

# Chapter 15 Advertise and Award Project

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## Exhibits

[Exhibit 15-A: Local Agency Construction Contract Administration Checklist](#)

[Exhibit 15-B: Resident Engineer's Construction Contract Administration Checklist](#)

[Exhibit 15-C: Project Advertising Checklist](#)

[Exhibit 15-D: Bid Tabulation Summary Sheet \(Sample\)](#)

[Exhibit 15-G: Constuction Contract DBE Commitment](#)

[Exhibit 15-H: DBE Information - Good Faith Efforts](#)

[Exhibit 15-I: Local Agency Bid Opening Checklist](#)

[Exhibit 15-L: Contract Award Checklist](#)

[Exhibit 15-M: Detail Estimate](#)

All LAPM Exhibits are located at:

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

## Chapter 15 Advertise and Award Project

### 15.1 Introduction

LAPM Chapter 15, [LAPM Chapter 16: Administer Construction Contract](#), and [LAPM Chapter 17: Project Completion](#) are for use by Local Public Agencies (LPAs) who administer federal-aid construction projects under an Administering Agency-State Agreement. When a locally sponsored project is within the State Right of Way (R/W) and the State (Caltrans) is the administering agency, the State's Construction Manual is used.

This chapter covers the activities beginning with advertising of a construction contract and continuing through the bid opening, award, and detail estimate procedures. It has been prepared mainly as a guide for administration of federal-aid contracts by LPAs. Each LPA Resident Engineer (RE) should be familiar with the contents of this chapter, [LAPM Chapter 16: Administer Construction Contract](#), and [LAPM Chapter 17: Project Completion](#) before administering such contracts.

This step can only start once the Environmental, Design, and R/W work for the federal-aid project is complete and the LPA is ready to hire a contractor.

### 15.2 Approval for LPA to Administer Projects

#### 15.2.1 Significant NHS Projects

Caltrans must approve the LPA's construction administration procedures before the LPA can advertise the construction of a federally financed significant NHS project (see [LAPM Chapter 7: Field Review](#) for the determination by the District Local Assistant Engineer (DLAE) of which NHS projects will be considered significant). The procedures should be discussed in general at the field review and detailed written procedures must be approved by the DLAE before the LPA will be allowed to administer any construction contracts for the project. Additionally, the LPA must not advertise the project until it has received in writing an Authorization to Proceed with construction from Caltrans (see [LAPM Chapter 3: Project Authorization](#)).

The written construction administration procedures should cover the following items:

- Construction Management personnel and procedures
- Consultant use and selection
- Employee in Responsible Charge
- Project advertisement, bid opening and award procedures
- Pre-Construction procedures
- Subcontracting
- Traffic Safety procedures
- Materials Testing
- Change order review and approval procedures
- Oversight procedures if a state highway is involved
- Maintenance of records and access
- Estimates and Progress Payment

The DLAE will consult with HQ DLA for assistance with the review and approval of the LPA procedures.

### 15.2.2 All Other Projects

Approval by Caltrans of the LPA's construction administration procedures will not be required for all other projects. However, each LPA 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. The LPA 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](#)).

## 15.3 Project Advertisement

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 states: "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 LPA personnel, unless arrangements are made to hire a consultant. If a consultant is used, the LPA 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](#).

Each LPA 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 Proficiency (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

Projects must not be advertised for bids, nor any project work (by contract or other than contract) be undertaken, and no materials be purchased on any federal-aid project, prior to issuance of Authorization to Proceed by FHWA. Violation of this requirement will 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 and award costs may be charged to the preliminary engineering or construction engineering work authorization if such authorization has been requested and has been established for the purpose of federal reimbursement.

### 15.3.1 Prequalification of Contractors

The Federal Highway Administration (FHWA) permits the use of a prequalified list of Prime Contractors developed by the LPA, in accordance with 23 CFR 635.110(a). 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 the LPA 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 LPA would submit a package to their DLAE 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:

1. Contractors are prequalified on a project-by-project basis. In such a case, LPAs 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.
2. 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 LPA 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. LPAs should consult with their DLAE staff regarding federal participation for contractor prequalification.

