-section
<p>12.11 Certification</p>	<ul style="list-style-type: none"> OB #20-01: Deleted sub-section
<p>12.11 Other Proprietary Item Considerations</p>	<ul style="list-style-type: none"> OB #20-01: Deleted sub-section
<p>12.12 Nonparticipating Work</p>	<ul style="list-style-type: none"> Added link for full list of nonparticipating work.
<p>12.12 Construction Engineering</p>	<ul style="list-style-type: none"> Removed “For projects selected and programmed directly by Caltrans” to avoid confusion; Caltrans ultimately has approval authority.
<p>Exhibit 12-B Bidder’s List of Subcontractor (DBE and Non-DBE)</p>	<ul style="list-style-type: none"> Additional instruction added for local agencies to verify at the time of bid and annually that contractors and subs are registered.

LAPM C.12 PS&E

<p>Exhibit 12-D PS&E Checklist</p>	<ul style="list-style-type: none"> • Section I: Added checkbox options for SHS • Section IX and XI: Added space to specify “year/version” of Standard Plans / Specifications or Greenbook utilized on the project.
<p>Exhibit 12-E PS&E Checklist Instructions</p>	
<p>Exhibit 12-F Cost-Effectiveness Determination / Public Interest Finding</p>	<ul style="list-style-type: none"> • The current Exhibit 12-F has an option to select noncompetitive process to procure A&E consultants. This option is placed under Public Interest (PIF) which has caused some confusion. 23 CFR 172 does not specifically state that a PIF is required; however, an approval is required. <p>The modification creates a separate approval area when using noncompetitive process to procure A&E consultants and include “limited circumstances” to make clear to the agencies on what limited options they have when using this method of procurement.</p>
<p>Exhibit 12-G Required Federal-Aid Contract Language</p>	<ul style="list-style-type: none"> • DBE Running Tally of Attainments section was moved from #12 to #1G to maintain consistency with Exhibit 12-D:

- Bridge construction methods and materials specifications included in local standard specifications must meet the bridge requirements of ~~the Caltrans' Bridge Design~~ [Caltrans Standard Specifications](#).

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://ppmoe.dot.ca.gov/des/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 must 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 must 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 must 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.

to the resident engineer within 7 calendar days of receipt of the notice to resume work. Recovery of profit on costs resulting from suspensions of work is not allowed.

This clause does not preclude the recognition of constructive suspensions or delays resulting from the contracting agency's actions, without written notification. The local agencies may address constructive delays and suspensions, as they choose, in their standard specifications and contract administration procedures.

Suspensions must be for unreasonable delays and do not include brief, customary suspensions for reasons inherent to highway construction (i.e., material sampling and testing, approval of shop drawings, material sources, etc. and other reasonable and customary suspensions necessary for the supervision of construction by the contracting agency). In addition, an adjustment under this clause is not allowed if the work is suspended for other reasons or if an adjustment is provided for, or excluded, under other terms or conditions of the contract.

Material Changes in the Scope of the Work

This clause provides for the adjustment of the contract terms if the resident engineer orders, in writing, an alteration in the work or in the quantities that significantly change the character of work. The term significant change must be constructed to apply only to the following circumstances:

- The altered character of the work differs materially from that of the original contract, or
- A major item of work, as defined in the contract, is increased or decreased by more than 25 percent of the original contract quantity (adjustments must apply only to that portion in excess of 125 percent of original contract quantity, or in case of a decrease, to the actual quantity performed)

This clause provides for adjustments resulting from formal change orders by the resident engineer, in writing, to the extent that the impacted work is part of the contract. Both parties may initiate an adjustment, and both must be in agreement before the work is performed. As with the suspension of work provision, this clause does not preclude the recognition of constructive suspensions or delays.

Liquidated Damages

The term liquidated damages means the daily amount set forth in the contract to be deducted from the contract price to cover additional costs incurred by a local agency because of the contractor's failure to complete the contract work within the number of calendar days or workdays specified.

Federal law requires the provision for liquidated damages on all federal-aid projects on the NHS. For projects off the NHS, this provision is optional. Liquidated damages are based on the estimated cost of field construction engineering. In special cases, liquidated damages greater than the estimated field construction engineering cost may be specified provided that detailed reasons, such as project related costs for delays and public inconvenience, are given to support the greater amount. ~~In all cases, calculations should support the recommended rate.~~ **The local agency may withhold liquidated damages before the accrual date if the anticipated liquidated damages exceeds the value of the remaining work.**

Liquidated damages are not to be used as disincentives or incentives to encourage timely completion. If project completion time is critical, then Incentive/Disincentive (I/D) provisions

should be considered to motivate the contractor to complete the work sooner, and the I/D amount and time should be documented in the project file.

~~Local agencies should use the following formula to avoid excessive, or unreasonable, liquidated damages:~~

$$\frac{(\text{L\% from table below}) \times (\text{Engr. Estimate} + \text{RE Office Expense}^*)}{\text{WORKING DAYS}^{**}} = \text{Liq. Dam./calendar day}$$

~~* Resident Engineer office expenses for the life of the contract should be added unless the cost is already included in the Engineer's Estimate.~~

~~** Working days used to calculate liquidated damages should not include water pollution establishment or plant establishment days.~~

Liquidated damages for all work except plan establishment or permanent erosion control establishment are shown in the following table:

Table 12-1: Liquidated Damages Table (L%)

Project Estimate	Project Type					
	Resurfacing [±] / Rehab	New Highway	Realignment /Widening	Landscaping	Sound Wall	Others
Over \$30 million	10%	10%	13%	15%	15%	15%
\$10 million to \$30 million	10%	12%	15%	15%	15%	15%
\$5 million to \$10 million	10%	15%	15%	15%	15%	15%
\$750k to \$5 million	15%	15%	15%	18%	18%	15%
Less than \$750k	15%	20%	20%	18%	20%	15%

~~* Resurfacing projects include asphalt concrete (AC) surfacing, seal coats, slurry seals, etc.~~

Total Bid		Liquidated damages per day
From over	To	
\$0	\$60,000	\$1,400
\$60,000	\$200,000	\$2,900
\$200,000	\$500,000	\$3,200
\$500,000	\$1,000,000	\$3,500
\$1,000,000	\$2,000,000	\$4,000
\$2,000,000	\$5,000,000	\$4,800
\$5,000,000	\$10,000,000	\$6,800
\$10,000,000	\$20,000,000	\$10,000
\$20,000,000	\$50,000,000	\$13,500
\$50,000,000	\$100,000,000	\$19,200
\$100,000,000	\$250,000,000	\$25,300

If all work except plant establishment or permanent erosion establishment is complete and the total number of working days have expired, liquidated damages are \$950 per day.

~~The calculated liquidated damages should be rounded up in \$100 increments to determine the amount to be specified.~~

If the local agency uses an alternate method to determine liquidated damages for locally funded projects, it may be used on federal-aid projects as long as it avoids excessive charges. **If an alternate method is used**, the local agency should have a **calculation or justification for liquidated damage** ~~calculation~~ in the project files.

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.

Local Preferences

On all federal-aid construction projects, materials produced within the state or local area must not be favored over comparable materials produced outside of the state or local area. Also, in-state material sources cannot be given preference over foreign materials or actions taken against materials of foreign origin unless permitted by federal law (for example Buy America materials). State or local preference provisions are not allowed on federal-aid project contracts.

Warranty Clauses

For projects off the NHS, local agencies may include warranty provisions in construction contracts in accordance with procedures they have developed for their nonfederal projects.

For projects on the NHS, local agencies may include warranty provisions in construction contracts in accordance with the following conditions:

- Warranty provisions must be for a specific construction product or feature. Items of maintenance not eligible for federal participation must not be covered.
- No warranty requirements must be approved which may place an undue obligation on the contractor for items over which the contractor has no control.

The local agency must provide documentation of these conditions in the project files. Local agencies are advised that items of maintenance are not eligible for federal participation. Including maintenance items will result in the items being considered non-participating and requiring pay back of the federal funds involved.

Proprietary Items

For the purpose of providing greater flexibility and encouraging innovation in the development of highway transportation technology and methods, the use of Federal funds for patented or proprietary materials, specifications, or processes is allowed. Therefore, Federal fund participation is not restricted when local agencies specify a trade name in Federal-aid contracts. In addition, Federal-aid participation is not restricted when a local agency specifies patented or proprietary materials in design-build (DB) Request-for-Proposal (RFP) documents.

This Federal regulation does not, however, affect State requirements for the use of patented or proprietary products. For State requirements on the use of patented or proprietary products, California Public Contract Code 3400 still applies.

~~The use of proprietary products and processes on federal-aid projects is restricted. When less than three proprietary (brand name) products or processes are called out in the project plans or special provisions, a Public Interest Finding (including Certification as applicable) must be completed, approved and emailed to Proprietary.PIF@dot.ca.gov.~~

~~It is the policy of the FHWA not to participate, directly or indirectly, in payment for any premium or royalty on any patented or proprietary material, specification, or process specifically set forth in the plans and specifications for a federal-aid project unless:~~

- ~~• The item is purchased or obtained through competitive bidding with equally suitable unpatented items using a minimum of three bids.~~
- ~~• The local agency certifies in a Public Interest Finding (PIF) that the proprietary or patented item is essential for synchronization with the existing highway facilities or that no equally suitable alternative exists, or~~

- The item is used for research or for a special type of construction on relatively short sections of road for experimental purposes.

This FHWA policy is applicable to local agency projects both on and off the NHS.

The primary purpose of this policy is to estimate competition in the selection of materials and development of new materials and products, and to ensure FHWA participation in the costs of such proprietary items as specified in the project documents and special provisions. As such, specifications should be written to allow bidders the maximum flexibility to select materials and products to meet construction specifications and result in the lowest bid prices.

The policy further permits:

- Materials and products that are judged equal may be bid under generic specifications. If only patented or proprietary products are acceptable, they shall be bid as alternatives with all, or at least a reasonable number, of acceptable materials or products listed.
- The local agency may approve a single source if it can be found that its utilization is in the public interest. The approved PIF, including certification as applicable shall be fully documented and retained in the project files.

Trade names (3M, Corten, etc.) are generally the key to identifying patented or proprietary materials. Generally, products should not be identified by their brand or trade name unless a reasonable number of these materials or products are listed. The FHWA considers three to be a reasonable number. The licensing of several suppliers to produce a product does not change the fact that it is a single product and should not be specified to the exclusion of other equally suitable products. Proprietary items must be clearly identified on Exhibit 12-D: PS&E Checklist. Failure to do so may render the purchasing, furnishing, and installation of such items as non-participating.

Public Interest Finding

For any instance when less than three proprietary (brand name) products or processes are called out in the project plans or special provisions, the local agency must prepare a PIF to adequately document and justify the specification of such products. PIFs are specific to each federal aid project in order to properly assess changes in market conditions and re-examine the need to specify a proprietary product. This will encourage re-evaluation of the continued need for a specific product in light of changes in the agency's performance objectives, product availability, technological improvements, product lifecycle, and market conditions. The terms or equal or the term or approved equal, do not relieve the agency from preparing a PIF for each such proprietary product as specified in the project. The PIF must define objective and testable criteria for determining what will be considered equal. These criteria must be based upon documented needs. Vendor created descriptions or specifications are not acceptable and are likely to be protested by competitors.

The local agency must email the approved PIF to Proprietary.PIF@dot.ca.gov, and retain the originals in the project files. If the project is on the State Highway System, a copy of the approved PIF must also be provided to the Caltrans Project Manager.

Certification

The Certification portion of the Exhibit 12-F: Cost Effectiveness/Public Interest Finding is required for each product specified in the project if no such equally suitable alternate exists or if

~~such a patented or proprietary item is essential for synchronization with existing highway facilities.~~

~~The local agency must email the completed Certification along with the approved PIF to Proprietary.PIF@dot.ca.gov, and retain the originals in the project files. If the project is on the State Highway System, a copy of the Certification along with the approved PIF must also be provided to the Caltrans Project Manager.~~

~~Functions and specifications of electronic devices change frequently, and new or revised equipment appears very often. As a result, certifications for electronic components must be based on testing the compatibility of new products with existing infrastructure.~~

~~Synchronization is defined by FHWA as providing a product that matches specific current or desired characteristics of a project. Synchronization may be based on:~~

- ~~• Function (the proprietary product is necessary for the satisfactory operation of the existing facility),~~
- ~~• Aesthetics (the proprietary product is necessary to match the visual appearance of existing facilities), or~~
- ~~• Logistics (the proprietary product is interchangeable with products in an agency's maintenance inventory), or any combination thereof.~~

~~Additional considerations for synchronization could be:~~

~~Lifecycle (the relative age of existing systems that will be expanded and the remaining projected life of the proposed proprietary element in relation to the remaining life of the existing elements). Size/extent of products and systems to be synchronized to/with, and the relative cost of the proprietary elements compared with replacing the elements requiring synchronization. As guidance, if the project expands the existing inventory by less than 30% in the number of units, this would be deemed approvable in terms of the size and extent. An increase of greater than 100% (a doubling of the existing inventory) would typically not be deemed approvable. An increase between 30% and 100% of the existing inventory may be approvable only if supported by a cost analysis comparing the expansion of the existing inventory vs. the replace inventory scenarios.~~

~~Other Proprietary Item Considerations~~

- ~~• The existence of a proprietary product/process on an FHWA or Caltrans qualified or approved product list does not grant sole source approval.~~
- ~~• This policy is also applicable to non-physical products (software, mobile apps, etc.).~~
- ~~• The PIF Certification must specify a sunset date whereby the continued use of the proprietary product is based on appropriate testing and evaluation of the current and ongoing marketplace of available products.~~
- ~~• The use of the terms "or equal" and "or approved equal" clause in the project plans and specifications is discouraged, as it can often result in misunderstandings and subsequent contractor claims in construction, and does not meet FHWA requirements. If product substitution requests are considered, the specifications must be very clear regarding the specific functional, operational, and maintenance characteristics of the product.~~

- ~~• In the absence of specifying a particular product or brand name, a product should not be so narrowly specified that the effective result is to essentially limit the use to that particular product or brand name.~~
- ~~• This FHWA policy is applicable to local agency projects both on and off the NHS.~~
- ~~• Regulations on the use of patented or proprietary products on federal aid projects are included in the Code of Federal Regulations (23 CFR 635.411 Material or Product Selection) and FHWA policy found at:
www.fhwa.dot.gov/programadmin/contracts/011106ga.cfm#_Hlk307506586 and
<https://www.fhwa.dot.gov/construction/cqit/propriet.cfm>.~~

Equipment Rental Rates

Federal policy requires that actual costs be used to determine extra work payments; however, actual equipment costs are not readily available. Therefore, the FHWA permits the local agencies to specify in their construction contract specifications the use of predetermined rate guides as well as equipment rate schedules developed by the local agency which are in conformance with the federal cost principles and the FHWA's policy contained in the Contract Administration Core Curriculum, published by the FHWA. Caltrans' Equipment Rental Rates are in conformance with these requirements.

12.12 Estimates

The estimate used to authorize the construction phase of a federal-aid project must reflect the anticipated cost of the project in sufficient detail to provide an initial prediction of the financial obligations to be incurred by the local agency and FHWA and to permit an effective review and comparison of the bids received. Initially, a preliminary estimate is prepared by the local agency, which includes the basic items that a contractor will be asked to bid. This is a confidential document, which represents the local agency's best estimate of a fair and reasonable price for the items or work to be performed. As such, the Engineer's Estimate should not be made available to contractors and the general public prior to opening bids. This estimate must be prepared in a format, which describes the item of work, unit amount, quantity, unit price, amount, a subtotal, contingencies and a total ([LAPM 3-A: Project Authorization/Adjustment Request](#)). Other estimates must also be prepared, if appropriate, for local agency furnished materials, supplemental work, construction engineering, the Federal Trainee program, and force account (day labor) work performed by the local agency. The estimates must be segregated by major construction categories. Furthermore, any items of work, which are ineligible for federal participation in a category, must be segregated from the eligible items of work. These estimates are used to prepare the Finance Letter and the Request for Authorization for Construction. After bids are opened and the project has been awarded, a Detail Estimate is prepared by the local agency, which upgrades the preliminary estimate by using actual bid amounts rather than estimates. For more information on detail estimates, refer to [LAPM Chapter 15: Advertise and Award Project](#).

Nonparticipating Work

On all federal-aid construction projects, work which is not within the limits of the project must be segregated under a category called Not Part of Federal Project for purposes of the preliminary and detail estimates (work funded by others is most generally nonparticipating).

Work within the federal-aid project limits, but ineligible for federal funding, is referred to as nonparticipating work. Items considered nonparticipating work include but are not limited to the following:

- Betterment work such as capital outlay, safety improvements, or operational improvements that goes beyond restoring a site to its original condition or to the current standard (for emergency relief work)
- Right-of-way obligations when right of way is nonparticipating
- Maintenance-related activities
- Spare parts not incorporated in the work
- Bid items ineligible for the federal program funding the project

A full list of nonparticipating work can be found at: <https://dot.ca.gov/-/media/dot-media/programs/construction/documents/contract-administration/change-order-information/fhwa-nonpart-cost-items-a11y.pdf>

These ~~above work~~ nonparticipating cost items must also be identified and segregated for the purposes of the preliminary and detail estimates. Quantities for each structure must be shown separately with an appropriate structure code. Miscellaneous work, such as utility adjustments by a utility company, must also be separate.

Contract Items

In order to determine which contract items should be included in the preliminary estimate, the work is broken down into the basic types of construction, such as excavation, concrete and steel.

Each type and each classification of a type of construction comprises one bid item. Each contract item must be measured accurately. When practical, work performed by a different subcontractor should also be segregated into separate contract items. The list of contract items should be analyzed to be sure that all phases of the work are included in the estimate. Care should also be taken to ensure that there is no overlap of contract items, which could result in a duplication of payments. The [Coded Contract Item List](#) published by Caltrans may be used by the local agency with or without the item code number. The contract item list should be used if the local agency is using Caltrans Standard Specifications as the item descriptions are matched with the specifications.

Local Agency Furnished Materials

Local agency furnished materials are a part of the total cost of the project and should be subtotaled and included in the total project cost.

To be eligible for federal participation, any material (other than local natural material) purchased by the local agency and furnished to the contractor for mandatory use in the project must be acquired on the basis of competitive bidding, except when there is a finding of public interest, approved by the local agency and submitted to the DLAE for review that justifies the use of another method of acquisition. The unit cost eligible for federal participation is limited to the unit cost of such material to the local agency.

