

# LOCAL PROGRAMS PROCEDURES LPP 25-01

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



# LOCAL PROGRAMS PROCEDURES 25-01

The scope of LPP 25-01 includes the formal incorporation of the following Office Bulletins (OB) into the noted chapters of the Local Assistance Procedures Manual (LAPM) and/or Local Assistance Program Guidelines (LAPG).

OB Number	OB Title	Affected Chapters
24-04	Single Audit Report Submission	LAPM 5 & 20
25-01	Dollar Threshold Update for DBE Contract Goal & GFE Evaluation	LAPM 9
25-03	Right of Way Certification Approvals for Level 3/3W	LAPM 13
25-04	Sample Quality Assurance Program	LAPM 2 & 16
25-05	Final Inspection and Final Materials Certification Submittals	LAPM 2, 16 & 17
25-06	Buy America Requirements for Manufactured Products	LAPM 12 & 16

Other technical updates including clarifications or corrections have been incorporated into the following Chapters/Exhibits:

LAPM Chapter 2	Roles & Responsibilities	
LAPM Chapter 3	Project Authorization	
LAPM Chapter 5	Invoicing	Exhibit 5-G
LAPM Chapter 9	Civil Rights & DBE	
LAPM Chapter 10	Consultant Selection	Exhibit 10-R
LAPM Chapter 12	PS&E	Exhibit 12-H
LAPM Chapter 13	Right of Way	Exhibit 13-B
LAPM Chapter 16	Administer Construction Contracts	Exhibits 16-I, 16-Y
LAPM Chapter 17	Project Completion	
LAPM Chapter 20	Audits & Corrective Actions	
LAPG Chapter 25	State Programs for Local Agency Projects	LAPG 25-U

Significant additions are marked with blue text accompanied by a blue margin line on the right margin and are noted in the summary tables preceding each chapter. Deletions to existing text are marked with red strikethroughs accompanied by a red margin line on the left margin. Minor typographical or grammatical changes were made throughout and are not documented in the summary table. The attached Chapters/Exhibits consist only of the pages with impacted sections/paragraphs unless otherwise noted.

Effective Date: January 2026

# TABLE OF CONTENTS

LAPM C.2 Roles & Responsibilities
LAPM C.3 Project Authorization
LAPM C.5 Invoicing
LAPM C.9 Civil Rights & DBE
LAPM C.10 Consultant Selection
LAPM C.12 PS&E
LAPM C.13 Right of Way
LAPM C.16 Administer Construction Contracts
LAPM C.17 Project Completion
LAPM C.20 Audits & Corrective Actions
LAPG 25 State Programs for Local Agency Projects

## LAPM C.2 ROLES & RESPONSIBILITIES

### LAPM C.2 Roles & Responsibilities

Section / Exhibit	Description of Changes
<b>2.8</b> Quality Assurance Programs	<ul style="list-style-type: none"><li>• OB #25-04 text changes incorporated.</li></ul>
<b>2.8</b> Final Inspection	<ul style="list-style-type: none"><li>• OB #25-05 text changes incorporated.</li></ul>

### Design Standards

LPAs are required to use only American Association of State Highways and Transportation Officials (AASHTO), 3R, and other design standards officially approved for use on NHS projects that are off the State Highway System (SHS). For SHS projects, Caltrans standards are to be used. Locally approved design standards are not allowed on NHS projects; however, Caltrans may approve exceptions on a project-by-project basis.

### Method of Construction

In general, an open and competitive bidding process must be used for construction contracts on Federal-aid projects. Exceptions to competitive bidding of construction contracts must include a Public Interest Findings approved by Caltrans for Delegated Projects.

### Restricted Construction Contract Provisions

Warranty clauses are restricted on NHS projects unless an exception is approved.

### Construction Administration for Significant NHS Projects

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

### Quality Assurance Programs

LPAs ~~may use the~~ are required to have a Quality Assurance Program (QAP) ~~described in this manual for projects on or off the NHS. Caltrans will perform Independent Assurance (IA) if Caltrans test methods are used.~~ See LAPM 16.11 Quality Assurance Program for details.

### Final Inspection

~~The LPA will make a final inspection of completed Delegated Projects prior to FHWA authorizing reimbursement of the final project voucher.~~

The LPA must perform a final inspection of completed projects and ensure compliance with contract requirements prior to contract acceptance. See LAPM 16.17: Final Inspection and Contract Acceptance for details.

## 2.9 Federal-aid Projects of \$100 Million or More

The requirements of this section only apply if Federal-aid is used in any construction activity.

### Projects of \$500 Million or More (Major Project)

LPAs receiving any amount of federal financial assistance for a Major Project with an estimated total cost of \$500 million or more (includes all phases) and LPAs for such projects as may be identified by FHWA, submit to Caltrans for each project:

- Project Management Plan (PMP)
- Financial Plan which consists of an Initial Financial Plan (IFP) and Financial Plan Annual Updates (FPAU)

# LAPM C.3 PROJECT AUTHORIZATION

## LAPM C.3 Project Authorization

Section / Exhibit	Description of Changes
<b>3.3.1</b> Preliminary Engineering Phases Over Ten Years	<ul style="list-style-type: none"><li>• Subsection deleted due to 23 USC 102(b) repeal eliminating the 10-year PE Rule requirement for project advancement.</li></ul>

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 23 U.S.C.102(b), requires the following for any federal aid project: in the event that R/W 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 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 23 U.S.C.102(b), 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 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 programming (FTIP)~~
- ~~HBP Program Listings for FTIP/ESTIP (compiled if Structures Project)~~

Provided by PE>10 Projects Coordinator:

- ~~FMS printouts showing project authorizations, expenditures, and balances~~

### 3.3.2 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 ITS projects, PE includes Systems Engineering, equipment, software development, and use of a Systems Manager or Systems Integrator (see [LAPG Chapter 13: Intelligent Transportation Systems \(ITS\) Program](#) 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 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.

### 3.3.3 Right of Way

Eligible 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 and when required, the NEPA/CEQA Re-Validation Form.

## LAPM C.5 INVOICING

### LAPM C.5 Invoicing

Section / Exhibit	Description of Changes
<b>5.3</b> Indirect Costs	<ul style="list-style-type: none"><li>• OB #24-04 text changes incorporated.</li></ul>
<b>5.8</b> Audit of LPA Expenditures	<ul style="list-style-type: none"><li>• OB #24-04 text changes incorporated.</li></ul>
<b>Exhibit 5-G</b> Alternate Payment Procedure Sample	<ul style="list-style-type: none"><li>• Obsolete Exhibit retired.</li></ul>

## Indirect Costs

At the discretion of the LPA, indirect costs are eligible for reimbursement on their Federal-aid transportation projects, as well as STIP and ATP projects, and state-funded projects. Should the LPA seek reimbursement of their indirect costs, they must receive an Approval/Acceptance Letter of the LPA's Indirect Cost Rate Proposal (ICRP)/Indirect Cost Allocation Plan (ICAP) for the fiscal year(s) involved from Caltrans Internal Audits Office (CIAO) prior to billing for any indirect costs. If a project involves more than one fiscal year, approval of the indirect cost rate(s) for each fiscal year for each unit of the government wishing to bill indirect costs are required prior to claiming reimbursement. The Indirect Cost Calculation section on the invoice must be completed and the summary data transferred to the first page of the invoice. Indirect costs must not be combined with direct costs on invoices. Refer to the CIAO website for details on obtaining approval/acceptance of ICRP/ICAP: <https://dot.ca.gov/programs/audits>.

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

Note: Some programs may have special requirements or restrictions for indirect costs. For example: the Freeway Service Patrol program does not allow the use of state funds for administrative purposes pursuant to Streets and Highways Code Section 2564.

LPAs may be eligible to use the ~~40%~~ 15% de minimis indirect cost rate per 2 CFR 200.414. If LPAs would like to apply the de minimis rate of up to ~~40%~~ 15% to their modified total direct costs, then LPAs must submit both the Application form and the De Minimis Submission Certification to CIAO at [ICAP-ICRP@dot.ca.gov](mailto:ICAP-ICRP@dot.ca.gov).

The CIAO application and De Minimis forms are available at CIAO's website: <https://dot.ca.gov/programs/audits>.

~~Please refer to the following CIAO websites for further details:~~

- ~~Application form: <https://dot.ca.gov/-/media/dot-media/programs/audits/documents/submission-review/submission-review-application-a11y.pdf>~~
- ~~De Minimis Submission Certification: <https://dot.ca.gov/-/media/dot-media/programs/audits/documents/submission-review/submission-review-de-minimis-cert-a11y.pdf>~~

## Underfunded Projects

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

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

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

## 5.8 Audit of Local Public Agency Expenditures

The LPA must maintain written source document records that account for agency costs and payments made to consultants, vendors, and contractors. Contract records must be retained by the LPA for a minimum period of three years from the date of final voucher submission to FHWA by the State. Refer to 2 CFR 200.334 federal requirements for retention and access of records. LPA expenditures for all Local Assistance programs are subject to financial and compliance audits by Caltrans Independent Office of Audits and Investigations (IOAI) or designee. Audits performed by IOAI may, at a minimum, include an audit of the LPA's financial management system, project costs incurred and reimbursed, and indirect cost allocation plans/ICRPs if applicable. Any audit findings will be discussed with the LPA before finalizing the audit report.

LPA's are also subject to the audit requirements of 2 CFR 200. A single audit is required if an agency receives and spends more than ~~\$750,000~~ \$1M in federal funds from all sources in their fiscal year. Refer to [LAPM Chapter 20: Audits & Corrective Actions](#) for specific details.

## 5.9 Final Report of Expenditures on Projects Administered by the State

The FROE for state-administered Local Assistance projects is prepared by a Caltrans Project Manager. On some projects, the state performs only specific phases of work associated with a Local Assistance project. For example, design engineering, Right of Way acquisition, or striping may be performed by the LPA for a construction project administered by the state. In such instances, the Caltrans Project Manager is responsible for preparing a Final Report of Expenditures for the work performed by state staff. The LPA is responsible for preparing the FROE for work it performed and for any expenditure it incurred.

## 5.10 Audit of State Expenditures

Caltrans internal procedures and controls for major contracts do not require a formal audit of each construction project. However, projects may be selected on a random basis for an audit of extra work paid by a force account method of payment (see [Chapter 12: Plans, Specifications & Estimate](#)). State expenditures for Local Assistance Federal-aid major construction contracts (greater than \$500,000) may be audited based on a risk assessment established by IOAI, as well as by the California State Auditors when they perform the annual single Audit of the State of California.

## 5.11 Final Project Costs of State-Administered Projects

Each final report of contract expenditures for state-administered Local Assistance projects is analyzed by Accounting's Local and Reimbursement Final Vouchering Section to determine the final amount of federal, state, and LPA funds expended for the project. The final expenditure of LPA funds is compared to the LPA deposit for the project. Refunds or billings are made upon completion of the Final Voucher analysis.

When all pending claims by the contractor have been settled, the Final Voucher package is prepared and submitted to FHWA via FADS.

**Note:** If the Report of Contract Expenditures indicates that a claim by the contractor has not been settled, the final expenditure of federal, state, and LPA funds cannot be determined. Consequently, the submittal of the Final Voucher is delayed until all pending claims are settled.

## EXHIBIT 5-G SAMPLE ALTERNATIVE PAYMENT PROCEDURE

(Prepare on Letterhead of Local Agency)

Date of Invoice:

Name, District Local Assistance Engineer:

Department of Transportation:

District Local Assistance:

Street/P.O. Box:

City, CA, Zip Code:

Billing Number:

Invoice Number:

Federal-aid Project Number:

Tax Identification Number:

Date Project Accepted by City/County:

Project Location:

Expenditure Authorization or Advantage Project Number:

1, 2,....., or Final

Local Agency's Invoice Number

Prefix Project Number (Fed. Agreement #)

Agency IRS ID Number

Final Date "Going" if not Final

Project Limits

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

	Construction Engineering	Construction Contract	Total
Federal Appropriations Code	33D/33C	33D/33C	33D/33C
Federal Authorization Date	2/10/14	2/10/14	
Federal/State Participating Costs From	3/1/14	3/1/14	
To	7/30/14	7/30/14	
Total Indirect Costs to Date	\$1,865.50		\$1,865.50
Total Direct Costs to Date	\$8,400.30	\$200,000.10	\$208,400.40
Less Retention		(\$20,000.00)*	(\$20,000.00)
Liquidated Damages		\$0.00**	\$0.00
Nonparticipating Costs	(\$840.00)	(\$16,000.00)	(\$16,840.00)
Total Federal Participating Costs to Date	\$9,565.80	\$164,000.10	\$173,425.90
Less Participating Costs on Previous Invoice	\$350.20	\$98,231.00	\$104,581.20
Change in Participating Costs	\$3,075.60	\$65,769.10	\$68,844.70
Federal Reimbursement Portion State Reimbursement Portion (if applicable)	88.53	88.53	
Amount of this Claim	\$2,722.82	\$58,225.38	\$60,948.20
<b>TOTAL INVOICE AMOUNT</b>			<b>\$60,948.20***</b>

## ADJUSTMENT OF STATE FUNDS FOR ESTIMATED CONTRACT PAYMENTS

Total Expended Funds	\$60,948.20
Less: Estimate Previously Invoiced for the month	\$80,000.00
Difference (positive or negative amount)	(\$19,051.80)
Plus: Estimate for next month	\$100,000.00
<b>TOTAL INVOICE AMOUNT</b>	<b>\$80,948.20</b>

## INDIRECT COST CALCULATION

**Construction Engineering Indirect Costs:**

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

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

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

\_\_\_\_\_  
Signature, Title and Unit of Local Agency Representative

\_\_\_\_\_  
Phone Number

For questions regarding this invoice, please contact:

\_\_\_\_\_  
Name

\_\_\_\_\_  
Phone Number

- \* Total retention amount withheld from contractor. At the end of the project and after all retention has been released, this amount should be zero.
- \*\* Show "liquidated damages" amount on final invoice.
- \*\*\* Total must be rounded down to the lowest cent. Federal rules do not allow rounding up.
- \*\*\*\*
- Indirect cost for this project equals the direct cost base expense (i.e., direct salaries & wages plus fringe benefits) for this project multiplied by the approved indirect cost rate.
  - Indirect cost reimbursements will not apply to direct costs, i.e., payment of construction contracts and right of way purchases are included in the direct cost base.
  - An indirect rate must be approved by Caltrans every fiscal year to be used for only those costs incurred for that year.

**Distribution:** Original & 2 copies to DLAE

## LAPM C.9 CIVIL RIGHTS & DBE

### LAPM C.9 Civil Rights & DBE

Section / Exhibit	Description of Changes
<b>9.2.1</b> Legal Authorities	<ul style="list-style-type: none"><li>Revoked Executive Orders 12898 &amp; 13166 removed.</li></ul>
<b>9.2.4</b> Environmental Analysis	<ul style="list-style-type: none"><li>References to revoked Executive Order 12898 removed.</li></ul>
<b>9.7.1</b> Participation Opportunities	<ul style="list-style-type: none"><li>OB #25-01 text changes incorporated.</li></ul>
<b>9.7.2</b> DBE Contract Goals	<ul style="list-style-type: none"><li>OB #25-01 text changes incorporated.</li></ul>
<b>9.8.7</b> Submitting the GFE and Supporting Document Review	<ul style="list-style-type: none"><li>OB #25-01 text changes incorporated.</li></ul>

- Age Discrimination Act of 1975 (age)
- Section 504 of the Rehabilitation Act of 1973 (disability); see Section 9.3
- Americans with Disabilities Act of 1990 (disability); see Section 9.3

As a condition of receiving federal funds from FHWA through Caltrans, LPAs are required to sign the Master Agreement – Administering Agency-State Agreement for Federal-aid Projects (see Exhibit 4-C) with Caltrans, agreeing to comply with Title VI and other regulations imposed by the USDOT or the FHWA, as it relates to Title VI and additional nondiscrimination requirements.

### 9.2.1 Legal Authorities

LPAs must comply with the following list of authorities for Title VI and additional nondiscrimination compliance.

