Chapter 3 Project Authorization

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LAPM 3-A: Project Authorization/Adjustment Request
Exhibit 3-H: Request For Capital Subvention Reimbursement Allocation/De-Allocation
Exhibit 3-I: Request For Local Advance Construction Authorization
Exhibit 3-J: Request For Transfer of Federal Funds to the Federal Transit Administration (FTA)
Exhibit 3-K: Administrative Procedures For Transfer of Local Federal-Aid Funds to Federal Transit Administration
Exhibit 3-L: Local Assistance Project Prefixes
Exhibit 3-P: Sample “Delegated Project Authorization”
Exhibit 3-R: Non-Infrastructure Project Work Plan Sample

All LAPM Exhibits are located at:
https://dot.ca.gov/programs/local-assistance/forms/local-assistance-procedures-manual-forms
Chapter 3 **Project Authorization**

3.1 **Introduction**

**General**

Prior to beginning highway work for which federal reimbursement will be requested, the project or project phase must be formally authorized (approved) by the Federal Highway Administration (FHWA). Each federally funded phase of work such as Preliminary Engineering (PE), Right of Way (R/W), Utility Relocation (R/W-UTIL), and Construction (CON), requires a separate federal authorization (the authorization of federal funds may be subdivided within a phase as well). Any work performed prior to federal Authorization to Proceed, excluding At-Risk Preliminary Engineering (At-Risk PE) described in Section 3.3, is not eligible for federal reimbursement. Construction phase work performed prior to authorization may disqualify that phase.

On May 28, 2015, the FHWA and California Department of Transportation (Caltrans) entered into the current Joint Stewardship and Oversight Agreement (Agreement). This Agreement outlines the roles and responsibilities for oversight and approval of federally funded transportation projects under the jurisdiction of the FHWA. The Agreement defines two categories of projects - Delegated and Projects of Division Interest. For Delegated projects, the FHWA has delegated as many project oversight and approval actions to Caltrans as the law allows. On Projects of Division Interest projects, approval actions are determined on a project-by-project risk basis as agreed to by the FHWA and Caltrans. Regardless of whether the project is Delegated or Projects of Division Interest, Caltrans recommends federal authorization and the FHWA must formally authorize the work. The determination as to whether a project is Delegated or Projects of Division Interest is based on the criteria listed in Section 2.5: Projects of Division Interest Projects, and the process is defined in Figure 2-1 in LAPM Chapter 2: Roles and Responsibilities.

**Exception:** For Emergency Relief projects, prior FHWA approval is not required for Emergency Opening and PE. Permanent Restoration work must have prior FHWA program approval and authorization, unless the work is done as part of Emergency Opening repairs.

**Terms and Definitions**

**Advance Construction (AC)** – Advance Construction is a project authorization technique that allows the Federal Highway Administration to authorize a project without obligating Federal funds. FHWA is required to fully obligate the federal share of a federal-aid project at the time it executes a project agreement. Under an AC authorization, FHWA approves a project as being eligible for Federal funding but does not commit to funding the project. As such, the project must meet all Federal requirements except for the requirement to obligate funds. Projects authorized under Advance Construction procedures will not receive federal reimbursement until Federal funds become available and are obligated on a subsequent sequence.

**Allocation** - An administrative distribution of funds.

**Apportionment** - A statutorily prescribed division or assignment of funds. An apportionment is based on prescribed formulas in the law and consists of dividing authorized obligational authority for a specific program among the states.
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.

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.
Federal Authorization must precede any project phase for which federal reimbursement will be requested.

**Local Agency**

**Required Attachments**

Submit "Request for Authorization" (required for each federally-funded project phase)

**Initiate and make payments**

**Go to LAPM C.4 Agreements**

**Caltrans**

**Sign Federal/State PoDI Project Agreement**

**PoDI or Delegated Project?**

Delegated

**Recommend Project Authorization**

**Authorize Project**

**Obligate Federal Funds & execute Federal/State agreement in FMIS**

**FHWA**

Input data into Federal Aid Data System (FADS)

**Input data into Federal Aid Data System (FADS)**

**Issue "Authorization to Proceed" (E-76)**

**Figure 3-1: Financial Management Procedures**

Project Authorization / Obligation for Developing All Local Federal-Aid Projects
3.2 Prior to Federal Authorization

Prior to federal authorization, all federally funded transportation projects must be included in the current federally approved Federal Transportation Improvement Program/Federal Statewide Transportation Improvement Program (FTIP/FSTIP). The FTIP/FSTIP (or amendment thereto) must identify scope of work, project location, project sponsor, federally funded phases of work, programmed Federal Fiscal Year (FFY), and the types and amounts of federal funds. Emergency Relief (ER) projects that involve substantial functional, locational, or capacity changes also must be included in the FTIP/FSTIP.

For Intelligent Transportation Systems (ITS) projects and other projects with ITS elements, a preliminary classification of the project should be made as High-Risk (formerly Major), Low-Risk (formerly Minor), or Exempt. For further explanation, reference LAPG Chapter 13: Intelligent Transportation Systems (ITS) Program.

Non-capacity increasing projects funded by the following federal programs are typically included in Caltrans’ administered Lump Sum listing of projects. The following Lump Sum listings of projects are developed in cooperation with the Metropolitan Planning Organizations/Regional Transportation Planning Agencies (MPOs/RTPAs) and LPAs:

- Highway Bridge Program (HBP)
- Local Seismic Safety Retrofit Program (LSSRP)
- Highway Safety Improvement Program (HSIP)
- Federal Active Transportation Program (ATP)
- Federal State Transportation Improvement Program (STIP)

Projects funded with regionally programmed Surface Transportation Block Grant Program (STBGP) or Congestion Mitigation and Air Quality Improvement (CMAQ) funds may be included in a Regional Lump Sum listing of projects as adopted by the appropriate MPO/RTPA. The RTPA/MPO is responsible for project eligibility determination and financial constraint of the regional program. When a Local Public Agency (LPA) requests federal authorization of a project, the MPO/RTPA’s approved list of projects must be provided to the Caltrans District Local Assistance Engineer (DLAE).