For further information and discussion on prequalification of bidders, see the AASHTO publication on Suggested Guidelines for Strengthening Bidding and Contract Procedures.

### 15.3.2 Procedures

Upon receipt of [Authorization to Proceed for construction from Caltrans](#), the LPA can proceed to [advertise the project](#). LPAs should complete and retain [Exhibit 15-C: Project Advertising Checklist](#) in the project files prior to [advertisement](#).

During the advertising period, the LPA must notify all prospective bidders of PS&E addenda in the same manner as all other nonfederal-aid projects. For award of federal-aid contracts, the LPA is required to certify that all bidders certify receipt of all addenda. The LPA must ensure free and open competition. The advertisement period is determined by the LPA. A minimum advertisement period of three weeks is required for all federal-aid projects. Caltrans DLAE may approve shorter periods in special cases where justified with a LPA's [Exhibit 12-F: Cost – Effectiveness/Public Interest Finding](#). The advertising period begins with publication of a Notice to Contractors. Advertisement in a newspaper receiving wide local circulation, technical publications of widespread circulation, contractor/professional associations and societies, recognized DBE organizations, web hosting or clearinghouses known for posting government contract solicitations such as BidSync, and/or posting on the LPA's or other widely used social media/websites are all acceptable methods of solicitation. The Notice must identify the DBE goal. The LPA is responsible to approve and issue all addenda to the PS&E during the advertising period.

The LPA must assure that all updated estimates are fundable from available local or federal resources.

Upon advertising of the project, the LPA must furnish the DLAE with an electronic copy of the as-advertised construction contract (including plans and special provisions).

### 15.3.3 Federal Wage Rate Determinations

For contracts entered pursuant to competitive bidding procedures, LPAs must monitor the federal wage rate determinations to determine if federal prevailing wage rates have been modified from the time of initial advertisement to 10 calendar days prior to bid opening. If federal prevailing wage rates are modified, LPAs are required to issue an addendum to incorporate the modified version of the federal prevailing wage rates into the contract.

LPAs are also required to monitor federal wage rate determinations up until bid opening. If federal prevailing wage rates are modified, LPAs are required to either issue an addendum to incorporate the modified version of the federal prevailing wage rates to the contract or document in the project files that there is not a reasonable time still available before bid opening to notify bidders of the revision.

The federal prevailing wage rates must be physically attached to the executed contract signed by the LPA and the contractor on all federal-aid construction projects exceeding \$2,000 and to all related subcontracts (regardless of tier or subcontract size). Projects located on roads classified as local roads or rural minor collectors may be exempt from this requirement.

If the contract is not awarded within 90 calendar days of bid opening, the LPA must insert the most current federal prevailing wage rates into the contract.

## 15.4 Contract Bid Opening

The contract bid opening is a public forum for the announcement of all bids and is that point in time where the bids are opened and read aloud. It is also the last moment that bids can be accepted. No bids can be accepted during or after bids are opened. Normally the

advertisement/bid documents will state a final time in which bids can be accepted. For bidders, the reading of the bids confirms whether their bid is successful. For the LPA and the general public, this forum establishes the cost to build the project. The bid opening requirements as outlined below apply to all federal-aid highway construction projects.

### 15.4.1 Requirements

FHWA policy requires all bids to be opened publicly and read aloud either item-by-item or by total amount. If a bid is not read, the bidder is to be identified and the reason for not reading the bid announced. [The LPA may also post the bids in a timely manner at a location accessible to the general public, such as on the LPA's web page while noting the reason for not reading them aloud.](#)

Reasons for not reading a bid include the bid itself being nonresponsive, often called irregular or the bidder is determined to be unreliable. Responsive bid and responsible bidder are defined as:

A Responsive bid is one that meets all the requirements of the advertisement and proposal, meaning all bid-related paperwork or electronic forms are completed and signed. A Responsible bidder is one who is physically organized and equipped with the financial ability to undertake and complete the contract. A Responsible bidder is also one that is not suspended or debarred, or whose business ethics have not been otherwise determined to be inadequate.

