

Memorandum

*Making Conservation
a California Way of Life.*

To: DEPUTY DIRECTORS
DISTRICT DIRECTORS
DIVISION CHIEFS

Date: January 28, 2019

File:

From: CLARK PAULSEN 
Chief, Division of Budgets

Subject: **FEDERAL-AID PROJECT FUNDING GUIDELINES**

The attached Federal-aid Project Funding Guidelines (FPFG) reflect the current mix of resources available to the California Department of Transportation (Caltrans) and the need to maximize the use of federal funds to ensure no funds are lost to California. The FPFG provides thresholds for project funding above which projects must be qualified for federal-aid funding including thresholds for State Transportation Improvement Program, State Highway Operation and Protection Program, Active Transportation Program, Highway Preventative Maintenance, and Highway Safety Improvement Program.

A complete copy of the Guidelines is enclosed and also available online at:

<http://onramp.dot.ca.gov/hq/budgets/fedres.shtml>

In limited instances, the Division of Budgets may designate State-only funding. However, please note that State dollars are very limited and are used to fund State Operations that are not eligible for federal funding. This FPFG policy will remain in effect until Caltrans' funding condition changes, or a new FPFG is issued.

If you have any questions or concerns regarding this policy, please contact Fardad Falakfarsa, Office Chief of Federal Resources, by e-mail fardad.falakfarsa@dot.ca.gov or at (916) 654 3043.

Attachment
Federal-Aid Project Funding Guidelines

c: Fardad Falakfarsa, Office Chief, Federal Resources Office, Division of Budgets
Project Management Board
District Single Focal Points

FEDERAL-AID PROJECT FUNDING GUIDELINES

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FEDERAL-AID PROJECT FUNDING GUIDELINES

Each year California receives Federal-aid funding for highway transportation projects. The Division of Budgets at the California Department of Transportation (Caltrans) establishes the Federal-aid funding level requirements on a project and project-phase basis and manages the overall use of Federal-aid funding for all projects on the State Highway System (SHS). The purpose of the Federal-Aid Project Funding Guidelines (FPFG) is to establish the cost threshold for applying Federal-aid funding, provide general guidance on the procedures for requesting Federal-aid funding, and explain some of the applicable federal rules related to project funds management.

I. APPLICABILITY

For the FPFG, the term "*qualified*" is used to indicate that the project will be funded with Federal-Aid Highway Funds. While Federal-aid funding eligibility is stipulated by laws and regulations from the Federal Highway Administration (FHWA), the Division of Budgets determines if a project will be qualified for Federal-aid funding based on overall Caltrans federal and state budgetary management needs. All Caltrans projects that are qualified for Federal-aid funding, commonly referred to as "federalized projects" or "projects with federal funding", **must** maintain Federal-aid eligibility and be developed in accordance with Title 23 of the United States Code and Title 23 of the Code of Federal Regulations and conform to all applicable federal and state laws and regulations.

The funding level requirements discussed in this FPFG apply to all projects listed in the State Transportation Improvement Program (STIP) and the State Highway Operation and Protection Program (SHOPP) without regard to whether the projects are administered by Caltrans or by a Local Agency. Exceptions can be made for projects to be approved for State-only funding (see Section III-E). If a project is funded with Local Federal-aid funding contributed by a Local Agency through a COOP, the project is qualified for Federal-aid funding.

All projects that are qualified for Federal-aid funding must be listed in the current approved Federal Statewide Transportation Improvement Program (FSTIP). See 23 CFR 450.326(c) for exceptions. A State/Federal Project Agreement (E-76) must be approved by the FHWA for all projects prior to incurring federally reimbursable costs except for certain types of work under the Emergency Relief (ER) Program. Emergency Opening work under the ER Program can proceed without an approved E-76 while following all Federal requirements to maintain eligibility for future reimbursements.

II. FEDERAL-AID FUNDING LEVEL REQUIREMENTS

The funding requirements in this section apply only to Federal-aid funding requests for new project phases. Project phases that were authorized for Federal-aid funding prior to approval of this FPFG will not be affected.