Planning type projects funded with PL (MPO Planning Funds) or Section 5303 funds are not required to be listed in the FTIP/FSTIP when they do not lead to construction, however, these projects must then be included in a federally approved planning document such as an Overall Work Plan (OWP).

Soon after a project is selected and programmed for inclusion or amended into the FTIP/FSTIP, the sponsoring agency should contact the Caltrans DLAE to discuss how and when they plan to proceed with project implementation. The discussion should cover the timing and process for the authorization/obligation of federal funds, whether a Formal Field Review is required or recommended (see LAPM Chapter 7: Field Reviews), and the California Transportation Commission (CTC) allocation(s) of STIP funds, if necessary.

If federally funded work is to be performed by a consultant or contractor, the LPA must have a Caltrans approved California Department of Transportation Exhibit 9-A: Disadvantaged Business Enterprise (DBE) Implementation Agreement and the approved Exhibit 9-B: Local Agency DBE Annual Submittal Form. The Local Agency DBE Annual Submittal Form is due to
the DLAE by June 30 of each year for the following FFY (see LAPM Chapter 9: Civil Rights and Disadvantaged Business Enterprise).

Each LPA 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).

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 LPA 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 unless At-Risk PE is utilized. 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.
At-Risk Preliminary Engineering

Section 1440 of the FAST Act (Section 1440) authorizes FHWA to reimburse recipients and subrecipients for preliminary engineering (PE) costs incurred prior to project authorization, assuming the costs are for otherwise eligible activities on eligible projects, and the project and phase are included in a federally-approved Federal Statewide Transportation Improvement Program (FSTIP) document or amendment. If eligible, and once federal authorization is received, incurred costs can be reimbursed back to the effective date of the FAST Act, October 1, 2015 or the federal approval date of the FTIP/FSTIP, whichever occurs later.

Section 1440 does not waive any additional Federal-Aid Highway Program requirements. Projects must still meet all applicable cost eligibility conditions, and all conformity requirements of the Clean Air Act must be met. Section 1440 does not waive any federal A&E requirements and approvals (as documented in Chapter 10 of the Local Assistance Procedure Manual), such as for Consultants in a Management Support Role (CMSR), nor does it release LPAs from establishing DBE goals and requirements and evaluating GFE’s.

However, until authorized and obligated, these funds are still considered “At-Risk”. There is no guarantee of Federal funding for any pre-authorized/pre-obligated PE work. Recipients and subrecipients invoking Section 1440 authority assume all risk.

Reimbursements of funds can begin after funds are authorized and obligated by FHWA via the E-76. To ensure timely processing of invoices, LPAs will need to include the Effective PE Reimbursement Date on all invoices (LAPM 5-A) for reimbursement of incurred PE costs on all projects invoking Section 1440.

Policy

- Except for projects with federal funds that require allocation by the California Transportation Commission (CTC) (e.g., Active Transportation Program, Trade Corridor Enhancement Program, and State Transportation Improvement Program funds), LPAs may begin reimbursable PE work prior to receiving federal authorization for such work, assuming the project and phase are included in a federally-approved FSTIP document or amendment prior to incurring costs. Programming projects in the FSTIP or starting reimbursed work prior to authorization does not necessarily constitute eligibility of such projects for federal aid reimbursement.

- For projects with federal funding that require CTC allocation, only costs incurred after CTC allocation are eligible for reimbursement.

- Full funding for a subsequent phase of the project (final design, right-of-way acquisition, or construction) must be included in an approved FSTIP document or amendment before the NEPA document can be signed. Also, all project phases must be included in the fiscally constrained Regional/Metropolitan Transportation Plan before a NEPA document can be signed. If the “No Build” alternative is selected, the project may still be eligible for reimbursement under Section 1440.

Provided by LPA

- To invoke the flexibilities allowed under Section 1440 when submitting a request for authorization for the PE phase (LAPM 3-A), the LPA must provide both the original and current FSTIP document listing or amendment as supporting documents. As an alternative, only the current FSTIP listing may be provided if it references the date of the original FSTIP listing. However, in such instances, the original listing must be provided if
requested by Caltrans to meet programming requirements or if there are any questions or concerns for funding authorizations. The original FSTIP federal approval date documenting inclusion of the PE phase will be the “Effective PE Reimbursement Date”, whereby all otherwise eligible costs incurred on or after this Effective PE Reimbursement Date will be reimbursable. The original FSTIP listing does not need to specify federal funds to begin reimbursable work; however, federal funds will need to be included in the current FSTIP when an agency submits their authorization request.

Preliminary Engineering Phases Over Ten Years

23 CFR 630.112(c)(2), as well as USC Title 23 102(b), requires the following for any federal-aid project: in the event that right-of-way acquisition for, or actual construction of, the road for which this Preliminary Engineering is undertaken is not started by the close of the tenth fiscal year following the fiscal year in which the project is authorized, the LPA will repay to the FHWA the sum or sums of federal funds paid to the transportation department under the terms of the agreement.

FHWA Order 5020.1a published on June 8, 2018 provides policy direction on the repayment of federal-aid funds expended on Preliminary Engineering projects when reasonable progress has not been made toward R/W acquisition or construction. This directive also provides additional guidance clarifying when the FHWA can grant time extension.

Policy

- Projects that reach the status of PE over 10 years are out of compliance with 23 CFR 630.112(c)(2), as well as Section 102(b) of USC Title 23, unless the project has an approved time extension. All invoice requests for a project out of compliance will cease to be paid. The project will be reviewed for closure and repayment of federal funds.

- Projects that have not moved to either R/W or CON in 8 years, exceeded the 10-year deadline, or approved with a time extension, will be posted on the Division of Local Assistance (DLA) website.