Supplemental Work

Supplemental work is work that is anticipated and required but cannot be described and quantified for delivery on a unit-price or lump sum basis.

Such work must be included in the project estimates and should follow the Subtotal Contract Items. Supplemental work should include extra work, additional work, traffic control (if required) or other work to be performed by the contractor and charged to the contract work order. Supplemental work can be listed and included in the total project cost, as a separate line item, or included in the contingencies section of the preliminary estimate. Supplemental work must be included in the contingencies of the Detail Estimate (see [Exhibit 15-M: Detail Estimate](#)).

For additional information on the use of supplemental work as an item of work, refer to [Section 7: Preparing Cost Estimate in the Construction Contract Development Guide](#).

Contingencies

Estimates may include contingencies, including supplemental work, of five to ten percent of the total estimate. Contingency amounts should be adjusted to give the total contract a round number. If there is a large amount of supplemental work, ten percent may be exceeded, but contingencies should always be at least five percent.

Construction Engineering

The FHWA defines construction engineering as the supervision and inspection of construction activities; additional staking functions considered necessary for effective control of the construction operations; testing materials incorporated into construction; checking shop drawings; and measurements needed for the preparation of pay estimates. Construction engineering costs should be shown on the Estimate, if federal reimbursement is desired.

Historically, federal participation in construction engineering (CE) was limited to fifteen percent of the federal participating construction costs. Current federal statutes no longer contain such a limitation. As a general guide, it is highly recommended that local agencies continue to use 15% as a guide for estimating CE costs and maintain justification for higher CE costs, except for projects funded from federal programs under direct Caltrans management (i.e., those programs for which Caltrans selects and programs the projects). ~~For projects selected and programmed directly by Caltrans~~, CE costs in excess of fifteen percent will continue to need justification by local agencies and approval by the DLAEs.

Federal Trainee Program

Estimates for federal-aid projects may include an estimated amount for the Federal Trainee Program. It is up to the local agency to establish the number of trainees for each project. For additional information on the Federal Trainee Program refer to [Section 12.8: Federal Contract Requirements](#) of this chapter.

Estimates for Force Account (Day Labor)

If force account work (day labor) is to be included in the project, it must be listed in the estimate as a separate item. Such work must be justified and documented by a Cost-Effectiveness Determination as described in [Section 12.4: Method of Construction](#) of this chapter (also see [Exhibit 12-F: Cost-Effectiveness/Public Interest Finding](#)).

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 [here](#). [The local agency will verify registration of all contractors and subcontractors on public works projects at bid and thereafter annually to assure that yearly registration is maintained throughout the life of the project.](#)

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.

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

A. National Highway System: check applicable box; please refer to FHWA approved [NHS maps](#).

On the National Highway System (NHS)

Off the NHS

B. State Highway System: check applicable box.

On the State Highway System (SHS)

Off the SHS

C. Functional Classification: check as many as appropriate; please refer to Caltrans [CRS maps](#).

ON the Federal-aid System

OFF the Federal-aid System

Principal Arterial - Freeway or Expressway

Rural Minor Collector

Principal Arterial - Other

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

Bridges and Other Structures Only

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 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.

B. Force Account (Day Labor) (check appropriate box)

- 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 - Caltrans DIB 79-03 (on SHS)
- 3R Projects - Exhibit 11-A Geometric Design Standards for Local 3R Projects (off SHS)
- Local Agency approved Design Standards (non-NHS only) 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: _____ Year / Version
- Current Standard Plans for Public Works Construction: _____ Year / Version
- Current 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 engineer licensed to practice in the State of California.
- Temporary Traffic Control (TTC) Plans or reference to Standard Plan and Signs/Striping Plans in Standard Plan included. (Note: additionally, Traffic Management Plans are required to be on file for all reconstruction, rehabilitation, and other projects [including projects on the SHS not funded by the State], if significant traffic delays are anticipated, and as a result from project activities).
- Erosion Control Plan, if required.
- Americans with Disabilities (ADA) Compliance Plan, whenever applicable, 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: _____ Year / Version
- Current Standard Specifications for Public Works Construction (Green Book): _____ Year / Version
- Current Local Agency approved Standard Specifications: _____ Year / Version

XII. Federal Requirements

A. Required Federal Contract Provisions (refer to Exhibit 12-G Required Federal-aid Contract Language).

* Note: embedding unmodified Exhibit 12-G with appropriate information filled into the project's contract is strongly recommended. Otherwise indicate page numbers of each federal requirement in the space provided.

	Page No. *
<input type="checkbox"/> 1. Disadvantaged Business Enterprise or equivalent provisions are included	_____
<input type="checkbox"/> 2. Bid Opening or equivalent provisions are included	_____
<input type="checkbox"/> 3. Bid Rigging or equivalent procedures are included	_____
<input type="checkbox"/> 4. Contract Award or equivalent procedures are included	_____
<input type="checkbox"/> 5. Contract License or equivalent provisions are included	_____
<input type="checkbox"/> 6. Changed Conditions or equivalent provisions are included	_____
<input type="checkbox"/> 7. Beginning of Work, Time of Completion and Liquidated Damages or equivalent provisions are included	_____
<input type="checkbox"/> 8. Buy America	_____
<input type="checkbox"/> "Buy America" or equivalent provisions are included	_____
<input type="checkbox"/> A Buy America waiver was approved by FHWA on _____, 20____	_____
<input type="checkbox"/> 9. Quality Assurance or equivalent provisions are included	_____
<input type="checkbox"/> 10. Prompt Payment of Funds Withheld from Subcontractors or equivalent provisions are included	_____
<input type="checkbox"/> 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	_____
<input type="checkbox"/> All sections of the FHWA Form 1273 apply to this project	_____

VI. Value Engineering Analysis (VA)

A value engineering analysis is required for: (1) all Federal-aid highway projects on the NHS with a total estimated project cost of \$50 million or more, and (2) all bridge projects on the NHS with a total estimated project cost of \$40 million or more. (See Section 12.5, Value Engineering Analysis of the LAPM for additional guidance).

VII. Geometric Design Standards

If the project does not change existing geometrics, Section A and B do not apply and the local agency is not required to check any boxes in these sections. See Chapter 11: Design Guidance of the LAPM for additional guidance on geometric design standards.

Geometric Design Guidance Used

New and reconstruction projects on the NHS shall be designed in accordance with Standards as defined in the current edition of "A Policy on Geometric Design of Highways and Streets," published by the American Association of State Highway and Transportation Officials (AASHTO). The minimum standards for geometric design of local Federal-aid resurfacing, restoration and rehabilitation (3R) projects on the NHS are shown in Exhibit 11-A: Geometric Design Standards for Local 3R Projects. Local geometric design guidance that have been developed for use on locally funded new and reconstruction, or 3R projects off the NHS, may be a used subject to the conditions listed in Chapter 11: Design Guidance. Check appropriate box only if this section applies.

VIII. Bridge Design Procedures

All bridges shall be designed in accordance with the current edition of the Caltrans Bridge Design Specifications Manual and the latest California amendments to the AASHTO LRFD Bridge Design Specifications. Check if requirements met, or if the project does not include any bridge construction indicate requirements does not apply.

IX. Standard Plans

For projects off the State Highway System, the local agency may use current Caltrans Standard Plans, current Standard Plans for Public Works Construction, or current Local Approved Standard Plans subject to the conditions described in Chapter 11: Design Guidance and Section 12.6: Plans of the LAPM. [To ensure the current Standard Plans are utilized, please specify the year/version.](#)

X. Project Plans and specifications

Project plans and specifications shall be 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. (See Section 12.6, Plans of the LAPM).

A temporary traffic control (TTC) plan shall be included in the PS&E for all Federal-aid highway construction projects. If the TTC plan is not included, reference to Signs/Striping Plans pertaining to the project in Standard Plan shall be indicated in the specification.

Check the first two boxes to indicate requirements are met. **Failure to check both boxes will result in denial of the Request for Authorization.**

Erosion control plans may be required, see Section 12.6, Plans in the LAPM. If required, check box.

Whenever applicable, project plans and specifications will need to comply with the Federal Americans with Disabilities Act (ADA) requirements 28 CFR, Part 35 or Part 36, and the California and Local Building Codes within the project limits. In accordance with 28 CFR Sec. 35.151, curbs ramps must meet current ADA standards if the project includes streets that are to be newly constructed or altered (includes repaving). For ADA requirements, see Chapter 11: Design Guidance, and Section 12.6, Plans of the LAPM. If ADA requirements apply and will be complied with, check box.

XI. Standard Specifications

For projects off the State Highway System, the local agency may use current Caltrans Standard Specifications and Standard Special Provision, the current Standard Specifications for Public Works Construction, or current Local Approved Standard Plans subject to the conditions described in Chapter 11: Design Guidance. [To ensure the current Standard Plans are utilized, please specify the year/version.](#)

XII. Federal Requirements

- A. Required Federal Contract Provisions** - Ensure Exhibit 12-G: Required Federal-aid Contract Language or equivalent provisions are in the contract. Inserting unmodified Exhibit 12-G with appropriate information filled, into the project's contract is strongly recommended. Provide page numbers if using equivalent provisions.

The Form FHWA-1273 must be physically inserted unmodified into the executed contract.

Provisions for liquidated damages shall be included in all Federal-aid contracts on the NHS (see Chapter 12: Plans, Specifications & Estimate of the LAPM for requirements).

Current Buy America regulations are discussed in Section 12.8, Federal Contract Requirements of the LAPM. Buy America requirements do not apply to minimal use of the material such that the cost, delivered to the project site, is less than \$2,500 or one-tenth-of-one-percent of the contract amount, whichever is greater. Buy America applies if federal dollars are used on any phase of the project.

Section 12.8, Federal Contract Requirements of the LAPM includes information for On-the-Job Training.

Please note that among all the federal requirements, the most frequent deficiencies (or missing requirements) are observed from '6. Changed Conditions', '12. Female and Minority Goals', and '13. Federal Trainee Program'. Inserting unmodified Exhibit 12-G into the contract is suggested as the best way to mitigate such deficiencies.

B. DBE Goal

Individual DBE contract goals will be established. Complete evaluation documentation is required and shall be retained for each contract (see Chapter 9: Civil Rights and Disadvantage Enterprise in the LAPM).

In some cases, the contract DBE goal may be zero due to the extremely limited subcontracting opportunities for DBEs, the lack of certified DBEs willing to work in the geographic area in which work is to be performed, or other reasons. Documentation is required verifying that the local agency has determined that a zero percent DBE goal is appropriate. Documentation must be based on the DBE contract goal methodology with the specific project-related work codes and DBEs highlighted. In some cases there may be no contract goal (which is different than zero percent goal) if, for example, the contract is sole-source or non-profit.

C. Certification/Disclosures

The certification and disclosure forms listed in Exhibit 12-H: Sample Bid shall be included in all Federal-aid projects. Except for the Disclosure of Lobbying form and instructions, equivalent provisions may be used. See Section 12.8, Federal Contract Requirements of the LAPM for more information.

D. Other Required Forms

Two forms, or their equivalents, relating to subcontractors must be included as part of the bid package. Exhibits 15-G: Local Agency Bidder DBE Commitment (Construction Contracts), and Exhibit 12-B: Bidder's List of Subcontractors (DBE and Non-DBE). Exhibit 15-H: DBE Information - Good Faith Efforts must also be part of the bid package if the DBE goal was not met.

E. Federal Wage Rates

If payment of federal predetermined wages are required per instructions in Subparagraph B.2.a "Section IV. Payment of Predetermined Wages," they shall be physically incorporated into the final contract documents and in all related subcontracts signed by the local agency and the contractor.

Exhibit 12-F: Cost-Effectiveness / Public Interest Finding / A&E Noncompetitive

U.S. DEPARTMENT OF TRANSPORTATION	FEDERAL HIGHWAY ADMINISTRATION	CALIFORNIA DEPARTMENT OF TRANSPORTATION
COST-EFFECTIVENESS/PUBLIC INTEREST FINDING		
COST-EFFECTIVENESS DETERMINATION REQUIRED	PUBLIC INTEREST DETERMINATION REQUIRED	
<input type="checkbox"/> Use of force account (23 CFR 635.204, 205)* <input type="checkbox"/> Use of publicly owned equipment (23 CFR 635.106) <input type="checkbox"/> Other*: _____ * Requires Caltrans District approval ** Requires FHWA approval	<input type="checkbox"/> Use of non-competitive negotiated consultant contracts (23 CFR 172.7) (a) (3)* <input type="checkbox"/> Use of publicly furnished materials (23 CFR 635.407) <input type="checkbox"/> Use of contracting method other than competitive bidding (23 CFR 635.104/204)* <input type="checkbox"/> Use of mandatory borrow/disposal sites (23 CFR 635.407) <input type="checkbox"/> Advertising period less than 3 weeks (23 CFR 635.112)* <input type="checkbox"/> Waiver of Buy America Requirements (23 CFR 635.410)** <input type="checkbox"/> Other*: _____	
A&E NONCOMPETITIVE DETERMINATION REQUIRED		
<input type="checkbox"/> Use of non-competitive negotiated consultant contracts (23 CFR 172.7) (a) (3)* (Must select one of the limited circumstances)	MUST MEET ONE OF THE FOLLOWING LIMITED CIRCUMSTANCES: <input type="checkbox"/> Service is available only from a single source <input type="checkbox"/> There is an emergency which will not permit the time necessary to conduct competitive negotiations <input type="checkbox"/> After solicitation of a number of sources, competition is determined to be inadequate	
FEDERAL-AID PROJECT	CLASS OF FEDERAL FUNDS: <input type="checkbox"/> IM <input type="checkbox"/> NH <input type="checkbox"/> STP <input type="checkbox"/> OTHER:	
	STEWARDSHIP: <input type="checkbox"/> DELEGATED <input type="checkbox"/> HIGH PROFILE	
ID	DIST-CO-RTE- PM	ESTIMATED COST
		FEDERAL FUNDS
PROJECT SPECIFIC <input type="checkbox"/> MULTIPLE PROJECTS <input type="checkbox"/> REGIONAL/DISTRICTWIDE <input type="checkbox"/> STATEWIDE <input type="checkbox"/>		
GENERAL LOCATION	GENERAL DESCRIPTION OF WORK	
REASONS THAT REQUESTED APPROVAL IS CONSIDERED TO BE COST-EFFECTIVE OR IN THE PUBLIC'S BEST INTEREST (STATE):		
REMARKS (STATE) :		
PREPARED/APPROVED BY LOCAL AGENCY'S REPRESENTATIVE	REPRESENTATIVE NAME AND TITLE:	Date:
*APPROVED BY DISTRICT LOCAL ASSISTANCE ENGINEER (DLAE)	DLAE NAME:	Date:
**APPROVED BY FHWA (Buy America Waiver only)	FHWA REPRESENTATIVE NAME:	Date:

Distribution: (1) Local Agency File - Original; (2) DLAE - Copy; (3) Caltrans Project Manager - Copy if on the SHS

Exhibit 12-F: Cost-Effectiveness / Public Interest Finding / A&E Noncompetitive**Instructions**

1. Check appropriate box under “Cost-Effective Determination Required,” ~~or~~ “Public Interest Determination Required,” or **A&E Noncompetitive Determination Required**. If **A&E Noncompetitive Determination Required** is checked, check one of the limited circumstances.
2. Check “Class of Funds” as follows: IM-Interstate Maintenance, NH-National Highway, STP - State Transportation Program, Other (all other classes).
3. Provide the Federal-aid Project ID number in first column.
4. Identify Caltrans District-County-State Route-Post Mile, or City and street in second column.
5. List Estimated Cost of the portion of the project subject to this PIF.
6. List the amount of the Federal Funds in the portion of the project subject to this PIF.
7. Describe “General Location” applicable to this PIF.
8. Provide “General Description of Work” affected by this PIF.
9. Explain and give “Reasons that requested approval is considered to be cost-effective, ~~or~~ in the public’s best interest, or **meet A&E noncompetitive procurement**.” Provide cost analysis or comparison as evidence of cost-effectiveness.
10. “Remarks” is for the Local Agency Representative preparing the Finding.
11. Signature, Name, and Title of Local Agency Representative preparing or approving PIF, as appropriate, and Date.
12. Signature and Name of District Local Assistance Engineer approving the PIF, as required, and Date.
13. Signature and Name of FHWA representative approving the PIF for Buy America waivers, and Date.

Upon work completion, the prime contractor shall complete Exhibit 17-F Final Report – Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subcontractors and submit it within 90 days of contract acceptance. The Agency will withhold \$10,000 until the form is submitted. The Agency releases the withhold upon submission of the completed form.

g. DBE RUNNING TALLY OF ATTAINMENTS

After submitting an invoice for reimbursement that includes a payment to a DBE, but no later than the 10th of the following month, the prime contractor/consultant shall complete and email the Exhibit 9- F: Disadvantaged Business Enterprise Running Tally of Payments to business.support.unit@dot.ca.gov with a copy to the Agency.

- 2. BID OPENING** The Agency publicly opens and reads bids at the time and place shown on the Notice to Contractors.
- 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

LAPM C.13 RIGHT OF WAY

LAPM C.13 Right of Way

Section / Exhibit	Description of Changes
<p>13.4 Authorization to Begin Right of Way Work (E-76)</p>	<ul style="list-style-type: none"> OB #20-05 text changes.
<p>13.6 Preliminary Environmental Review</p>	<ul style="list-style-type: none"> Title VI information added.
<p>13.9 Right of Way Acquisition</p>	<ul style="list-style-type: none"> OB #20-05 text changes.
<p>13.10 Right of Way Certification</p>	<ul style="list-style-type: none"> Clarified that prior to submission, a valid NEPA document is required. If it is over 3 years old, a re-evaluation is necessary.
<p>13.10 Certification Forms</p>	<ul style="list-style-type: none"> Clarified data required at time of certification.
<p>13.10 Age of Right of Way Certification</p>	<ul style="list-style-type: none"> New sub-section added.
<p>13.12 Reimbursement/Fiscal Policy</p>	<ul style="list-style-type: none"> OB #20-05 text changes.
<p>13.12 Record Retention</p>	<ul style="list-style-type: none"> Clarified retention of RW records and files.
<p>Exhibit 13-A</p>	<ul style="list-style-type: none"> Added reference to 49 CFR Part 24 in Section 11.
<p>Exhibit 13-B</p>	<ul style="list-style-type: none"> Added references to 49 CFR Part 24 in Section 13 Changed second signature block from “Accepted” to “Recommended for Approval”

When the DLAE determines that the project has been authorized and obligated, an Authorization to Proceed is printed which shows the authorization and obligation dates. This form is then sent to the local agency as verification that they may begin with that phase of the project and subsequently be eligible for reimbursement. If the project cannot be authorized, the local agency is informed and advised what corrective actions are necessary.