- [Title VI of the Civil Rights Act of 1964 \(42 U.S.C. § 2000d et seq.\)](#) (Title VI) – Prohibits discrimination on the basis of race, color, or national origin (including LEP) in programs and activities receiving federal financial assistance.
- [Civil Rights Restoration Act of 1987](#) (amended Title VI) – Expanded the coverage of Title VI to apply to all operations of LPAs receiving federal financial assistance, not just programs or activities that are federally funded.
- [Section 162 \(a\) of the Federal-Aid Highway Act of 1973 \(23 U.S.C. Section 324\)](#) (sex) – Prohibits discrimination on the basis of sex.
- [Age Discrimination Act of 1975 \(42 U.S.C. Sections 6101-6107\)](#) (age) – Prohibits discrimination on the basis of age.
- ~~[Executive Order 12898 – "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations"](#) – Directs agencies to develop strategies to address disproportionately high and adverse human health or environmental effects of their programs on minority and low-income populations.~~
- ~~[Executive Order 13166 "Improving Access to Services for Persons with Limited English Proficiency \(LEP\)"](#) – Ensure that recipients of federal financial assistance provide meaningful access to their LEP applicants and beneficiaries.~~
  - ~~[USDOJ LEP Guidance](#) – A general guidance document with compliance standards that recipients must follow to ensure that the programs and activities they normally provide in English are accessible to LEP persons and that they do not discriminate on the basis of national origin in violation of Title VI of the Civil Rights Act of 1964, as amended, and its implementing regulations.~~
  - ~~[USDOT LEP Guidance](#) – USDOT recipients are required to take reasonable steps to ensure meaningful access to their programs and activities by LEP persons.~~
- [USDOJ Title VI Requirements – 28 CFR 42 Subpart F: Coordination of Enforcement of Non-discrimination in Federally Assisted Programs](#) – USDOJ's regulations for enforcing Title VI and mandating each state agency administering a continuing program that receives federal financial assistance to establish a Title VI compliance program for itself and other recipients which obtain federal assistance through it.



The LPA must develop a program to conduct internal Title VI reviews of program areas and to conduct external Title VI reviews of sub-awardees. This effort ensures both the LPA and its sub-awardees comply with FHWA's Title VI requirements.

11. Title VI Accomplishments and Goals Report (Title VI Annual Work Plan) (23 CFR 200.9(b)(10))

The LPA must develop an annual Title VI Accomplishments and Goals Report which consists of accomplishments for the past year, and goals for the next year. This report must be made available to the public and when requested by Caltrans.

## 9.2.4 LPA Title VI Implementation

### Environmental Analysis (Exhibit 6-A Preliminary Environmental Study (PES))

~~Presidential Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," is considered during the preliminary environmental investigation process and completion of the Preliminary Environmental Study (PES). See [Exhibit 6-A: Preliminary Environmental Study \(PES\)](#), [Exhibit 6-B: Instructions for Completing the Preliminary Environmental Study \(PES\)](#), [LAPM Chapter 6: Environmental Procedures](#), or refer to the [Local Assistance Environmental](#) website.~~

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

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

~~If a project requires that a Relocation Impact Study and/or Community Impact Assessment be conducted, the LPA must follow the guidance set forth in the Standard Environmental Reference (SER). The SER is an online electronic reference that sets forth document content and format, as required by law or regulation, and recommended format, if not specified by law or regulation. Chapter 25 of the SER addresses Environmental Justice and LEP requirements.~~

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

### Public Hearings, Public Involvement Meetings, and Community Meetings

The attendance and concerns of LEP persons, persons with disabilities, minority populations, and low-income populations at public involvement meetings and hearings must be carefully documented to comply with Title VI, including statistics of participants by race and gender. Public hearing announcements must be made available in languages understood by the affected population. Public hearings must be held at locations that are both geographically and structurally accessible.

- a. For construction subcontracts, retainage must be paid within seven (7) days of receipt unless otherwise agreed to in writing for construction work completed (Section 7108.5 of the CBPC and Section 10262 of the CPCC), and
- b. For consultant contracts, retainage must be paid no later than fifteen (15) days after receipt of final retention received after the subconsultant's work is satisfactorily completed (Section 3321 of the CCC).

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

### Prompt Payment Certification

For projects awarded on or after September 1, 2023: the prime contractor or consultant must submit Exhibit 9-P to the LPA administering the contract by the 15th of the month following the month of any payment(s). If the prime contractor or consultant does not make any payments to subcontractors, supplier(s) and/or manufacturers they must report "no payments were made to subs this month" and write this visibly and legibly on Exhibit 9-P.

A failure to complete the Prompt Pay reporting requirement may result in the withholding of the prime contractor or consultant's next progress payment and/or final payment. Additionally, Caltrans may require the LPA to issue a corrective action plan and/or it may require the LPA to suspend the contract in whole or in part if the prime or consultant does not make up the shortfall.

LPAs must verify all Exhibit 9-P information, monitor compliance with prompt payment requirements for DBE and non-DBE firms, and address any shortfalls to the DBE commitment and prompt payment issues until the end of the project. The LPA must email a copy of Exhibit 9-P to [DBE.Forms@dot.ca.gov](mailto:DBE.Forms@dot.ca.gov) before the end of the month after receiving the Exhibit 9-P from prime contractor or consultant.

### Monitoring and Enforcement Mechanism for Prompt Payment

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

## 9.7 DBE Participation on the Contract

### 9.7.1 Participation Opportunities

The LPA should structure its contracts and cost estimates by task to ~~provide~~ identify potential opportunities for DBE participation. ~~DBEs can participate in all phases of a project, including roles as prime consultants, prime contractors, sub-consultants, subcontractors, suppliers, manufacturers, and truckers. Participation by DBEs is possible during the Preliminary Engineering, Environmental, Final Design, Right of Way, and Construction phases of the~~

~~project, and includes work as lead consultants, prime contractors, sub-consultants, subcontractors, suppliers, vendors, and truckers.~~

### 9.7.2 DBE Contract Goals

~~All federal aid contract that has subcontracting opportunities must have a DBE goal set. This includes, but is not limited to construction, consultant services such as project-specific Architectural & Engineering (A&E), and master on-call A&E contracts.~~

DBE contract goals are applicable only on Federal-aid consultant contracts (A&E and non-A&E) and construction contracts that have potential subcontracting opportunities. A DBE contract goal is a percentage of the total contract amount that is expected to be performed by certified DBE firms. The DBE contract goal will vary depending on the type of work involved, the location of the work, and the availability of DBEs for the work of the particular contract.

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

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

#### Setting the DBE Contract Goal

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

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

- The project analysis starts with finalizing the cost estimate and determining potential sub-contractable items of work in the Exhibit 9-D: DBE Contract Goal Methodology template.
- The LPA must consider the type of work involved (Work Category Code), location of the work (by Caltrans District number), and the potential number of DBEs listed in the database. For each work category code, determine the number of available DBE subcontractor / subconsultants by conducting a search in the California Unified Certification Program (CUCP) database geographically by Caltrans District only. Use the district where the work will take place.
- Determine the DBE Work Factor for each task:
  - If the number of available DBE subcontractors or sub-consultants is 7 or more, use 100 percent.

## Civil Rights &amp; Disadvantaged Business Enterprise

- If there are less than 7 (seven) DBEs available: for consultant contracts, use 0 Work Factor; for construction projects, determine whether or not there is a component of trucking or material supply, and apply a 10 or 12 percent DBE Work Factor, respectively; otherwise use 0.

### Submitting ~~Exhibit 9-D~~ DBE Contract Goals

~~All federal aid contracts must have an Exhibit 9-D: DBE Contract Goal Methodology submitted to the DLAE.~~ The following are the DBE contract goal acceptance responsibilities ~~and a flowchart~~ for LPAs, DLAEs, and HQ DLA:

#### Local Public Agency Responsibilities

- ~~• LPAs must submit Exhibit 9-D: DBE Contract Goal Methodology in Microsoft Excel format to their DLAE for every federal aid contract, including master on-call A&E contracts, prior to advertisement and/or with the request for authorization (RFA) package as applicable.~~
- Submit a completed Exhibit 9-D: DBE Contract Goal Methodology in Microsoft Excel format (not PDF file) to the DLAE for review and acceptance prior to proceeding with the procurement process and/or with the request for authorization (RFA) package as applicable.
- LPAs may not advertise the contract before review and acceptance of the DBE contract goal by the DLAE. ~~receiving DLAE feedback on the DBE goal.~~
- For construction contract estimates greater than ~~\$2 million~~ \$4 million and consultant contract estimates greater than ~~\$500,000~~ \$1 million, the DBE contract goal must also will need to be reviewed and accepted by HQ DLA approved by Galtrans.
- LPAs will have an opportunity to discuss and resolve any differences in the DBE contract ~~respective~~ goal calculations; however, the final decision rests with HQ DLA Galtrans.

#### DLAE Responsibilities

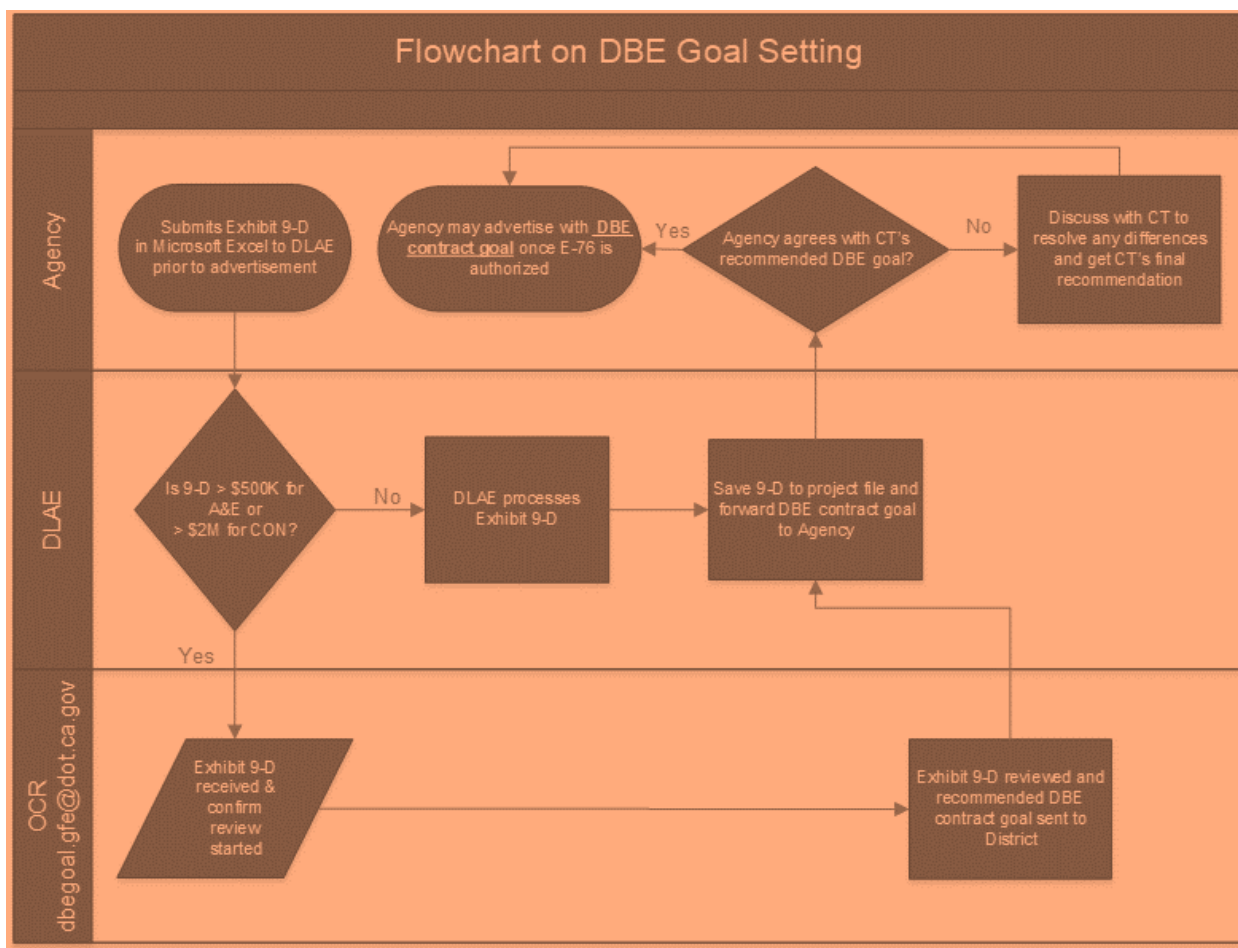
- Review, provide comments and/or suggested revisions, and accept each DBE contract goal prepared by the LPA.
- For construction contract estimates greater than ~~\$2 million~~ \$4 million and consultant contract estimates greater than ~~\$500,000~~ \$1 million, e-mail Exhibit 9-D: DBE Contract Goal Methodology in Microsoft Excel format (not PDF file) to HQ DLA: DBEgoal.GFE@dot.ca.gov.
- Once Exhibit 9-D: DBE Contract Goal Methodology has been reviewed by HQ DLA ~~the Office of Civil Rights (OCR)~~, send a confirmation e-mail to the LPA with the recommended DBE contract goal.
- ~~• For construction contract estimates less than or equal to \$2 million and consultant contract estimates less than or equal to \$500,000, conduct a cursory review of the Exhibit 9-D and send an email to the LPA to confirm the DBE contract goal.~~

#### HQ DLA Responsibilities

The following applies to DBE contract goal setting for construction contract estimates greater than ~~\$2 million~~ \$4 million or consultant contract estimates greater than ~~\$500,000~~ \$1 million:

- Review, provide comments and/or suggested revisions on each DBE contract submitted by the DLAE.
- Send confirmation email to the DLAE that Exhibit 9-D is being processed.
- After processing, reply to the DLAE with the recommended DBE contract goal.
- If the ~~agency LPA and/or DLAE~~ disagrees with the DBE contract goal, review the reasoning and make a decision if the goal needs to be adjusted. ~~The OCR is involved in the decision process to make an adjustment in the DBE contract goal.~~

It will not take more than 15 business days to review the Exhibit 9-D after receipt from ~~HQ DLA the District~~. If there is no response from HQ DLA after 15 business days, the DLAE has the discretion to ~~accept the LPA's DBE contract goal~~ ~~move forward~~.



**Figure 9-1: DBE Goal Setting Flowchart**

## 9.8.6 Noncompliance

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

## 9.8.7 Submitting the GFE and Supporting Document for Review

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

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

The following are ~~responsibilities and a flowchart on~~ Good Faith Effort **Evaluation Review responsibilities (see Figure 9-2)** for LPAs, DLAEs, and **HQ DLA** ~~when the bidder/proposer does not meet the DBE Contract Goal.~~

### Local Public Agency Responsibilities

- **Submit a completed Exhibit 9-E: Sample Evaluation of Good Faith Effort to the DLAE for review and acceptance prior to awarding a construction contract or starting negotiations with a consultant. Include the following supporting documentation in the submittal:** ~~The LPA must obtain, complete, and review all of the following documentation prior to determining if the low bidder or the most qualified consultant made a GFE:~~
  - ~~A bid tabulation summary sheet such as included in Exhibit 15-D: Bid Tabulation Summary Sheet (or equivalent) Exhibit 10-O1: Consultant Proposal DBE Commitment.~~
  - All bidder's Exhibit 15-G: Construction Contract DBE Commitment or Exhibit 10-O1: Consultant Proposal DBE Commitment.
  - All bidder's Exhibit 15-H: Proposer/Bidder Good Faith Efforts along with all documentation that supports the GFE Evaluation (i.e., call logs, available work items, accepted/rejected subcontractors) ~~or other documentation that all bidders submit in lieu of Exhibit 15-H.~~ If bidders did not submit GFE documentation within five (5) days after bid opening, it should be noted in Exhibit 9-E: Sample Evaluation of Good Faith Effort.
  - ~~Exhibit 9-E: Sample Evaluation of Good Faith Effort.~~
- ~~For construction contracts less than or equal to \$2 million and consultant contracts less than or equal to \$500,000, the agency has responsibility to perform the GFE review.~~
- For construction contracts ~~estimates~~ **estimates** greater than ~~\$2 million~~ **\$4 million** and consultant contracts ~~estimates~~ **estimates** greater than ~~\$500,000~~ **\$1 million** that had their DBE goal approved by **HQ DLA**, if the low bidder or the most qualified consultant did not meet or exceed the DBE contract goal, the LPA must submit the above GFE documentation to their DLAE **prior to awarding a contract or starting the negotiation.**



- LPAs **may not** award a contract to the low bidder or negotiate with the most qualified consultant without first receiving a memorandum from their DLAE that **HQ DLA** has determined that they made a GFE.
- If **HQ DLA** determines the GFE was inadequate, the LPA will take Caltrans feedback on GFE into consideration and re-evaluate the GFE. After the re-evaluation:
  - If the LPA still thinks the GFE is adequate, they can award the contract or start the negotiation process.
  - If the LPA concludes that the GFE is inadequate, they must invite the low bidder or the most qualified consultant to an Administrative Reconsideration.