- For any project in the PE phase that is within two years of reaching the 10-year deadline, the LPA may either submit a Request for Authorization (E-76) for R/W or CON, request a time extension request, or withdraw the project. If the time extension is denied, the project will be closed and federal funds repaid.

- LPAs must inform the District Local Assistance Engineer (DLAE) of projects that advance to the R/W or CON phase without the aid of federal funds to be closed and removed from the PE over 10 years list.

Local Public Agency

- Monitor projects in the PE phase for compliance.

- Submit Request for Authorization (E-76) for R/W or CON funds, if PE phase is completed.

- Inform the DLAE when the project advances to R/W or CON phase using local or state funds only (No federal funds).

- Submit a time extension request if the PE phase cannot be completed before the 10-year deadline.
• Ensure projects progress to either the R/W or CON phase before reaching the 10-year deadline or before the approved time extension request expires.
• Submit status update of approved projects to the DLAE at the beginning of each FFY that the time extension is in place.
• For denied time extension requests, close project and repay federal funds.
• Coordinate with the DLAE.
• Submit E-76 for R/W or CON, withdraw the project, or submit time extension request to DLAE 120 days before the end of the tenth fiscal year.

Time Extension Requests
Justifications for time extensions should be unforeseeable and beyond the agency’s control. Shifting political priorities, insufficient transportation budgets, additions to the scope of work, and staffing issues are not considered acceptable justification for a time extension request.

Some examples of acceptable justifications include:

• Litigation resulting in delay or stoppage of preliminary project design.
• Complex project consultations involving Federal, State and LPAs, as well as sovereign nations.
• Congressional Earmarks requiring review by FHWA.
• Change in the project's purpose and need due to the public involvement process.
• Utilization of a unique implementation or funding approach that the administering agency is not accustomed to carrying out, such as development of public-private partnerships or other innovative financing strategies to help finance the project.
• Delay caused due to environmental findings or complications with the environmental studies.

All projects with an approved time extension are expected to:

• Proceed to the R/W or CON phase prior to expiration of the time extension
• Submit a status update at the beginning of each FFY the time extension is in place
• Invoice against the federal funds in the timeframes outlined in 23 CFR 630.106(5) and LAPM Chapter 5: Invoicing to avoid inactivity

Time Extension requests are accepted continually throughout the year.

FHWA requires submittal of the following items with a time extension request:

**Provided by Local Public Agency:**

• [Time Extension Request Form](#)
• Applicable backup documentation for reason of delay
• Chronology of events leading to the delay (if litigation, supply a copy of the summary of the actual litigation documents filed with the acceptance date and stamp by the Court system)
 Updated schedule of future milestones (i.e., PE complete, NEPA approval, Final Design completion, construction award, etc.) helps demonstrate agency’s commitment to completing the project

 Current Finance Letter Issued

 Prior FHWA decision letters on time extension request, if applicable

**Provided by District DLAEs:**

 Copy of pending E-76 requesting funds

 Copy of initial E-76 for project

 Current project programing (FTIP)

 HBP-Program Listings for FTIP/FSTIP (compiled if Structures Project)

**Provided by PE>10 Projects Coordinator:**

 FMIS printouts showing project authorizations, expenditures and balances

**Intelligent Transportation Systems**

 ITS projects with no construction phase will be authorized as “Other” under the "Requested Reason." If an ITS project has an infrastructure construction phase, then the design funding will be authorized as “Preliminary Engineering” and the Construction/Integration funding will be authorized as “Construction” under the "Requested Reason."

 For Intelligent Transportation Systems (ITS) projects, PE includes Systems Engineering, equipment, software development, and use of a Systems Manager or Systems Integrator (see Chapter 13 Intelligent Transportation Systems (ITS) Program, of the LAPG for details on Systems Engineering and the project development process for ITS projects).

 The Systems Engineering Review Form (SERF) of High-Risk ITS projects must be approved by FHWA prior to or shortly after PE authorization. Development of the Systems Engineering Management Plan (SEMP) is contingent upon federal review comments and approval of the SERF. FHWA approval of the SEMP is required prior to proceeding to detailed component design.

 Low-Risk (formerly Minor) ITS projects can undergo the traditional one PE phase authorization and will not require FHWA approval of the SERF and SEMP. However, the LPA still must complete the SERF as part of the Field Review Form.

 Exempt ITS projects can undergo the traditional one PE phase authorization and will not require the SERF and SEMP.

**Right of Way**

 Eligible Right of Way (R/W) work includes the preparation of R/W plans, making economic studies, other R/W related-preliminary work, appraisal for parcel acquisition, review of appraisals, payments for real property acquired, preparation for and trial of condemnation cases, management of properties acquired, furnishing of relocation assistance, and other related labor expenses (see 23 CFR 710 for details). This work is reported in the LPA’s LAPM 3-A: Project Authorization/Adjustment Request. Only eligible work performed after federal Authorization to Proceed with R/W may receive federal reimbursement.
As noted above, some pre-acquisition R/W activities and studies necessary for project agreement approval and completion of the NEPA process may be authorized as part of PE. However, an approved NEPA document is required prior to the majority of R/W activities (e.g., negotiating with property owners, acquisition and relocation assistance), refer to LAPM Chapter 13: Right of Way. The request for R/W authorization must include an approved NEPA document.

**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.

LPAs are responsible for maintaining a detailed estimate of project CE costs in their project files. It is highly recommended that LPAs 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 will need justification by LPAs and approval by the DLAEs. See LAPM Chapter 12: Plan, Specifications & Estimate (Section 12.12: Estimate for more information on CE).

If Caltrans source inspection services will be requested, the LPA must submit/justify their request at least 30 days prior to LPA submittal of their Request for Authorization to Proceed with Construction. Caltrans may perform the requested source inspection services, subject to the availability of their inspectors (see Quality Assurance Program).