Authorization to Begin Right of Way Work (E-76)

Each phase (capital/support) or function (appraisal, acquisition, ~~or~~ utility relocation, [property management](#), or [excess land sales](#)) of R/W claimed for reimbursement must be programmed and authorized by an E-76 prior to beginning that phase or function. Any work done prior to authorization will be ineligible. An E-76 may program multiple phases.

Local agencies may not proceed with final design or request for authorization to proceed with R/W or construction until full compliance with the provisions of NEPA have been documented and approved by Caltrans. Failure to follow this requirement will make the project ineligible for FHWA reimbursement. Upon final environmental approval, it is incumbent upon the DLAE to provide the local agency with immediate notification and a copy of the signed Categorical Exemption/Categorical Exclusion Determination Form or approved environmental document Finding of No Significant Impact FONSI or Record of Decision ROD), so the local agency can commence with final design and/or request authorization to proceed with R/W activities. Preliminary acquisition activities, including a title search and preliminary property map preparation, necessary for the completion of the environmental process can be advanced under preliminary engineering prior to NEPA compliance while other work involving contact with affected property owners must normally be deferred until NEPA approval, except as provided in 23 CFR 710.503, for protective buying and hardship acquisition, and in 23 CFR 710.501, early acquisition. Only under these exceptional circumstances will the agency be allowed to acquire property prior to environmental approval. For example, the agency may acquire property in advance of the normal schedule if the owner claims hardship, or the property must be protected from future development. Appropriate documentation must accompany the request to FHWA for approval of Hardship and Protection acquisitions. When making these advanced acquisitions, ensure that the intent of the Uniform Act and the NEPA are not circumvented. For additional information, please refer to Chapter 5: Hardship and Protection of the [Caltrans Right of Way Manual](#), or contact Caltrans Right of Way Local Programs Coordinator in your area.

13.5 Preliminary Right of Way Activities

Request Authorization to Proceed with Preliminary Engineering

Separate work authorizations and fund obligations are normally made for Preliminary Engineering (PE), R/W (including appraisal, acquisition, relocation assistance, and utility relocation) and Construction phases, if federal funds are to be used in each of these phases.

Preliminary Studies

At this early stage in the development process, it is crucial to correctly evaluate the project requirements: namely, the limits, location (including existing utilities), scope, costs, and whether any additional R/W will be required. Each agency should establish a process for accumulating this data, which will play an integral part in successfully completing the Field Review, the

Preliminary Environmental Review

[Exhibit 6-A: Preliminary Environmental Study \(PES\)](#) is designed to identify such items as the existing conditions in the project area, environmental issues that may require further study, and the need for public hearing, or resource, or regulatory agency permit. Question No. 24 in [Exhibit 6-A](#) and [Exhibit 6-B: Instructions for Completing the Preliminary Environmental Study \(PES\) Form](#) specifically relate to R/W impacts and a yes answer would indicate that further action is necessary.

Note: Upon completion of the Exhibit 6-A, if questions 23-32 are marked “yes,” or if the PES results in an Environmental Assessment or Environmental Impact Statement:

- a. Title VI implementation and outreach may be triggered. Any vital public communication must be translated and accessible when a significant number or percentage of the population is eligible to be served, or likely to be directly affected by the program/activity.
- b. The local agency must contact the District Senior Environmental Planner and the District Senior Right of Way Agent to inform them the agency may implement Title VI and outreach for this project.

Public Hearings

In general, public hearings should be held for a project if there is substantial environmental controversy, if there is widespread interest in holding the hearing, or if an agency with jurisdiction over the project requests one. The procedures for holding hearings, including the requirements for notifying the public, the contents of the notification, scheduling, and the hearing process are all discussed in [LAPM Chapter 8: Public Hearings](#). Federal regulations require public hearings under certain circumstances. For example, projects being processed with an Environmental Assessment (EA) require a public hearing when significant amounts of R/W will be required for the project. Public hearings are also required during the circulation period of all draft EISs. Public involvement is advantageous because it can broaden the agency’s knowledge of the project area. If a public hearing is to be held and additional R/W or property rights will be required for the project, R/W personnel should be involved as early as possible. A public forum offers an excellent opportunity to discuss the acquisition and relocation impacts with the affected persons.

The importance of explaining these projects within the context of a public hearing cannot be overstated. One of the most difficult aspects of any project is the displacement of people and/or personal property. Project construction activities can have very serious economic and social impacts on the affected region, including adverse impacts in the traffic patterns, business operations and the lives of its citizens. Those who are displaced must relocate and reestablish their residence or business in a new area. As a result, those most directly affected are often emotionally impacted, apprehensive of the changes due to the project, and need detailed information on the R/W procedures and their rights. The public hearing is often their first real opportunity for information and contact with project representatives. One of the keys to a successful project may be the cooperation engendered at the first public hearing. As the project progresses, there may be a need for additional hearings devoted solely to R/W issues and impacts.

minimize any disruption caused by the move and maximize the likelihood of a successful relocation. A copy of this summary is provided as [Exhibit 13-D: Uniform Relocation Act Benefits Summary](#).

General Requirements

The relocation agents and any private sector consultants should meet the selection criteria found in [Exhibit 13-C: Consultant Selection Criteria and Guide](#).

The relocation activities should be coordinated with both the appraisal and acquisition functions.

It is crucial to ensure that:

- Timely calls are made
- Proper entitlements and advisory services are provided
- Relocation Assistance Program (RAP) payments are timely and properly calculated
- The appeal process is communicated to the displaced
- Diaries are maintained
- All notices (Eligibility, Vacate, or Entitlement) are timely

Property Management

Property management includes the administration of property acquired for transportation projects. FHWA regulations for the property management function are found in 23 CFR 710.

These policies and procedures apply to all real property acquired by local agencies in connection with projects where federal funds participate in any phase of ~~the R/W costs for~~ the project. Federal funds may be used to cover the net costs incurred in leasing, rental, maintenance, disposal of improvements, and the clearance of the property. ~~For additional details~~, Local Agencies must refer to Chapter 11: Property Management of the [Caltrans Right of Way Manual](#) for guidelines on inventory and management of properties purchased for construction. Upon acquisition, [Exhibit 13-F: Local Public Agency Real Property Services Checklist](#) must be completed and kept in the file.

The management and administration of acquired property includes:

- An inventory of all improvements acquired as part of the R/W
- An accounting of the property management expenses and the rental payments received
- An accounting of the disposition of improvements and the salvage payments received

Special Requirements

If a private consultant provides property management services, the firm must have a valid California Real Estate Broker's license and a minimum of two (2) years' experience at the working level in management of rental properties.

See Chapter 17: Local Programs, Exhibit 17- EX 13: Consultant Selection Criteria and Guide of the [Caltrans Right of Way Manual](#) for more information. Former owners and tenants subject to termination by the local agency on short notice will not be charged more than fair market rents.

Excess Lands (Acquisition and Disposal)

Excess land consists of real property rights/title to which is vested in the local agency's name, and which is determined and certified to be not required for rights of way or other roadway purposes of the agency. Excess land may be created in several ways. Landlocked or uneconomic remnants not required for the project may have been acquired. Down-scoped projects, superseded highway segments, route rescissions, and lands decertified at the request of adjoining owners may also create excess.

Federal funds cannot be used for the purchase of any property not incorporated into the project, with the exception of purchases of uneconomic remnant as determined by the appraiser.

Properties purchased for a project must be inventoried, with excess identified with a plan for disposition. Local Agencies are directed to follow the Caltrans Right of Way Manual Chapter 16 for disposal procedures which include appraisal requirements and types of disposals.

The regulations covering acquisition and disposal of Excess Lands are found in 23 CFR, 710 and 771. FHWA no longer requires reimbursement of the federal share of proceeds from the sale of excess real property. Local agencies must use these funds for subsequent Title 23 (US Code) eligible projects. Local agencies may consider creating a dedicated Title 23 (highway) account where proceeds from the sale of excess will be deposited and only used for Title 23 projects. See 23 CFR 710.403(e).

Per Caltrans DLA policy, excess exchange or sale transaction must occur within two years after opening the roadway to traffic, or within two years after submitting the final voucher to the FHWA (whichever is earlier).

13.10 Right of Way Certification

When a local agency performs R/W activities on a federally assisted local project, the local agency prepares the R/W Certification. Prior to submission, a valid NEPA document is required. If it is over 3 years old, a re-evaluation is necessary (23 CFR 771.129 and LAPM Chapter 6, Section 6.3).

The R/W Certification is necessary ~~before a project can proceed to~~ prior to authorization for construction and must be consistent with the project's approved PS&E (23 CFR 635.309). The purpose of the R/W Certification is to document that any interests necessary for the project have been, or are being secured, and physical obstructions including buildings, utilities and railroads have been, or will be removed, relocated or protected as required for construction, operation and maintenance of the proposed ~~project~~ facility. The R/W Certification also documents that R/W activities, including the relocation of any displaced persons, is conducted in accordance with applicable state and federal laws and regulations.

Note: For projects requiring CTC allocation approval, see [LAPG Chapter 23: Local Agency STIP Projects](#).

Certification Forms

A separate R/W Certification must be completed by local agencies for each local assistance project even if no R/W is required for the project. All Certifications can be prepared using forms specified by Caltrans (see [Exhibits 13-A: Short Form Right of Way Certification Local Assistance Project](#) and [Exhibit 13-B: Right of Way Certification Local Assistance \(Off-State Highway System\)](#)). ~~On the~~ The format of the R/W Certification form contains specific wording

required by FHWA. Changes made in wording could invalidate the certification and must be pre-approved by District/HQ RW. Also, do not delete any of the numbered sections. However, within the numbered sections, the local agency should use only the portions applicable to the project being certified. Data supporting all the project right of way activities (e.g., acquisitions, relocation assistance, railroad and utility improvements, etc.) are also required at the time of submittal and must be consistent with the final project plans. See list of support documents at: <https://dot.ca.gov/programs/right-of-way/local-programs>

Note: [Exhibit 13-A](#) is intended for projects that do not require R/W acquisition, relocation assistance, have no railroad involvement, and the only utility relocation involvement is limited to utility cover adjustments.

Utility Relocation

Local agency transportation projects often involve utility relocation. For utility relocation details refer to [LAPM Chapter 14: Utility Relocation](#).

Project Certification – Right of Way Required

When additional property rights are required for a local federal-aid project, it is necessary for the agency to certify that these rights were acquired in conformance with the Uniform Act. All local agencies will certify their own projects, but it is of crucial importance to adhere to the CFRs and the Caltrans Right of Way Manual that incorporate these federal regulations so that any state or federal funds to be used for the project are not jeopardized. This emphasizes the gravity for non-qualified local agencies in the selection of qualified consultants or in contracting with a qualified local agency to perform the respective R/W functions for them.

Levels of Certification

There are four levels of R/W Certification, which are discussed below.

Certification No. 1

This level of certification documents the following:

- All the work is within existing R/W acquired for a previous construction project and all new work will be within that existing R/W.

OR

- Acquisitions are complete (escrow's closed and/or Final Orders of Condemnation recorded).

AND/OR

- There are effective Orders for Possession on all remaining un-acquired parcels.

AND

- All occupants have vacated the lands and improvements.
- Relocation Assistance and payment requirements have been met.
- All necessary material and/or disposal sites have been secured.
- All encroachment and/or construction permits have been obtained.

AND

Agreement (SOA) or specific Project Oversight Agreement, approval of the work-around must be obtained from FHWA in advance of certifying the project for advertising. This certification will allow physical construction of a project to commence while occupants of businesses, farms, or nonprofit organizations remain within the R/W. All occupants of residences must have had replacement housing made available to them in accordance with the Uniform Act. The certification must be completed in a timely manner, with proper and complete documentation and justification. Should the local agency anticipate a need to certify the R/W for a project under this type of certification, the District R/W Coordinator should be contacted as soon as the circumstances are confirmed during the PS&E stage.

Time Requirements for Right of Way Certifications

Under ideal conditions, a Certification No.1 would be completed for each project at the PS&E stage. Because this is not always possible, the lower levels of certification allow projects to proceed within limitations while the remaining necessary rights are acquired. The local agency must transmit all certifications to the DLAE for all federal-aid projects along with the Request for Authorization. Certification No's. 1 and 2 are approved at the district level. Certification No's. 3 and 3W require headquarters acceptance and may require FHWA approval pursuant to the current Stewardship and Oversight Agreement or specific Project Oversight Agreement.

In those cases when a project advances to advertising with a Conditional Certification No. 3, an upgraded Certification No. 1 or No. 2 must be received by the DLAE a minimum of 15 working days prior to bid opening date. In rare cases where a Special Certification No. 3W is used, an Updated Special Certification No. 3W must be provided to the DLAE no later than 15 working days prior to bid opening. The certification 3W does not need to be raised to a Certification No. 1 or No. 2, but must be updated to provide any progress pertaining to the work-around parcel(s).

For a full discussion on R/W Certification and their usage, see Chapter 14: Project Certification and 17.08.06.00 of the [Caltrans Right of Way Manual](#).

Age of Right of Way Certifications

RW Certifications over a year old from the time the local agency submits the RFA for CON phase must be updated to confirm there are no project scope changes and re-certified. Additionally, the NEPA must be re-evaluated if older than 3 years from the time the local agency submits the RW Certification.

13.11 Emergency Relief Project Certification

Emergency Opening Phase

Emergencies require rapid response. An R/W Certification for Emergency Opening (EO) work is not required until after the roadway is opened. Upon FHWA approval of the Damage Assessment Form (DAF), actions to advertise, award and administer Emergency Relief (ER) projects may proceed without going through the usual R/W steps. EO work performed outside existing local agency right of way is extremely rare. If right of way acquisition is required for EO work, immediately contact your District Right of Way Local Programs Liaison for guidance. See [LAPG Chapter 11: Emergency Relief](#) for further discussion.

- Negotiations for utility relocation
- Relocation advisory assistance activities

The total participating costs should equal the Participating Costs to Date as shown on the Final Progress Payment Request (Form FM 1592A).

Final Vouchering

The last phase of a federal-aid participating project is the final vouchering and closing of the project. This step is very important. After the project has been completed, a final voucher must be prepared and submitted to the FHWA as an E-76 by the Division of Accounting. The final voucher is a segregated summary of the project's total costs and a determination of the final federal share. Caltrans Division of Accounting uses the local agency's Final Report as the basis for the final voucher. The Final Report of R/W Expenditures must follow the Detail Estimate submitted to the FHWA.

Record Retention

~~Local Agency-State Agreements provide for retention of records. Ordinarily, this is a three-year period after FHWA payment of the final voucher or a four-year period from the date of the final payment under the contract, whichever is longer.~~

~~Note: All documents and papers related to the project must carry the federal-aid project number for identification.~~

Per 23 CFR 710.201(e), the acquiring agency must maintain adequate records of its acquisition and property management activities.

1. Acquisition records, including records related to owner or tenant displacements, and property inventories of improvements acquired shall be in sufficient detail to demonstrate compliance with this part and 49 CFR part 24. These records shall be retained at least 3 years from the later of either:
 - i. The date the SDOT or other grantee receives Federal reimbursement of the final payment made to each owner of a property and to each person displaced from a property; or
 - ii. The date of reimbursement for early acquisitions or credit toward the State share of a project is approved based on early acquisition activities under §710.501.
2. Property management records shall include inventories of real property interests considered excess to project or program needs, as well as all authorized ROW use agreements for real property acquired with Title 23 funds or incorporated into a program or project that received Title 23 funding.

Note: All documents and papers related to the project must carry the federal-aid project number for identification. Additionally, since these records are subject to Public Records Act requests at any time, it is highly recommended and prudent to keep these records digitally or otherwise beyond the 3-year minimum. Per 2 CFR 200.333(c), records must be kept until agency disposal of the facility.

- The Relocation Advisory Assistance Program, which aids in locating suitable replacement properties.
- The Relocation Payments Program, which provides payments for certain costs in relocating.

Local agencies must comply where federal funds are to be used for the acquisition or construction for the proposed project. The Relocation Assistance Program (RAP) is a complex program and will not be covered here. Chapter 10 of the [Caltrans Right of Way Manual](#) provides detailed instructions on eligibility.

Disposition of Excess Lands

For accounting purposes, excess land is defined as that portion of any acquisition of R/W that lies outside the established R/W line and is not needed for the construction or maintenance of the highway facility. The only exceptions are the acquisition of property for replacement housing purposes [according to 49 CFR 24.404\(c\)\(1\)\(vi\)](#), and the acquisition of property specifically for the purpose of exchange with another governmental agency [to establish uniform right of way lines or utility company to relocate outside out of the right of way lines](#). Local Agencies should talk with their Right of Way Liaison regarding following the provisions for last resort housing purposes in replacement housing situations and must assure that the situation had been addressed in the project NEPA document.

The ~~disposition~~ disposal of excess land is accomplished in the following number of ways: competitive bid sales, [direct sales to adjoining owners for properties not appropriate for public auction](#), fair market value exchanges, or ~~inclusion~~ incorporation into the R/W, or inclusion into the right of way under ~~in~~ a new project. (Federal funds cannot be used for [the purchase of any property not incorporated into the project, with the exception of purchases of uneconomic remnant as determined by the appraiser](#) ~~the acquisition of excess lands~~).

Sales of Excess - Damages

~~FHWA regulations set forth criteria concerning transactions involving the sale of excess property for more or less than the original cost.~~ Federal regulations require that sales of excess properties shall be at fair market value. FHWA prior approval is required for all disposals of right of way within the interstate. Further, disposals of any property with Federal Aid at less than fair market rate must be approved by FHWA. Disposals at less than fair market for other public uses, such as parks, must include a reversionary clause in the deed if the property is used for any other such purposes other than what it what originally sold for (23 CFR 710.409(d)).