### DLAE Responsibilities

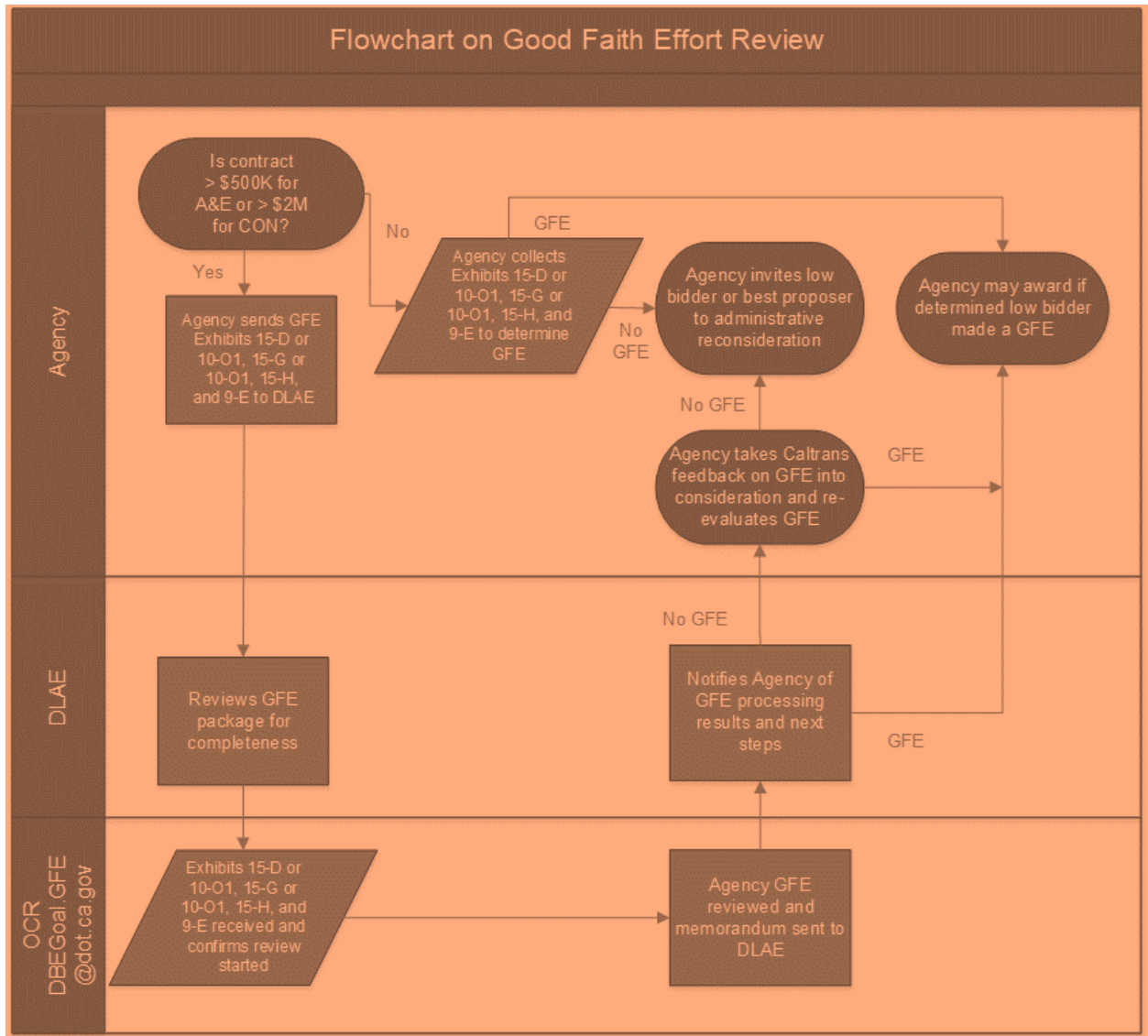
- For construction contract estimates less than or equal to \$4 million and consultant contract estimates less than or equal to \$1 million, conduct a review of the Exhibit 9-E and supporting documentation and send an email to the LPA to confirm acceptance or rejection of the GFE Evaluation.
- For construction contracts estimates greater than ~~\$2 million~~ \$4 million and consultant contracts estimates greater than ~~\$500,000~~ \$1 million that had their DBE goal approved by **HQ DLA**, e-mail all completed GFE documentation including the LPA's bid summary (Exhibit 15-D ~~or Exhibit 10-O1~~), DBE commitments (Exhibit 15-G or Exhibit 10-O1), the bidder's GFEs (Exhibit 15-H), and the LPA's GFE evaluation (Exhibit 9-E) to [DBEgoal.GFE@dot.ca.gov](mailto:DBEgoal.GFE@dot.ca.gov).
- Communicate the outcome of ~~Caltrans'~~ **HQ DLA's** GFE evaluation review to the LPA.

### HQ DLA Responsibilities

The following applies to the GFE evaluation for construction contracts estimates greater than ~~\$2 million~~ \$4 million and consultant contracts estimates greater than ~~\$500,000~~ \$1 million that had their DBE goal approved by **HQ DLA** ~~Caltrans~~:

- Send confirmation email to the DLAE that the GFE evaluation is being processed.
- ~~After receiving a complete GFE package from the DLAE, reply to the DLAE when evaluation starts on the GFE review.~~
- Once the GFE evaluation review is complete, reply to the DLAE with ~~Caltrans'~~ the results of the GFE evaluation review ~~conclusion in a memorandum~~.

The **HQ DLA** process will not take more than 15 business days after receipt of the GFE evaluation package by **HQ DLA** ~~from the district~~. If there is no response from **HQ DLA** after 15 business days, the DLAE has the discretion to **accept the LPA's GFE evaluation** ~~move forward~~.

**Figure 9-2: Good Faith Effort Review Flowchart**



# LAPM C.10 CONSULTANT SELECTION

## LAPM C.10 Consultant Selection

Section / Exhibit	Description of Changes
<b>Figure 10-1</b> A&E Contract Procurement Process Workflow Diagram	<ul style="list-style-type: none"> <li>Figure 10-1: A&amp;E Contract Procurement Process Workflow Diagram removed from LAPM Chapter 10 and posted on the Consultant Selection and Procurement page: <a href="https://dot.ca.gov/-/media/dot-media/programs/local-assistance/documents/ae/files/ae-contract-procurement-workflow-federally-funded-20250422.pdf">https://dot.ca.gov/-/media/dot-media/programs/local-assistance/documents/ae/files/ae-contract-procurement-workflow-federally-funded-20250422.pdf</a></li> </ul>
<b>10.1.5</b> Negotiate Contract with Top-Ranked Consultant	<ul style="list-style-type: none"> <li>Clarifying text added at the end of the first paragraph.</li> </ul>
<b>Figure 10-3</b> Consultant in a Management Support Role Flowchart	<ul style="list-style-type: none"> <li>“Review RFQ” step removed from Figure 10-3 as it is not a required step of the CMSR approval process.</li> <li>Re-labeled as Figure 10-2 as a result of Figure 10-1 removal.</li> </ul>
<b>Exhibit 10-R</b> A&E Boilerplate Agreement Language	<ul style="list-style-type: none"> <li>“City” changed to “LOCAL AGENCY” throughout Exhibit.</li> <li>2 CCR 8103 reference re-numbered to 11102 in Article XVI paragraph A.</li> </ul> <p><i>Note: The impacted pages for these minor edits are not included as part of the LPP but will be reflected in the January 2026 published version and notated here for version history.</i></p>

## Negotiate Contract with Top-Ranked Consultant

Cost proposal (for both prime consultant and all subconsultants), and contract audit and review documents such as the Certification of Indirect Costs and Financial Management System and Financial Document Review Request forms, whichever is applicable (see [Section 10.1.3: A&E Consultant Audit and Review Process](#)) should be submitted in a separate sealed envelope. Typically, the cost proposals are submitted by the short-listed consultants only, at time of interview. However, if time is of the essence and it can be justified, or if no interviews are planned, the cost proposal can be requested from all consultants with their technical proposal. [If the contract involves subconsultants, the prime consultant must include a separate cost proposal for each subconsultant. Each subconsultant's cost proposal must follow the same format as the prime consultant's cost proposal.](#)

The cost proposal for the most qualified consultant will be opened and used to begin negotiations. If agreement cannot be reached, then negotiations proceed to the next most qualified consultant. Each consultant's cost proposal must remain sealed until negotiations commence with that particular consultant. The goal of negotiations is to agree on a final contract that delivers the services, or products required at a fair and reasonable cost to the LPA. At the completion of successful cost negotiations, all remaining sealed envelopes containing cost proposals must be returned to consultants.

Cost proposals in electronic form must be submitted separately from the RFP and contained in a secure database that is inaccessible to the members involved in the A&E consultant contract procurement process. Only the cost proposal of the most qualified consultant will be requested to be sent to the members. Cost proposals of unsuccessful consultants are confidential and must not be opened by the LPA or any private entity that the LPA uses to store the cost proposals. Any concealed cost proposals of the unsuccessful consultants must be returned unopened or properly disposed of in accordance with the LPA's written policies and procedures.

The independent cost estimate, developed by the LPA in advance of requesting a cost proposal from the top-ranked consultant, is an important basis and tool for negotiations or terminating unsuccessful negotiations with the most qualified consultant. Items necessary for the independent cost estimate include, hours/detailed work, direct labor costs, indirect labor costs, other direct costs, and profit/fee. LPAs must retain documentation of how the cost estimate was developed. It can be revised, if needed, for use in negotiations with the next most qualified consultant.

## Initiate A&E Consultant Audit Process (Financial Document Review Request)

A contract audit and review may be required (see [Section 10.1.3: A&E Consultant Audit and Review Process](#) in this chapter). LPA Contract Administrator ensures that all required documentations are provided to Caltrans IOAI within 10 days of written request, including all documents for a Financial Review, if applicable. Caltrans IOAI will not proceed with a Financial Document Review until all required documentation is completed correctly and submitted. Negotiations should be finalized after addressing all deficiencies noted in the Caltrans IOAI Financial Review Letter if applicable. An indirect cost audit may be performed within the record retention period of the contract.

Items typically negotiated include:

- Work plan;
- Schedule and deadlines (for deliverables and final duration of contract);
- Products to be delivered;

- Liability insurance should normally be required from the consultant (errors and omissions, etc.).

For federally-funded projects, LPAs that solicit to hire A&E consultant(s) in a management support role must obtain FHWA approval prior to contract execution. In order for a contract for a CMSR to be federally eligible, the following are required prior to contract execution:

- The LPA must submit a request for approval via email, the Scope of Work (SOW) and Conflict of Interest (COI) Policy to the A&E Oversight Branch at HQ Division of Local Assistance (HQ DLA) at [aeoversight@dot.ca.gov](mailto:aeoversight@dot.ca.gov), prior to contract advertisement.
- Once the LPA receives FHWA's written response, the LPA may need to revise the documents reflecting FHWA's opinions and can proceed with the RFQ.
- Before award, the LPA must submit the completed [Exhibit 10-U: Consultant in Management Support Role Conflict of Interest and Confidentiality Statement](#) to the A&E Oversight Branch at HQ DLA at [aeoversight@dot.ca.gov](mailto:aeoversight@dot.ca.gov). LPA will receive FHWA's approved [Exhibit 10-U](#) via email. FHWA approval required prior to award of consultant contract.

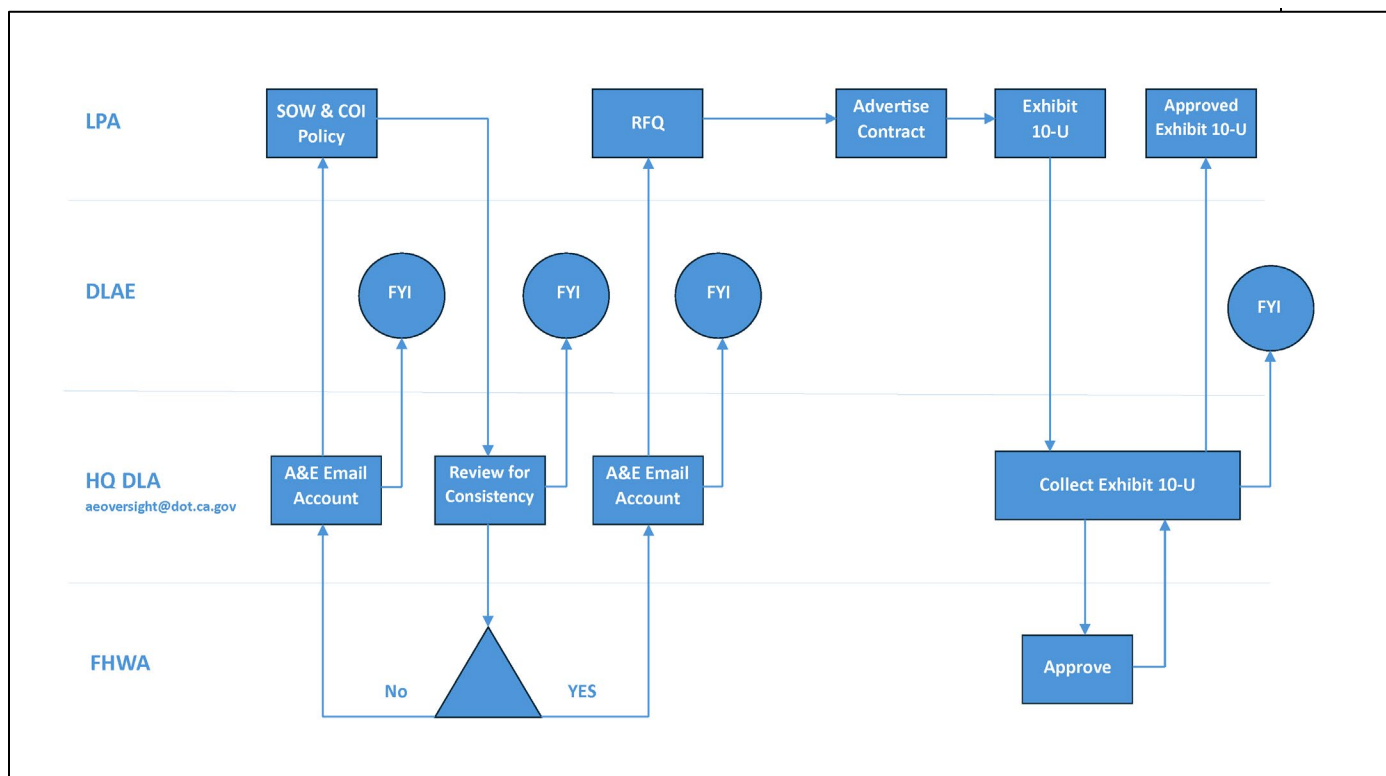


Figure 10-2: Consultant in a Management Support Role Flowchart

## LAPM C.12 PS&E

### LAPM C.12 PS&E

Section / Exhibit	Description of Changes
<b>12.8</b> Buy America	<ul style="list-style-type: none"><li>OB #25-06 text changes incorporated.</li></ul>
<b>12.12</b> Agency Furnished Materials	<ul style="list-style-type: none"><li>OB #25-06 text changes incorporated.</li></ul>
<b>Exhibit 12-H</b> Sample Bid	<ul style="list-style-type: none"><li>Page 18 incorrectly placed in the middle of Sample Agreement pages; moved after the signature page.</li><li>Replaced pronoun “he” with gender-neutral pronouns as appropriate throughout.</li></ul> <p><i>Note: The impacted pages for these minor edits are not included as part of the LPP but will be reflected in the January 2026 published version and notated here for version history.</i></p>

## Buy America

FHWA's policy for Buy America requires a domestic manufacturing process for all steel and iron products, manufactured products, and construction materials that are permanently incorporated in a federally funded project.

~~Manufactured products are those that contain steel or iron components that equate to 90 percent or more by weight of the product. Steel or iron products used within precast concrete products, such as reinforcing steel, wire mesh, and pre-stressing or post-tensioning strands, rods, or cables, must meet Buy America regardless of the percentage of use.~~

~~FHWA defines a construction material as an article, material, or supply that consists of only one of the following items: non-ferrous metals, plastic and polymer-based products (including polyvinylchloride and composite building materials), glass, fiber optic cable (including drop cable), optical fiber, lumber, engineered wood, or drywall. The manufacturing processes for all materials governed by Buy America requirements are outlined in accordance with 2 CFR 184.6. If one or more of these construction materials have been combined by a manufacturer with other materials through a manufacturing process, Buy America requirements do not apply unless otherwise specified.~~

### Applicability

Buy America requirements are applicable on all Federal-aid projects with  $\geq$  \$500,000 in federal funding regardless of the funding source used to purchase the product and/or material and regardless of how the products and/or materials were procured (i.e., agency furnished materials, materials added by change order, etc.).

When Buy America is applicable, the LPA must include the Buy America provisions from LAPM Exhibit 12-G: Required Federal-aid Contract Language (or equivalent) in the PS&E packages prior to advertising for bids. Awarding a federally funded contract, without applicable Buy America provisions, could render the contract ineligible for federal funds.

The LPA must not list non-domestic steel and iron products, or construction materials as nonparticipating to circumvent Buy America requirements.

Buy America provisions may also be applicable to non-federally funded projects, if:

- the non-federally funded contract is included within the scope of the NEPA document, and
- at least one other contract within the scope of the same NEPA document is funded or will be federally funded. This includes any contract eligible for federal funds including but not limited to environmental, design, right-of-way, construction, etc.