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A. Capital Outlay Projects

The Federal-aid funding level requirements for SHOPP or STIP Capital Outlay projects are as follows:

1. Construction Capital

- a) SHOPP projects that are identified for Road Maintenance and Rehabilitation Account (RMRA) funding with programmed construction capital of \$10,000,000 or more are qualified for Federal-aid funding.
- b) SHOPP projects that are NOT identified for RMRA funding with programmed construction capital values of \$2,000,000 or more are qualified for Federal-aid funding.
- c) STIP projects programmed with construction capital of \$10,000,000 or more in STIP funding are qualified for Federal-aid funding.
- d) Active Transportation Program (ATP) projects awarded as part of the statewide competition with construction capital of \$1,000,000 or more in ATP funding are qualified for Federal-aid funding.
- e) Highway Preventative Maintenance projects (program code 20.80.124.000) with construction capital of \$1,000,000 or more are qualified for Federal-aid funding.
- f) Highway Safety Improvement Program (HSIP) projects with total construction capital of \$300,000 or more will be qualified for Federal-aid funding. Safety data for projects developed under HSIP or for State-only funded projects is protected by Title 23, United States Code, Section 409, if the project would qualify for Federal-aid funding, notwithstanding Caltrans' qualification process.

2. Right of Way (R/W) Capital

- a) SHOPP projects that are identified for RMRA funding with programmed R/W capital of \$10,000,000 or more are qualified for Federal-aid funding.
- b) SHOPP projects (including HSIP) that are NOT identified for RMRA funding with programmed R/W capital of \$2,000,000 or more are qualified for Federal-aid funding.
- c) STIP projects with programmed R/W capital of \$10,000,000 or more in STIP funding are qualified for Federal-aid funding.
- d) ATP projects awarded as part of the statewide competition with programmed R/W capital of \$1,000,000 or more in ATP funding are qualified for Federal-aid funding.

Notes:

- Eligible R/W costs include R/W early acquisition, protective buying, and hardship acquisition.
- R/W projects on the SHS will follow the provisions of the Caltrans R/W Manual.
- Any project that does not proceed to construction within 20 years after R/W authorization will risk the loss of federal funds per 23 CFR 630.112(c)(1).
- Title company service contracts are eligible for Federal-aid funding if these contracts are awarded in compliance with applicable Federal regulations.

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Exceptions to Section II-A-1 and 2:

- All ER projects greater than \$5,000 in total are to be qualified for Federal-aid ER funding and must be developed in accordance with federal requirements. This threshold applies to both construction capital and R/W capital. The final eligibility determination for Federal-aid ER funding is determined by the FHWA on a Damage Assessment Form (DAF).
- Capital Outlay projects programmed in the Railroad Grade Separation Program (20.30.010.400) and the Safety Railroad Grade Crossing Protection Program (20.30.010.500) with estimated construction capital of \$100,000 or more are to be qualified for Federal-aid funding.
- Projects under Section 146.5 of the Streets and Highways Code, Parking Facilities, estimated to cost \$30,000 or more in total are qualified for Federal-aid funding.
- Projects under Section 148 of the Streets and Highways Code, Transit Related Highway Facilities, estimated to cost \$30,000 or more in total are qualified for Federal-aid funding.

3. Support Costs

Support costs during project development are generally qualified for Federal-aid funding when the associated expected R/W capital or construction capital costs meet the thresholds for Federal-aid funding established in Section II-A-(1) and (2). The Preliminary Engineering phase is generally qualified for Federal-aid funding when the project's construction capital cost meets the thresholds in Section II-A-(1). R/W support and Construction Engineering (CE) will be authorized for Federal-aid funding at the same time the R/W and construction phases are authorized, respectively.

In general, project support budgets are federalized by the following phases:

a) Preliminary Engineering (PE)

Environmental and engineering work prior to project advertisement is considered the PE phase by the FHWA. The PE phase generally includes Project Approval and Environmental Document (PA&ED) and Plans, Specifications, and Estimates (PS&E) components. Federal-aid funding for the PE phase will be requested when the associated construction capital cost is expected to be qualified for Federal-aid funding under Section II-A-(1).

Federally qualified PE work is primarily funded under the Statewide Preliminary Engineering System (SPES) process but may also be funded under a project specific E-76. Separate instructions are issued annually for requesting Federal-aid funding for PE under SPES. Projects of Division Interest (PoDI), long lead projects, projects funded with ER, discretionary and FHWA allocated programs, and projects with innovative financing and complex funding require a project specific PE E-76. Any project that does not proceed to construction or R/W acquisition within 10 years of federal PE authorization will risk the loss of federal funds per 23 CFR 630.112(c)(2).