~~Generally,~~ Local public agencies will not request federal [reimbursement](#) moneys on the acquisition of excess parcels, but [in the rare instances](#) where federal participation is involved in excess acquisition ([such as the purchase of an uneconomic remnant](#)), the subsequent sale or disposal of the parcel ~~may not longer~~ requires the local agency to return a portion of the proceeds to FHWA. [However](#), the proceeds of the sale must be used for subsequent Title 23 (US Code) eligible projects. The local agency's accounting procedures must be able to track these Title 23 funds.

On federal-aid ~~RAW~~ projects, damages ([actual and reasonable selling or fix-up expenses](#)) may be claimed [by the local agency to FHWA for reimbursement](#) under the following conditions:

- Excess must have been acquired in connection with the project and with federal participation in R/W costs authorized for the parcel.
- **Per Caltrans DLA policy**, excess exchange or sale transaction must occur within two years after opening the **highway roadway** to traffic, or within two years after submitting the final voucher to the FHWA (whichever is earlier).
- Excess exchange or sale transaction must involve the complete disposal of the entire parcel. Interim transactions, such as sale or exchange of a portion of the parcel or sale of improvements should be noted for ultimate determination of total gain or loss.
- Local agency receives less than the **fair market** value of the excess when the excess is sold or exchanged (**such as property being converted to a park or an eminent domain action**), as approved by FHWA prior to disposal. ~~Damages may be claimed for reimbursement under the conditions detailed above.~~

Exchange Transactions

When local agency-owned land is exchanged for other land to be incorporated into the R/W of a federal-aid project, ~~federal funds may participate in the current fair market value of the excess land being exchanged~~ all lands exchanged shall be at fair market value as determined by a qualified appraiser and confirmed by review appraisal in conformance with the Uniform Act policies and procedures. The value of the exchanged agency owned land may be applied toward the non-federal match share on the project. However, federal participation will not exceed the federal share of the fair market value of the land being acquired. ~~not exceed the fair market value of the land being acquired.~~

Note: ~~FHWA is likely to be involved in two transactions; the initial acquisition and the subsequent exchange or disposal.~~ FHWA involvement will be during the acquisition of an exchanged parcel and the disposal of the exchanged parcel.

The accounting requirements to record the exchange transaction involve consideration of the following:

- The Phase 9 or R/W EA is charged for the market value of the R/W acquired.
- Damages on the exchange of the excess may be claimed if the local agency receives less than the exchanged land's fair market value, **such as a property being used as a public park or through eminent domain action.**
- Federal reimbursement for the market value of exchanged, cash, and construction features may not exceed the total market value of the R/W parcel being purchased.

Excess Parcels need not have been acquired on a federal-aid project to allow reimbursement of market value, ~~but for.~~ However, in order to receive severance damages reimbursement (including selling costs), ~~the excess parcel must have been originally purchased on a project with federal participation~~ LPAs may only claim the costs of the sale on parcels that federal aid was used to acquire.

Right of Way Sales Credits

Excess Land sales credits are due to FHWA when R/W bought with federal funds are sold on the rare occasion where there is an alignment change and property may ~~then subsequently~~ declared to be excess ~~because of an alignment change, modification or termination action~~. The following time limits apply:

If excess R/W results from an alignment change:

- Excess should be disposed of before final vouchering of the project or no later than two years from the time the highway is opened to traffic, whichever is earlier.
- An extension of time limits can be granted by the FHWA.
- If property is not sold within the approved time limit, the cost of the excess acquisition must be credited to the project.
- ~~If excess results because the property is no longer needed for the purposes of the highway project.~~
- If within ten years of the modification or termination action the resulting excess property is neither sold, nor reused on another federal project, then the FHWA must receive credit for the market value of the property at the end of ten years. If the parcel is on a terminated project, prior federal approval is required for disposal (23 CFR 480).
- When crediting federal funds is required, the cost of the disposition may be offset against the sales price.
- Except for parcels on the Interstate program, the disposal of excess resulting from a project's termination is treated the same as any other disposal. The parcel can then be used for another highway project without giving a credit to FHWA.
- The net proceeds of the sales credit should be shown on the Progress Payment requests as credit to the project's capital costs. This procedure reduces acquisition costs and payment due to the local agency.

Rental Income and Expense and Disposition of Improvements

Vacated or improved land, acquired prior to actual need for highway construction ~~must~~ may be available for rent. FHWA participates in rental income and property management expenses if the property was acquired with federal funds.

Rental account records must be maintained to record income and direct expenses identifiable to a parcel. Eligible property management costs include costs such as repairs to a rental unit, activities of a rental agent, or advertising. Any rental income or expense apportioned to a property's excess portion is ineligible for federal participation. The federal share of net rental income should be shown on the Progress Payment Requests as a credit to the project, or a deduction from any payment due to the local agency. The local agency should separate costs incurred to collect rent on a parcel-by-parcel basis, and then offset the costs against the actual rent collected.

Accounting records must be maintained for the disposition of improvements. Net income from the sale of improvements, except those on excess land, is shown as a credit to the project. In rare instances, improvements on right of way are disposed through the excess disposal process. Cost of the sale of improvements within the R/W is considered an expense that is a debit item and may be applied to gross sales proceeds. ~~These credits must be given to the~~

~~acquisition phase and not the rental phase.~~ These credits are considered an acquisition expense and not a property management/disposal expense.

13.13 Terms and Definitions

Access Rights – The right of ingress and/or egress to and from a property which abuts on an existing street or highway. Access rights cannot be denied or unreasonably be restricted, unless other access is available. If it is not, compensation is paid for this restriction of access.

Advanced Acquisition – The acquisition of property by the local agency temporarily using their own funds prior to NEPA approval of the environmental document. To be eligible for future federal reimbursement, R/W activities must have been performed in accordance with all federal/state guidelines and the property acquired must be included in the R/W for the project. The two types of Advance Acquisition are Hardship and Protection.

Bundle of Rights – Ownership of real property includes many rights, such as the right of occupancy and use, the right to sell it in whole or in part, the right to bequeath, and the right of transfer by contract for a specific period of time. It is also referred to as the benefits to be derived by the occupancy and use of the real estate.

Damages – The loss in the value of the remainder in a partial acquisition of a property.

Dedication – Pursuant to the police power of government, this involves the setting aside of property for public use without compensation as a condition precedent to the granting of a permit, license, or zoning variance by a local governmental agency. The property owner must initiate contact with the local agency for a request to develop before the local agency can proceed with dedication requirements.

Donation – The voluntary conveyance of real property without compensation which may be utilized for an improvement project. Donations of future R/W can only be accepted if the offer to donate is done voluntarily by the property owner who is advised of the right to receive an appraisal but signs a written waiver of the right to be compensated. R/W that is donated for federal-aid transportation projects must also comply with the provisions of NEPA, even if no other R/W or rights in real property are required for the project.

Easement – The right or privilege to use real property (including access rights) is distinct from the ownership of real property.

Eminent Domain – The inherent power reserved by government to acquire private property rights by due process of law when the necessity arises. When exercising this right, two basic requirements must be met: the use must be public, and just compensation must be paid to the owner prior to taking possession of the property.

Environmental Mitigation – Measure necessary to mitigate adverse impacts resulting from a federal-aid transportation project. Mitigation must represent a reasonable public expenditure after considering the impacts of the action and the benefits of the proposed mitigation measures. Mitigation measures typically assist in compliance with federal statutes (example: Federal Endangered Species Act), Executive Orders (example: E.O. 11990 Protection of Wetlands, E.O. 11998 Protection of Floodplains) or Administrative regulation or policy. In some instances mitigation will require the acquisition of alternate sites to replace wildlife habitat or wetlands, or by building sound walls for noise attenuation.

11. CERTIFICATION

I hereby certify the right of way on this project as conforming to 23 CFR 635.309(c)(1), 49 CFR Part 24 and all terms and conditions under MAP-21, including Buy America requirements. The project may be advertised with contract award being made at any time.

12. INDEMNIFICATION BY LOCAL AGENCY

This Local Public Agency agrees to indemnify, defend, and hold harmless the Department of Transportation (Caltrans) from any and all liabilities which may result in the event the right of way for this project is not clear as certified. LPA shall pay from its own non-matching funds, any costs which arise out of delays to the construction of the project because utility facilities have not been removed or relocated, or because rights of way have not been made available to LPA for the orderly performance of the project work.

LOCAL PUBLIC AGENCY

Project ID:

Authorized Resolution No.:

Dated:

By: _____

Title: _____

Date: _____

CALTRANS ACCEPTANCE

The undersigned Caltrans Official has reviewed this Right of Way Certification as to form and content. Based on the review of the documents submitted, the Certificate is accepted on behalf of the local public agency. It remains the sole responsibility of the local public agency to ensure compliance with the Uniform Act.

Accepted as to form and content:

By: _____

Title: _____

Date: _____

- Distribution:**
- 1) Local agency completes this form, signs and sends it to the DLAE.
 - 1) DLAE sends a copy to District Right of Way Local Programs Coordinator, keeps a copy for his/her files, and sends the signed original back to the local agency.

12. INDEMNIFICATION BY LOCAL AGENCY

The Local Agency agrees to indemnify, defend, and hold harmless the Department of Transportation (Caltrans) from any and all liabilities which may result in the event the right of way for this project is not clear as certified. The Local Agency shall pay from its own non-matching funds, any costs which arise out of delays to the construction of the project because utility facilities have not been removed or relocated, or because rights of way have not been made available to Local Agency for the orderly performance of the project work.

13. CERTIFICATION (USE THE APPROPRIATE STATEMENT)

I hereby certify the right of way on this project as conforming to 23 CFR 635.309(b) and (c)(1) or (c)(2) and 49 CFR Part 24. The project may be advertised with contract award being made at any time.

(OR)

I hereby certify the right of way on this project as conforming to 23 CFR 635.309(c)(3)(i)(iii)(iv) and 49 CFR Part 24. The project may be advertised at any time. The project will be certified as conforming to 23 CFR 635.309 (b) and (c)(1) or (c)(2) and 49 CFR Part 24 by _____ (Date) _____.

(Attach letter explaining why a Conditional R/W Certification No. 3 is being used and substantiate that the Certification No. 1 or No. 2 date given above is realistic.)

(OR)

I hereby certify the right of way on this project as conforming to 23 CFR 635.309(c)(3)(ii),(iii) and (iv) with Work-Around and 49 CFR Part 24. The project may be advertised at any time. Appropriate notification has been included in the Bid Documents. An updated Certification will be provided by _____ (Date) _____.

(Attach letter explaining why a Special Certification No. 3 with Work-Around is being used.)

(When updating the Special Certification No. 3 with Work-Around, use the following statement. This statement is required no later than 15 days prior to bid opening. If able to upgrade to a Certification No. 1 or No. 2, use appropriate CFR certification statement referenced above.):

I hereby certify the right of way on this project as conforming to 23 CFR 635.309(c)(3)(ii),(iii) and (iv) with Work-Around and 49 CFR Part 24. The project has been advertised and the contract may be awarded. I have confirmed that all appropriate notifications have been included in the Bid Documents concerning said Work-Around.

Local Agency: _____

Project ID: _____ As Authorized by Resolution No.: _____

By: _____ Date _____
_____ Title

The undersigned Caltrans Official has reviewed this Right of Way Certification as to form and content. Based on the review of the documents submitted, the Certificate is accepted on behalf of the local public agency.

Accepted as to form and content:

By: _____ Date _____
District Deputy Director/Office Chief – Right of Way
(or person authorized in writing to sign)

(AND)

(HQ Right of Way signature required for Projects of Division Interest (PODI's) depending on delegations identified in the Project Oversight Agreement, Conditional R/W Certification No. 3 and Special R/W Certification No. 3 with Work-Around.)

RECOMMENDED FOR APPROVAL: ACCEPTED:

By: _____ Date _____
Chief, Headquarters Division of Right of Way and Land Surveys

(AND)

(FHWA signature block is required for Projects of Division Interest (PODI's) depending on delegations identified in the Project Oversight Agreement (POA), and Conditional R/W Certification No. 3 and Special R/W Certification No. 3 with Work-Around for projects located on the Interstate system.)

APPROVED:

By: _____ Date _____
Realty Officer
Federal Highway Administration

- Distribution:
- 1) Local Agency completes and sends to DLAE for approval.
 - 2) DLAE approves and returns to Local Agency.
 - 3) Local Agency retains approved original in project files.

LAPM C.15 ADVERTISE & AWARD PROJECT

LAPM C.15 Advertise & Award Project

Section / Exhibit	Description of Changes
15.4 Project Advertisement	<ul style="list-style-type: none">• Title VI language added.• The last paragraph in the Introduction was amended to read: "Advertising costs 'may' be charged to the preliminary engineering work authorization" instead of 'shall'.
Exhibit 15-B Resident Engineer's Construction Contract Administration Checklist	<ul style="list-style-type: none">• Updated reference from Exhibit 16-Z to Exhibit 16-Z1.• Added checkbox for providing the Exhibit 9-F to contractor under #12 DBE.• Updated cross-references to current section numbering for Chapter 16.

- Estimates and Progress Payment

The DLAE will consult with Headquarters DLA for assistance with the review and approval of the local agency procedures.

All Other Projects

Approval by Caltrans of the local agency's construction administration procedures will not be required for all other projects. However, each agency that administers a federal-aid construction project will be required to complete [Exhibit 15-A: Local Agency Construction Contract Administration Checklist](#) before their Request for Authorization to Proceed with Construction will be approved. A local agency must not advertise a project until it has received in writing an Authorization to Proceed with construction from Caltrans (see [LAPM Chapter 3: Project Authorization](#)).

15.4 Project Advertisement

Introduction

One of the most basic tenets of Federal aid contracting is that construction contracts are to be awarded competitively to the contractor which submits the lowest responsive bid. Project advertisement is the process used in soliciting such competitive bids from contractors.

This federal mandate is set forth in 23 U.S.C. 112 and reinforced by 23 CFR 635.114(a) which requires:

Federal-aid contracts shall be awarded only on the basis of the lowest responsive bid submitted by a bidder meeting the criteria of responsibility as may have been established by the SHA.

These principles are the basis for Federal assistance to the state highway construction programs.

On locally administered projects, the construction engineering is performed by local agency personnel, unless arrangements are made to hire a consultant. If a consultant is used, the local agency must still designate an employee of the agency as the person in responsible charge of the project.

Construction engineering for locally administered projects must be performed in accordance with the requirements found in [LAPM Chapter 16: Administer Construction Contract](#) of this manual.

Each local agency and all of its contractors, subcontractors, and vendors must take all reasonable steps to assure that DBEs have equitable opportunity to compete for and perform contracts and provide language access to Limited English Proficient (LEP) individuals under Title VI of the Civil Rights Acts of 1964 prohibiting discrimination based on national origin (see [LAPM Chapter 9: Civil Rights and Disadvantaged Business Enterprises](#)).

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 FHWA. Violation of this requirement shall result in the project being ineligible for federal funding.

Only one exception to this requirement can be made. It is for emergency relief projects involving emergency repair/opening of a facility. For more information on emergency relief projects see [LAPG Chapter 11: Emergency Relief](#).

Advertising costs ~~shall~~ **may** be charged to the preliminary engineering work authorization if such authorization has been requested and has been established for the purpose of federal reimbursement.

Prequalification of Contractors

The Federal Highway Administration (FHWA) permits the use of a prequalified list of Prime Contractors developed by the local agency, in accordance with 23 CFR, Section 635.110(a), Licensing and Qualifications of Contractors. The use of a prequalification list and process is optional and not required. Prequalification should not be used to restrict competition or discourage otherwise responsible bidders from submitting a bid.

If a local agency wishes to utilize such a prequalification process on Federal-Aid projects, advance approval must be granted by the FHWA Division Administrator (California Division) for use on Federal-Aid projects. As such, the local agency would submit a package to their District Local Assistance Engineer that would include an overview of their proposed process with timelines, the typical Responsibility Statement and Questionnaire that prospective Contractors would be submitting, and the criteria by which prospective Contractors would be evaluated for inclusion on the prequalified list.

Per 23 CFR 635.110(b), no procedure or requirement for bonding, insurance, prequalification, qualification, or licensing of contractors must be approved which, in the judgment of the Division Administrator, 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 or locally designated area wherein the work is to be performed.

It is particularly important that if a prequalification process is used on a given project, enough time is allowed between the initial advertising and the bid opening to allow a prospective bidder a reasonable opportunity to attain their prequalification (if not already prequalified).

Nationwide, the use of a contractor prequalification process typically consists of one of two basic methods:

- Contractors are prequalified on a project-by-project basis. In such a case, local agencies may set their own threshold for when (which projects) the prequalification process is used – for example a project over a certain dollar amount, or for a project that is particularly time sensitive, etc.
- Contractors are prequalified on a programmatic basis, in which a prospective Contractor may apply to become prequalified for a finite time period – usually one or two years – with provisions for renewal (of that prequalification) before or after that time period has elapsed. Once prequalified, such Contractors would be eligible to bid on any project for that local agency during that active period in which they are deemed prequalified.

The administration of a project specific (Item 1 above) Contractor prequalification process is eligible for Federal participation, as long as it can be directly attributed to a specific federal project or projects for which the prequalification process will be utilized. This work would be invoiced against either the Preliminary Engineering (PE) phase, or if occurring on a specific project after the Federal authorization (E-76) is received for Construction/Construction Engineering, the Construction Engineering (CE) phase of work. Local agencies should consult with their District Local Assistance Engineer staff regarding federal participation for contractor pre-qualification.

- There shall be a procedure for Administrative or Labor Compliance deductions.
- Invoices to the State shall match progress payments made to the Contractor.

6. Contract Time:

- A method shall be established to determine contract time (see LAPM Chapter 16, Section 16.6: Tracking Contract Time).

7. Labor Compliance:

- Certified payrolls shall be spot-checked against daily diaries and prevailing wages (see LAPM Chapter 16, Section 16.9: Labor Compliance).

Local agency's Labor Compliance Officer: _____

8. EEO:

- Maintain records to ensure EEO requirements are performed and documented in contract record (see LAPM Chapter 16, Section 16.9: Equal Employment Opportunity).

Local agency's EEO Compliance Officer: _____

9. EEO/Wage Rate/False Statements Posters:

- Federal posters shall be posted for every worker to see at, or near, the contractor's office at the construction site or at the workers central gathering point.

10. Employee Interviews:

- There shall be employee interviews conducted (see Exhibit 16-N).

11. OJT: (Refer to Chapter 12, Section 12.8: Federal Contract Requirements)

- Is the job less than 100 working days? Yes No

If yes, proceed to Item #12. If No, answer the questions below.