Some ITS projects may be fully deployed without ever advancing to construction. There are other ITS projects with non-construction activities, which might be handled as consultant, low-bid, or service contracts (see Section 13.9: Procurement/Construction of the LAPG).

Non-Infrastructure Projects
Non-infrastructure (NI) projects are those 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.

Federal-aid highway funds have primarily been used on highway construction projects. Recent highway acts have authorized the use of federal-aid highway funds for non-construction projects. For example, SAFETEA-LU mandated an allocation of 10-30% of the Safe Route to School Program (SRTS) funds to be used for non-infrastructure related activities. Other federal-aid funding programs that have been used for non-infrastructure projects are ATP and Congestion Mitigation and Air Quality (CMAQ) programs. The eligibility of non-infrastructure projects for federal participation is governed by the various federal funding program guidelines, such as ATP and CMAQ Programs. While it is apparent that projects receiving funding from the ATP program should be processed as NI projects, project sponsors receiving funding from other federal-aid programs should consult with their Caltrans District Local Assistance Engineer to see if their projects can be processed as NI projects.

For typical federal-aid highway construction projects, authorizations to proceed for federal-aid projects are granted to one of the project delivery phases, i.e., PE, R/W /Utility Relocation, or CON. NI projects do not neatly fit under any of the above traditional project phases. Due to various considerations such as the PE over 10 years rule and FTIP programming issues, federal Authorization to Proceed for NI projects will be processed under the NI phase using LAPM 3-A.

FTIP/FSTIP: Most NI projects are programmed in the FTIP/FSTIP as Grouped projects, also known as Lump-sum projects. As such, they are traditionally programmed in the Construction phase. NI projects that are individually listed in the FTIP/FSTIP must also be programmed under Construction.
Environmental Review: Even though NI projects do not involve the traditional engineering design, right of way, and ground disturbance during construction, environmental reviews are still required to ensure that the project will not have negative impacts on the environment. A full-scale preliminary environmental study (PES), however, may not be required for NI projects. Instead, the Preliminary Environmental Screening Form for Non-Infrastructure Projects (PES-NI) may be used to streamline the environmental reviews of NI projects. The approval of the PES-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 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 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. Invoicing needs to be submitted within 120 calendar days of the PED for FHWA to consider it eligible for reimbursement. The PED is established by adding twelve (12) months to the LPA'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 LPA 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, LPAs 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 LPA of the established PED along with the project authorization.
Revising the PED
The LPA is expected to monitor the progress of its project. If the need arises, the LPA may need to revise the PED to accurately reflect the amount of time needed to complete the project or phase of the project. This is readily done and documented as part of an agency's authorization request when the project progresses from one phase of work to the next, as the project's delivery schedule will be more refined. While working within a particular phase of work, however, to request a revision to the PED, the LPA must submit an updated LAPM 3-A and adequate justification to the District Local Assistance Engineer (DLAE). Examples of situations which may justify a revision to the PED include, but are not limited to: litigation, major changes in design, environmental or permit issues, construction claims, differing site conditions, significant additional work, area-wide material shortages, labor strikes, unusually severe weather, or other events which are outside the control of the LPA. This documentation must be submitted as a separate request to the DLAE. Revisions to the PED without Caltrans concurrence and FHWA approval may result in costs not being eligible for reimbursement.

Simultaneous Submittal of Allocation/ Authorization Requests
Projects programmed with federal funds requiring project specific CTC allocations (such as those in the State Transportation Improvement Program (STIP) and the Active Transportation Program (ATP) also require federal authorization to proceed before commencing with reimbursable work. See LAPG Chapter 25 for detailed procedures.
Local Agency Projects Equal or Over $100M (FP) & $500M (FP & PMP)

NOTES:
1. For major projects $500M and over, Financial Plan (FP) to be submitted prior to Construction Authorization and draft Project Management Plan (PMP) to be submitted prior to environmental determination (ROD, FONSI or CE)
2. For non-major projects $100M, but less than $500M, FP to be prepared and submitted with the request for Construction Authorization
3. Local Agency plan approval for Local Agency Non-Major Projects
4. FHWA plan approval for Major Projects

Figure 3-2: Major Federal-aid Project Flowchart
(refer to LAPM Chapter 2, Section 2.9 for details)
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 LPA 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. 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 LPA 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.
Figure 3-3: Capital Subvention Reimbursement Allocation and DE-Allocation Process
3.5 Allocation, Authorization, Encumbrance, & Reimbursement

The obligation of federal funds is a commitment by the FHWA to reserve the authorized federal funds for the project. The FHWA obligates federal funds for all federally funded projects under their jurisdiction. Typically, the obligation of federal funds is automatic upon federal authorization of the project (or phase of work) provided the state has sufficient Obligation Authority (OA) and federal fund balances for the current FFY.

DLA Finance Letter

For each request for federal authorization, the project sponsor must include LAPM 3-A, identifying the phases of work for which federal reimbursement is sought. In addition, the LAPM 3-A must specify the types and amounts of federal, state and local match funds contributing to the project.

The DLA Finance Letter (LP2000 Finance Letter) is a project specific financial summary document (prepared by the DLAE as part of the LAPM 3-A and approved by Caltrans DLA) required by CLPA as support documentation for the project funding agreement. The Finance Letter identifies:

- Project reference data such as responsible and administering agency(ies), project number, Project ID, PPNO, whether or not the project is on the State Highway, etc.
- Federally funded phases of work, to date.
- Total project costs and cost eligible for federal participation by phase of work, to date.
- Federal, state, local and other fund sources (by fund type and amount) funding each phase of work, to date.
- Federal reimbursement rates for progress invoice purposes (by phase of work and fund types).
- LPA certification and signature.
- Project specific remarks.

Program Supplement Agreements and State Budget Authority

Following the obligation of federal funds, State Budget Authority must be reserved by encumbering the funds on a project specific program supplement agreement (PSA). The PSA must be signed by the project sponsor and executed by Caltrans prior to requesting the reimbursement of funds (see LAPM Chapter 4: Agreements). The LP2000 Finance Letter is made part of the PSA by reference and contains the information in the bulleted list above.