~~When Buy America is applicable, the LPA must include Buy America provisions in their PS&E packages prior to advertising for bids and in its contracts. Awarding any such Nonfederal-aid highway~~ Awarding a non-federally funded contract without applicable Buy America provisions could render all contracts within the scope of the NEPA document ineligible for federal funds.

~~The Buy America provision also applies to all steel and iron components of a manufactured product with at least 90 percent or more by weight of the product(s). Iron and steel used in precast concrete manufactured products must meet the Buy America requirements regardless of the amount used. All manufacturing processes involved in steel or iron products must occur within the United States. These processes include rolling, extruding, machining, bending, grinding, drilling, coating, welding, and smelting. Domestically-produced steel billets or iron~~

~~ingots shipped overseas for any process and returned to the United States do not conform to this requirement.~~

~~Buy America provisions do not apply to:~~

- ~~• Recycled steel~~
- ~~• Raw materials, scrap temporary steel items such as sheet piling, bridges, steel scaffolding, and false work~~
- ~~• Materials that remain in place at the contractor's convenience such as sheet piling and forms~~
- ~~• Pig iron and processed, pelletized, and reduced iron ore manufactured outside the United States~~

~~Buy America requirements apply to all steel and iron products, manufactured products, and construction materials supplied and permanently incorporated into a Federal aid project regardless of the funding source used to purchase the product and regardless of how the products were procured (i.e., agency furnished materials, materials added by change order, etc.).~~

Buy America requirements apply to Emergency Opening projects under a NEPA document if the subject materials (iron or steel products, construction materials, and manufactured products) are to be installed as part of the permanent facility. If, however, these items are temporary and replaced with compliant materials in the permanent restoration project then these materials are not required to meet Buy America requirements.

### Definitions

A material is solely classified based on its status at the time it is brought to the project site as either an iron or steel product, construction material, or a manufactured product. These products/materials are further defined below.

Iron or Steel Products - defined by 23 CFR 635.410 as articles, materials, or supplies that consist wholly or predominantly of iron or steel or a combination of both. For a product to be considered to consist predominantly of iron or steel or a combination of both means the cost of the iron and steel content of the product exceeds 50 percent of the total cost of all its components. The cost of iron and steel is the cost of the iron or steel mill products (such as bar, billet, slab, wire, plate, or sheet), castings, or forgings utilized in the manufacture of the product and a good faith estimate of the cost of iron or steel components.

All manufacturing processes involved in steel or iron products must occur within the United States. The manufacturing process begins with initial melting and mixing and continues through fabrication (cutting, drilling, welding, bending, etc.) and coating (paint, galvanizing, epoxy, etc.). Domestically produced steel billets or iron ingots shipped overseas for any process and returned to the United States do not conform to this requirement.

When iron or steel products are used in a project, the Buy America requirements do not prevent a minimal use of foreign iron or steel products, if the cost of such materials used does not exceed one-tenth of one percent (0.1 percent) of the total contract cost or \$2,500, whichever is greater. For purposes of this paragraph, the cost is that shown to be the value of the steel or iron products as they are delivered to the project.

Manufactured Products - defined by 23 CFR 635.410 as articles, materials, or supplies that have been processed into a specific form and shape, or combined with other articles, materials, or supplies to create a product with different properties than the individual articles, materials, or supplies. If an item is classified as an iron or steel product, an excluded material, or other product category as specified by law or in 2 CFR part 184, then it is not a manufactured product. However, an article, material, or supply classified as a manufactured product may include components that are iron or steel products, excluded materials, or other product categories. Mixtures of excluded materials delivered to a work site without final form for incorporation into a project are not a manufactured product.

With respect to precast concrete products that are classified as manufactured products, components of precast concrete products that consist wholly or predominantly of iron or steel or a combination of both are required to meet the Buy America requirements for iron or steel products. The cost of such components shall be included in the applicable calculation for purposes of determining whether the precast concrete product is produced in the United States.

With respect to Intelligent Transportation Systems (ITS) and other electronic hardware systems that are classified as manufactured products, the cabinets or other enclosures of such systems that consist wholly or predominantly of iron or steel or a combination of both are required to meet the Buy America requirements for iron and steel products. The cost of cabinets or other enclosures shall be included in the applicable calculation for purposes of determining whether systems referred to in the preceding sentence are produced in the United States.

Additional information regarding how to determine the cost of components of a manufactured product is found in 2 CFR 184.5.

Construction Materials – defined by 2 CFR 184.6 as an article, material, or supply that consists of only one of the following items:

- Non-ferrous metals - All manufacturing processes, from initial smelting or melting through final shaping, coating, and assembly, must occur in the United States.
- Plastic and polymer-based products - All manufacturing processes, from initial combination of constituent plastic or polymer-based inputs, or, where applicable, constituent composite materials, until the item is in its final form, must occur in the United States.
- Glass - All manufacturing processes, from initial batching and melting of raw materials through annealing, cooling, and cutting, must occur in the United States.
- Fiber optic cable (including drop cable) - All manufacturing processes, from the initial ribboning (if applicable), through buffering, fiber stranding and jacketing, must occur in the United States. All manufacturing processes also include the standards for glass and optical fiber, but not for non-ferrous metals, plastic and polymer-based products, or any others.
- Optical fiber - All manufacturing processes, from the initial preform fabrication stage through the completion of the draw, must occur in the United States.
- Lumber - All manufacturing processes, from initial debarking through treatment and planing, must occur in the United States.
- Drywall - All manufacturing processes, from initial blending of mined or synthetic gypsum plaster and additives through cutting and drying of sandwiched panels, must occur in the United States.

- Engineered wood - All manufacturing processes from the initial combination of constituent materials until the wood product is in its final form, must occur in the United States.

If one or more of these construction materials have been combined by a manufacturer with other materials through a manufacturing process, they are considered a manufactured product.

### Buy America Exceptions

Buy America requirements do not apply to the following:

- Pig iron and processed, pelletized, and reduced iron ore manufactured outside the United States
- Tools and construction equipment used in performing the work
- Temporary work that is not incorporated into the finished work
- Section 70917(c) materials (cement and cementitious material; aggregates such as stone, sand, or gravel; or aggregate binding agents or additives) as defined in 2 CFR 184.3

### Waiver of Buy America Requirements for De Minimis Costs and Small Grants

FHWA's general waiver for manufactured products, established in 1983, has been rescinded, and manufactured products permanently incorporated into the project must be manufactured in the United States. However, a waiver is available for de minimis costs and small grants, which applies to manufactured products and construction materials when:

- The total value of non-compliant products does not exceed the lesser of \$1,000,000 or 5% of total applicable project costs (de minimis costs); or
- The total amount of Federal financial assistance applied to the project, through awards or subawards is below \$500,000 (small grants).

The percent threshold is calculated based on the following formula:

*(total value of non-compliant manufactured products and construction materials) / total applicable project costs (steel, iron, manufactured products, and construction materials)*

This threshold is based on the actual cost of the steel, iron, manufactured products, and construction materials, not just the anticipated cost of those materials. In other words, the applicable project costs only include total actual material costs and does not include excluded materials as part of this total.

The cost of the non-compliant products must be accompanied by invoices and must include transportation to the project site.

### Waivers

Use of non-domestic steel or iron products, manufactured products, or construction materials that exceed the De Minimis Costs waiver will require a waiver by the appropriate federal administration authority prior to advertisement of the construction project. Any authorized waivers of Buy America requirements must be clearly identified within the contract's specifications for bidders' consideration as part of contract advertisement.

Typically, the need for Buy America waivers is identified during the early phases of the project. If the need for a waiver is identified during the design phase, the LPA must wait until the FHWA's Buy America waiver is approved before requesting ~~PS&E approval~~ authorization to proceed for construction. In the case of non-federally funded projects covered under the NEPA document,



the LPA must wait for the FHWA's Buy America waiver approval to advertise the project for bids. If during construction, the LPA identifies the need for a Buy America waiver, the LPA must wait for FHWA's approval of the Buy America waiver to incorporate the material in the project. A request for a Buy America waiver does not guarantee FHWA's approval of the waiver request. The LPA must expeditiously contact their DLAE to discuss potential Buy America waivers.

The LPA may request a waiver of the Buy America requirement for specific projects, certain materials or products in specific geographical areas, or combinations of both if:

- Buy America is inconsistent with the public interest, or
- There is not a sufficient supply of domestic materials of satisfactory quality.

The LPA must submit their Buy America waiver request to the DLAE which will review the request and recommend to FHWA for further processing. The following supporting information must be provided by the LPA, but additional information may be requested during the waiver review period:

- Federal project number
- Project description
- Total construction project cost, including Federal, State, and Local share amounts
- Description of the waiver item(s)
- Cost of waiver item(s)
- Country of origin of the product(s) (if known at the time)
- Reasons for the waiver request
- A description of the efforts made by the LPA to locate domestically-manufactured product(s)
- An analysis of re-design of the project using alternate or approved equal domestic product
- LPA's documentation of good faith efforts to maximize the use of domestic iron and steel products in accordance with U.S. President Executive Order 14005 Section 1: Ensuring the Future is Made in All of America by All of America's Workers

In addition to the Buy America waiver, FHWA's Buy America policies allow the LPA to incorporate non-domestic steel or iron materials if **any of the following methods is used:**

- ~~Minimal use of foreign steel and iron materials. If~~ the cost of foreign steel and iron materials used does not exceed one-tenth of one percent (0.1 percent) of the total contract cost or \$2,500, whichever is greater. The total cost of iron and steel includes the cost of the material plus the cost of transportation to the project site, but does not include labor costs involved in final assembly.
- ~~Alternate bid provisions. The LPA elects to include alternate bid provisions for both, foreign and domestic steel and iron materials. The contract provisions must require all bidders to submit a bid based on furnishing domestic steel and iron materials, and clearly state that the contract will be awarded to the bidder who submits the lowest total bid based on furnishing domestic steel and iron materials unless such total bid is more~~

~~than 25 percent higher than the total bid based on foreign steel or iron products. The comparison must be between the total lowest bid using domestic steel and iron product and the total lowest bid using foreign steel and iron product.~~

~~The LPA must coordinate with their DLAE prior to using the alternate bid provisions; the DLAE will coordinate with FHWA.~~

Approval authority for waiver of Buy America requirements has not been delegated from the FHWA to Caltrans, and therefore, is not delegated to the LPAs. The LPA should plan for a Buy America waiver request to take at least one year; however, longer timeframes for review and approval should be considered. Additionally, LPAs should be particularly careful not to specify, in the design process, items that are not Buy America compliant. Information on the Buy America waiver process can be found at:

<http://www.fhwa.dot.gov/construction/contracts/waivers.cfm>.

### Non-Compliance

~~After the fact discoveries of non-domestic materials incorporated in the project are not considered Buy America waivers.~~ The LPA's failure to comply with Buy America provisions will result in the loss of federal funding for not only the applicable contract items, but ~~likely may~~ **potentially include** all federal funding authorized for the construction phase of the project ~~based on potential circumstances~~. In the event an after-the-fact discovery ~~of non-compliant foreign materials~~ occurs, the LPA must expeditiously inform their DLAE, which will coordinate with FHWA to determine the appropriate resolution.

### Form FHWA-1273

Form FHWA-1273 is a package of federally-required contract provisions that must be physically included, unmodified, in the executed contract for all Federal-aid projects. The provisions apply to all work performed on the contract including work performed by subcontract. The unmodified Form FHWA-1273 is required to be physically incorporated into each executed contract, subcontract, and subsequent lower-tier subcontracts. To be directly incorporated into the contract means one of the following:

- Form FHWA-1273 is inserted in the project's final contract agreement package signed by the LPA and the contractor and continuously numbered on all pages including Form FHWA-1273.
- Form FHWA-1273 is referenced and numbered in the table of contents of the contract, and attached as an appendix. The appendix and the project's final contract agreement package signed by the LPA and the contractor must be within the same document.

In the same manner, Form FHWA-1273 must be physically inserted into any subsequent subcontracts.

FHWA does not consider simply placing, or stapling Form FHWA-1273 in the special provisions or standards specifications to be directly incorporated into the contract. Even if contract documents such as the contract special provisions or standard specifications are considered by the LPA as part of the contract, the LPA still must insert the Form FHWA-1273 into the contract by one of the two methods mentioned above.

Failure of the LPA to incorporate the Form FHWA-1273 in the executed contract makes the construction phase of the project ineligible for federal reimbursement. The prime contractor is responsible for compliance with the requirements by all subcontractors and lower tier

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

### Contract Items

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

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

### Agency Furnished Materials

Federal regulations require that the contractor must furnish all materials to be incorporated in the work. Exceptions to this requirement may be made when a public interest finding (PIF) is approved for the LPA to furnish materials (23 CFR 635.407). Agency Furnished Materials are a part of the total cost of the project and should be sub-totaled and included in the total project cost. All Agency Furnished Materials are subject to Buy America requirements.

To be eligible for federal participation, any material (other than local natural material) purchased by the LPA and furnished to the contractor for mandatory use in the project must be acquired on the basis of competitive bidding, except when there is a finding of public interest that justifies the use of another method of acquisition (23 CFR 635.407). PIFs are to be approved by the LPA and submitted to the DLAE for review. ~~The unit cost eligible for federal participation is limited to the unit cost of such material to the LPA.~~ Refer to Buy America regarding applicability of Agency Furnished Materials and De Minimis Waiver requirements.

### Supplemental Work

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

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

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

## LAPM C.13 RIGHT OF WAY

### LAPM C.13 Right of Way

Section / Exhibit	Description of Changes
<b>13.2.1</b> FHWA Role	<ul style="list-style-type: none"><li>OB #25-03 text changes incorporated.</li></ul>
<b>13.10.1</b> Levels of Certification	<ul style="list-style-type: none"><li>OB #25-03 text changes incorporated.</li></ul>
<b>13.10.2</b> Time Requirements for Right of Way Certifications	<ul style="list-style-type: none"><li>OB #25-03 text changes incorporated.</li></ul>
<b>13.11</b> Rights of Entry	<ul style="list-style-type: none"><li>Approval for the use of Rights of Entry updated to Region/District R/W Local Programs Coordinator instead of HQ RW/LS and FHWA.</li></ul>
<b>13.11</b> Environmental Mitigation	<ul style="list-style-type: none"><li>Responsibility for mitigation measures incorrectly stated as District R/W staff; corrected to LPA.</li></ul>
<b>13.11</b> Acceptance of Right of Way Certification	<ul style="list-style-type: none"><li>OB #25-03 text changes incorporated.</li></ul>
<b>Exhibit 13-B</b> Right of Way Certification Local Assistance Project	<ul style="list-style-type: none"><li>Pre-approvals for parcels covered by Rights of Entry changed from HQ R/W and FHWA to approvals by Region/District R/W Local Programs Coordinator</li></ul>

exercise this authority whenever a project benefits from federal funds. Affected property owners and those displaced by the project are entitled to fair, equitable and consistent treatment and due process of law to determine compensation. These laws and regulations are also intended as a safeguard to ensure that federal funds are not unnecessarily or inappropriately expended. The information in this section has been compiled from many sources, but the underlying federal and state laws remain unchanged. This chapter should not be used as a substitute for these laws, statutes, regulations, policies, and/or procedures when conducting R/W activities using federal funds.

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

## 13.2 Federal-aid and the Federal/State/Local Public Agency Relationship

FHWA is the federal agency most typically involved in transportation projects undertaken with federal funding for the programs discussed in the [LAPM](#). It has the authority and responsibility for implementing and monitoring federal laws, regulations, and executive orders affecting these programs. When a project utilizes federal funding, FHWA is involved pursuant to these responsibilities and the delegations described below.

Caltrans is granted major delegations of authority from FHWA under 23 U.S.C. 106(c) and the FHWA/Caltrans Joint Stewardship and Oversight Agreement (S&O). Further, Caltrans has passed on these delegations to LPA partners to the greatest extent possible. With each delegation goes the responsibility for initiating and completing each project phase in accordance with the appropriate state and federal laws and regulations without extensive FHWA or state oversight.

### 13.2.1 FHWA Role

FHWA is responsible for the following project activities, for all Federal-aid projects:

- Obligation of federal funds
- Approval of E-76 for R/W activities and utilities under the Alternate Procedure
- Approval of Early Acquisition, Protective Buying or Hardship Acquisition
- Approval of [all](#) R/W Certification Level 3/3W ~~for projects on the National Highway System, pursuant to the current S&O~~
- ~~Approval of R/W Certification Level 3/3W for all interstate projects, pursuant to the current S&O~~

For additional details on the FHWA/Caltrans relationship, refer to [LAPM Chapter 2: Roles and Responsibilities](#).