What is the total dollar amount of the items listed in Table 12-2: \$ _____

What is the required number of trainees for this contract? _____

- Documentation will be retained in project files to account for the apprentices on the job.

12. DBE:

- DBE Contract Goal Percentage Exhibit 9-D: _____

- Local Agency's DBE Liaison Officer: _____

- Verified that a copy of the completed Local Agency Bidder DBE Commitment (Construction Contracts) (Exhibit 15-G) has been submitted to the DLAE within 30 days of contract award.

- Contractor has been provided "Monthly DBE Trucking Verification" Form (see LAPM Chapter 16, Exhibit 16-Z1)

- Contractor has been provided the monthly Exhibit 9-F: DBE Running Tally of Payments

LAPM C.16 ADMINISTER CONSTRUCTION CONTRACTS

LAPM C.16 Administer Construction Contracts

Section / Exhibit	Description of Changes
<p>16.9 Disadvantaged Business Enterprise</p>	<ul style="list-style-type: none"> Included steps that local agencies take to ensure CUF.
<p>16.10 Introduction</p>	<ul style="list-style-type: none"> Added statement that changes in scope for ATP projects must be approved by Caltrans/CTC.
<p>16.10 Participating and Nonparticipating: Federal-Aid Segregation Determination on Change Orders</p>	<ul style="list-style-type: none"> OB #20-01: Remove two “proprietary item” bullets for non-participating items
<p>16.11 Variations for Projects On or Off the SHS</p>	<ul style="list-style-type: none"> Clarifier added for projects off the SHS.
<p>Exhibit 16-T1 Materials Requiring a Certificate of Compliance per the Caltrans Standard Specifications</p>	<ul style="list-style-type: none"> The Exhibit has been reorganized to list materials in order of the specification section number and title where the requirement is found rather than an alphabetical listing. The material list reflects additions and subtractions of materials per the 2018 specifications.
<p>Exhibit 16-Y Monthly Progress Pay Item Quantity Calculation Sheet</p>	<ul style="list-style-type: none"> Added parenthetical comments to clarify the need to take field measurements unless specified in the Standard Specifications.

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~~ is responsible for monitoring and enforcing the DBE provisions of the contract. ~~To fulfill this responsibility~~ Therefore, the RE and support staff must have a working ~~acknowledgement~~ knowledge 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 and the DBE section of the [Standard Specifications](#).

Prevention of DBE violations is preferable ~~to imposing penalties for non-compliance~~; ~~in order~~ to accomplish this, the RE must perform or delegate the following activities:

Before the Work

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 local agency 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 16.7: Subcontracting, 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: Be sure any DBE subcontractor who wants to begin work has been approved on Exhibit 16-B, Subcontracting Request (See Activity 2 above)

During the Work**Activity 4: 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. [At the same time, State and Federal regulations require LPAs ensure work committed to a DBE is being performed by the correct firm, and that firm is performing a CUF.](#)

- [If the DBE is a subcontractor, document in the daily reports when the firm works. Include all details required in Section 16.8 of this Chapter: Engineer's Daily Reports. Cross-check the reports against the DBE Commitment form Exhibit 15-G to ensure the appropriate firm is performing the work or providing the materials.](#)
- [Confirm that certified payroll records have been received for the DBE. Refer to Task 4: Check all Certified Payrolls under "Resident Engineer's Role" in Section 16.9 of this Chapter: Employment Practice: Labor Compliance, EEO, DBE.](#)
- [If the DBE firm is a materials supplier, request the contractor provide documents such as delivery confirmation reports and canceled payment checks to confirm the DBE supplied the materials.](#)
- [If the trucking is part of the contractor's DBE commitment, identify trucking firms and drivers and associated items of work for each trucking firm on daily inspection reports. In addition, ensure the contractor submits Exhibit 16-Z1: Monthly DBE Trucking Verification 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 weighmaster certificates and canceled payment checks from the contractor. Cross-check the information against daily inspection reports as well.](#)
- [Do not pay for work unless it is performed or supplied by the DBE listed on the DBE Commitment form, unless a substitution has been authorized prior to performance of the work. For information on the substitution process, refer to LAPM Chapter 9, Section 9.8: Termination and Substitution of DBE Sub-Contractors.](#)

If a DBE fails to perform a CUF, the local agency 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-Z1: 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 5: Ensure Submittal of Exhibit 9-F: Monthly Disadvantaged Business Enterprise (DBE) Payment by the 10th of the month for the previous month's activities by the Prime Contractor

This form documents payments made the previous month to DBEs, regardless of tier including contractors, material suppliers, truckers, or service providers. If the prime fails to submit the form, take a payment withhold. Confirm the information on Exhibit 9-F using documents such as Exhibit 15-G, Exhibit 16-B, daily inspection reports, or other documentation. (Exhibit 9-F is submitted by the Prime Contractor directly to business.support@dot.ca.gov with a copy to the Local Agency).

Activity 6: Ensure Prompt Payments to DBEs

If contractor fails to promptly pay DBE firms or other subcontractors within 7 days of receiving a progress **payment** relating to that **subcontractor's** work notify your Labor Compliance Officer and take a performance failure withhold until corrected.

After the Work

Activity 7: Ensure Submittal of Exhibit 17-O: Disadvantaged Business Enterprises (DBE) Certification Status Change

This form notifies the Local Agency if a DBE becomes decertified or a business entity becomes certified as a DBE before completing its work. The contractor must submit this form even if there were no changes in DBE certification.

Activity 8: 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 9: 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. Table 16-1 lists the criteria for crediting DBE supplier and trucker participation.

Activity 10: Withhold Payment if DBE Commitments were not met

If the contractor 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. [Examples of issues beyond the contractor's control are:](#) ~~For example,~~ if a change order eliminates a portion of an item originally designated to be performed by a DBE, [or if the Engineer's Estimate overestimated the work shown on the plans](#) ~~this is beyond the contractor's control.~~ The subcontractor refusing to show up or not coordinating with the Prime contractor's schedule does not qualify as "beyond the contractor's control," as the contractor should have requested a substitution. ~~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 there is a change order, then the contract goal applies to the change order as well as the original contract. The Prime Contractor must make GFE to obtain additional work for the DBE participation. 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.

[Consult with your DBE liaison officer for questions on implementing enforcement activities.](#)

- 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 local agency 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. [Changes in scope for ATP projects must be approved by Caltrans/CTC.](#)

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 local agency 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~~

- [Construction Manual Supplement for Local Agency REs](#)
- [Local Assistance Structure Representative Guidelines](#)
- [Independent Assurance Manual](#)

In addition, the current Caltrans Standard Specifications (CTSS) and Plans must be part of the Plans, Specifications and Estimate (PS&E). Test methods used must be as specified in the CTSS and special provisions.

For projects off the SHS, local agencies may adopt the Caltrans QAP described above or may develop their own QAP conforming with the requirements of the QAP Manual and FHWA regulations. **For projects off the SHS and on the NHS**, the local agency must use the current Caltrans or Greenbook Standard Plans and Specifications. Tests methods used may be either CTM, ASTM, AASHTO, or other nationally recognized test methods, but must be specified in the contract documents.

Consult the Quality Assurance Program Manual for complete information on developing and maintaining a QAP. A template for local agencies developing their own QAP can be found in Appendix Y of the QAP manual, or an alternative can be provided by your district Local Assistance Office.

Materials Acceptance Program

The QAP for all local agency projects must 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.

Generally, the contract will specify what criteria the material must meet, and what test method will be used to determine if the material met or failed the criteria; the QAP will specify the minimum number of samples to be taken and tests to be performed to ensure the material has met the criteria, and where the material will be sampled. Sometimes, the contract documents will specify the frequency and location of the sampling and testing, overriding the QAP.

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.

Exhibit 16-T1: Materials Requiring a Certificate of Compliance per Caltrans Standard Specifications

Caltrans 2018 Standard Specifications	Material	Additional Info and/or Attachments Required*
6-1.04 BUY AMERICA		
6-1.04B	Crumb rubber	COC
6-1.04C	Steel and iron materials	COC + cert. mill test reports
11-2 WELDING QUALITY CONTROL		
11-2.03D	Welding	COC
12-3 TEMP. TRAFFIC CONTROL DEVICES		
12-3.03A(3)	Plastic traffic drums	COC
12-3.20A(3)	Type K temporary railing	COC
12-3.23A(3)	Attenuator	COC
12-3.32A(3)	Portable CMS	COC
13-2 WATER POLLUTION CONTROL PROGRAM		
13-9 TEMP. CONCRETE WASHOUTS		
13-9.01C	Fabric bags for gravel-filled bags	COC
	Plastic liner	COC
13-10 TEMP. LINEAR SEDIMENT BARRIERS		
13-10.01C	Fiber rolls	COC
	Silt fence fabrics	COC
	Sediment filter bags	COC
	Foam barriers	COC
	Fabric for gravel-filled bags	COC
16-2.03 TEMP. HIGH-VISIBILITY FENCES		
16-2.03A(3)	High-visibility fabric	COC
18 DUST PALLIATIVES		
18-1.01C	Dust suppressant	COC
	Dust control binders	COC
	Fibers	COC
20 LANDSCAPE		
20-2 IRRIGATION		
20-2.08A(3)	Polyethylene pipe	COC
	Plastic pipe supply line	COC

* For those materials requiring additional information on or with the COC, see specification.

Caltrans 2018 Standard Specifications	Material	Additional Info and/or Attachments Required*
20-3 PLANTING		
20-2.08A(3)	Sod	COC
	Soil amendment	COC
20-5 LANDSCAPE ELEMENTS		
20-5.03A(1)(c)	Filter fabric	COC + product data
20-5.03D(1)(c)	Solidifying emulsion	COC + product data & samples
20-5.04A(3)	Wood mulch	COC + sample & authorization
21-2 EROSION CONTROL WORK		
21-2.01C(1)	Straw	COC
	Weed-free straw	COC + cert. of quarantine
	Fiber	COC
	RECP	COC
	Fasteners	COC
	Hydraulically applied erosion control materials	Submit records
21-2.01C(2)	Compost	Submit reports
21-2.01C(3)	Seed	Submit reports
21-2.01C(4)	Tackifier	COC
	Bonded fiber matrix	COC
24 STABILIZED SOILS		
24-1.01C(1)	Stabilizing agent	COC + sample
24-3 CEMENT STABILIZED SOIL		
24-3.01C	Cement	COC + sample
36-2 BASE BOND BREAKER		
36-2.01C	Base bond breaker	COC
37 BITUMINOUS SEALS		
37-1.01C	Asphalt binder	COC + test results
	Asphalt emulsion	COC + test results
37-3 SLURRY SEALS AND MICRO-SURFACINGS		
37-3.01A(3)	Asphaltic emulsion	COC + samples & test results
	Polymer modified asphaltic emulsion	COC + samples & test results
	Micro-surfacing emulsion	COC + sample & test results
37-2.04 ASPHALT RUBBER BINDER CHIP SEALS		
37-2.04A(3)	Asphalt rubber binder ingredients	COC + permits & submittals

* For those materials requiring additional information on or with the COC, see specification.

Caltrans 2018 Standard Specifications	Material	Additional Info and/or Attachments Required*
37-5 PARKING AREA SEALS		
37-5.01C	Parking area seal material	COC + sample & test results
37-6 CRACK TREATMENTS		
37-6.01C	Crack treatment materials	COC or sample & test results
39-2 HOT MIX ASPHALT		
39-2.01A(3)(f)	Liquid antistripping	COC + sample & production data
39-2.03A(3)(c)	Crumb rubber modifier	COC + test results
	Asphalt modifier	COC + test results
39-2.05A(1)(c)	Asphaltic emulsion	COC + test results
40 CONCRETE PAVEMENT		
40-1.01C(2)	Tie bars	COC
	Splice couplers for threaded bars	COC
	Dowel bars	COC
	Tie bar baskets	COC
	Joint filler	COC
	Epoxy-powder coating	COC
41 EXISTING CONCRETE PAVEMENT		
41-5 JOINT SEALS		
41-5.01C	Liquid joint sealant	COC + SDS & instructions
	Backer rods	COC + SDS & instructions
	Compression joint seal	COC + SDS & instructions
	Lubricant adhesives	COC + SDS & instructions
41-10 DRILL AND BOND BARS		
41-10.01C	Tie bars	COC
	Dowel bars	COC
	Dowel bar lubricant	COC
	Chemical adhesive	COC
	Epoxy powder coating	COC
48-2 FALSEWORK		
48-2.01C(1)	Structural composite lumber	COC + submittals
49-2 DRIVEN PILING		
49-2.02A(3)(d)	Steel pipe piles	COC + tests & mill reports
49-2.03A(3)	Structural shape steel piling	COC + test reports

* For those materials requiring additional information on or with the COC, see specification.

Caltrans 2018 Standard Specifications	Material	Additional Info and/or Attachments Required*
51 CONCRETE STRUCTURES		
51-1.01C(3)	Bonding materials	COC or sample & authorization
51-2 JOINTS		
51-2.01A(3)	Polyethylene material for snowplow deflectors	COC
51-2.02B(1)(c)	Sealant	COC + test reports & samples
51-2.02C(1)(c)	Elastomeric joint seal	COC + test reports
	Lubricant-adhesive	COC + test reports
51-2.02D(1)(c)	Joint seal materials	COC + authorization
51-2.02E(1)(c)(iii)	Joint seal assembly materials	COC
51-2.02F(1)(c)(iv)	Material used in the joint seals	COC + test reports
51-2.04A(3)	Waterstop material	COC + a statement
51-3 BEARINGS		
51-3.02A(3)(c)	Elastomer for bearing pads	COC + test reports
51-4 PRECAST CONCRETE MEMBERS		
51-4.01C(1)	Concrete box culvert	COC
52 REINFORCEMENT		
52-1.01C(3)	Reinforcement (rebar)	COC + mill test report
52-2 EPOXY-COATED REINFORCEMENT		
52-2.02A(3)(c)	Epoxy-coated reinforcement	COC + submittals
	Patching material	COC + a statement
52-5.01C(4)	Headed bar reinforcement	COC + test reports
52-6 SPLICING		
52-6.01C(5)	Service or butt splice material	COC + submittals
54 WATERPROOFING		
54-3 PREFORMED MEMBRANE WATERPROOFING		
54-3.01C	Prefomed membrane sheet	COC + report
54-5 DECK SEAL		
54-5.01C	Prefomed membrane sheet	COC + report
57-2 WOOD STRUCTURES		
57-2.01A(3)	Timber and lumber	COC + report
	Glued laminated timbers/decking	COC
57-3 PLASTIC LUMBER STRUCTURES		
57-3.01C(1)	Plastic lumber	COC + test report & sample

* For those materials requiring additional information on or with the COC, see specification.

Caltrans 2018 Standard Specifications	Material	Additional Info and/or Attachments Required*
58-2 MASONRY BLOCK		
58-2.01C(7)	CMUs	COC
	Aggregate for grout	COC
	Grout	COC
59 STRUCTURAL STEEL COATINGS		
59-1.01C	Blast cleaning material	COC + SDS
59-5 THERMAL SPRAY COAT STRUCTURAL STEEL		
59-5.01C(1)	Wire feedstock	COC
60-3.04B POLYESTER CONCRETE OVERLAYS		
60-3.04B(1)(c)	Methacrylate resins	COC + samples & test report
	Polyester resins	COC + samples & test report
	Aggregates	COC + samples & test report
61-2 CULVERT AND DRAINAGE PIPE JOINTS		
61-2.01C	Joint systems	COC + test results & reports
	Couplers	COC
64 PLASTIC PIPE		
64-1.01C	Plastic pipe	COC + report
65-2 REINFORCED CONCRETE PIPE		
65-2.01C	RCP, direct design method	COC + report
66 CORRUGATED METAL PIPE		
66-1.01C	Corrugated steel materials	COC
	Corrugated aluminum materials	COC
67-3 METAL LINE PLATE PIPE		
67-3.01C	Metal liner plate pipe	COC + mill test reports
68 SUBSURFACE DRAINS		
68-1.01C	Subsurface drain	COC
68-2 UNDERDRAINS		
68-2.01C	Pipe	COC
	Tubing	COC
	Fittings	COC
68-7 GEOCOMPOSITE DRAIN SYSTEMS		
68-7.01C	Geocomposite drain	COC + flow capability graph

* For those materials requiring additional information on or with the COC, see specification.

Caltrans 2018 Standard Specifications	Material	Additional Info and/or Attachments Required*
69 OVERSIDE DRAINS		
69-1.01C	Steel pipe piles	COC
	Aluminum	COC
	Plastic	COC
70-6 GRATED LINE DRAINS		
70-6.01C	Grated line drains	COC + docu. & inspec. report
71-3.09 MACHINE SPIRAL WOUND PVC PIPELINERS		
71-3.09A(1)(c)	Reel of PVC strip	COC + report
72-16 GABIONS		
72-16.01C	Gabion basket	COC
	PVC coating	COC + identify
75-3 MISCELLANEOUS BRIDGE METAL		
75-3.01C(1)	Anchorage devices	COC
75-3.01C(2) BRIDGE DECK DRAINAGE SYSTEM		
75-3.01C(2)	Fiberglass pipe and fittings	COC
80-3 CHAIN LINK FENCES		
80-3.01C	Protective coating system	COC
	Posts and braces	COC + test results
81 MISCELLANEOUS TRAFFIC CONTROL DEVICES		
81-2 DELINEATORS		
81-2.01C	Metal target plates	COC
	Enamel coating	COC
81-3 PAVEMENT MARKERS		
81-3.01C	Pavement markers	COC
82 SIGNS AND MARKERS		
82-2 SIGN PANELS		
82-2.01C	Aluminum sheeting	COC
	Retroreflective sheeting	COC
	Screened-process colors	COC
	Nonreflective, opaque, black film	COC
	Protective overlay film	COC

* For those materials requiring additional information on or with the COC, see specification.