In an effort to streamline the agreement process, revised agreements are typically no longer required for each phase of work. California Government Code 16304 stipulates that any federal and state local assistance funds encumbered for a project are typically available for disbursement for a period of six years from the beginning of the fiscal year(s) the funds are appropriated in the State Budget Act. A DLA prepared project Finance Letter (based on information provided by the project sponsor) is sent to the project sponsor and reflects various project fund reversion dates. It is imperative that an LPA request federal authorization only when they are ready to do the work and only for work that will be completed and invoiced within this time period. Federal authorization for the remaining project work should be requested at a future date.
Once the PSA has been executed by Caltrans Local Programs Accounting (CLPA) will encumber the funds with an appropriation year corresponding to the state fiscal year authorized for expenditure in the State Budget Act.

Since 2008-09, each annual State Budget Act has provided six years to encumber and liquidate (expend) all state and federal Local Assistance funding. This six-year term, or appropriation period, always begins on July 1 of the appropriation year even if the State Budget Act is signed late and also applies if funds are encumbered after July 1 of the state budget year. State budget authority lapses on June 30, six years after the appropriation period.

Section 16304.3 of the Government Code authorizes the Department of Finance to extend the liquidation period of an encumbrance up to eight years. If an encumbrance cannot be fully reimbursed (liquidated) within the six-year appropriation period, the LPA may apply for a Cooperative Work Agreement (CWA) to extend the liquidation period for up to two years. The LPA will need to apply for the CWA in the fall of the fifth year. For more information on the CWA process, please visit DLA’s CWA website.

If the LPA chooses not to apply for a CWA and the appropriation period lapses, the LPA will be responsible to finance the remaining balance with their own funding.

### Underfunded Projects

When the federal funds programmed for a project in the FTIP/FSTIP are insufficient to reimburse an LPA at the maximum federal reimbursement rate (legal pro rata) permitted for a federal fund type, the project is defined as federally underfunded. From a federal perspective, underfunded projects result in more federal projects for a given amount of federal funds. The increased oversight/administration costs make this an inefficient way of utilizing federal funds.

23 CFR 630.106 stipulates:

1. The federal-aid share of eligible project costs must be established at the time of project authorization in one of the following manners:
   - Pro rata, with the authorization stating the federal share as a specified percentage; or
   - Lump sum, with the authorization stating that federal funds are limited to a specified dollar amount not to exceed the legal pro rata.

2. The pro rata or lump sum share may be adjusted before or shortly after contract award to reflect any substantive change in the bids received as compared to the State Transportation Department’s (STD’s) estimated cost of the project at the time of FHWA authorization, provided that federal funds are available.

3. Federal participation is limited to the agreed federal share of eligible costs incurred by the state, not to exceed the maximum permitted by enabling legislation.

4. The state may contribute more than the normal nonfederal share of Title 23, U.S.C. projects. In general, financing proposals that result in only minimal amounts of federal funds in projects should be avoided, unless they are based on sound project management decisions.

Therefore, except as permitted by 23 CFR 630.106(f)(2), once a federal fund source is placed under agreement (E-76) for a phase of work, the pro rata reimbursement rate for that federal fund type (apportionment) and phase of work is fixed for the life of the project. In other words,
when a phase of work is placed under federal agreement (E-76), the project sponsor has agreed to deliver a scope of work for an agreed upon amount of federal funds. If project costs increase, the federal share of the eligible costs is fixed at the federal pro rata established at the time of the project was placed under agreement. For this reason, MPOs/RTPAs should strive to fund projects at the maximum federal reimbursable rate.

**Administrative Rules**

For Delegated projects, Caltrans DLAE will consider underfunding on a project-by-project basis. However, if there is a potential for a Region to lapse funds to the Use It or Lose It provisions of AB1012, Caltrans will not permit the initial underfunding of projects for that Region.

Many federal earmark and discretionary federal funding programs (Projects of Division Interest projects, Historic Bridge, and so forth) release or allocate federal funds on an annual basis. For long-term or high-cost projects, the total anticipated federal funds might not be available at the time of the initial federal authorization for the project phase of work. Therefore, for these types of funds, FHWA will permit adjustment to the federal pro rata as the federal funds become available.

**Federal Reimbursement of Underfunded Projects**

At the time of Federal Authorization (E-76), the federal reimbursement rate for a project or phase of work is established by dividing the authorized federal funds by the federal participating costs of work, not to exceed the legal pro rata.

For progress invoices, the federal reimbursement rate is limited to the rate established in FMIS by the most current Federal Authorization to Proceed/Obligation of Funds (E-76) at the time of award. On the final invoice, if the lump sum designation has been chosen, the federal reimbursement rate may fluctuate to ensure that the LPA receives the total federal funds to which it is entitled not to exceed the legal pro rata or obligated federal funds.

### 3.7 Local Advance Construction Procedures

When federal funds are not available for obligation due to an insufficient balance of funds or OA, an LPA may request in writing federal authorization to proceed with the project (or project phase) under advance construction procedures (see [Exhibit 3-I: Request for Local Advance Construction Authorization](#)).

Under local advance construction procedures, following federal authorization to proceed, the LPA will use its own funds to perform work eligible for future federal reimbursement. The LPA must have sufficient local funds to pay for all project costs until such time as federal funds become available. An FTIP amendment may be required when the Advance Construction Authorization is converted to a real obligation of federal funds (see [Exhibit 3-I: Request for Local Advance Construction Authorization](#)). The LPA must consider the risk that the federal funds may never become available. The following local federal-aid programs are eligible for Advance Construction:

- Congestion Mitigation & Air Quality Improvement (CMAQ) Program
- Regional Surface Transportation Block Grant Program (RSTBGP)
- Highway Bridge Program (HBP previously HBRRP)
- Emergency Relief (ER) Program
A project authorized under advance construction procedures must comply with all federal requirements including programming in the FTIP. Local advance construction federal authorization does not constitute a commitment of federal funds to the project, and a program supplement agreement will not be issued. The Federal Authorization date establishes the start date for performing federally reimbursable work. If and when federal funds become available, a follow-up Authorization to Proceed (E-76) must be processed to obligate the federal funds (i.e., place funds under agreement with FHWA). The project or project phase must be listed in the current FTIP/FSTIP at this time. The program supplement agreement between Caltrans and the LPA also must be executed and/or Finance Letter signed/approved by Caltrans before an LPA can receive federal reimbursement.