Among the reasons a bid may be considered non-responsive and be precluded from reading are:

- Failure to sign the bid, not signing the bid in ink, or not supplying a valid electronic signature where electronic bidding is used.
- Failure to furnish the required bid bond
- Failure to include a unit bid price for each item
- Failure to include a total amount for the bid
- Failure to prepare the bid in ink
- Failure to submit a completed addenda certification statement
- Failure to submit a non-collusion affidavit
- Failure to commit to the achievement of the DBE contract goals or demonstrate good faith efforts to do so
- Inclusion of conditions or qualifications not provided for in the specifications
- Submission of a materially and mathematically unbalanced bid
- Not meeting specified prequalification, or bonding and insurance requirements

The above examples do not include all possible bidding irregularities. The LPA's standard specifications govern regarding what constitutes a bidding irregularity. Accordingly, the LPA's bidding documents should clearly identify those requirements with which the bidder must comply to make the bid responsive.

Just as the bid may be rejected for being irregular or unresponsive, a bid may also be rejected on the grounds that the bidder is not a responsible bidder. A bidder may be deemed not responsible because of past unsatisfactory performance, as evidenced by failure to meet the LPA's qualification requirements, or because of state or federal suspension/debarment action. The LPA should check to see if a contractor is suspended or debarred from federal contracts [and](#)

document in the project file that the LPA has verified that the low bidder and subcontractors have not been suspended or debarred. A publication titled “A Listing of Parties Excluded from Federal Procurement and Non-procurement Programs” is available at [www.sam.gov](http://www.sam.gov).

Note: Contractor’s Debarment and Suspension Certification is part of [Exhibit 12-H: Sample Bid](#).

In summary, a successful bid opening should identify the responsible bidder submitting the lowest responsive bid.

### 15.4.2 Procedures

The LPA must follow its own procedures for bid opening, provided such procedures include:

- As bids are received, they must be logged in and stamped with the time and date.
- The bids must be retained in a secure place until the designated time and place for public opening.
- All bids received in accordance with the terms of the advertisement must be publicly opened and announced either item by item or by total amount.
- If any bid received is not read aloud or posted at a location accessible to the general public, the name of the bidder and the reason for not reading the bid aloud must be publicly announced or noted at the bid opening.
- Negotiation with contractors, during the period following the opening of bids and before the award of the contract, must not be permitted.

The LPA’s bidding procedures must not discriminate against any qualified bidder regardless of political boundaries. No bidder must be required to obtain a license before submitting a bid or before the bid is considered for award of a contract, which includes federal financing; however, a State contractor’s license must be obtained upon award of the contract. The LPA may also withhold payment under such contract until such time as the contractor furnishes proof of a proper license in compliance with state laws. The LPA must not bid in competition with or enter into a subcontract with private contractors. As bids are received, they must be logged in and stamped with the time and date. The bids must be retained in a secure place until the designated time and place for public opening.

The LPA must retain the following completed documents for the successful bidder in the project file:

- [Exhibit 15-G: Construction Contract DBE Commitment](#)
- A list of bidders and total amounts bid with an item-by-item breakdown (see [Exhibit 15-D: Bid Tabulation Summary Sheet \(Sample\)](#)) of the three lowest bidders
- The Non-collusion Affidavit (see [Exhibit 12-H: Sample Bid](#))
- [Exhibit 15-I: Local Agency Bid Opening Checklist](#)

Where the lowest bid exceeds the engineer’s estimate by an unreasonable amount as defined by established agency procedures, or where competition is considered to be poor for the size, type, and location of project, bids may be rejected unless an award of contract is justified as being in the best interest of the public. See [Section 15.5: Contract Award \(Bid Analysis Process\)](#) and guidelines on [Preparing Engineer’s Estimate, Bid Review and Evaluation](#).

The LPA must assure that all bids submitted include a completed addenda certification statement. The addenda certification statement is as follows:



Addenda – This bid is submitted with respect to the changes to the contract included in addendum number/s\_ (Fill in number/s if addenda have been received).