Caltrans 2018 Standard Specifications	Material	Additional Info and/or Attachments Required*
82-5 MARKERS		
82-5.01C	Metal target plates	COC
	Enamel coating	COC
	Retroreflective sheeting	COC
83-3 CONCRETE BARRIERS		
83-3.01C	Type 60K portable concrete barrier	COC or test reports
84-2 TRAFFIC STRIPES AND PAVEMENT MARKINGS		
84-2.01C	Thermoplastic	COC + autho., SDS & data sheet
	Paint	COC + autho., SDS & data sheet
	Glass beads	COC + autho., SDS & data sheet
	Thermoplastic primer	COC + test results
DIVISION X ELECTRICAL WORK		
86-1.01C(6)	Signal heads	COC + test data
	Visors	COC + test data
87-2 LIGHTING SYSTEMS		
87-2.01C	High mast lighting luminaires	COC + test data
90 CONCRETE		
90-1.01C(3)	Cementitious materials	COC + app. signature
	Blended cement	COC + app. signature
90-1.01C(4)	Admixture	COC + authorization
90-1.01C(5)	Curing compound	COC + test samples
90-2 MINOR CONCRETE		
90-2.01C	Minor concrete	COC + weighmaster cert
90-3 RAPID STRENGTH CONCRETE		
90-3.01C(3)	Aggregate	COC + certified weight
	Cementitious materials	COC + certified weight
	Admixtures	COC + certified weight
90-4 PRECAST CONCRETE		
90-4.01C(2) and 90-4.01D(2)(a)	Cementitious materials	COC + app. signature
	Precast members (each)	COC + app. signature
	Curing compound	COC + test samples
94 ASPHALTIC EMULSIONS		
94-1.01C	Asphaltic emulsion	COC + reports

* For those materials requiring additional information on or with the COC, see specification.

Materials Requiring a Certificate of Compliance per Caltrans Standard Specifications

Caltrans 2018 Standard Specifications	Material	Additional Info and/or Attachments Required*
95 EPOXY		
95-1.01C	Epoxy	COC
96 GEOSYNTHETICS		
95-1.01C(1)	Geosynthetic	COC + test samples

* For those materials requiring additional information on or with the COC, see specification.

LAPM C.17 PROJECT COMPLETION

LAPM C.17 Project Completion

Section / Exhibit	Description of Changes
Multiple Locations	<ul style="list-style-type: none">LPA acronym changed to CLPA to designate Caltrans Local Programs Accounting.
17.5 Final Report of Expenditures	<ul style="list-style-type: none">OB #19-05: replaced Exhibit 17-D with LAPM 5-A.
Exhibit 17-A Sample Cover Letter and Federal Report of Expenditures Checklist	<ul style="list-style-type: none">OB #19-05: replaced Exhibit 17-D with LAPM 5-A on Final Report of Expenditures Checklist.
Exhibit 17-H Cover Letter and Final Report of Expenditures Checklist (PE Only)	<ul style="list-style-type: none">OB #19-05: replaced superseded Exhibits 17-D, 5-J and 5-K with LAPM 5-A.

The DLAE must receive from the OSE the Report of Expenditures prior to the DLAE processing the local agency's final project invoice.

17.4 “As-Built” Plans

On locally administered contracts the resident engineer must provide the DLAE a set of original record drawings of all structure work with “As-Built” corrections, or a clear, readable, black-line copy of the original tracings with “As-Built” corrections. The “As-Built” corrections must be made by the engineer responsible for structure work. Each sheet of the As-Built plans must be clearly identified with an As-Built stamp. All plan sheets, whether they contain changes or not, must have (at a minimum) the name of the Resident Engineer (R.E.), the Construction Contract Acceptance date, and the Contract Number. These must be forwarded by the DLAE to the Division of Structures with a copy of [Exhibit 17-J: Report of Completion of Structures on Local Streets and Roads](#). These must be returned to the local agency after microfilming, if requested. “As-Built” corrections for the roadwork portion of the plans should be recorded in accordance with local agency requirements.

17.5 Final Report of Expenditures

The local agency is responsible for preparing and submitting to the DLAE the final report documents which collectively constitute the Final Report of Expenditures. This report provides key information required to initiate timely project closure and payment. The Report of Expenditures must be submitted within six months of project completion or completion of the last federally-reimbursable phase if no Federal funds are utilized for Construction. If the submittal deadline occurs in the year funds will lapse, the Final Report of Expenditures must be submitted to the DLAE by April 1 of that year. If timely submittals are not received, Caltrans may initiate actions discussed under [Section 17.6: Consequences for Non-Compliance](#).

The Final Report of Expenditures must be signed by the public employee in responsible charge of the project.

Federal-aid Projects

For federal-aid projects, the Final Report of Expenditures includes, as a minimum, the following documents:

- [Exhibit 17-A: A Cover Letter and Federal Report of Expenditures Checklist](#) - Identifies all mandatory documents to be included in the Final Report of Expenditures. This checklist must be submitted by the local agency with the report of completion. Copies of all documents included in the report of expenditures must be maintained on file at the local agency for any future audits as specified in the Master Agreement and Program Supplement, and to serve as verification that contractor labor requirements were met.
- [Exhibit 17-C: Final Inspection Form](#) - This form when completed by both the local agency and the DLAE or OSE (SHS projects) must be included as part of the Final Report of Expenditures for all projects.
- Final Invoice – Final Invoice should conform to the format in [Exhibit 17-D: Federal-Aid Final Invoice](#) [LAPM 5-A: Local Agency Invoice](#). Submit one original. The Final Invoice must agree with the Final Detail Estimate.

Note: Even if all funding has been disbursed a final zero dollar amount invoice must be submitted

FEDERAL REPORT OF EXPENDITURES CHECKLIST

Federal-aid Project Number: _____

Project Name: _____

Project Location: _____

- () Final Inspection of Federal-aid Project (See Exhibit 17-B for FHWA High Profile projects) or Local Agency Final Inspection Form (See Exhibit 17-C for Delegated projects; utilized for the majority of projects)
- () Final Invoice (see ~~Exhibit 17-D~~ LAPM 5-A)
- () Final Detail Estimate and Detail Estimate Summary (See Exhibit 15-M)
- () Change Order Summary (See Exhibit 17-E)
- () Statement of the existence or absence of liquidated damages and/or contractor's claims (See Exhibit 17-E)
- () Date of completion: _____
- () Date of acceptance: _____
- () Final Report- Utilization of Disadvantaged Business Enterprise (DBE), First-Tier Subcontractors (See Exhibit 17-F)
- () Final Report- Utilization of Disadvantaged Business Enterprise (DBE) for On-Call Contracts (See Exhibit 17-F1)
- () Materials Certificate (Exhibit 17-G)
- () * Report of Completion of Structure (two copies) (Shall include one set of "As Built" Plans) (See Exhibit 17-I and Exhibit 17-J)
- () Disadvantaged Business Enterprises (DBE) Certification Status Change (Exhibit 17-O)
- () Report of Completion of Right of Way (Exhibit 17-K) for Projects with R/W Acquisition

Note: A single submittal of all these documents will facilitate timely project closure.

* Additional documents required on bridge/major structural project or projects which meet specified conditions (described under **Reports at Completion of Contract**). Send Original copy to structures.

Distribution: (All projects): (1) Original Report of Expenditures
(2) Local Agency project files

Exhibit 17-H: Cover Letter and Final Report of Expenditures Checklist (PE Only)

Name of DLAE
Department of Transportation
Caltrans - Local Assistance
District Address:

Federal- Aid Project No.: _____

Dear: Name of DLAE

Submitted for your consideration is: FINAL REPORT OF EXPENDITURES CHECKLIST (PE ONLY)

Project: (Location)
Consultant: (Name)
Contract: (Number)
Local Agency's Person In Responsible Charge: (Name)

Final Report of Expenditure Checklist

1. Category	
<input type="checkbox"/> Planning Study <input type="checkbox"/> Financial Study/ Report <input type="checkbox"/> LAPM 3-A <input type="checkbox"/> Environmental Determination – No Build <input type="checkbox"/> Date of FHWA Approved No Repayment: _____ <input type="checkbox"/> LAPM 3-A	<input type="checkbox"/> Subsequent Phases Funded Under Separate Federal Project(s) <input type="checkbox"/> FPN for Subsequent Phase: _____ <input type="checkbox"/> FPN for Subsequent Phase: _____ <input type="checkbox"/> FPN for Subsequent Phase: _____ <input type="checkbox"/> LAPM 3-A <input type="checkbox"/> Subsequent Phases Funded With Non-Federal Funds <input type="checkbox"/> Date of R/W Acquisition or Construction Award: _____ <input type="checkbox"/> Funding Sources: _____ <input type="checkbox"/> LAPM 3-A
2. Consultant Utilization	
<input type="checkbox"/> Exhibit 17-F: Consultant Contracts(s) (Include Final Report–Utilization of Disadvantage Business Enterprises <input type="checkbox"/> Exhibit 17-O: Disadvantage Business Enterprise (DBE) Certification Status Change <input type="checkbox"/> Force Account	
3. Final Invoice	
<input type="checkbox"/> LAPM 5-A: Local Agency Invoice Exhibit 17-D: Federal Aid Final Invoice <input type="checkbox"/> Exhibit 5-J: Local Agency Invoice Review Checklist <input type="checkbox"/> Exhibit 5-K: Billing Summary	

Sincerely,

Local Agency's Person in Responsible Charge

Reviewed By:

District Local Assistance Engineer

Distribution: (All projects): (1) Final Report of Expenditures
(2) Local Agency project files

LAPM C.20 DEFICIENCIES & SANCTIONS

LAPM C.20 Deficiencies & Sanctions

Section / Exhibit	Description of Changes
20.2 Major Project Deficiency	<ul style="list-style-type: none">OB #20-01: Remove “use of patented/proprietary materials” for ER projects bullet

- Right of Way activities in violation of the Uniform Relocation Assistance and Real Properties Policy Act, as amended, can result in all or partial loss of project funding. Project funding losses can result even if there are not federal funds in Right of Way but only in other phases (see [LAPM Chapter 13](#))
- Force Account/Day Labor work, without proper justification, is not reimbursable (see [LAPM Chapter 12: Plans, Specifications & Estimate](#)).
- For Emergency Relief (ER) projects, billing for emergency opening but actually doing permanent restoration work can result in a loss of all or part of the federal funding for the project (see [LAPG Chapter 11: Emergency Relief](#)).

In the absence of prior approval documentation, the use of publicly owned equipment, mandatory use of borrow/disposal sites, ~~use of patented/proprietary materials~~, use of warranty/guaranties, and use of agency-furnished materials shall make all or part of the construction phase ineligible for reimbursement with federal funds (see [LAPM Chapter 12: Plans, Specifications & Estimate](#)).

- Failure to submit a Material Certificate shall result in a partial loss of funding for the construction phase. Failure to adequately document and address all exceptions to the certification will result in all or partial loss of reimbursement. Failure to implement an approved materials and testing program for the project will result in the loss of federal funds for the project (see [LAPM Chapter 16: Administer Construction Contracts](#) and [LAPM Chapter 17: Project Completion](#)).
- Failure to enforce the Contract DBE provisions with regard to utilization or substitution will make all or part of the construction phase ineligible 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.
- Failure to maintain the completed project (roadway and appurtenances constructed with federal funds and/or mitigation sites), or portions of the project shall result in repayment of all or a portion of the federal reimbursement (see [LAPM Chapter 18: Maintenance](#)).

Examples of some of the most common (found by Caltrans) Major Project Deficiencies (State) are:

- RTPAs that use Exchange Funds for non-Article XIX purposes or for other than projects will have to return the funds given to them (see [LAPG Chapter 18: Optional Federal Exchange and State Match Programs](#)).
- Counties that use Exchange Funds for other the non-Article XIX purposes will have to return the funds given to them (see [LAPG Chapter 18](#)).
- On Environmental Enhancement and Mitigation (EEM) projects, reimbursable costs must be invoiced for by the end of the first state fiscal year following the fiscal year, during which funds were allocated by the CTC. Failure to comply will result in loss of the federal reimbursement (see [LAPG Chapter 20: Environmental Enhancement and Mitigation](#)).

Unrecoverable Project Deficiency

An Unrecoverable Project Deficiency is defined as a deficiency of such magnitude as to create doubt that the policies and objectives of Title 23 of the USC (or other applicable federal codes) will be accomplished by the project, (quote from PS&E Certification) and the project has proceeded to the point that the deficiency cannot be corrected. This level of deficiency shall result in the withdrawal of all or a portion of the federal and/or state funds from the project.

LAPG C.6 HIGHWAY BRIDGE PROGRAM

LAPG C.6 Highway Bridge Program

Section / Exhibit	Description of Changes
Entire Chapter	<ul style="list-style-type: none">• OB #19-01: edits incorporated

Chapter 6 Highway Bridge Program

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Exhibits

Exhibits applicable to this Chapter can be found [here](#):

[LAPG 6-A: HBP Application/Scope Definition](#)

[LAPG 6-B: HBP Special Cost Approval Checklist](#)

[LAPG 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 **structurally** deficient locally owned public highway bridges or complete preventive maintenance on bridges that are not deficient. This chapter explains eligibility requirements, reimbursable scopes of work, how to apply for HBP or Bridge Preventive Maintenance Program (BPMP) funding, 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 Obligational Authority (OA) limits. See [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 **4-years of HBP funding** to be programmed in the Federal Statewide Transportation Improvement Program (FSTIP) **and 11-years of planning**. ~~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 funds can be utilized on bridge projects. The purpose of these rules is to ensure that federal funds are dedicated to solving bridge **structural** 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 and to fix bridges that are in fair condition. A bridge that is in poor condition ~~must be considered for rehabilitation or replacement~~ **must utilize the most cost-effective and prudent solution to improve its condition from poor to fair or good.**

Local agencies assume full liability for the safety of their bridges and eligibility of participating costs of their projects.

Terms and Definitions

Advance Construction (AC) - The local agencies provide local funds initially to be programmed with a conversion to federal funding at a later time.

Authorization to Proceed - Federal project funding eligibility approval for a phase of work by the Federal Highway Administration.

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.

Bridge Preventive Maintenance Program (BPMP) - A program to help local agencies extend the life of their bridges by performing preventive maintenance activities.

Bridge Rail - Bridge rails serve both safety and aesthetic functions in bridge projects. They are designed to safely redirect vehicles to minimize injury and damage in the case of accidents, as well as to retain pedestrians and bicyclists.

Department - The State of California, Department of Transportation as created by law; also referred to as State or Caltrans.

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.

Federal Statewide Transportation Improvement Program (FSTIP) - A 4-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.

Federal Transportation Improvement Program (FTIP) - A 4-year list of local transportation projects proposed for federal surface transportation funding within the planning area of one of the eighteen Metropolitan Planning Organizations (MPOs) in the State. These are only valid for reference when incorporated into the FSTIP and approved by FHWA/FTA.

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.

Hydraulic Engineering Circular-23 (HEC-23) - FHWA circular titled Bridge Scour and Stream Instability Countermeasures: Experience, Selection, and Design Guidance, Hydraulic Engineering Circular No. 23 (HEC-23).

High Cost Bridge Project - A bridge project with a Right of Way or Construction phase in excess of \$20 million of total funds.

Highway Bridge Program Advisory Committee (Committee) - A committee made up of members from the California State Association of Counties, the League of California Cities, FHWA, California Transportation Commission, the California Councils of Government and Caltrans Division of Local Assistance.

Local Assistance Program Guidelines (LAPG) - Provides local project sponsors with complete description of the federal and state programs available for financing local public transportation related projects.

Local Assistance Procedures Manual (LAPM) - 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 public transportation related projects.

Local Bridge Seismic Retrofit Program (LBSRP) - All seismic retrofit projects, including mandatory Prop-1B seismic projects and voluntary seismic retrofit 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.

National Bridge Inventory (NBI) - 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.

National Cooperative Highway Research Program (NCHRP) - 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.

National Environmental Policy Act (NEPA) - 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.

National Highway System (NHS) - Legislative designation of highways that are of national importance.

National Register of Historic Places (NRHP) - 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.

Nearly Ready to Advertise - A project is considered "nearly ready to advertise" when NEPA is clear, R/W will be certified prior to or less than 6 months of an HBP financially constrained program list, and completion of final design plans are at 95% or greater. The R/W certification must be verified with Caltrans R/W staff.

Non-Participating Cost - A cost that is included in the project but is not eligible for Federal reimbursement.

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.

Paint Condition Index (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.

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.

Preliminary Engineering (PE) - Preliminary Engineering phase includes all project initiation and development activities undertaken after its inclusion in an approved FSTIP through the completion of PS&E. It may include preliminary R/W engineering and investigations necessary to complete the environmental document.

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.

Prop 1B - Proposition 1B Bond funds to be utilized as local match to HBP for mandatory seismic projects.

Post Programming - Cost increases to a phase that has already been authorized to proceed and that has received federal funding.

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 R/W Certification and completed PS&E package.

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.

State Highway System (SHS) - The network of public highway systems that is owned and maintained by the Department.

Structurally Deficient (SD) - A classification given to a bridge which has any component in Poor or worse condition. (23 CFR 490.405)

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.

State Transportation Improvement Program (STIP) - A 5-year list of projects proposed in the Regional Transportation Improvement Program. The proposed STIP that are approved and adopted by the California Transportation Commission.

United State Code (USC) - The USC is the codification by subject matter of the general and permanent laws of the United States. Title 23 relates to Highways.

Value Engineering Analysis (VA) - 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 must be done when either the R/W or construction phase exceed \$40 million of federal funds. See [LAPM Chapter 12: Plans, Specifications, & Estimate](#) (Section 12.5) for further procedures.

Voluntary Seismic Retrofit Program - Self-funded seismic analysis calculations that shows a potential for collapse of the bridge under a maximum credible earthquake. The analysis must have Caltrans concurrence for collapse potential.

Acronyms and Descriptions

The acronyms table is a compilation of the acronyms that you will find throughout the guidelines.

Table 6-1: Acronyms

Acronyms	Description
AASHTO	American Association of State Highway and Transportation Officials
ADT	Average Daily Traffic
BIC	Bridge Investment Credit
BIR	Bridge Inspection Report
CCO or CO	Construction Change Order or Change Order (terms used interchangeably)
CE	Construction Engineering
CFR	Code of Federal Regulations
CON	Construction
DES	Division of Engineering Services
DLAE	District Local Assistance Engineer
E-76	Electronic Authorization to Proceed
EPSP	Expedited Project Selection Procedures
FAST	Fixing America's Surface Transportation Act
FHWA	Federal Highway Administration
LBSRP	Local Bridge Seismic Retrofit Program
MPH	Miles Per Hour
MPO	Metropolitan Planning Organization
MASH	Manual for Assessing Safety Hardware
NBIS	National Bridge Inspection Standards
OA	Obligation Authority
OFP	Office of Federal Programs
OPI	Office of Project Implementation (North & South)
PM	Preventive Maintenance
PS&E	Plans, Specification and Estimate
RFA	Request for Authorization
RTPA	Regional Transportation Planning Agency
SEP	Senior Environmental Planner
SI&A	Structure Inventory and Appraisal
SLA	Structure Local Assistance
STBGP	Surface Transportation Block Grant Program
TL	Test Level

HBP Website

The HBP website provides information and references for local bridge owners. The website contains training opportunities, links to local agency bridge list, the HBP FTIP/FSTIP Program Lists, various reports, as well as the HBP and BPMP guidelines. The HBP website can be accessed [here](#).