### 13.2.2 Caltrans Role

When federal funding is used in any phase of a Local Assistance project, FHWA places overall responsibility for the acquisition of R/W and the relocation of individuals, businesses, and utilities with Caltrans. Caltrans in turn has delegated substantial authority to LPAs. On these Federal-aid projects, all R/W activities must be conducted in accordance with the Caltrans Right of Way Manual.

9. Bids cannot be opened until the [Conditional](#) Certification No. 3 is upgraded to a Certification No. [1](#) or [2](#).

Note: Per CTC guidelines, a Conditional Certification No. 3 is not acceptable for seeking a funds vote from the CTC.

### Special Certification No. 3 with a Work-Around (3W)

This special R/W Certification 3W may be used only in the most extraordinary circumstances. The LPA must show that there is a critical need to advertise and award the project and describe in detail the extraordinary circumstances. If federal funds are involved in any portion of the project, including construction, ~~and if~~ [as](#) required by the current Stewardship and Oversight Agreement (S&O), approval of the work-around must be obtained from Caltrans [HQ Right of Way & Land Surveys \(HQ RW&LS\)](#) and ~~possibly~~ FHWA in advance of certifying the project for advertising. This certification will allow physical construction of a project to commence while occupants of businesses, farms, or nonprofit organizations remain within the R/W. All occupants of residences must have had replacement housing made available to them in accordance with the Uniform Act. The certification must be completed in a timely manner, with proper and complete documentation and justification. Should the LPA anticipate a need to certify the R/W for a project under this type of certification, the District R/W Coordinator should be contacted as soon as the circumstances are confirmed during the PS&E stage.

## 13.10.2 Time Requirements for Right of Way Certifications

Under ideal conditions, a Certification No.1 would be completed for each project at the PS&E stage. Because this is not always possible, the lower levels of certification allow projects to proceed within limitations while the remaining necessary rights are acquired. The LPA must transmit all certifications to the DLAE for all Federal-aid projects along with the Request for Authorization. All certifications must be reviewed and accepted by Caltrans Division of Right of Way. Certification No's. 1 and 2 are ~~approved~~ [accepted](#) at the district level. ~~Certification No's. 3 and 3W require headquarters acceptance and may require FHWA approval pursuant to the current Stewardship and Oversight Agreement.~~ [A Conditional Certification No. 3 and Special Certification No. 3 with a Work-Around \(3W\) require approval by Caltrans HQ RW&LS and FHWA.](#)

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

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

## 13.10.3 Age of Right of Way Certifications

Right of Way Certifications must be updated:

- When the Certification is one year old and the project it was prepared for has yet to be advertised



as regular parcels acquired by deed, Final Orders of Condemnation, and Orders for Possession. It also includes temporary interests such as Rights of Entry (see Rights of Entry below), construction or access easements, permits to enter during construction (including any Caltrans encroachment permits), or licenses. It is important to include the expiration date of any temporary rights in the certification, so that they may be evaluated in terms of the construction schedule.

### **Rights of Entry**

The use of Rights of Entry is limited to emergency and exceptional situations only and require ~~pre-~~approval from ~~Caltrans HQ RW&LS and FHWA~~ the [Region/District R/W Local Programs Coordinator](#) with the facts justifying the proposed action.

In accordance with Caltrans policy and 49 CFR 24.102(j), funds must be made available to the property owner for their withdrawal and use prior to the owner surrendering possession of their property. Owners must acknowledge they have been advised of their right to receive immediate compensation and have waived that right, agreeing to be compensated at a later date with interest. LPAs must also deposit funds into escrow prior to obtaining possession. A Right of Entry allows an agency representative to enter someone's property for a specific purpose at a specified time. Only in emergency and/or exceptional situations when the LPA would normally acquire the needed interest, but the owner cannot or will not provide an executed R/W contract, shall use of a right of entry be considered. An acceptable form/format for Right of Entry is the state's Agreement for Possession and Use, Exhibit 8-EX-25 of the [Caltrans Right of Way Manual Exhibits](#). The Right of Entry will not be utilized if the project will displace people or impact improvements of a significant nature.

### **Status of Access Control**

Access to the project must be adequate to meet the needs during construction. At the same time, access rights for persons whose property abuts on the project boundaries cannot be denied or unreasonably restricted, unless other access is available or provided to the owner during construction. If no access can be provided, the owner is entitled to compensation during the course of construction.

### **Status of Affected Railroad Operating Facilities**

The LPA must confirm that all arrangements have been made with the railroad. If railroad-operating R/W is not within the project limits or ends two feet of the rail crossing, then none would be noted on the certification form. Railroads are considered clear for advertising when all arrangements have been made with the railroad for entry on to their property and/or for working on or near the tracks. Types of agreements that may be required include acquisition contracts for fee, easement (permanent or temporary) or Right of Entry, construction and maintenance agreements, or service contracts. Contact the railroad for specific requirements.

### **Railroad Involvement and Project Deliverables:**

Clearance of construction projects that involve railroads consists of the following three distinct and mandatory project deliverables:

1. California Public Utilities Commission (CPUC) Application Approval of Project Railroad Plans for Final Project PS&E:

Pursuant to Public Utilities Code sections 1201-1220, the California Public Utilities Commission (CPUC) has jurisdictional authority over all railroad crossings, including the exclusive power to determine and prescribe the manner, including the particular point of

Note: 23 CFR 635.309(b) requires utility arrangements to be completed prior to project construction except where it is determined such work is not feasible or practical. Federal participation in the utility relocation costs is a R/W issue and not a construction matter, even if the relocation will occur during construction. A separate Authorization Approval must be received prior to any utility relocation. [LAPM Chapter 14: Utility Relocation](#) provides a detailed discussion of the specific authorization requirements and approval process.

### **Right of Way Clearance**

The preliminary investigations included in the field review will reveal the presence of any improvements or physical obstructions that must be removed prior to construction. Care should be taken in arranging for the removal of these items in order to properly coordinate with the construction schedule.

### **Airspace Agreements**

Airspace right of way use agreements are revenue-producing agreements for parcels within (above or below) the operating R/W. When subsequent projects are proposed, which affect the airspace areas or pose a problem for the Lessee's use of the site, the agreement must be terminated, modified, suspended, or cancelled, according to the subject area's specific agreement terms. Care must be taken in drafting an airspace agreement to ensure there is language in the lease addressing lease termination, modification, suspension, and/or cancellation due to either temporary or permanent project impacts. It is recommended that Lessor negotiate a lease where Lessee-incurred costs due to temporary or permanent project impacts are the responsibility of the Lessee. Any Lessee-incurred costs paid by Lessor due to agreement termination, modification, suspension, or cancellation because of temporary or permanent project impacts shall not be federally reimbursable. Any arrangements for the Lessee's relocation must be coordinated according to the agreement terms prior to certifying the project.

### **Compliance with the Relocation Assistance Program**

The Uniform Act prescribes certain benefits and protections for persons displaced by local projects which are funded in whole or in part with federal money. Among the benefits the Uniform Act provides are relocation payments for residential displaced persons and for businesses, farms, and nonprofit organizations. The Uniform Act also provides certain protections, such as requiring the availability of replacement housing for residential displaced persons, minimum standards for such housing, and assurances that displaced persons have sufficient time in which to choose their replacement properties. Finally, the Uniform Act provides for certain advisory services for displaced persons. Each of these legal requirements must be satisfied and then addressed in the R/W Certification.

### **Environmental Mitigation**

When an approved NEPA document includes mitigation commitments involving the acquisition of property, a list of those commitments along with the date each parcel is expected to be acquired, must be listed on the R/W Certification. While wetland and floodplain mitigation is mainly the responsibility of the project engineer and their environmental staff and/or consultant, the mitigation measures involving the acquisition of property to accommodate replacement wetlands is the responsibility of the [LPA District R/W staff](#). To ensure the most efficient and expeditious implementation of mitigation commitments, it is imperative that the LPA project



engineer, District Right of Way Engineer, and District Environmental staff collaborate closely on the acquisition of mitigation parcels and the subsequent implementation of mitigation measures.

### Acceptance of Right of Way Certification

When there are R/W issues involved, the LPA will certify that the issues have been resolved. Because LPAs are now certifying their own projects, it should be stressed that the authorized official or designated alternate executing the certification must be certain that the proper R/W procedures have been followed and that the requirements of the Uniform Act have been met. All LPAs may certify their own projects but it is of crucial importance to adhere to state and federal standards, so that the federal funds for the project will not be jeopardized. This emphasizes the gravity for non-qualified agencies in the selection of qualified consultants or in contracting with a qualified agency to perform the various R/W functions. Upon receipt, the District Right of Way Local Programs Coordinator will review the certification to see that each item has been completed in compliance with federal and state laws and regulations and if applicable, the date by which the R/W will be cleared.

If all of the R/W issues have been dealt with in a satisfactory manner, both duplicate originals will be accepted, and a signed original copy will be returned to the LPA. If there are irregularities in the certification and it cannot be accepted as submitted, the Right of Way Local Programs Coordinator will return the certification to the LPA with an explanation as to why it cannot be accepted and the steps that are necessary for acceptance.

Certifications No. 1 and 2 will be accepted in the district. [Conditional](#) Certifications No. 3 and [Special Certification No. 3W](#) will be forwarded to Caltrans HQ RW&LS for review and ~~may will~~ require FHWA approval ~~pursuant to the current Stewardship and Oversight Agreement (S&O).~~

## 13.12 Reimbursement/Fiscal Policy

This section contains critical requirements and basic principles relating to the eligibility of R/W transactions for federal reimbursement. From this overview, the LPA should be able to understand the overall federal and state requirements. Detailed procedures are found in [LAPM Chapter 5: Invoicing](#).

### Reimbursement Process Overview – Caltrans

Caltrans receives federal funds on a reimbursement basis. This means Caltrans must first obtain an Authorization to Proceed (E-76), incur costs, and bill the FHWA for payment before receiving payment. Federal funds are received by Caltrans as reimbursement for federally eligible expenditures.

As noted above, the normal sequence of events to obtain prior Federal Authorization and reimbursement through Caltrans is:

- a. Obtain authorization to begin work. Federal authorization is gained by obtaining an E-76, Approval to Proceed which means funding is available. Only eligible expenditures incurred for work after the date FHWA approves the request are reimbursable.
- b. Reimbursement is limited to the amount shown on the E-76. However, the amount can be revised. If necessary, execute a revised E-76 with FHWA. The revised E-76 is used to increase or decrease the federal funding limit shown on previous agreements.
- c. Submit progress payment invoices during the course of the work and a final invoice upon completion, along with the other documents discussed below.

## 4. Parcels covered by Possession and Use Agreement Only: \_\_\_\_\_

Parcel Number	Owner	Project R/W Required <sup>2</sup>	Effective Date	Date Funds Deposited into Escrow <sup>4</sup>

5. Parcels covered by Right of Entry only (requires ~~HQ R/W and FHWA~~ Region/District R/W Local Programs Coordinator ~~pre~~-approval)<sup>5</sup>: \_\_\_\_\_

Parcel Number	Owner	Project R/W Required <sup>2</sup>	Effective Date	Date Funds Deposited to Escrow

6. Parcels covered by Resolution of Necessity only<sup>6</sup>: \_\_\_\_\_

Parcel Number	Owner	Project R/W Required <sup>2</sup>	LPA Resolution Date	Suit Filing Date and Date Funds Deposited	OP Hearing Date	Anticipated OP Service Date and Effective Date

7. Parcels covered by other acquisition documents as follows<sup>7</sup>: \_\_\_\_\_

Parcel Number or Location / PM	Owner	Project R/W Required <sup>2</sup>	Type of Document	Effective Date	Expiration Date	Date Funds Deposited into Escrow

B. Construction Permits / Other Required Permits<sup>8</sup>: \_\_\_\_\_

Location / PM	Owner	Type of Document	Effective Date	Expiration Date

<sup>4</sup> Funds must be deposited into an escrow account and be made available (able to withdraw), as legally permissible, to the grantor/s, as a condition of use.

<sup>5</sup> Rights of Entry must only be used in emergencies, or extremely unusual/extraordinary circumstances. All Rights of Entry must be ~~pre~~-approved by the ~~Division of HQs RW&LS and approved by FHWA~~ Region/District R/W Local Programs Coordinator.

<sup>6</sup> To be used only rarely in a Certification No. 3; Resolution of Necessity must be adopted and the Order for Possession served, but is not yet effective.

<sup>7</sup> This section covers acquisitions where the document is a license, permit etc., not otherwise covered by A1-A6 above. Examples include Licenses from State Lands Commission, Flood Control Districts, and Letters of Consent from US Forest Service.

<sup>8</sup> These permits are not counted as parcels, are not appraised, recorded, or require payment (e.g., Permits to Enter).

**Footnote Instructions**

1. Parcels listed in items A1 – A7 on pages 1 and 2 should total the number shown on line 1A above.
2. For sections A1 – A7 list as full acquisition, partial acquisition, fee, permanent easement (including type), temporary construction easement, etc. Detail should be added showing expiration dates of documents with fixed termination dates, i.e., temporary easements.
3. Funds must be deposited into an escrow account and be made available (able to withdraw), as legally permissible, to the grantor, as a condition of use of a possession clause in a right of way contract.
4. Funds must be deposited into an escrow account and be made available (able to withdraw) as legally permissible, to the grantor as a condition of use.
5. Rights of Entry must only be used in emergencies, or extremely unusual/extraordinary circumstances. All Rights of Entry must be ~~pre-~~approved by the ~~Division of HQs RW&LS and approved by FHWA~~ Region/District R/W Local Programs Coordinator with the facts justifying the proposed action.
6. To be used only rarely in a Certification No. 3; Resolution of Necessity must be adopted and the Order for Possession served, but is not yet effective.
7. This section covers acquisitions where the document is a license, permit etc., not otherwise covered by A1 – A6 above. Examples include Licenses from State Lands Commission, Flood Control Districts, and Letters of Consent from the US Forest Service.
8. These permits are not counted as parcels, are not appraised, recorded, or require payment (e.g., Permits to Enter).
9. A copy of Specific Authorization to Relocate Facility Utilities Memorandum must be attached for each facility relocation item.
10. Additional information is required for each bid item if highway contractor will complete work as part of highway contract.
11. Demolition Contract, Construction Contract, or Owner.
12. Residential, Business, Farm, Nonprofit Organization, or Personal Property only.

# LAPM C.16 ADMINISTER CONSTRUCTION CONTRACTS

## LAPM C.16 Administer Construction Contracts

Section / Exhibit	Description of Changes
<b>16.3.1</b> Organization of Project Records	<ul style="list-style-type: none"> <li>OB #25-05 text changes incorporated.</li> </ul>
<b>16.4</b> Pre-Construction Conference	<ul style="list-style-type: none"> <li>OB #25-06 text changes incorporated.</li> </ul>
<b>16.9.2</b> Equal Employment Opportunity	<ul style="list-style-type: none"> <li>Dates for review/submission of Form FHWA-1391 are subject to change each year; specific dates removed.</li> </ul>
<b>16.11</b> Quality Assurance Program	<ul style="list-style-type: none"> <li>OB #25-04 text changes incorporated.</li> </ul>
<b>16.11.1</b> Materials Acceptance Program	<ul style="list-style-type: none"> <li>OB #25-04 text changes incorporated.</li> </ul>
<b>16.11.3</b> Responsibilities of the RE	<ul style="list-style-type: none"> <li>OB #25-05 text changes incorporated.</li> <li>OB #25-06 text changes incorporated.</li> </ul>
<b>16.16</b> Contract Disputes and Claims	<ul style="list-style-type: none"> <li>Section moved from 16.17 per OB #25-05.</li> </ul>
<b>16.17</b> Final Inspection and Contract Acceptance	<ul style="list-style-type: none"> <li>OB #25-05 text changes incorporated.</li> </ul>
<b>Exhibit 16-I</b> Notice of Materials to be Used	<ul style="list-style-type: none"> <li>Retired as a LAPM Exhibit and placed on the Construction Oversight Program website as a resource:  <a href="https://dot.ca.gov/-/media/dot-media/programs/local-assistance/documents/coe/notice-of-materials-to-be-used.xlsx">https://dot.ca.gov/-/media/dot-media/programs/local-assistance/documents/coe/notice-of-materials-to-be-used.xlsx</a> </li> </ul>
<b>Exhibit 16-Y</b> Monthly Progress Payment Item Quantity Calculation Sheet	<ul style="list-style-type: none"> <li>Retired as a LAPM Exhibit and placed on the Construction Oversight Program website as a resource:  <a href="https://dot.ca.gov/-/media/dot-media/programs/local-assistance/documents/coe/quantity-calc-sheet.docx">https://dot.ca.gov/-/media/dot-media/programs/local-assistance/documents/coe/quantity-calc-sheet.docx</a> </li> </ul>

10. Progress Pay Estimates and Status of Funds
11. Labor Compliance and Equal Employment Opportunity (EEO) records
  - a. Certified Payrolls
  - b. [LAPM 16-B: Subcontracting Request](#)
  - c. Photo Documentation of all required posters:  
[www.fhwa.dot.gov/programadmin/contracts/poster.cfm](http://www.fhwa.dot.gov/programadmin/contracts/poster.cfm)
  - d. Labor Compliance Interviews
  - e. Form FHWA-1391: Federal-aid Highway Construction Contractors Annual EEO Report
12. Disadvantaged Business Enterprise (DBE) Records
  - a. [Exhibit 15-G: Construction Contract DBE Commitment](#)
  - b. [Exhibit 15-H: DBE Information - Good Faith Efforts](#)
  - c. [Exhibit 16-Z1: Monthly DBE Trucking Verification](#)
  - d. DBE termination and replacement supporting documentation (if applicable)
  - e. DBE Monthly Payment documentation (Exhibit 9-F or Exhibit 9-P depending on project award date)
  - f. [Exhibit 17-F: Final Report - Utilization of DBE and First –Tier Subcontractor](#)
  - g. [LAPM 9-J: DBE Commercially Useful Function](#)
13. Environmental-related documents
14. Project Complete Documents
  - a. [LAPM 16-E: Final Materials Certification](#)
  - b. [LAPM 16-F: Final Inspection Form](#)
  - c. [Contract acceptance related documents and correspondence](#)

Other sections of this chapter explain the content of the above listed file categories.

