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Documenting and Transmitting Environmental Decisions

I. BACKGROUND

Current Division of Local Assistance procedure instructs District Senior Environmental Planners (SEP) to prepare a transmittal letter, for District Local Assistance Engineer (DLAE) signature, when transmitting:

- the signed Preliminary Environmental Study (PES) form to the local agency
- a summary District comments (deficiencies) on technical studies, Categorical Exclusions (CE), Draft and Final Environmental Assessments/Finding of No Significant Impact (EA/FONSI) and Environmental Impact Statements (EIS), and, when appropriate, HQ and Legal comments on Draft and Final EISs and “Complex EAs” (as defined by the Caltrans Standard Environmental Reference)
- the Department’s decision that the action does not meet the criteria for a CE and recommending preparation of an EA or an EIS
- the Department’s decision that a FONSI is or is not appropriate
- the signed CE
- the signed Draft EA or EIS title page or cover sheet

The Federal Highway Administration’s (FHWA) December 23, 2009, *draft* 4th Audit Report on California Department of Transportation’s (Caltrans’) performance under the Surface Transportation Project Delivery Pilot Program, contained the following Needs Improvement finding:

#N8(a) “...letters from the District Local Agency Engineer to the local agency transmitting the Preliminary Environmental Study form with the list of the required technical studies for the project where missing from several project files...”

District Environmental Coordinators stated to HQ Division of Local Assistance that a large percentage of District-Local Agency communication now occurs electronically, via emails or telephone conversations, or in meetings, in lieu of formal transmittal letters.

II. POLICY

The current policy of utilizing a formal transmittal letter was established in an effort to: (1) keep the DLAE aware of the status of National Environmental Policy Act (NEPA) compliance; (2) document important NEPA decisions for the project file, and (3) insure that local agencies are fully aware of:

- when NEPA compliance is complete
- when final design may began
- when a Draft EA or EIS is ready for public circulation
- their responsibility for incorporating mitigation measures and permit conditions into final design, and
- their responsibility for providing a copy of mitigation commitments and permits to the DLAE prior to advertising for construction



SAFETEA-LU Section 6004 and 6005 allowed FHWA to assign to Caltrans responsibility and authority for project compliance with NEPA and other federal environmental laws. The FHWA/Caltrans Section 6005 Pilot Program Memorandum, (Pilot Program MOU) and the SAFETEA-LU Section 6004 Memorandum (Section 6004 CE MOU) outlines how those assignment programs will be implemented.

Section 8.2.4 of the Section 6005 MOU requires the Department to maintain project files and general administrative files pertaining to its Pilot Program responsibilities. These files shall include, but are not limited to, all letters and comments received from governmental agencies, the public, and others relative to the Department's Pilot Program responsibilities. Pertinent emails and other correspondence or documentation that support project decision-making are to be retained as part of the project file.

III. PROCEDURE

The Local Assistance Procedures Manual (LAPM), Chapter 6 contains several steps involving the use of formal transmittal letters. Given current policy and District practice and preference for electronic communication, this Bulletin modifies the current procedure to be consistent with District practice while maintaining the intent of the original policy. Sections 6.5, 6.6, 6.7, 6.8 and 6.9 of LAPM, Chapter 6 are revised as shown in Attachment 1 to this Office Bulletin.

IV. APPLICABILITY/IMPACTS

This Office Bulletin applies to all federal-aid local assistance transportation projects.

This policy/procedure is subject to annual review and recommendation of Federal Highway Administration (FHWA) NEPA Assignment Audit Teams and Department NEPA Assignment Self Assessment Review Teams.

Recommended: Margaret Buss 5/13/2010
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 NEPA Delegation and Environmental Compliance Office

Approved: Margaret Buss 5/13/2010
 Margaret Buss, Chief Date
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Attachment: Revisions (*in blue italics*) to Chapter 6 of the Local Assistance Procedures Manual