Note: Federal-aid projects utilizing tapered match provisions (discussed below) are not eligible for advance construction authorization.

3.8 Tapered Match
The use of tapered match provisions enables a project sponsor to vary the nonfederal share of a federal-aid project over time provided, the federal contribution toward the overall project does not exceed the federal pro rata limit.

Traditionally, a project sponsor is responsible for paying the required nonfederal share of the project costs on each invoice submitted for reimbursement. Under the tapered match approach, a nonfederal-matching ratio is assigned to the project, rather than individual payments. The federal share can be as high as one-hundred percent in the early stages of project reimbursement provided, that the overall federal contribution does not exceed the statutory federal-aid limit at the end of project completion.

Tapered match provisions cannot be used on advance construction projects, STP funded projects where the nonfederal match is being provided on program-wide-basis, and bond projects authorized under Title 23 Section 122. These activities are considered inconsistent with the intent of tapered match.

The use of tapered match provisions is subject to review and approval by both Caltrans (Office of Federal Resources) and FHWA (California Division). The project sponsor must submit written taper match plan to the DLA for review. The project sponsor must also show that they have their matching pro rata share available and are committed to providing it as applicable. The request must include the justification and a tapered match schedule.

The FHWA may approve cases where tapered match would:

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

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

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

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

- **Cash** – Private, state, and local entity funds must be received during the period between project approval/authorization and submittal of the project final voucher.

- **Right of Way** – Private, state, LPA property may be donated any time during the project development process. The property must be appraised to determine the fair market value and must be included in the total project cost. The donation of the property must not influence the NEPA process.

- **Materials** – Private and local entity donation of materials must be appraised to determine fair market value. Credit for state donated materials is not permitted.

- **Services** – State and local entity services may only be credited toward the nonfederal match for Transportation Enhancements (TE) projects. Private donation of services must be documented as to fair market value.

In addition to the referenced flexible match opportunities above, certain sources of federal grant funds may be eligible to match certain categories of highway projects.

### 3.10 Toll Credit in Lieu of Non-Federal Match

Section 1508 of the Moving Ahead for Progress in the 21st Century Act (MAP-21) as established under Section 120(i) of Title 23 of the United States Code (USC) authorizes states to use certain toll revenue expenditures as a credit toward the non-federal matching share of programs authorized by Title 23 (except for the Emergency Relief (ER) Program) and for transit programs authorized by Chapter 53 of Title 49 of the USC.

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

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

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


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

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

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

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

- The intended use of toll credits is explicitly expressed in the LAPM 3-A by marking the appropriate toll credit box;
- Federal reimbursement rate of those funds utilizing toll credits must be 100%, excluding federally non-participating costs;
- Programmed in the current Federal Statewide Transportation Improvement Program (FSTIP), or post-programmed, as using toll credits;
- The project is funded from one of the programs listed in Caltrans’ Statewide Toll Credit Use Policy.

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

**Scenario A – Traditional Project Funding with Match**

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

<table>
<thead>
<tr>
<th>Prog Code</th>
<th>Total Cost</th>
<th>Participating Cost</th>
<th>Federal Funds</th>
<th>Non-Federal Funds</th>
<th>Toll Credit</th>
</tr>
</thead>
<tbody>
<tr>
<td>M240</td>
<td>$120,000</td>
<td>$100,000</td>
<td>$88,530</td>
<td>$31,470</td>
<td>$0</td>
</tr>
</tbody>
</table>

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

**Scenario B – Toll Credit Funding**

When toll credit is being applied to the project, it will be used as a credit toward the non-federal share or $11,470. Since toll credits are not federal funds, federal share must be increased to accommodate the reduction of Non-Federal funds resulting from the toll credit being used as indicated in the following Table 2.
The federal fund amount required is changed from $88,530 (88.53%) to $100,000, the total Participating Cost, and the non-federal funding amount is equal to the non-participating amount. This option is not applicable for Local HBP projects on the State Highway System and Highway Safety Improvement Program (HSIP) projects (see Scenario C below).

**Scenario C – Toll Credit with Dual Federal Funding**

This scenario is for an HSIP project using STP funds as a match. When other types of federal funding are being applied as a match to the project, each fund must be treated as a separate funding component with 100% federal funding and a corresponding toll credit. A toll credit value equal to the required non-federal match will be applied to each of the federal funding lines as indicated in Table 3.

### Table 3 - Use Toll Credit With Federal Funding

<table>
<thead>
<tr>
<th>Funding Line</th>
<th>Prog Code</th>
<th>Total Cost</th>
<th>Participating Cost</th>
<th>Federal Funds 1</th>
<th>Federal Funds 2</th>
<th>Toll Credit</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>MS30 (HSIP)</td>
<td>$90,000</td>
<td>$90,000</td>
<td>$90,000</td>
<td>$0</td>
<td>$9,000</td>
</tr>
<tr>
<td>2</td>
<td>M240 (STP-Match)</td>
<td>$10,000</td>
<td>$10,000</td>
<td>$0</td>
<td>$10,000</td>
<td>$1,147</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$100,000</strong></td>
<td><strong>$100,000</strong></td>
<td><strong>$90,000</strong></td>
<td><strong>$10,000</strong></td>
<td><strong>$10,147</strong></td>
<td></td>
</tr>
</tbody>
</table>

For this example, the required non-federal match for HSIP funding line #1 is $9,000 (10%). For funding line #2 the required match for STP funding is $1,147 (11.47%). Therefore, the total amount of toll credit applied to this project is $10,147. This option is applicable for On-System Local HBP projects and Highway Safety Improvement Program (HSIP) projects.