A large and complex project usually requires a more detailed record-keeping system. The record-keeping system described in Caltrans Construction Manual, [Section 5-102: Organization of Project Documents](#), is suggested for large projects.

### 16.3.2 Availability of Records for Review or Audit

The record retention period is three (3) years and begins when the final voucher is submitted by Caltrans to FHWA. The files must be available at a single location for these reviews and audits. Use of a uniform project record-keeping system, together with diligent maintenance of the system, greatly facilitates a process review and minimizes negative findings. Good records of all construction activities clearly demonstrate to those concerned that project supervision and control were attained on the project.

## 16.4 Pre-Construction Conference

For all construction projects, the LPA must schedule a pre-construction conference with the contractor.

### Required Attendees

- LPA Representative
- Resident Engineer (if this is not the same person as above)
- Contractor

### Possible/Recommended Attendees

- DLAE
- LPA Labor Compliance Officer
- LPA Safety Officer
- Other affected agencies (Fish and Wildlife, Parks and Rec, etc.)
- Emergency Services (Fire, Police, Ambulance, etc.)
- Public Utilities (if relocation or temporary shutdowns are required)
- FHWA Project Oversight Manager

The size, duration, and complexity of the project should be considered when determining who to invite. When an invitation is extended to Caltrans, representation will be up to the DLAE as resources allow. The LPA representatives should discuss important contract issues, submittals, as well as sanctions for non-compliance with local, state, and federal requirements.

### Required Topics

- Safety
- Equal Employment Opportunity
- Labor Compliance
- Subcontracting (including required submittal of [LAPM 16-B: Subcontracting Request](#))
- DBE
- NEPA, Permits and Environmental Mitigation Commitment requirements
- Potential Traffic or Pedestrian Handling Issues

### Recommended Topics

- Progress Schedule
- Work Plans
- Quality Control/Quality Assurance
- Materials Requiring Certificates of Compliance
- Materials to be Used identified
- Materials Requiring Buy America Certificates
- [Buy America De Minimis Cost requests and required documentation](#)

- Review [Form FHWA-1391](#). All contractors, including subs of any tier must submit this form to the RE. The requirement applies to all contractors who have Federal-aid contracts exceeding \$10,000 and who worked any part of the last full week of July. The form shows the composition of the contractor's workforce by race and gender for each job category. Withhold \$10,000 if the contractor fails to submit the form by [the first week of August 15<sup>th</sup>](#).
- Counter sign and submit Form FHWA-1391 to the DLAE ~~by August 25 of each year;~~ [specific deadlines are communicated by the Office of Local Civil Compliance to the districts each year.](#)

### Report EEO Violations

In accordance with the U.S. Department of Labor Executive Order 11246, if you become aware of any possible violations of EO 11246 or 41 CFR 60, you have the authority and responsibility to notify the [Office of Federal Contract Compliance Programs](#).

For California contact information: <https://www.dol.gov/agencies/ofccp/contact/district-area-offices#California>.

### 16.9.3 Disadvantaged Business Enterprises (DBE)

Federal regulations define DBE as firms that are for-profit small business concerns where at least 51% are owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51% of the stock is owned by one or more such individuals; and whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

This section presents the requirements for administration of the DBE requirements of the contract. These guidelines apply to all federally-funded projects. The DBE requirements come from 49 CFR 26, Form FHWA-1273, Disadvantaged Business Enterprises, Part 1, and [Exhibit 12-G: Required Federal-aid Contract Language](#).

49 CFR 26 requires that bidders take all necessary and reasonable steps to achieve a DBE goal, which by their scope, intensity, and appropriateness to the objective, could reasonably be expected to obtain sufficient DBE participation, even if they were not fully successful (49 CFR 26 Appendix A). The required Federal-aid contract language in Exhibit 12-G requires the contractor meet the DBE goal shown in the project special provisions or submit documents that demonstrate adequate good faith efforts were made to meet the goal.

#### DBE Goal

The DBE goal is a percentage of the total contract value that must be performed by certified DBE contractors. The DBE program is designed to increase DBE participation on federally-funded contracts by ensuring nondiscrimination in the award and administration of Department of Transportation assisted contracts, creating a level playing field on which DBEs can compete fairly, and by helping remove barriers to the participation of DBEs.

#### DBE Commitment Form

[Exhibit 15-G: Construction Contract DBE Commitment](#) provides the RE with a listing of specific work to be done or materials to be furnished by specific DBEs and is based on information the contractor submitted during the bidding process. The commitment is the percentage of work on the contract that the bidder has committed to perform using certified DBE contractors or suppliers. The commitment may be less than, equal to, or greater than the goal depending on the bidder. However, the contractor must meet the DBE commitment, regardless of the contract

The FHWA policy generally does not permit participation in time extensions for delays due to the Right of Way Certification required from the LPAs prior to the FHWA project authorization. Whenever the railroad or utility is permitted to adjust its facilities coincidentally with contract operations, such activities must be clearly addressed in the contract provisions. All parties should understand that any interference by the railroad or utility to the contractor's operations generally will not constitute an allowable delay. In general, an extension of contract time due to R/W delays is very unusual and is the exception rather than the rule. For Federal-aid eligibility of an extension, it must be shown that:

- The construction work was delayed by the R/W, railroad, or utility difficulty.
- The contractor did everything required by the contract to minimize the delay.
- The LPA was unable to exercise effective control of the situation despite its best efforts.

Process reviews should be conducted by the COEs and the DLAE periodically to monitor approved change orders. If change orders are found to be ineligible during a process review, federal funds paid for the change order should be withdrawn from the project.

### Equipment Rental Rates

Federal policy requires that actual costs be used to determine extra work payments; however, actual equipment costs are not always readily available. A state subject to the FHWA's concurrence, may adopt an industry equipment rate guide or it may develop its own guide. In California, the guide is the Caltrans Labor Surcharge and Equipment Rental Rates book. Overtime, multiple shift, and delay factors apply to these rates as detailed in the guide.

Equipment rental rates paid in excess of those shown in the guide are not eligible for Federal-aid reimbursement.

## 16.11 Quality Assurance Program

A Quality Assurance Program (QAP) is a program that ~~will~~ ensures the materials and workmanship incorporated into each construction project conform to the requirements of the contract plans and specifications including approved changes.

For federal construction projects, ~~each~~ the LPA is required to ~~adopt~~ have a QAP. Caltrans will not process a Request for Authorization for Construction without verification of an ~~adopted~~ approved QAP. The QAP must be signed by the LPA public works director or, if the director is not registered, it must be delegated to the next highest registered Engineer. The QAP must be updated at least every five years. Copies of the approved QAP must be kept on file and available for state review.

The LPA is required to adhere to their QAP during the construction of the project, but a QAP is not part of the contract. A QAP can be thought of as a commitment by the LPA to FHWA.

The main elements of a QAP are ~~an acceptance program~~ a Materials Acceptance Program and an Independent Assurance Program that meets the criteria in 23 CFR 637.

~~A typical QAP is structured as shown below:~~

- ~~1) General Discussion~~
- ~~2) Variations for Projects on or off the SHS~~
- ~~3) Materials Acceptance Program~~



- a) ~~Minimum Sampling and Testing Frequency Requirements~~
- b) ~~Sample Testing Results Summary Log~~
- c) ~~Materials Accepted by a Certificate of Compliance per the Contract Specifications~~
- d) ~~Source Inspection Process~~
- 4) ~~Independent Assurance (IA) Program~~
  - a) ~~Tester Certification Process~~
  - b) ~~Laboratory Qualification Process~~
  - c) ~~Equipment Calibration Process~~
- 5) ~~Materials Certification Process for completed project~~

### Variations for Projects On or Off the SHS

The requirements of a QAP depend on whether the project is on or off the SHS.

For projects on the SHS, the LPA must adopt the Caltrans QAP detailed in the following manuals and guides:

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

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

For projects off the SHS, LPAs may adopt the Caltrans QAP described above or ~~may~~ develop their own QAP conforming with the requirements of [23 CFR 637](#) ~~the QAP Manual and FHWA regulations~~. For projects off the SHS and on the NHS, the LPA must use the current Caltrans or Greenbook Standard Plans and Specifications. Tests methods used may be either CTM, ASTM, AASHTO, or other nationally recognized test methods, but must be specified in the contract documents.

Consult the Quality Assurance Program Manual for complete information on developing and maintaining a QAP. A template for LPAs developing their own QAP [is available on the Construction Oversight Program website](#) ~~can be found in Appendix Y of the QAP manual, or an alternative can be provided by your district Local Assistance Office.~~

#### 16.11.1 Materials Acceptance Program

The QAP for all LPA projects must include a Materials Acceptance Program. ~~A materials acceptance program must be~~ used to determine the quality and acceptability of materials and workmanship incorporated into the project. ~~The program must address soils and aggregates, and manufactured and fabricated materials.~~

[The Materials Acceptance Program should consist of the following:](#)

- Frequency guide schedules for verification sampling and testing which will give general guidance to personnel responsible for the program and allow adaptation to specific project conditions and needs.
- Identification of the specific location in the construction or production operation at which verification sampling and testing is to be accomplished.
- Identification of the specific attributes to be inspected which reflect the quality of the finished product.

### Testing and Sampling Frequency Tables

The RE must also ensure the minimum number of samples are taken and tests are performed as required by the adopted QAP's Testing and Sampling Frequency Table. Often a QAP will call for taking more samples than are used to perform tests. This is beneficial in the case of failing results. The RE can then go back and test additional samples to determine the exact limits of the failing material.

### Test Data and Summary Logs

The RE must obtain test data and results from the lab in a timely manner and keep records of all samples and tests in the project files. The RE must keep a test results summary log for each test method performed more than once utilizing the adopted QAP's Acceptance Testing Results Summary Log. On larger projects, it may be necessary to keep multiple logs for the same test method, broken out by salient features such as compaction tests performed on the roadway structural section on one log, and those performed on structural backfill on a separate log. The use of a summary log facilitates the review of material sampling and testing by Caltrans and FHWA reviewing personnel. It also assists the RE in tracking the frequency of testing.

### Failing Test

Whenever failing tests occur, sufficient additional acceptance tests must be taken to isolate the affected work. Documentation of the results of such additional tests must be included in the records, including a description of the corrective measures taken. Corrective action or retesting of failing tests must be noted in the remarks column of the test summary log. Documentation of the reason that materials represented by failing tests were incorporated into the project must be in the project files.

## 16.11.2 Independent Assurance (IA) Program

The other main element of a QAP program is the IA program. The following information regarding IA programs is directed to REs and construction management staff implementing the QAP during project construction. QAP developers and laboratory managers are directed to the Independent Assurance Manual for more detailed information on developing and maintaining an Independent Assurance Program.

The IA program consists of activities that are unbiased and are an independent evaluation of all the sampling and testing procedures used in the acceptance program. The requirements are defined in 23 CFR 637:

- Testing equipment be evaluated by using calibration checks and proficiency samples
- Testing personnel be evaluated by observation and proficiency samples

It is often said that an acceptance program tests the material, while an IA program tests the testers.

construction) covered under the National Environmental Policy Act (NEPA) document, regardless of the funding sources. Therefore, the LPA cannot circumvent the Buy America requirement by declaring that the material is being paid for with the non-federal portion of the funding.

Buy America does not apply to temporary materials not permanently incorporated into the project such as temporary steel used in falsework, sheet piling, or shoring. Buy America requirement does not apply to recycled steel nor pig iron and processed, pelletized, and reduced iron ore manufactured outside the United States. A minimal use of foreign iron or steel is allowed provided that the total cost of iron and steel products as delivered to the project site is less than \$2,500 or 0.1 percent of the total contract amount, whichever is greater. The LPA must track the amount of incorporated foreign iron or steel as the work proceeds to ensure that the minimal use threshold amount is not exceeded at any point in the contract. Once the cumulative value reaches the minimum threshold limit, then all additional installed materials must be of domestic origin. Supporting documentation for this minimal use must be on file in the project records (i.e., invoices, including the cost of transportation).

#### Waiver of Buy America Requirements for De Minimis Costs

In addition to the minimal use of foreign iron and steel allowed there is a De Minimis Waiver which can waive the application of FHWA's Buy America requirements for manufactured products and construction materials under a single project for which the total value of non-compliant Manufactured Products and Construction Materials is no more than the lesser of \$1,000,000 or 5% percent of the total applicable costs for the project, including any agency furnished materials.

The percent threshold is calculated based on the following formula:

*(total value of non-compliant construction materials and manufactured products) / total applicable project costs (steel, iron, construction materials and manufactured products)*

This threshold is based on the actual cost of the steel, iron, construction materials, and manufactured products, not just the anticipated cost of those materials. In other words, the applicable project costs only include total actual material costs and does not include excluded materials as part of this total.

As with iron or steel products, the LPA must track the amount of incorporated foreign materials as the work proceeds to ensure that the minimal use threshold amount is not exceeded at any point in the contract. This includes any change orders impacting the applicable project costs. Once the cumulative value reaches the minimum threshold limit, then all additional installed materials must be of domestic origin. Supporting documentation for this minimal use must be on file in the project records (i.e., invoices, including the cost of transportation).

To assist in the calculation of the De Minimis Cost for a project, a spreadsheet tool is available as a resource. The tool requires that the agency provide agency furnished material cost information of applicable Buy America materials to use in the calculation of the De Minimis Cost for the project. It is recommended that the spreadsheet tool be made available to the contractor and submitted to the RE early in the contract for review and approval.

~~After the fact discoveries of non-domestic materials incorporated in the project are not considered Buy America waivers.~~ The LPA's failure to comply with Buy America provisions will result in the loss of federal funding for not only the applicable contract items, but ~~likely will result in the loss of~~ may potentially include all federal funding authorized for the construction phase of

the project [based on potential circumstances](#). In the event an after-the-fact discovery of [non-compliant foreign materials](#) occurs, the LPA must expeditiously inform their DLAE, who will coordinate with FHWA to determine the appropriate resolution.

### Material QA Costs

Material inspection, testing and sampling costs are eligible to be charged to the construction engineering phase of the project.

LPAs using the Greenbook (as outlined in Section 4-1.3.3) can select a consultant laboratory to sample and test materials at distant locations. This specification allows for the LPA to have the contractor pay for the costs of this service; however, the contractor must not select or exercise authority over the consultant laboratory.

### Records

All material records of samples, tests, material releases, and certificates of compliance for a given project must be incorporated into the project file. It is recommended that this file be organized as described in [Section 16.3: Maintaining Project Records](#) of this chapter. The complete project file must be available at a single location for inspection by Caltrans and FHWA personnel at any time during the construction project. The file must be available at the LPA administrative office for at least three years following the date of final voucher. When two or more projects are being furnished materials simultaneously from a single plant, it is not necessary to secure separate samples for each project; however, individual test reports are to be supplied to complete the records for each project.

### Project Certification

~~Upon completion of the project, the RE must complete Exhibit 17-G: Materials Certificate. The LPA's Person in Responsible Charge must sign the certificate. All materials incorporated into the work which did not conform to specifications must be explained and justified on the Materials Certificate, including changes by virtue of change order. The original is submitted to the DLAE in the Report of Expenditures and a copy is placed in the project file.~~

### Materials Certification

Upon completion of construction, the RE must complete [LAPM 16-E: Final Materials Certification](#) and submit a copy to the DLAE. All materials incorporated into the work which do not conform to the project specifications must be explained and justified on LAPM 16-E, including changes by virtue of change orders.