Warning – If an addendum or addenda have been issued by the LPA and not noted above as being received by the bidder, this Bid may be rejected.

## 15.5 Contract Award

### WARNING

Federal Authorization to Proceed must be issued prior to advertising for bids, starting any project work (by contract or other than contract), or purchasing of materials on any federal-aid project. Violation of this requirement will result in the loss of federal funding.

The contract award is a critical milestone for all federal-aid projects. At this point, the LPA must have a complete financial package assuring adequate funding for the project. The LPA must award federal-aid contracts on the basis of the lowest responsive and responsible bidder. It is the LPA's responsibility to assure that all successful bidders are licensed contractors upon award of any contract incorporating state or federal-aid funds.

### 15.5.1 Bid Analysis Process

The LPA should conduct a bid analysis for each project. The bid analysis is required for projects on the National Highway System (NHS). The bid analysis is the process performed to justify the award or rejection of the bids and should assure that good competition and the lowest possible cost were received. A proper bid analysis better ensures that funds are being used in the most effective manner. A bid analysis also assists the agency in preparing accurate engineering estimates on future projects.

The bid analysis process is an examination of the unit bid prices for reasonable conformance with the engineer's estimated prices. Beyond the comparison of prices, other factors that a bid analysis may consider include:

- Number of bids
- Distribution or range of the bids
- Identity and geographic location of the bidders
- Urgency of the project
- Unbalancing of bids
- Current market conditions and workloads
- Potential for savings if the project is re-advertised
- Comparison of bid prices with similar projects in the letting
- Justification for significant bid price differences
- Other factors as warranted

The Caltrans Contract Cost Database is available to assist LPAs in preparing accurate engineers estimates: <https://sv08data.dot.ca.gov/contractcost/>.

Not all the factors above need to be considered for bids that indicate reasonable prices or show good competition. However, when the low bid exceeds the engineer's estimate by an



unreasonable amount, a more thorough analysis should be undertaken to determine if the bids should be rejected or a justification for award of the contract can be made. To justify award of a contract under these circumstances, the following criteria should be examined:

- Was competition good?
- Is the project essential and deferral would be contrary to public interest?
- Would re-advertisement result in higher bids?
- Is there an error in the engineer's estimate?
- Is the increase within the amount programmed in the FTIP?

For NHS projects, written justification must be included in the project file for projects where the lowest responsible bidder exceeds the engineer's estimate by 10% or more. The justification should explain the reasons for the difference between the engineer's estimate and bid amount, and why it was decided to award the contract.

Regarding the adequacy of competition, the [FHWA Guidelines on Preparing Engineer's Estimate, Bid Reviews and Evaluation](#) outlines recommended procedures for preparing engineer's estimates and or reviewing bids prior to award. Location and availability of bidders should also be considered when determining adequacy of competition. Some projects may be so essential that deferral, even for 60 days, would not be in the public's interest. Examples of such projects might include:

- Safety projects to correct an extremely hazardous condition where the traveling public is in danger
- Emergency repairs or replacement of damaged facilities
- Projects to close substantial gaps in otherwise completed facilities to allow opening to traffic
- Projects that are critical to staged or phased construction and delay would significantly impact the completion of the whole project

Unbalanced bids are one of the factors to review in a bid analysis. The two types of unbalanced bids are as follows:

- A mathematically unbalanced bid is a bid that contains lump sum or unit bid items that do not reasonably reflect the actual costs (plus reasonable profit, overhead costs, and other indirect costs) to construct the item, and
- A materially unbalanced bid is a bid that generates reasonable doubt that award to that bidder would result in the lowest ultimate cost to the government.

To detect mathematical unbalancing, the unit bid items should be evaluated for reasonable conformance with the engineer's estimate and compared with the other bids received. There are no definitive parameters (e.g., an amount or percent of variance from the engineer's estimate) that constitute an unbalanced bid. The degree of unbalancing of a bid may depend on the reason for the unbalancing. Mathematically unbalanced bids, although not desirable, may be acceptable.