**Local Public Agencies:**

- Work with the respective Metropolitan Planning Organization (MPO) or RTPA to ensure the use of toll credit is appropriate and that such use is properly programmed in the MPO’s Federal Transportation Improvement Program (FTIP), and subsequently in the Federal Statewide Transportation Improvement Program (FSTIP);
- Submit LAPM 3-A indicating the use of toll credits for the project; Federal funds must equal 100% of the total participating costs. Include a comment in the Remarks section of the Finance letter for the use of toll credits; and
- After receiving Authorization to Proceed, an executed Program Supplemental Agreement (PSA), and a State approved Finance Letter. Invoices for eligible costs may be billed at 100% of the participating costs.
Assume a project need of $100,000.

With funds that you can normally use toll credits with, you have the breakdown below:

<table>
<thead>
<tr>
<th></th>
<th>TOTAL</th>
<th>PARTICIPATING</th>
<th>FEDERAL 1</th>
<th>LOCAL</th>
<th>TOLL CREDIT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Traditional</td>
<td>$100,000</td>
<td>$100,000</td>
<td>$88,530</td>
<td>$11,470</td>
<td>$0</td>
</tr>
<tr>
<td>Toll Credit</td>
<td>$100,000</td>
<td>$100,000</td>
<td>$100,000</td>
<td>$0</td>
<td>$11,470 (11,470 x .1147)</td>
</tr>
</tbody>
</table>

Using On-System Bridge funds, you must have a second non-HBP source of federal funds to make it work:

<table>
<thead>
<tr>
<th></th>
<th>TOTALPARTICIPATING</th>
<th>ON SYS HBP</th>
<th>STP</th>
<th>LOCAL</th>
<th>TOLL CREDIT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Traditional</td>
<td>$100,000</td>
<td>$100,000</td>
<td>$88,530</td>
<td>$0</td>
<td>$11,470</td>
</tr>
<tr>
<td>Toll Credit (HBP piece)</td>
<td>$88,530</td>
<td>$88,530</td>
<td>$88,530</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>Toll Credit (STP piece)</td>
<td>$11,470</td>
<td>$11,470</td>
<td>$0</td>
<td>$11,470</td>
<td>$0</td>
</tr>
<tr>
<td>TOTAL</td>
<td>$100,000</td>
<td>$100,000</td>
<td>$88,530</td>
<td>$11,470</td>
<td>$0</td>
</tr>
<tr>
<td>Toll Credit (STP piece)</td>
<td>$11,470</td>
<td>$11,470</td>
<td>$0</td>
<td>$11,470</td>
<td>$0</td>
</tr>
</tbody>
</table>

If, for example, the second fund source is DEMO, it would breakdown like this:

<table>
<thead>
<tr>
<th></th>
<th>TOTALPARTICIPATING</th>
<th>ON SYS HBP</th>
<th>DEMO</th>
<th>LOCAL</th>
<th>TOLL CREDIT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Traditional</td>
<td>$100,000</td>
<td>$100,000</td>
<td>$88,530</td>
<td>$0</td>
<td>$11,470</td>
</tr>
<tr>
<td>Toll Credit (HBP piece)</td>
<td>$88,530</td>
<td>$88,530</td>
<td>$88,530</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>Toll Credit (DEMO* piece)</td>
<td>$11,470</td>
<td>$11,470</td>
<td>$0</td>
<td>$11,470</td>
<td>$0</td>
</tr>
<tr>
<td>TOTAL</td>
<td>$100,000</td>
<td>$100,000</td>
<td>$88,530</td>
<td>$11,470</td>
<td>$0</td>
</tr>
<tr>
<td>Toll Credit (DEMO* piece)</td>
<td>$11,470</td>
<td>$11,470</td>
<td>$0</td>
<td>$11,470</td>
<td>$0</td>
</tr>
</tbody>
</table>

Toll Credit (DEMO* piece)  | $11,470     | $11,470    | $0      | $11,470 | $0          |
| TOTAL             | $100,000           | $100,000   | $88,530 | $11,470 | $0          |
| Toll Credit (DEMO* piece)  | $11,470     | $11,470    | $0      | $11,470 | $0          |
| TOTAL             | $100,000           | $100,000   | $88,530 | $11,470 | $0          |
| Toll Credit (DEMO* piece)  | $11,470     | $11,470    | $0      | $11,470 | $0          |
| TOTAL             | $100,000           | $100,000   | $88,530 | $11,470 | $0          |

Note: Eligibility must be check when using DEMO or any other Federal funds in-lieu of the Local match.

**Figure 3-4: Toll Credit Example**
3.11 FTA Transfer

Under provisions of the FAST Act, state, regional, and LPAs have greater opportunity to select transit-related projects to meet their transportation needs. These provisions include:

- Expanded eligibility criteria under major funding programs (including STBGP and CMAQ) to implement both highway and transit improvements,
- The ability to transfer federal funds from one funding program to another permitting the implementing agencies to capitalize on expanded eligibility (e.g., HBP to STBGP), and
- The ability to transfer federal funds from the jurisdiction of the FHWA to that of the FTA and vice versa.

Section 134(k) of Title 23 of USC requires that Title 23 funds made available for public transit projects, typically administered by the FTA, be transferred from the FHWA to the FTA. These transferred funds are administered in accordance with the requirements of Chapter 53 (Mass Transportation) of Title 49 (Transportation), except that Title 23 (Highways) provisions related to the nonfederal share must apply. Transit-related highway projects, typically administered by FHWA, should remain under the jurisdiction of FHWA. For transit projects that could be processed through either FHWA or FTA, the LPA and/or MPO may select the administering federal agency via placement of the project in the FTIP or FSTIP.