## 16.12 Environmental Stewardship

The National Environmental Policy Act (NEPA) mandates that steps be taken to prevent or eliminate damage to the environment. This is accomplished through the environmental processes detailed in [LAPM Chapter 6: Environmental Procedures](#). Furthermore, the LPA is responsible for complying with applicable state and local laws, obtaining necessary permits, and ensuring that mitigation commitments are fully incorporated into the Plans, Specifications and Estimate, and implemented during construction. This section outlines the RE's responsibilities to fulfill these requirements.

### 16.12.1 Responsibilities of the RE

The responsibility to ensure that all environmental mitigation commitments are incorporated during construction falls on the RE. First, the RE must double check that no mitigation commitments were inadvertently omitted from the PS&E, then the RE must ensure that the

Where difficult, complex, or novel legal issues appear in the claim, such that evaluation of legal controversies is critical to the consideration of the award or settlement. The LPA must include in its documentation a legal opinion from its counsel providing the basis for determining the extent of the liability under local law, with a level of detail commensurate with the magnitude and complexity of the issues involved. All contract records must be retained by the LPA for a minimum period of three years from the date of the final voucher.

#### 16.16.9 Recovery of Compensatory Damages

The federal share pertaining to the recovery of compensatory damages should be equivalent to the federal share of the project(s) involved. In cases where LPAs affirmatively recover compensatory damages through contract claims, cross-claims, or counter claims from contractors, subcontractors, or their agents, the project(s) from which the claim(s) arose should be credited.

### 16.17 Final Inspection and Contract Acceptance ~~Construction Engineering Review by the State~~

~~A final inspection of the work should be made by the LPA. This inspection should occur prior to final completion and before project verification by Caltrans DLAE. Any punch list items resulting from this inspection must be completed by the contractor prior to the expiration of contract time. For details on final inspection, see LAPM Chapter 17: Project Completion (Section 17.2: Final Inspection Procedures for Federal Aid Projects). The RE must also take this time to do one last review of the project Environmental Commitment Record, confirming all mitigations were performed and finalizing necessary documentation. LPA construction engineering records may be reviewed during the life of the project or up to three years after final voucher.~~

#### 16.17.1 Final Inspection

A final inspection of the work must be conducted by the LPA prior to final completion and before project verification by the DLAE. Any punch list items and/or corrective actions resulting from the inspection must be completed by the contractor before expiration of the contract time. The LPA representative must also take this time to review the project Environmental Commitments Record, confirming and documenting that the mitigation measures the contractor was responsible for were completed.

Upon successful completion of any punch list items and/or corrective actions undertaken by the contractor, the LPA representative should complete LAPM 16-F: Final Inspection Form and forward it to the Caltrans DLAE for verification. The LPA representative signing the Final Inspection Form must be one with authority for accepting the completed contract on behalf of the LPA and authorizing final payment to the contractor.

Timely submittal of LAPM 16-F: Final Inspection Form to the DLAE is encouraged as DLAE inspection prior to contract acceptance may provide an opportunity for the LPA to direct the contractor to complete corrective actions prior to final payment and acceptance of the contract.

Upon receipt of LAPM 16-F: Final Inspection Form, the DLAE will review the project site to verify the project was constructed in accordance with the scope and description of the project in the authorization documents. Any safety, design, or construction deficiencies that are identified will be promptly brought to the attention of the LPA for correction. Upon satisfactory review the work, the DLAE will sign LAPM 16-F: Final Inspection Form and transmit a copy to the LPA.

### 16.17.2 Contract Acceptance

The RE recommends contract acceptance once it is determined that the work is completed in accordance with the requirements of the Standard Specifications, special provisions, plans, and approved changed orders.

## 16.18 Construction Oversight Program

For locally administered Federal-aid highway projects off the State Highway System, construction oversight reviews is performed by Caltrans Local Assistance Construction Oversight Engineers (COEs). DLAE staff may participate in the reviews, if available.

### 16.18.1 Types of Reviews

The purpose of construction oversight reviews is to verify LPA compliance with Federal-aid construction contract administration requirements. These reviews may be conducted prior to the start of the construction contract, during construction, and/or after the completion of the construction contract as described below. The objective is to perform at least one review on all projects.

#### Preliminary Construction Review

The purpose of the preliminary construction review is to provide supplementary oversight and guidance regarding construction contract administration to the LPA on a Federal-aid construction project prior to the start of contract work. Preliminary reviews will be performed on selected Federal-aid projects requiring a greater degree of oversight. The following factors may be used when selecting projects for preliminary review:

- High cost and/or complex projects
- Projects administered by agencies with previous sanctions/findings
- Lack of experienced/trained LPA personnel
- Per request by the LPA or DLAE for additional assistance

During preliminary construction reviews, the COE will meet with the LPA's construction contract administration team and discuss project record documentation requirements using the [Pre-Construction Review Checklist](#). The COE will also explain new policies or procedures, discuss available training, and highlight common problem areas and the means to avoid them. The timing of this type of review is targeted for after bid opening, but prior to beginning construction.

#### Mid-Construction Review

Mid-construction reviews will be performed on selected Federal-aid construction projects. Factors to be considered in determining which projects to review include:

- High cost and/or complex projects
- Projects administered by agencies with previous sanctions/findings
- Projects that did not have a preliminary construction review
- Duration of the project
- Project location

## LAPM C.17 PROJECT COMPLETION

### LAPM C.17 Project Completion

Section / Exhibit	Description of Changes
<b>17.2</b> Final Inspection Procedures for Federal-Aid Projects	<ul style="list-style-type: none"><li>• OB #25-05: section deleted and re-located to LAPM Chapter 16.</li></ul>
<b>17.4</b> Final Report of Expenditures	<ul style="list-style-type: none"><li>• FROE submittals for Exhibits 17-C and 17-G removed per OB #25-05.</li></ul>



## Chapter 17 Project Completion

### 17.1 Introduction

This chapter covers the topic of project completion and is to be used mainly as a guide for administration of Federal-aid contracts by Local Public Agencies (LPAs) under a Local Agency-State Agreement. The Resident Engineer (RE) should be familiar with the contents of this chapter, [LAPM Chapter 15: Advertise and Award Project](#), and [LAPM Chapter 16: Administer Construction Contracts](#) before administering such contracts.

When a locally sponsored project funded with Federal-aid is within the State R/W and the State (Caltrans) is the administering agency, the Caltrans Construction Manual is used in lieu of these procedures.

### 17.2 ~~Final Inspection Procedures for Federal-aid Projects~~

~~LPAs must document fulfillment of environmental mitigation commitments for final inspection Report of Expenditures and ultimate accountability as follows:~~

- ~~• Categorical Exclusion (CE)—LPA must provide the DLAE with a list of environmental mitigation commitments when requesting CE determination.~~
- ~~• Environmental Assessment (EA)—LPA must summarize environmental mitigation commitments in the draft Environmental Assessment and provide an Environmental Commitments Record (ECR) to the DLAE in order to document fulfillment of environmental mitigation commitments.~~
- ~~• Environmental Impact Statement (EIS)—LPA must summarize environmental commitments in the draft Record of Decision (ROD). In addition, the LPA provides an Environmental Commitments Record (ECR) to the DLAE in order to document fulfillment of environmental mitigation commitments.~~

~~In addition, they must acknowledge any long-term commitment to maintenance of those mitigation measures.~~

#### ~~Final Inspection by LPA~~

~~The LPA representative (or designee) must perform the final inspection using [Exhibit 17-C: Final Inspection Form](#). Exhibit 17-C is used by the LPA to complete the final inspection for the vast majority of projects. Note: [Exhibit 17-B: Final Inspection of Federal-Aid Project](#) is only utilized by Caltrans to complete the final inspection of NHS Projects subject to FHWA full oversight.~~

~~The LPA representative or staff performing final inspection or signing the Final Inspection Form must be one with authority for accepting the completed contract on behalf of the LPA and authorizing final payment to the contractor, as well as directing corrective action(s) to be undertaken by the contractor.~~

~~The inspection of work performed by contract must be made sufficiently in advance of contract acceptance to allow time for possible corrective action. Neither FHWA nor Caltrans inspection is required at this time. However, timely submittal of Exhibit 17-C may provide an opportunity for Caltrans inspection prior to acceptance of the contract.~~

~~Upon successful completion of all corrective actions undertaken by the contractor and completion of all additional work required for the authorized project, but prior to contract~~



~~acceptance, the LPA representative should complete Items 1–10 of the Final Inspection Form and forward it to the Caltrans DLAE.~~

### **Project Verification by DLAE**

~~The DLAE (or designee) depending on the district organization and type of project, will review the job site and verify that the project was constructed in accordance with the scope and description of the project authorization document. Any safety, design, or construction deficiencies noted should be immediately brought to the attention of the LPA for correction or resolution. Upon satisfactory review by Caltrans staff, the DLAE must ensure that Items 1–10 have been completed by the LPA prior to completing Items 11–13 on the Final Inspection Form. The DLAE must retain the Final Inspection Form and send a copy to the LPA for the Report of Expenditures.~~

## **17.3 As-Built Plans**

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

## **17.4 Final Report of Expenditures (FROE)**

The LPA is responsible for preparing and submitting to the DLAE the final report documents which collectively constitute the Final Report of Expenditures (FROE). This report provides key information required to initiate timely project closure and payment. The Report of Expenditures must be submitted within six months of project completion or completion of the last federally-reimbursable phase if no federal funds are utilized for Construction. If the submittal deadline occurs in the year funds will lapse, the FROE must be submitted to the DLAE by April 1 of that year. If timely submittals are not received, Caltrans may initiate actions discussed under [Section 17.5: Consequences for Non-Compliance](#).

The FROE must be signed by the public employee in responsible charge of the project.

### **Federal-aid Projects**

For Federal-aid projects, the FROE includes, as a minimum, the following documents:

- [Exhibit 17-A: Cover Letter and Federal Report of Expenditures Checklist](#) - Identifies all mandatory documents to be included in the FROE. This checklist must be submitted by the LPA with the report of completion. Copies of all documents included in the report of expenditures must be maintained on file at the LPA for any future audits as specified in the Master Agreement and Program Supplement, and to serve as verification that contractor labor requirements were met.
- ~~[Exhibit 17-C: Final Inspection Form](#)—This form when completed by both the LPA and the DLAE or Caltrans Oversight Engineer (OSE) (SHS projects) must be included as part of the FROE for all projects.~~

- Final Invoice – Final Invoice should conform to the format in [LAPM 5-A: Local Agency Invoice](#). Submit one original. The Final Invoice must agree with the Final Detail Estimate.  
Note: Even if all funding has been disbursed a final zero dollar amount invoice must be submitted
- [Exhibit 15-M: Final Detail Estimate](#) – The format of the final detail estimate is the same as presented in [LAPM Chapter 15: Advertise and Award Project](#) (Section 15.6: Award Package) except that it must be labeled Final and show the total of previous progress payments plus the final invoice. If claims are still pending, the final detail estimate should not be prepared until the claims are resolved. The final detail estimate must agree with the final invoice. State costs (e.g., state material testing) should not be included in the final detail estimate prepared by LPA. Once claims are settled, the final invoice and a final detail estimate must be submitted to the DLAE as part of the FROE.
- [Exhibit 17-E: Sample Change Order Summary](#) – The Change Order Summary should conform to sample format. This is required regardless of whether or not change orders were made during the course of the contract. If there were none, please note none. Additionally, the following mandatory items of information must also be included on this form:
  1. Liquidated Damages – Indicate the liquidated damage days charged (calendar days) if any, the amount per day, and the total amount charged. Refer to [LAPM Chapter 16: Administer Construction Contracts](#) (Section 16.17: Contract Disputes and Claims). If there were no liquidated damages, please note none. Liquidated damages must also be shown on the Final Invoice and Final Detail Estimate.
  2. Contractors Claims – Refer to [LAPM Chapter 16: Administer Construction Contracts](#) (Section 16.17: Contract Disputes and Claims). If there were no contractor's claims, please note none.
  3. Date of Acceptance
- [Exhibit 17-F: Final Report-Utilization of Disadvantaged Business Enterprises \(DBE\), First-Tier Subcontractors; Exhibit 17 F-1: Final Report-Utilization of Disadvantaged Business Enterprise \(DBE\) for On-Call Contracts](#) – These forms must be completed and signed, and they must be in conformance with the requirements in [LAPM Chapter 9: Civil Rights and Disadvantaged Business Enterprises](#). The completed forms must be submitted to the DLAE or OSE (SHS projects) with the final report of expenditures for construction contracts (or as specified in the provisions for consultant contracts).
- [Exhibit 17-O: Disadvantaged Business Enterprises \(DBE\) Certification Status Change](#) – This form must be completed, signed, and submitted to the DLAE or OSE (SHS projects) with the final report of expenditures for construction contracts (or as specified in the provisions for consultant contracts). If no change, state so.
- ~~[Exhibit 17-G: Materials Certificate](#) – This certificate is to be included in the project files upon completion of the project. Exceptions to the certification should be documented in project records in summary form along with explanations and attached to the certificate, including change orders to accept nonconforming materials.~~

## LAPM C.20 AUDITS & CORRECTIVE ACTIONS

### LAPM C.20 Audits & Corrective Actions

Section / Exhibit	Description of Changes
All	<ul style="list-style-type: none"><li>OB #24-04 text changes incorporated.</li></ul>

## Chapter 20 Audits and Corrective Actions

### 20.1 Introduction

This chapter provides the following expectations:

- When an audit is conducted by the Caltrans Internal Audits Office (CIAO) and the Independent Office of Audits and Investigations (IOAI)
- potential findings and sanctions
- common deficiencies
- recommended internal controls to improve compliance.

Compliance is inclusive of state and federal regulations, the Master Agreement, the Local Assistance Procedures Manual (LAPM), the Local Assistance Program Guidelines (LAPG), California Transportation Commission grant requirements, and all other applicable regulations.

In order to reduce the risk of audit findings and deficiencies in the administration of state and federal funding, Local Public Agencies (LPA) should keep an on-going dialog with and consult their District Local Assistance Engineer (DLAE). It is also strongly recommended for LPAs to develop, update, and maintain written policies and procedures in the following areas including, but not limited to:

- Adoption of [LAPM Chapter 10](#) as required in Section 10.1.10 for architectural and engineering consultant procurement
- Grant or contract management
- Direct and indirect cost development and charging procedures
- Financial management systems for invoicing and labor
- Construction administration

#### Caltrans Internal Audits Office

CIAO was established to evaluate and improve the effectiveness of governance, risk management, and internal control processes. CIAO tracks single audit report compliance, reviews and accepts Indirect Cost Allocation Plans, and conducts Pre-Award and incurred cost (project) audits.

~~CIAO conducts Pre-Award audits to determine the compliance of LPAs applying for a Master Agreement to administer state and federal-funded projects before agreements are signed with Caltrans.~~

#### Single Audit Reports

~~Any LPA that expends \$750,000 or more for all types of federal funds in an LPA's fiscal year must submit a Single Audit Report (SAR) package from an independent auditor to the State Controller's Office ([https://www.sco.ca.gov/aud\\_single\\_audits.html](https://www.sco.ca.gov/aud_single_audits.html)), Federal Audit Clearinghouse (<https://facweb.census.gov/uploadpdf.aspx>), and Caltrans ([CaltransFederalFundAward@dot.ca.gov](mailto:CaltransFederalFundAward@dot.ca.gov)). If the SAR has a finding involving federal funds passed through Caltrans to the LPA, CIAO will issue a Management Decision to determine if the finding has been resolved.~~

## Independent Office of Audits and Investigations

Senate Bill 1 of 2017 and the Stewardship and Oversight Agreement between the Federal Highway Administration and Caltrans require IOAI to ensure LPAs spend funds from Caltrans in compliance with applicable state and federal requirements. IOAI reviews the LPA's policies and procedures, and conducts audits and investigations of activities involving funds passed-through from Caltrans to LPAs.

## 20.2 Audit Process

The audit process can be defined as the on-site review and examination of a process or quality system to ensure compliance to requirements. Some audits may have special administrative purposes, such as auditing documents, risk, performance, or following up on completed corrective actions. These audits ensure accountability in managing transportation funds administered by LPAs.

### Common Current Audits Performed By IOAI

- Incurred (Project) Cost: CIAO and IOAI perform these audits to determine if costs billed to Caltrans are allowable.
- ~~Proposition 1B Program — For projects receiving Proposition 1B funds, similar audit objectives as an Incurred Cost audit, including the evaluation of allowability of costs and to assess whether deliverables and benefits/outcomes are met.~~
- Indirect Cost Allocation Plan (ICAP) / Indirect Cost Rate Proposal (ICRP): IOAI or a contractor may perform these audits to determine whether the LPA's ICAP or ICRP are presented in accordance with 2 CFR 200 and LAPM Chapter 5.
- ~~Active Transportation Program (ATP) — Compliance with ATP Guidelines and eligibility of costs reimbursed.~~
- ~~Financial Management System (FMS) — To determine the LPA's ability to accurately segregate and document charges to projects; and the adequacy of the FMS that includes the accounting, procurement, and contract management systems.~~
- Pre-Award: CIAO performs this audit to determine the compliance of LPAs applying for a Master Agreement to administer state and federal funded projects before agreement are signed with Caltrans.
- Other: CIAO and IOAI may perform various other types of audits or reviews as necessary.