The determination of mathematically unbalanced bids may be aided by the use of one of the several computer software packages now available. However, the final decision should not preclude the use of engineering judgment. Care must also be exercised to ensure that unit bids for mobilization do not mask unbalancing. Also, token bids (i.e., bids with large variations from

the engineer's estimate) should be considered as mathematically unbalanced bids and further evaluation and other appropriate steps should be taken to protect the public interest.

There may be situations where the quantity of an item could vary due to inaccuracies in the estimating, errors in the plans, changes in site conditions or design, etc. In such situations, the bids should be further evaluated to determine if the low bidder will ultimately yield the lowest cost. If unbalancing creates reasonable doubt that award would result in the lowest ultimate cost, the bid is materially unbalanced and should be rejected or other steps should be taken to protect the public interest.

### 15.5.2 Award Procedures

The LPA must follow its normal procedures for award of the project and is delegated the authority to determine the lowest responsive/responsible bidder without concurrence to award by Caltrans or FHWA. Written justification must be included in the project file for all projects that are not awarded to the lowest bidder. The LPA must follow its normal procedures for award of the contract and assure that all federal requirements are followed. A bid analysis is not a requirement but is recommended. The LPA must retain the executed contract, document the award date, and the preconstruction conference minutes. The State must not participate in resolving disputes between the LPA and its bidders.

It is the responsibility of the LPA to verify with the DLAE and RTPA/MPO that the appropriate amount of federal funds is authorized before the project is awarded. Once awarded, notify the DLAE that the 'Notice to Proceed' has been given.

### 15.5.3 Post-Award Reviews

The LPA should conduct post-award bid evaluations to assure against bid rigging. An adequate number of projects awarded over a sufficient time period should be evaluated. A period of approximately 5 years should be selected for an initial evaluation to determine if any abnormal competitive bid patterns exist. The following information should be considered in a post-award review for abnormal bid patterns:

- Number of contract awards to a specific firm
- Project bid tabulations
- Firms that submitted a bid and later become a subcontractor on the same project
- Rotation of firms being the successful bidder
- Consistent percentage differential in the bids
- Consistent percentage of the available work in a geographic area to one firm or to several firms over a period of time
- Consistent percentage differential between the successful bid and the engineer's estimate
- Location of the successful bidder's plant versus location of the other bidders' plants
- Variations in unit bid prices submitted by a bidder on different projects in the same bid opening
- Type of work involved
- Number of plans and proposal taken out versus the number of bids submitted
- Any other items that indicate noncompetitive bidding

- On re-advertised projects, if the eventual successful bidder was also low bidder on the first letting

#### 15.5.4 Termination of Contracts

- a. All NHS contracts exceeding \$10,000 must contain suitable provisions for termination by the LPA, including the manner by which the termination will be affected and the basis for settlement. In addition, such contracts must describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor. References: 2 CFR 200 Subpart D and Appendix II; 23 CFR 635.125; 49 CFR 18
- b. Prior to termination of a federal-aid contract that is subject to FHWA Full Oversight, the LPA must consult with and receive the concurrence of the Caltrans DLAE. In addition, for all other federal-aid contracts the LPA must notify the DLAE of the termination. The extent of federal-aid participation in contract termination costs, including final settlement, depends on the merits of the individual case. However, under no circumstances shall federal funds participate in anticipated profit for work not performed.
- c. Except as provided for in paragraph (e) of this section, normal LPA federal-aid plans, specifications, estimates, advertising, and award procedures are to be followed when the LPA awards the contract for completion of a terminated federal-aid contract.
- d. When the LPA awards the contract for completion of a federal-aid contract previously terminated for default, the construction amount eligible for federal participation on the project should not exceed whichever amount is the lesser, either:
  - I. The amount representing the payments made under the original contract plus payments made under the new contract, or
  - II. The amount representing what the cost would have been if the construction had been completed as contemplated by the plans and specifications under the original contract.
- e. If the surety awards a contract for completion of a defaulted federal-aid contract, or completes it by some other acceptable means, FHWA considers the terms of the original contract in effect and that the work be completed in accordance with the approved plans and specifications included therein. No further FHWA approval or concurrence action is therefore needed in connection with any defaulted federal-aid contract awarded by a surety. Under this procedure, the construction amount eligible for federal participation on the project should not exceed the amount representing what the cost would have been if the construction had been completed as contemplated by the plans and specifications under the original contract.