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 NBI, be structurally deficient and have a SR less than or equal to 80, be seismically vulnerable, scour critical or ~~needs repainting~~ have a PCI below 70%. The information ~~should~~ **must** be obtained from the most current BIR at the time of the application submittal. If a local agency needs to obtain a copy of a BIR, they ~~should~~ **must** contact their DLAE.

Applying for HBP Funds

The steps to initiate and develop an HBP project are discussed throughout this chapter. A local agency ~~should~~ **must** 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~~ or BPMP. ~~Plan list for preventive maintenance.~~

Agencies that have executed or 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, [LAPG 6-A: HBP Application/Scope Definition](#) for HBP funds or a BPMP plan list and certification letter for preventive maintenance funds 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. HBP Managers will review the candidate project. If it is eligible, the candidate project will be added to the next project prioritization list. HBP Managers will notify the DLAE if the project will be prioritized. ~~If the candidate project is not eligible, the DLAE will be notified. The prioritization list is generated on a 2-year cycle, in even numbered years.~~
5. Once all new eligible candidate projects are prioritized, the funding cutoff is determined for ~~separately~~ on system and off system projects. ~~The prioritized lists are taken to the Committee for the funding cutoff determination for each list.~~ The projects above the cutoff will be ~~entered and~~ accepted into the HBP ~~database~~. The projects below the cutoff will be returned to the DLAE. ~~The local agency must update the application and re-apply for the next 2-year prioritization cycle, except functionally obsolete or low water crossings submitted before October 1, 2016. The local agency must notify Caltrans, in writing by June 30 of even numbered years, that they want their functionally obsolete bridges and low water crossing projects to remain eligible.~~
6. After the project is adopted into the FTIP by the MPO, the PE funds can be authorized. See Section 6.8: Project Implementation.

7. 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~~ **must** be discussed.
8. Work begins on the preliminary design and environmental process **per the funds management policy**.
9. Once the environmental documents are approved, the local agency may commence with final design and proceed with R/W if needed.
10. 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~~ **must** 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. **It is recommended to complete [LAPG 6-D: Scope/Cost/Schedule Change Request](#) to update the costs at this stage of the project.**
11. Once R/W is certified and the PS&E package is completed, the local agency may submit the request for construction authorization.
12. The DLAE processes the request for authorization and notifies the local agency of the FHWA approval. The local agency may now advertise the construction 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, the BPMP Guidelines and the procedures in the LAPM. The local agency is also responsible for requesting Caltrans funding approval for certain participating costs identified in [LAPG 6-B: HBP Special Cost Approval Checklist](#).

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~~ **will be executed through** 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 copied to the HBP Managers and the Office of Project Implementation.

Controversial correspondence includes, **but is not limited to**, 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 proactive 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](#).

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~~ **HBP managers** after coordination with the DLAE. However, all Caltrans ~~official~~ correspondence to local agencies is transmitted through the DLAE ~~and HBP Managers~~.

Project delivery is streamlined with SLA involvement. SLA may assist the local agency in making sure the project is scoped appropriately and meets the current design guidelines. SLA will work with HBP managers to determine eligibility of the project. SLA comments are cursory in nature and the local agency must determine if they need to be implemented. SLA reviews are intended to assist the local agencies to make sure that their projects meet the current design guidance and standards. It is under the discretion of SLA to determine what Caltrans functional units need to review the project documents. Seismic safety projects must follow the guidance outlined in Section 6.3 Local Seismic Safety Retrofit.

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~~ **must** 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 Federal Programs

HBP Managers work in this office and this office is responsible for:

- Prioritizing new HBP applications according to policy
- Programming funds for **eligible** local agency projects
- Approving special costs identified in [LAPG 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 and eligibility issues
- Conducting program reviews to determine local agency compliance with federal and State laws, regulations, and policy
- [Managing High Cost Bridge Projects](#)

Caltrans, Office of Project Implementation (North and South)

These offices are 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 these offices 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 must not exceed amounts programmed in the HBP ~~program~~ lists.

6.3 Reimbursable Project Scopes

Local agencies developing HBP projects are required to ensure their projects are cost-effective and that the project scope address the bridge deficiencies. [The HBP funds mandated inspections of local NBI bridges. The result of the inspections is a BIR that is sent to the local bridge owner. These BIRs inform the owner the condition of their bridges and any deficiencies that may be addressed.](#) The ~~three general~~ following project scopes participating under the HBP are bridge inspection, seismic retrofit, rehabilitation, replacement, painting, scour countermeasure, and preventative maintenance ~~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 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 [recommendations](#). [The BIR does not address the seismic vulnerability of the bridge. It does discuss the integrity of seismic safety items installed on bridge. For example, the BIR will discuss the condition of seismic restrainer cables but will not address if they are needed.](#) The report also includes an SI&A sheet. The SI&A sheet provides all the detailed ratings required by federal law. [These detailed](#)

ratings are sent to FHWA every year. Bridge inspection reports dated on or after 5/1/2018 are no longer flagged as SD on the inspection report.

Local agencies may request copies of the bridge inspection reports from the DLAE, SLA, or HBP managers. Agencies that inspect their own bridges should work with their own inspection departments to acquire the reports.

~~A “deficient” bridge is defined as being in poor condition or structurally deficient.~~

~~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 Bridge Seismic **Safety** Retrofit Program

The purpose of this ~~scope of work~~ program is to address local bridge seismic **safety** concerns of publicly 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 **predetermined** finite list of projects established under the 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~~. LBSRP projects not included in the 1989 Mandatory Seismic Retrofit program are considered voluntary.

Local agencies may perform self-funded seismic analysis to show a vulnerability of collapse under a maximum credible earthquake. The results of this analysis can be submitted to Caltrans for review and determination of acceptance into the voluntary seismic retrofit program. If Caltrans concurs with the analysis, a voluntary seismic retrofit project may be programmed under the HBP. Once the voluntary seismic retrofit project is programmed, the process is identical to the Prop 1B retrofit projects. The local match of voluntary seismic retrofit projects is not eligible for Prop 1B funds.

~~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.~~

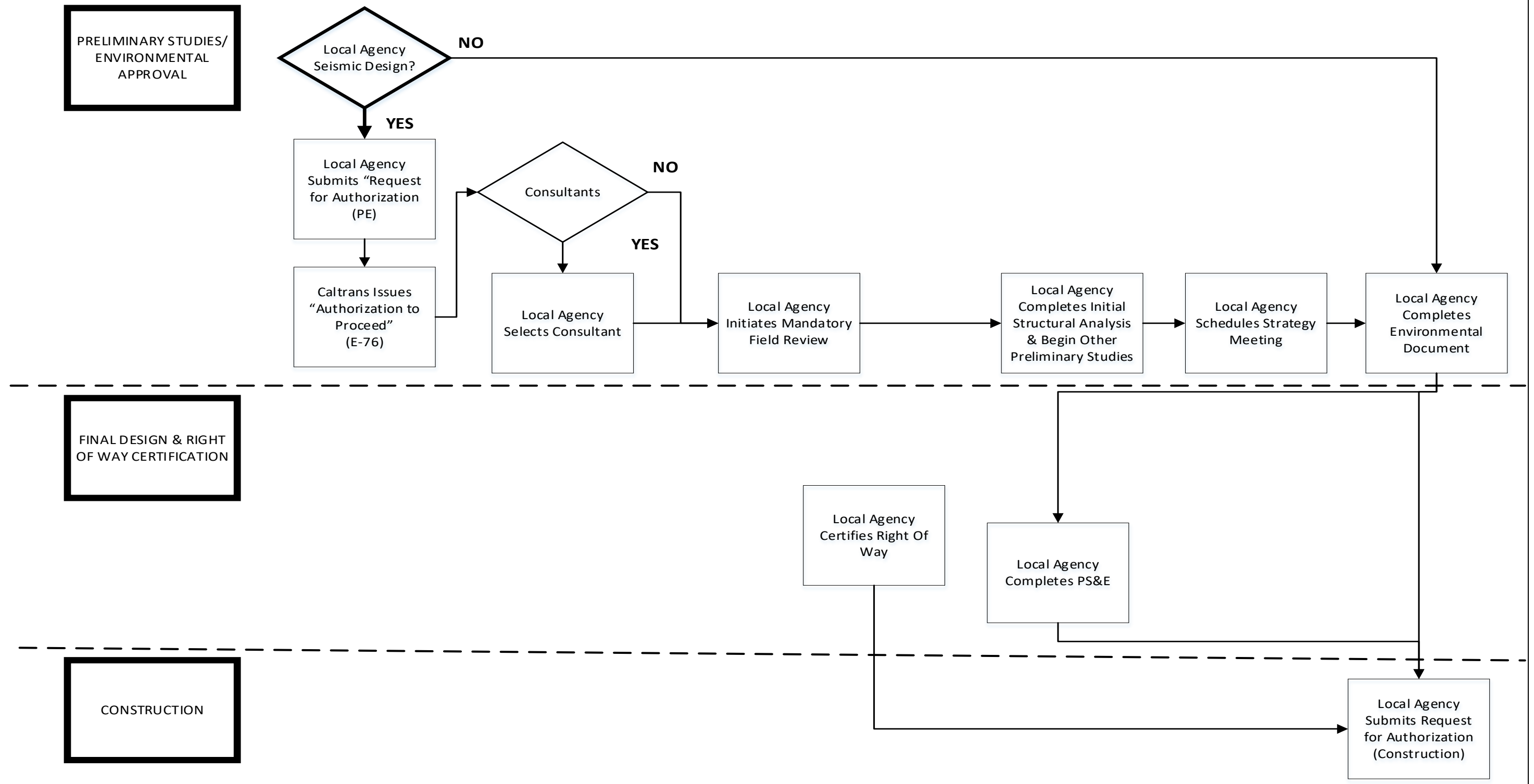


Figure 6-1: Seismic Safety Retrofit Flowchart

Bridge Rehabilitation

Bridges must be rated **SD poor** with an SR ≤ 80 to be eligible candidates for rehabilitation. ~~See the HBP website for instructions on determining SD and SR.~~ All deficiencies of the bridge must be reviewed to determine the project scope. ~~See Section 6.9 regarding how the ratings are derived from the bridge inspection report data.~~

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 must correct major deficiencies **including which may include** 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))

1. Constructing additional lanes (including turn lanes) on an existing bridge requires approval by the HBP Managers. Local agencies must 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 must also be included if the corridor has not yet been widened to current standards.

Local agencies must have prior **MPO and/or** RTPA approval to program the capacity increasing project into the HBP.

2. **Bridge rail replacements are not HBP eligible unless the bridge deck is replaced or widened, even though they may be deficient on the BIR.**
3. Bridge replacement may be an appropriate rehabilitation option if a detailed cost analysis shows that replacement is the most cost-effective solution. HBP Managers' prior approval is required **prior to completing a** ~~ensure the~~ cost analysis ~~is HBP eligible~~. 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 must 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~~ **per project**. 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 must 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 must be elevated to the HBP Managers through the DLAE.

Bridge Replacement

1. Bridges must be rated **SD poor** with the SR < 50 to be eligible candidate for replacement.
2. Even though a bridge may be eligible for replacement, rehabilitation must still be considered to ensure the most cost-effective ~~solution~~ **and prudent alternative** is selected.

When appropriate, a cost analysis ~~should~~ **must** be included in the local agency's project file. The SR, by itself, must 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. **The paint condition is good when the PCI is > 85%, is Fair when the PCI > 70% and ≤ 85%, is Poor when the PCI ≤ 70%.**

1. The PCI for a bridge must be ~~65 or less in poor condition~~, or SLA must provide concurrence for a bridge painting project to participate in the HBP. The PCI is available from the ~~BIR. bridge inventory listing from the HBP website:~~
2. Minor rehabilitation of corroded structural members is an eligible participating cost under stand-alone paint projects. The cost of the rehabilitation effort must 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 in poor condition~~ are not participating in a painting project. If the bridge is ~~SD in poor condition~~ with SR<80, rehabilitation ~~should~~ **must** be considered prior to the development of a painting project. Background information supporting this consideration ~~should~~ **must** 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 ~~as a standalone paint project. Minor spot painting can be programmed under the BPMP.~~ **When the PCI is in fair condition the work may be eligible 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~~ **must** be considered prior to the development of a scour countermeasure project.
4. Scour countermeasure projects utilizing HBP funds must be designed to HEC-23 and SM&I ~~has to~~ **must** be able to change the NBI 113 code to ~~not be scour critical 4 or greater~~.

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 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 [LAPG 6-B: HBP Special Cost Approval Checklist](#) for a summary of participating costs that require specific HBP Manager approval.

Approach Roadway Work

Federal participation for approach roadway must 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 HBP eligible approach roadway width will match the HBP eligible bridge width.

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 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 are 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 must 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~~ **must** 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 must notify the DLAE to request HBP participation of architectural treatments.

Environmental Mitigation

HBP ~~projects and~~ funds are to be used for the purpose of **improving** bridge **structural** safety. The environmental mitigation funding on an HBP project must relate to the purpose and need for ~~taking care of~~ **addressing** the original bridge deficiencies. Environmental mitigation beyond this may not be eligible. 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 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 five 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~~ **must** contact the DLAE and SEP 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 costs ~~items~~ are needed to complete the ~~recommended project~~ ~~are identified by the local agency approved strategy~~. Caltrans DLAEs ~~and HBP Managers~~ will review these additional costs, ~~and they must be approved by the LBSRP Manager~~. 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 costs may be participating. ~~On~~ ~~For these~~ combined ~~Mandatory Seismic Safety Retrofit~~ projects, the local agency ~~should~~ ~~must~~ 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~~ ~~may~~ provide the matching funds ~~up with Prop 1B~~ 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 and/or Pedestrian Access

HBP funds are eligible to accommodate bicycle and pedestrian access on replacement and/ or rehabilitation bridge projects, however the funds will be reimbursed at the minimum 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. The adopted bicycle and/or pedestrian plan must be included with the HBP application.

If a local agency disagrees with an eligibility determination and is unable to reach agreement with the HBP Program Managers, the local agency may appeal HBP eligibility determinations by following the dispute resolution process as outlined in [LAPM Chapter 20: Deficiencies and Sanctions](#).

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 ~~the sole purpose of adding~~ bicycle ~~and/or pedestrian~~ 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 the 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 must be included in the E-76 and program supplemental agreement to this effect.

All NEPA documents must be approved according to the standard process as outlined in [LAPM Chapter 6: Environmental Procedures](#). Additionally, the installation of the temporary bridge must not preclude other more cost-effective bridge replacement options. The scope of the final project must 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 ~~standards~~) 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.~~ ~~If a local agency uses other federal funds on the HBP project, this must be documented on the LAPG 6-A or LAPG 6-D.~~

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>.~~ ~~The list of California historic bridges is available [here](#).~~ 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 an HBP project on the historical integrity of a designated bridge.
3. When a rehabilitation project is proposed the local agency must 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 alternatives~~ 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 must 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 must 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, must 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 Policy on Geometric Design of Highways and Streets and the Guidelines for Geometric Design of Low-Volume Roads.

~~The goal of the HBP is to remove deficiencies from bridges through rehabilitation or replacement. On rare occasions, if~~ 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,~~ local agencies must ensure the scope of work will result in a bridge that will not be rated **SD poor**. 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~~ **must** 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”~~ **no retrofit needed** 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 damage that could be quickly repaired to allow 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 Minimum AASHTO Standards

HBP project eligibility begins at the minimum AASHTO standards, exceeding these must be justified and approved by HBP Managers. Where proposed design solutions exceed AASHTO's A Policy on Geometric Design of Highways and Streets [or the Guidelines for Geometric Design of Low-Volume Roads](#), 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~~ but may not be HBP eligible.

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/or~~ MPO and consult AASHTO's A Policy on Geometric Design of Highways and Streets or the Guidelines for Geometric Design of Low-Volume Roads to ensure that their bridge rehabilitation and replacement projects will meet their needs. [The design future ADT is 20 years at the completion of the project.](#)

Bridge geometrics ~~should~~ **must** 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.

HBP One Lane Bridge Policy

The cost of rehabilitating one lane bridges or the new construction of one lane bridges may not be HBP participating. ~~The problem with these kinds of projects is the project scope fails to meet the requirements of Section 6.5 of the HBP Guidelines. Specifically,~~ The project ~~should~~ **must** raise the bridge's sufficiency rating to greater than 80 and the bridge must not be ~~structurally deficient in poor condition~~.

~~Section 6.5 also says that "Exceptions~~ **Decisions** based on cost-effectiveness or in the public interest of historic structures must be approved by the ~~Office of Federal Programs"~~ HBP **Managers**. Even when this flexibility is exercised, design decisions must be approved by the local agency in accordance with Chapter 11 of the LAPM.

Special Circumstances: Historic Bridge

A bridge that is registered or eligible to be registered in the National Register of Historic Places is exempt from the requirement that all geometric deficiencies be corrected ~~by a local agency~~. Local agencies may consider "replacing" the historic bridge with a new bridge on the same corridor with minor roadway realignments. See Section 6.4 of the HBP Guidelines for more information.

It is strongly encouraged that historic bridges be brought up to current load capacity design standards. Where increasing the load carrying capacity of a historic bridge impacts the historic

characteristics of the bridge, the scope of the rehabilitation project need only bring the bridge to as-built design standards, provided that public safety is not compromised.

Special Circumstances: Cost-effectiveness

The HBP also allows flexibility in the design of new or the rehabilitation of one lane bridges even if an existing bridge is not historic. Where widening a bridge to meet AASHTO standards is not cost effective because a local road is only one lane, the curb to curb geometrics ~~should~~ **must** be established using AASHTO's Guidelines for Geometric Design of Low-Volume Roads ($ADT \leq 400$). Holding queues **at each end of the bridge** will be eligible for HBP funds. As noted above, any design decision must be approved by the local agency in accordance with Chapter 11 of the LAPM. **Local agencies must provide written concurrence that local law enforcement and local firefighting officials concur with the proposed geometrics of the one lane bridge rehabilitation or replacement projects.**

For non-historic bridge, the rehabilitation or replacement projects are required to meet current load carrying design standards. Design exceptions will not be permitted.