~~For a more detailed description and listing of audits performed by IOAI, please refer to Audits Issued by IOAI.~~

### Audit Activities

IOAI Auditors generally use the below processes and timelines when performing audits ~~of LPAs~~:

- Contact the LPA to schedule the audit.
- Send a formal engagement letter, which outlines the objective of the audit. If specific documentation is required in advance of fieldwork, auditors will correspond with the LPA accordingly.

- An entrance conference is held on the first day of fieldwork to discuss the scope of the audit, audit objectives, schedules, and identification of some of the documents and records that will be reviewed during audit fieldwork.
- Fieldwork is performed; auditors will keep the auditee informed of any deficiencies identified during fieldwork.
- Once fieldwork is completed, an exit conference is conducted to discuss ~~what the LPA performed well and the~~ potential audit findings.

### Audit Report

- Auditors will develop a Draft Audit Report providing clear and sufficient evidence justifying the audit findings and recommendations.
- The auditee will have ~~ten (10)~~ five (5) business days to formally respond to the draft audit findings.
- Based on the LPA's response, the draft audit findings are either sustained, modified, or deleted.
- The audit report is finalized and issued to Caltrans, and the LPA receives a copy also.

IOAI may also contract out audits to another state agency to perform such as the California Department of Finance; each State Agency's audit procedures may slightly vary.

Please refer to Figure 20-1: Audit Process Flowchart for a visual of the typical audit process.

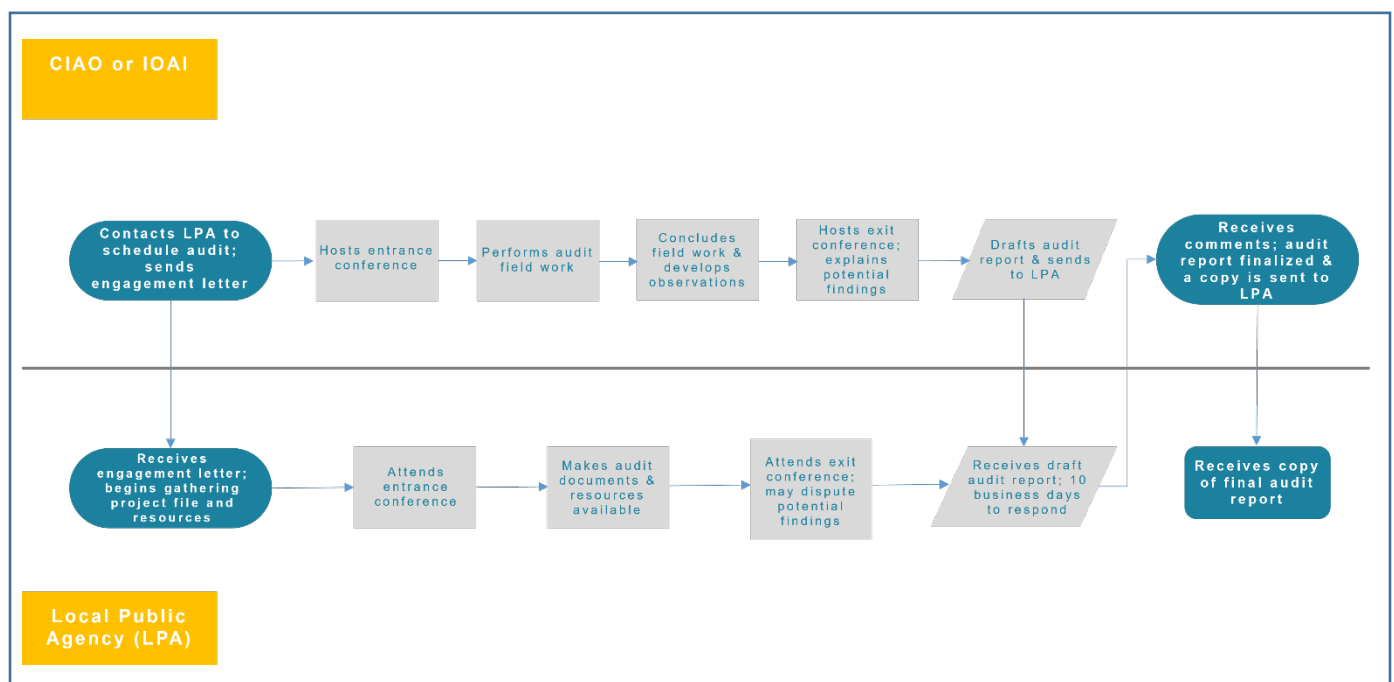


Figure 20-1: Audit Process Flowchart

## 20.3 Audit Findings

Findings are the results of an audit based on evidence about how the LPA's operations, administration of funding, processes, and/or control systems do not comply with required regulations and agreed-upon policies. Audit findings may be qualitative, which contend with an LPA's procedures and capability to comply with regulations and policies. Audit findings may also be quantitative, which determine an LPA had misappropriated funds that will be recommended for reimbursement to Caltrans.

Examples of common audit findings include, but are not limited to the major areas of:

- Procurement of consultant contracts
- Contract and grant management administration
- ICAP/ICRP direct and indirect cost pools
- Unallowable costs reimbursed
- Invoice and labor costing

For a list of the most common detailed audit findings, and best practices to avoid these deficiencies, please visit <https://dot.ca.gov/-/media/dot-media/programs/local-assistance/documents/audit/common-deficiencies-and-best-practices.pdf>.

## 20.4 Single Audit Report Packages

Any LPA that expends ~~\$750,000~~ \$1M or more for all types of federal funds in an LPA's fiscal year must submit a Single Audit Report (SAR) package ~~from an independent auditor~~ to the Federal Audit Clearinghouse (<https://secure.login.gov/>), State Controller's Office (<https://dep.sco.ca.gov/>), and Caltrans ([CaltransFederalFundAward@dot.ca.gov](mailto:CaltransFederalFundAward@dot.ca.gov)).

CIAO's [website](#) contains a "Single Audit Determination List" that allows organizations to check their SAR status by fiscal year. This List may be used to certify the SAR or Exemption Letter was received by Caltrans.

The SAR package consists of:

- Financial statements such as those contained within a Consolidated Annual Financial Report
- Schedule of Expenditures of Federal Awards
- Schedule of findings and questioned costs
- Summary schedule of prior year findings
- Corrective action plan in response to all findings and questioned costs
- Reports including:
  - Opinion on financial statements
  - Internal control over financial reporting and compliance
  - Compliance for each major program

If the SAR has a finding involving federal funds passed-through Caltrans to the LPA, CIAO will issue a Management Decision pursuant to [2 CFR 200.513\(c\)](#) to determine if the finding has been resolved. If the finding has not been resolved within about two months, Caltrans will issue a corrective action plan (CAP) letter requiring the LPA to implement actions to reduce the risk of the finding from recurring. Corrective actions are typically due within three months from the date of the CAP letter dependent upon the complexity and the number of unresolved findings.

## 20.5 Exemption Letters

If the LPA expends less than \$1M for all types of federal funds in a fiscal year, the LPA will need to submit an exemption letter to the State Controller's Office ([singleaudits@sco.ca.gov](mailto:singleaudits@sco.ca.gov)) and the Caltrans Federal Funds Award inbox ([CaltransFederalFundAward@dot.ca.gov](mailto:CaltransFederalFundAward@dot.ca.gov)). The email must be a PDF on letterhead that identifies the exempt Fiscal Year, certifies exemption reason, and contain a fiscal manager/officer signature.

For examples of an exemption letter, please refer to: <https://dot.ca.gov/-/media/dot-media/programs/local-assistance/documents/audit/Exemption-Letter-Example.docx>

## 20.6 Caltrans Role

Depending on the type of audit, CIAO or IOAI will send the final audit report to Caltrans and copy the LPA. As a part of its oversight responsibilities, Caltrans will develop corrective actions in response to the audit findings and recommendations and will ensure the corrective actions are implemented by the LPA. Within approximately 120 days from receipt of the final audit report, the Division of Local Assistance (DLA) endeavors to send the LPA a Corrective Action Plan (CAP) letter. DLA staff will introduce themselves, discuss the corrective actions in greater detail, and advise LPA staff of deadlines for submittal after the issuance of the CAP letter.

The CAP letter identifies specific actions the LPA must perform to mitigate audit findings from recurring in order to close out the audit. These corrective actions will strengthen LPA internal controls and improve the ability to comply with State and federal regulations, and contract provisions.

Corrective actions are typically due within five months from the date of the CAP letter. It is the LPA's responsibility to take initiative and perform the corrective actions to ensure the LPA can meet the deadlines within the CAP letter. Below are examples of common corrective actions that are prescribed in the CAP letter.

- Develop or update procedures; these must be reviewed by DLA prior to implementation and adoption.
- If training is required, it must be taken and performed, and a list of attendees or training certification must be submitted to DLA.
- If the LPA must reimburse funds to Caltrans, Caltrans will initiate an invoice to the LPA, and the LPA must make repayment.
- On a case-by-case basis, DLA may consider new documentation submitted by the LPA that will substantiate questioned and disallowed costs in the final audit report as eligible for reimbursement.

If the LPA does not make a good faith effort to submit corrective actions as required within the CAP letter, Caltrans may invoke sanctions as prescribed in Section 20.7 of this chapter. Once



all corrective actions and deficiencies have been corrected and implemented, a Final Determination Letter is sent to the LPA, sanctions (if applicable) will be removed, and the audit is closed. DLA endeavors to have the audits closed out within one year.

Please refer to Figure 20-2: Corrective Action Flowchart for a visual of the typical corrective action process.

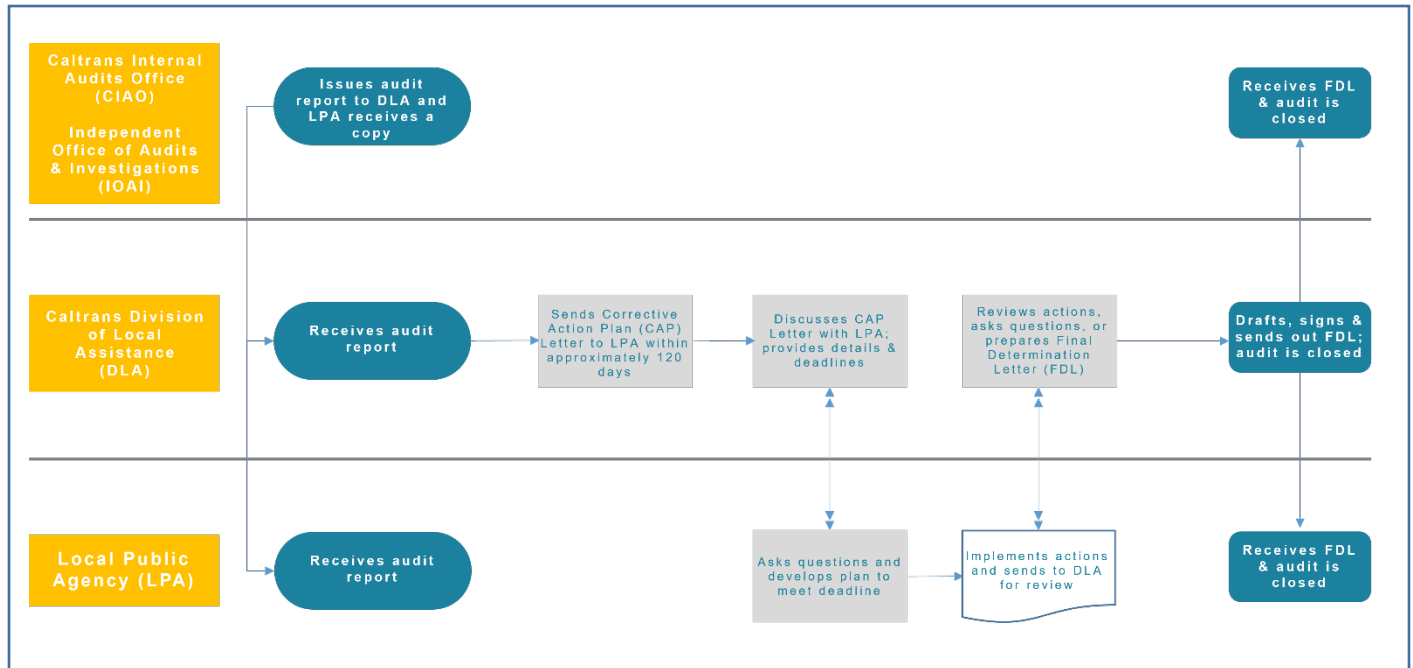


Figure 20-2: Corrective Action Flowchart

### Single Audit Report (SAR) Management Decisions

If CIAO determines a SAR has unresolved findings, CIAO will issue a Management Decision to determine if the findings have been resolved in accordance with 2 CFR 200.521. It is the responsibility of Caltrans to follow up with the LPA to resolve the finding.

DLA will send a CAP letter to the LPA within about two months of receiving the Management Decision letter. Corrective actions are typically due within three to five months from the date of the CAP letter dependent upon the complexity and the number of unresolved findings.

If the LPA does not make a good faith effort to submit corrective actions as required within the CAP Letter, Caltrans may invoke sanctions as prescribed in Section 20.7 of this chapter. Once all corrective actions and deficiencies have been corrected and implemented, a Final Determination Letter is sent to the LPA, sanctions (if applicable) will be removed, and the audit is closed.

## 20.7 Sanctions

The LPA may be subject to sanctions dependent upon the severity of the audit findings. As stated in Section 20.6, the auditee is responsible to develop and implement corrective actions to mitigate all deficiencies identified in the CAP letter. Failure to submit implement required corrective actions and correct the deficiencies by the deadline stated in the CAP letter may also result in Caltrans imposing a sanction. Failure to submit a SAR package or exemption letter will also result in a sanction. Caltrans will be responsible for notifying the LPA of sanctions imposed

in writing and the steps for removing these sanctions. ~~As stated in Section 20.6 of this chapter, whether or not sanctions are imposed against the LPA, the LPA is responsible to develop and implement corrective actions in an effort to mitigate all deficiencies identified in the CAP Letter.~~ There will be no appeals for any sanction applied.

Sanctions may consist of those available within [2 CFR 200.339](#) and the following examples including, but not limited to:

- Request reimbursement of questioned and/or disallowed cost(s).
- Do not authorize new federal funds and do not recommend State allocations until corrective actions are implemented.
- Suspend the LPA's Master Agreement with Caltrans.
- Stop the project and project reimbursements if the audit is interim.
- Withhold State and federal funding until the deficiency is corrected.

## 20.8 References and Links

2 CFR 200: Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards

<https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200?toc=1>

Caltrans Internal Audits Office

<https://dot.ca.gov/programs/audits>

Division of Local Assistance Audit Resources

<https://dot.ca.gov/programs/local-assistance/guidance-and-oversight/audit-resources>

Independent Office of Audits & Investigations

<https://ig.dot.ca.gov/>

# LAPG 25 STATE PROGRAMS FOR LOCAL AGENCY PROJECTS

## LAPG 25 State Programs for Local Agency Projects

Section / Exhibit	Description of Changes
<b>LAPG 25-U</b> ATP Application Form	<ul style="list-style-type: none"><li>LAPG 25-U is retired and has been replaced with a Submittable.com application link: <a href="https://catc.submittable.com/submit">https://catc.submittable.com/submit</a></li></ul>



For training, resources, and technical assistance that can help with an ATP application, please visit the Active Transportation Resource Center (ATRC) at: <http://caatpresources.org/>

**ACTIVE TRANSPORTATION PROGRAM****IMPLEMENTING AGENCY:**

Auto-populated with data from Part A1: Applicant Information

**PROJECT TYPE:****PROJECT APPLICATION NO.:**

Auto-populated with data from Part A1 and A2

**PROJECT NAME:**

Auto-populated with data from Part A2: General Project Information

**PROJECT DESCRIPTION:**

Auto-populated with data from Part A2: General Project Information

**PROJECT LOCATION:**

Auto-populated with data from Part A2: General Project Information

**ATP FUNDED COMPONENTS**

Infrastructure				Non-Infrastructure	Plan
PA&ED	PS&E	R/W	CON		
\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
FY -	FY -	FY -	FY -	FY -	FY -

**PROJECT FUNDING INFORMATION (1,000s)**

Total Project \$	Total ATP \$	Total Non-ATP \$	Past ATP \$	Leveraging \$	Non-Participating \$	Future Local \$
-	-	-	-	-	-	-