### 15.6 Award Package

Prior to submitting the first invoice for the construction phase, and within sixty (60) days of contract award, the LPA must forward the following information as one package to the DLAE:

- [Exhibit 15-B: Resident Engineer's Construction Contract Administration Checklist](#)
- [Exhibit 15-G: Construction Contract DBE Commitment](#)
- [Exhibit 15-L: Contract Award Checklist](#)
- [Exhibit 15-M: Detail Estimate](#) (based on award) or [LAPM 3-A: Project Authorization/Adjustment Request](#)

The DLAE will review the documents for completeness and accuracy. In addition, the DLAE will provide the project's construction contract award date and Exhibit 15-B to the Construction Oversight Engineer (COE).

The LPA's RE assigned to the project must complete and sign the Exhibit 15-B. The purpose of this checklist is to assure that the RE is familiar with the federal requirements before the construction begins. Deficiencies in contract administration procedures that cannot be corrected may result in withdrawal of federal and/or state funds from the project. If the RE is a consultant, the LPA Employee in Responsible Charge must sign the Exhibit 15-B. Exhibit 15-M or LAPM 3-A must be prepared outlining all project costs by Improvement Type Code. If the award amount is more, or significantly less than the amount estimated at the time of construction authorization, the Award Package submitted to the DLAE will be used to update the project agreements. The Authorization to Proceed (E-76) and state-issued Finance Letter will be revised to reflect updated project costs. If additional federal funds for the project's construction phase are needed, the LPA must submit written approval from the MPO/RTPA (for STBG, CMAQ, etc.) or pertinent DLA Office (for HSIP, HBP, ATP etc.) as part of the Award Package.

Note: Per 23 CFR 630.106(f)(2), the federal 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 LPA's estimated cost of the project (Preliminary Cost Estimate) at the time of construction authorization, provided that federal funds are available. FHWA has interpreted the term 'shortly after contract award' to be no more than 90 calendar days after the contract award date.

For future invoices involving the construction phase, the LPA must maintain the federal pro rata share as originally authorized for the construction phase, if not adjusted at award.

## 15.7 References

23 CFR 630

[https://ecfr.io/Title-23/cfr630\\_main](https://ecfr.io/Title-23/cfr630_main)

23 CFR 635

[http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title23/23cfr635\\_main\\_02.tpl](http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title23/23cfr635_main_02.tpl)

23 U.S.C.112

<https://www.govinfo.gov/app/details/USCODE-2011-title23/USCODE-2011-title23-chap1-sec112>

23 U.S.C.114(a)

<https://www.fhwa.dot.gov/map21/docs/title23usc.pdf>

49 CFR 26

[http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title49/49cfr26\\_main\\_02.tpl](http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title49/49cfr26_main_02.tpl)

California Public Contract Code, Chapter 6, Section 6100

[https://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?lawCode=PCC&sectionNum=6100](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PCC&sectionNum=6100)

California Public Contract Code Section 7106

[https://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?lawCode=PCC&sectionNum=7106](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PCC&sectionNum=7106)

FHWA 1997 Contract Administration Core Curriculum

<https://www.fhwa.dot.gov/programadmin/contracts/coretoc.cfm>

FHWA Final Report Process Review on Competition in Bidding and Engineer's Estimate Review

<https://www.fhwa.dot.gov/programadmin/contracts/ta508046.cfm>

US DOT/US Dept. of Justice, Suggestions for the Detection and Prevention of Construction Contract Bid Rigging

<https://www.fhwa.dot.gov/programadmin/contracts/dotjbid.cfm>