All FHWA apportioned federal funds must be programmed in an FHWA/FTA approved FSTIP prior to transferring the funds to FTA. The transferred funds must be used for the original programmed intent and remain eligible under the funding program. In other words, using the transferred federal funds for a different purpose than originally programmed is not permitted.

The FTA will only accept transfer applications from recognized transit operators. Most transit agencies are familiar with and often prefer to use FTA project implementation procedures. If a project is programmed to receive both FHWA and FTA apportioned funds, the transfer of funds facilitates the use of one set of project implementation procedures.

Highway Funds Eligible for Transfer

From a procedural perspective, local assistance federal funds, which can be transferred to FTA, fall into 2 categories: 1) Local federal-aid funds, and 2) Federal STIP funds. The Caltrans DLA Office and Headquarters DLA process the transfer of local federal-aid funds and Active Transportation Program (ATP) funds. The Headquarters Division of Mass Transportation (DMT) and Office of Federal Resources (OFR) process Federal STIP fund transfers except for STIP ATP funds.

Local federal-aid fund categories eligible for transfer to FTA include:

- **Regional Surface Transportation Block Grant Program (RSTBGP)** - Eligible transit activities include transit capital projects, including vehicles and facilities, publicly or privately owned that are used to provide intercity bus service, and safety improvements for transit. However, RSTP funds may not be used for Section 5307 (Urbanized Grant Program, discuss later) operating expenses.

- **Congestion Mitigation and Air Quality Improvement (CMAQ) Program** - CMAQ funds must be used to support transportation projects in air quality nonattainment areas. A CMAQ funded project must contribute to the attainment of the national ambient air quality standards by reducing pollutant emissions from transportation sources. Eligible
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 (U.S.C.). 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 LPAs 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 LPA 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 LPAs 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
are, otherwise unavailable, insufficient or inappropriate. Similar to Section 5311 procedures, the Caltrans DMT'Specialized Federal Transit Branch acts as the grant applicant on behalf of the LPA and works directly with FTA. Section 5310 funds typically are used to purchase vans and small buses for the elderly and persons with disabilities.

FTA Transfer Procedures

Under ISTEA the transfer of FHWA funds to the FTA was accomplished via the Federal Authorization and Obligation Process (E-76). The transferred federal funds remained with FHWA (Washington D.C.) until the FTA submitted project invoices that were reimbursed by the FHWA.

The FHWA and FTA have since developed procedures that provide for the direct transfer of federal funds and Obligation Authority (OA) to the recipient federal agency. Caltrans submits a formal FTA transfer request to the FHWA (California Division) via an Exhibit 3-J: Request for Transfer of Federal Funds to the FTA letter. Upon FHWA concurrence, the federal funds are transferred and deducted from the appropriate State and RTPA/MPO apportionment balances.

See Exhibit 3-K: Administrative Procedures for Transfer of Local Federal-aid Funds to the Federal Transit Administration for a step-by-step discussion of the transfer of FHWA apportioned local federal-aid funds to the FTA.

STIP

Federal-aid funds programmed in the STIP also may be transferred to the FTA. The DLAE and DLA are not involved in the transfer process (except for ATP funds) instead, Caltrans DMT and the Office of Federal Resources within the Division of Budgets process the transfer of these funds. Detailed procedures for Transfer of STIP to the FTA funds under the Section 5307, 5311, and 5310 Grant programs are available on the Caltrans DMT website.

Upon transfer of FHWA apportioned federal funds to the FTA, the Applicant Agency, typically will deal directly with the FTA on all subsequent project-related matters. However, occasionally a FTA transfer project may qualify to receive State Match Funds through the STIP.

The project must be programmed to receive the STIP State Match Funds by an RTPA/MPO and be used, eligible activities under Article XIX of the California State Constitution.

Prior to reimbursement with STIP State funds: 1) the CTC must allocate the STIP match funds, 2) a Program Supplement Agreement (PSA) between the Applicant Agency and Caltrans must be signed and executed, 3) the Applicant Agency must prepare and sign a project specific Finance Letter, and 4) the Applicant Agency must provide evidence that payment of federal funds was invoiced/received from the FTA. Invoice format and procedures must adhere to LAPM Chapter 5: Invoicing.

3.12 MPO/RTPA Programmed Fund Balances

Under state law, certain federal funds are apportioned to the RTPA/MPO regions by formula. These funds include RSTP and CMAQ funds. These funds are programmed to LPAs for specific projects through the FTIP/FSTIP processes. Both Caltrans and the FHWA monitor the obligation and balance of federal funds. Caltrans maintains reports showing the obligation of funds summarized at the District, MPO and county levels. These reports show fund balances and list the individual city and county projects. Please refer to the Division of Local Assistance Home Page for balances.
3.13 References

23 CFR 635.301 et. seq.
http://www.fhwa.dot.gov/legsregs/legislat.htm

23 CFR 630.106
http://www.dot.ca.gov/hq/LocalPrograms/PE_over_10yrs/23cfr630_106.pdf

23 CFR 645
http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title23/23cfr645_main_02.tpl

23 CFR 940
http://www.fhwa.dot.gov/legsregs/directives/fapg/cfr0940.htm

USC 134(k)

23 USC 120(j)

49 USC, Section 5301, et. seq. (Federal Transit Laws)

https://www.fhwa.dot.gov/programadmin/if99006.cfm

Cooperative Work Agreement
https://dot.ca.gov/programs/local-assistance/projects/cooperative-work-agreement-cwa

Federal-Aid Data System Instructions 06/06/02
http://www.dot.ca.gov/hq/LocalPrograms/IPP/98-09/LPP06-04.pdf

Federal Uniform Relocation Assistance and Real Property Acquisition Act


Joint Stewardship and Oversight Agreement (Stewardship Agreement)