~~Local agencies must provide written concurrence that local law enforcement and local firefighting officials concur with the proposed geometrics of the one lane bridge rehabilitation or replacement projects.~~

An explanation must also be provided by the local agency showing how the public's safety is being improved by the project. If there is no significant improvement to the public's safety, the primary intent of the HBP is not being met and HBP funds cannot be used on the project. See ~~Section 6.1 of the HBP Guidelines for information on the intent of the program.~~

Bridge Rails

Bridge rails must comply with MASH criteria for all new permanent installations or full replacements. HBP projects generally fall under two categories, TL-2 and TL-4. TL-2 are for barriers in locations up to a design speed of 45mph and TL-4 are for speeds greater than 45mph. Local projects off the State system may use any MASH approved railings. Local projects on the SHS must use a Caltrans approved MASH rail. If any modifications are made to a MASH approved rail, those modifications must be submitted for review to SLA to confirm that any modifications have not degraded the crashworthiness of the bridge barrier rail.

6.6 Application Process

Agencies that have executed or 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 the PE phase. Local agencies needing further assistance in eligibility ~~review~~ should ask the DLAE for a field review. All new applications must be submitted to the DLAE no later than November 30 of odd years **for prioritization consideration**.

When Caltrans determines that the project is eligible for HBP funds, it will ~~need to~~ be prioritized against ~~all~~ the other new applications ~~that have been~~ received. The HBP Managers will take the prioritized list to the HBP Advisory Committee for a funding cutoff determination. Projects that

are above the funding cutoff ~~line~~ will be accepted into the HBP ~~and programmed~~. Projects below the funding cutoff ~~line~~ will be sent back to the DLAE.

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 an HBP application package:

1. A cover letter from the local agency requesting that Caltrans program the project.
2. The HBP Application form, [LAPG 6-A: HBP Application/Scope Definition](#), 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 HQ to the DLAE's, then 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~~ it to the HBP Managers. The DLAE ~~should~~ must 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 must 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 must 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~~ it has not yet taken place. Field reviews should be scheduled ~~appropriately~~ to include the ~~local agency's consultants~~ ~~appropriate~~ technical staff.

Project Prioritization Policy

The NBI coding from the BIR will be used ~~in the prioritization process~~ to prioritize new applications. The prioritization below will be used to determine programming priorities for developing financially constrained HBP lists. The priority established will determine when the PE phase of new projects will be programmed. New projects will only be available for programming into the last two ~~additional~~ years of a new FTIP/FSTIP cycle.

The lowest priority number is the highest priority.

PRIORITY 1:

Seismic retrofit projects and Scour countermeasure projects or rehabilitation and/or replacement of scour critical bridges (NBI Item 113≤2).

PRIORITY 2:

Bridges that have major structural deficiencies causing the bridge to be posted or closed. The NBI Item 41 Structure Open, Posted, or Closed to Traffic will be utilized to determine the sort order. The sort will be:

1. K = bridge closed to traffic
2. D = bridge open, would be posted or closed except for temporary shoring
3. P = bridge posted for load
4. R = bridge posted with restrictions not load.

PRIORITY 3:

Scour countermeasure projects or rehabilitation of scour critical bridges (NBI Item 113=3).

PRIORITY 4:

Projects that are eligible for replacement. Structurally Deficient with a sufficiency rating less than 50.

PRIORITY 5:

Projects that are eligible for rehabilitation. Structurally Deficient with a sufficiency rating 80 or less.

PRIORITY 6:

Bridge Preventive Maintenance Plan Projects.

PRIORITY 7:

Projects that are Functionally Obsolete with application dated prior to October 1, 2016.

PRIORITY 8:

Low water crossing projects with application dated prior to October 1, 2016.

Each of these 8 priorities, may have two additional levels of prioritization within each priority depending upon the number of projects in each priority.

The second level of prioritization will be based upon the length of bypass or detour, in miles. This is documented in NBI Item 19. The detour length will be ordered longest to shortest.

The third level of prioritization will be based upon the future ADT on the route. This is documented in the NBI Item 114. The Future ADT will be ordered highest to lowest.

6.7 Project Programming Policy and Procedure

Policy

This policy and procedure provide details for compliance with the FSTIP regulations and CTC Policy. The CTC policy is to maximize the use of federal HBP funds. CTC Resolution LBS1B-G-0708 established the Prop 1B seismic retrofit program as the top priority for programming HBP funds.

It is CTC's intent that the Department also program funds for the local bridge inspection program and critical safety non-seismic projects. Bridges with serious structural deficiencies are a top priority for funding.

The HBP will be programmed consistent with the delivery schedule for Prop 1B seismic retrofit projects provided by local agencies and constrained by available federal funds. The statewide financially constrained program lists will be ranked based on the Ranking Policy in compliance with federal regulations and developed in cooperation with the Local Assistance Highway Bridge Program Advisory Committee. These procedures 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 FSTIP Cycle, ~~the FTIP~~ all years will be programmed to reflect the most current cost and schedule data for the Prop 1B seismic projects. Safety non-seismic bridge projects may also be programmed based upon the ~~Department's HBP's~~ project ranking policy.
2. The DLAEs must 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 must update the FileMaker HBP programming database with the revised funds and schedule in the current year of the FSTIP. The date stamp must 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 FSTIP, or if the project phase is programmed in a future year. The DLAE must not transmit the RFA for obligations until scope and FSTIP issues are resolved.
3. Post programming changes for the construction phase of 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 [LAPG 6-D: HBP Scope/Cost/Schedule Change Request](#) to provide justification for cost increase. The DLAE must sign the LAPG 6-D 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 ranking and must be maintained by the DLAE.
 - d. The HBP Managers will select the projects ready to obligate for inclusion into the FSTIP, 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 FSTIP 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 FSTIP until federal apportionment or OA is exhausted. Some reserves may be held if there were delays in processing FSTIP 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 to the DLAEs by the HBP Managers. 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 FSTIP 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 FSTIP and the program lists are posted on the Division of Local Assistance [website](#).

Note that these program lists do not fulfill the federal programming requirements. Inclusion into the FSTIP 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 6-2: 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 must 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 FSTIPs.

Programming Tools to Advance Projects

EPSP allow most project programming in the 4-year element of the FSTIP 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 projects**, EPSP is managed by ~~the~~ HBP Managers. New projects that ~~have been prioritized, the PE phase~~ **are requesting the first PE authorization to proceed** cannot utilize EPSP.

Post programming changes are changes to phases of work that have already been authorized and obligated, and require additional funds. No pre-approved FSTIP 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 FSTIP amendments to ensure that the FSTIP 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 FSTIP will be reserved specifically for the project in the current year of the FSTIP. 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-Prop 1B Seismic **Retrofit Projects (other HBP projects)**

- a. Advancing means obligating funds on a project where the funds are not programmed in the current year of the FSTIP.
- b. If there is schedule slippage or savings in current year programmed projects, and no Prop 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 FSTIP.

- 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 Delivery Policy

This Policy is for programmed projects to address funds and delivery management. The intent is to maximize the use of funds and to have project delivery a high priority for HBP projects.

1. Funds Management

- a. New projects are metered into the program. A project's PE phase may not be obligated in an earlier year than programmed.
- b. Agencies that utilize AC to authorize PE will have the conversion to federal funds in the year PE is programmed.
- c. To avoid delivery failure, by February 1 agencies must either submit an RFA or notify Local Assistance of an anticipated project delay.
- d. When an agency requests additional funding for an authorized phase, the funds must be obligated in the year programmed. If a local agency does not request the additional funding in the year programmed, it is considered a delivery failure and the funding will be moved to the last year of the FSTIP in the October updates. Project phases that fail to deliver will be required to wait until April 1 to advance the funding.
- e. If agencies fail to deliver the R/W or CON phase of a project as programmed, the phase will be moved to the last year of the FSTIP and will be required to wait until April 1 to advance the funding.

2. Delivery Management

- a. Metering of the new projects will give an agency, at a minimum, a 2-year notice of the available project start date. Agencies must authorize the PE Phase in the year programmed. Projects that fail to authorize PE, will have the project removed from the program. Re-application into the program will be under current guidelines.
- b. Agencies with an HBP project with PE that has not advanced to the next phase within the federal rules, will not be allowed to program new HBP projects.
- c. Agencies with HBP projects at PE greater than eight years are required to submit a detailed status report with the annual HBP survey. Surveys without the required status reports will be considered incomplete.
- d. Agencies with a project that has NEPA clearance for more than five years and RW certification is not complete or construction authorized, will not be allowed to add new HBP projects to the program.

Exceptions to the above will require approval from HBP Managers. Projects will be evaluated regarding Project Delivery Policy during the annual HBP Survey. Data is processed at the end of the federal fiscal year.

Project Ranking Policy for Construction Programming

Subject to budgetary constraints, the PE phase for eligible projects is programmed only in one of the two new years of a new FSTIP cycle 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 FSTIP. 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 financially constrained HBP program lists. After projects are ~~prioritized~~ ranked and funds ~~reserved~~ programmed, Caltrans submits the financially constrained program lists to the MPOs for inclusion into the FSTIP.

The lowest number rank is the highest construction priority. Within each rank, projects are sorted by the ~~AASHTO Sufficiency Rating~~ NBI SR 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 FSTIP. When these projects are ready for construction authorization, the ranking system will allow these projects to receive a high priority for construction programming within updated statewide program lists.

These project ranks will be applied to programmed projects to financially constrain any program list needed to update the FSTIP. 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 project 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 FSTIP because funds have been obligated for construction. Local funded AC projects not subject to cash management commitments are Rank 0 projects. 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 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 Prop 1B funded seismic projects or;

Are scour countermeasure projects, rehabilitation or replacement of scour critical bridges, NBI item 113≤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 FSTIP.

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 advertise** 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 FSTIP a minimum of two years out, after consultation with the MPO. If **there is** no programming capacity **can be found**, the project will need to be pushed out until the next FSTIP 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 FSTIP.

If NEPA or R/W is not clear and R/W includes lengthy property acquisition, the construction funding **should may** be pushed outside the 4-year element of the FSTIP.

Rank 3A:

All projects nearly ready to advertise within six months of a new financially constrained 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 financially constrained program list being generated AND;

Are Prop 1B **funded seismic** projects or;

Are scour countermeasure projects or rehabilitation or replacement of scour critical bridges, NBI item 113≤3.

Rank 3C:

All projects nearly ready to advertise within six months of a new financially constrained 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 item 41 coded B, D, E, K, P, or R.

Rank 5:

Includes Prop1B seismic retrofit 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 item 113 ≤3. ~~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, 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 the status of currently programmed projects from local agencies. Cost and schedule information provided from the survey ~~will~~ may 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 a high cost project commits 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 construct a 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 projects and through the DLAE, will contact 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 FSTIP, 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 needs to be programmed in the 4-year element of the FSTIP or as needed for an FHWA ~~required~~ ~~Projects of Division Interest~~ 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: Sample Funding Commitment Letter](#), and associated funding sheet, [Exhibit 6-F: Sample Funding Sheet for Commitment Letter](#), to the local agency for a high cost project that commits the Department, subject to state and federal budget legislation and other limitations, to specify HBP in the FSTIP over a multiple year period. [The Department will program the HBP funds in the FSTIP after the local agency executes the AC Commitment Block included in Exhibit 6-E.](#)

- 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 FSTIP 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 HBP 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~~ **must** 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 FSTIP 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 use 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 to a later date.

Bridge Investment Credit

Federal-aid highway funds provide 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 perform PM work on HBP eligible bridges using local funds, then 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 receive 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 [LAPG 6-A: HBP Application/Scope Definition](#) 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. [Local agencies will be notified of BIC approval.](#)

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 an 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 potential cost increases and scope changes.

As for any other HBP project, the project sponsor must submit an [LAPG 6-A](#) which clearly defines the scope and cost of the project. Cost on the submitted exhibit should be

100% federal funds. In addition to the [LAPG 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 ratio 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.

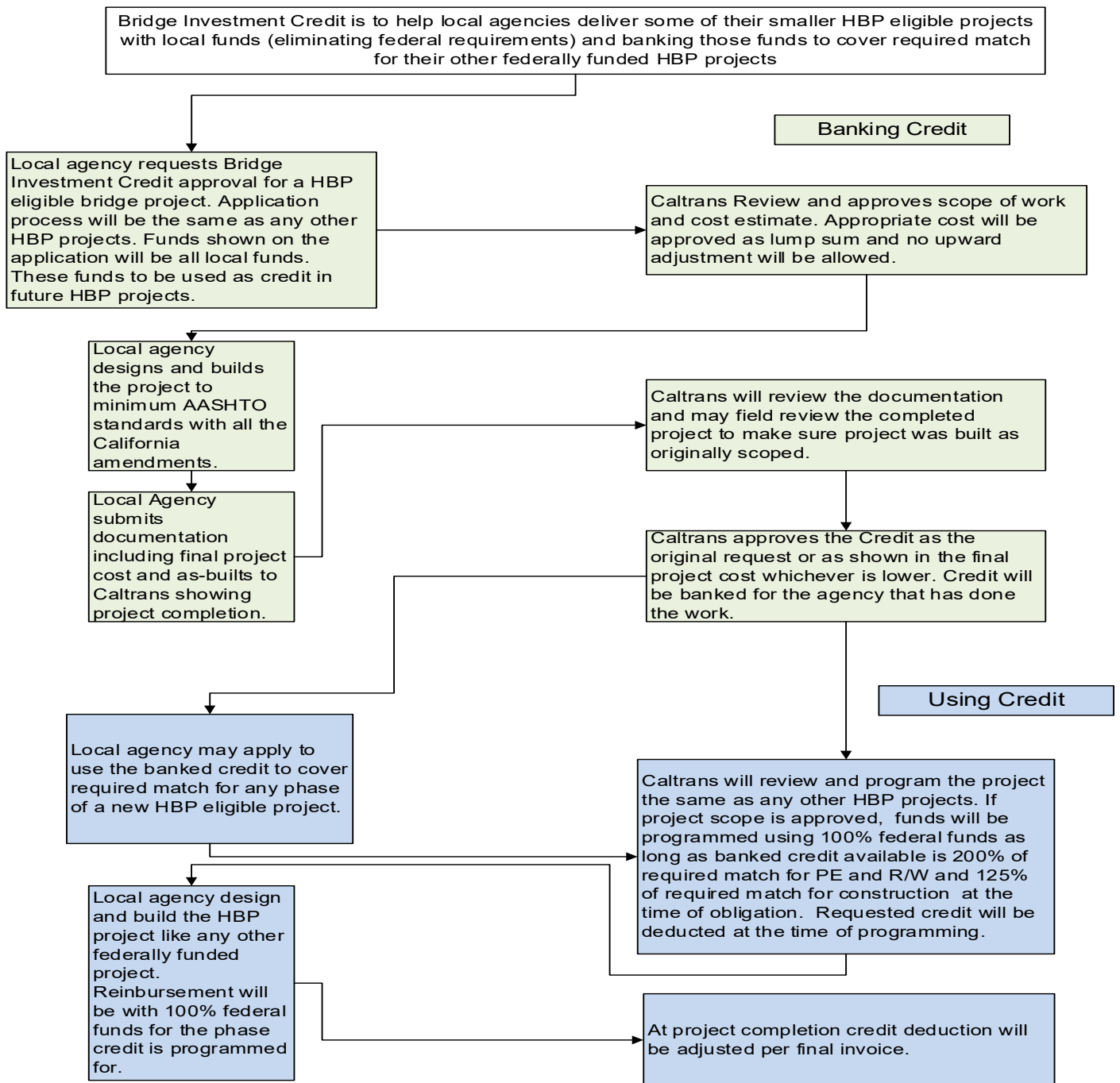


Figure 6-2: Bridge Investment Credit Concept Flowchart

6.8 Project Implementation

Once a project is programmed in an approved FSTIP, local agencies may request PE authorization for preparation of environmental documentation for NEPA clearance. The DLAE must 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 as-built plans are not 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~~ **must** 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~~ **must** be attended by:

- Design Consultants (Structural, Geotechnical, and Traffic if necessary)
- Local agency staff
- Caltrans DES staff from Earthquake Engineering, Design, Construction, Maintenance and/or Geotechnical.
- SLA
- DLAE

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 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~~ **must** be submitted to the DLAE. The DLAE ~~should~~ **must** forward the package to SLA ~~Office in Sacramento~~ two weeks prior to the scheduled strategy meeting.
- Any plans or reports pertinent to the proposed work such as 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~~ **must** 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~~ **must** be sent to all attendees. A copy of the Final Strategy Report will be kept on file in SLA.

Mandatory PS&E Review for Local Seismic Retrofit Projects

PS&E reviews at 100% completion are required for ~~Mandatory Seismic Projects that have Prop 1B as local match~~ all LBSRP projects. SLA will perform a cursory review of the 100% PS&E package of all seismic retrofit projects for concurrence with the Final Strategy Report. Concurrence must be in the form of a memorandum initialed by SLA and may include advisory comments.

Cost/Scope/Schedule Changes

If a cost/scope/schedule change occurs, the local agency must notify the DLAE immediately of the changes. A cover transmittal letter must 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 ([LAPG 6-D: 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 Caltrans DES.
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~~ generally the design calculations and plans have been completed but are unchecked.
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 must 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 must 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 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. HBP Managers decide how to proceed in major scope changes during final design. The DLAE ~~should~~ **must** consult with SLA, Caltrans District Environmental and the HBP Managers.

Where a major scope change is required, 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 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 [LAPG 6-D: HBP Scope/Cost/Schedule Change Request](#) 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 [the local agency must](#) choose the no build option, and 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 E-76 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.

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.~~

6.10 References

Local Assistance Program Guidelines

<https://dot.ca.gov/programs/local-assistance/guidelines-and-procedures/local-assistance-program-guidelines-lapg>

Local Assistance Procedures Manual

<https://dot.ca.gov/programs/local-assistance/guidelines-and-procedures/local-assistance-procedures-manual-lapm>

California Transportation Commission Resolution G97-05

<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>

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))

Code of Federal Regulations

<https://www.archives.gov/federal-register/cfr>

National Bridge Inventory Recording and Coding Guide

<https://www.fhwa.dot.gov/bridge/nbi.cfm>