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b) R/W Support

R/W support costs are qualified for Federal-aid funding when the associated R/W capital project is qualified for Federal-aid funding. Federal-aid funding requests for R/W support and R/W capital should be submitted at the same time.

Any R/W support activities prior to National Environmental Policy Act (NEPA) environmental clearance must be state-only funded. R/W support after NEPA clearance will be federalized, if qualified.

c) Construction Engineering

CE costs are qualified for Federal-aid funding when the associated construction capital project is qualified for Federal-aid funding. Federal-aid funding requests for CE and construction capital should be submitted at the same time.

B. Other Federal Program Projects

Projects funded from federal earmark programs such as High Priority Projects, Projects of National and Regional Significance, and National Corridor Infrastructure Improvement Program are qualified for Federal-aid funding regardless of the project's capital cost estimate.

All projects funded from Federal Discretionary Programs are qualified for Federal-aid funding. Federal Discretionary Programs include but are not limited to:

- Fostering Advancements in Shipping and Transportation for Long-term Achievement of National Efficiencies (FASTLANE) Grants
- Infrastructure for Rebuilding America (INFRA) Grants
- Transportation Investment Generating Economic Recovery (TIGER) program
- Federal Lands Access Program
- Federal Lands Transportation Program
- Ferry Boat Program
- Intelligent Transportation System Program
- Surface Transportation System Funding Alternative Program
- Technology and Innovation Deployment Program

These projects must also be included in the current approved FSTIP. Discretionary federal funds are normally available for obligation only during the year that the FHWA allocates those funds. It is critical to process an FSTIP amendment early to ensure that fund obligation can be completed before the funds lapse. If earmark and/or discretionary funding is used for a portion of a project, the entire project is qualified for Federal-aid funding.

Prior to project programming or Project Change Request (PCR) approval for projects that qualify for Federal-aid funding from the above programs, the project manager should contact the program managers or coordinators for possible restrictions and special conditions related to these programs.

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C. Road Maintenance and Rehabilitation Account Funding Identification

RMRA funding will be used for the following four asset classes: pavement, bridges, culverts, and transportation management systems (TMS).

Eligible program codes are listed below:

Asset Class	Program	Program Code
Bridges	Bridge Major Rehabilitation	201.110
	Bridge Scour Mitigation	201.111
	Bridge Rail Replacement and Upgrade	201.112
	Bridge Seismic Restoration	201.113
	Bridge Preventative Maintenance	201.119
	Trans Permit Requirements for Bridges	201.322
Culverts	Drainage System Restoration	201.151
Pavement	Roadway Rehabilitation (3R)	201.120
	Pavement Rehabilitation (CAPM)	201.121
	Roadway Rehabilitation (2R)	201.122
TMS	Transportation Management Systems	201.315

III. PROCEDURES

Federal-aid funding is authorized by the FHWA on a project or project-phase basis under a Project Agreement or E-76. When Caltrans seeks to enter an agreement with the FHWA for Federal-aid funding, a request is submitted via the electronic E-76 process in the Federal Aid Data System (FADS). Data from this request is then transmitted from FADS to FHWA's Fiscal Management Information System (FMIS) for final approval.

A. Requesting Federal-aid funding for PE

The SPES program is the Caltrans annual agreement with the FHWA to receive Federal-aid funding for safety, highway rehabilitation, and other types of improvements for the PE phase. SPES project's Advantage Project IDs are linked to the annual SPES Federal-aid number rather than having a separate E-76 for each project. Caltrans has the delegated authority to approve projects for SPES based on the project's eligibility and status.

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PE authorization in SPES is usually initiated by the District Project Control. Specific SPES instructions and guidelines are located at:

<https://budgets.onramp.dot.ca.gov/welcome-office-federal-resources/statewide-preliminary-engineering-system-spes>

Not all projects are eligible for SPES (see the above link for restrictions). Projects not eligible for SPES require an individual project E-76 authorization. Required documents for individual project PE authorization include the project FSTIP approval, project CTIPS information, and, for PS&E Component, project environmental NEPA document.

B. Requesting Federal-aid funding for Construction Capital and Construction Engineering

A Federal Funds Authorization Request (FFAR) Memo, including all required attachments, must be submitted to Office of Federal Resources (OFR) when requesting Federal-aid funding for construction capital and support. Per the Construction Contract Development Guide, the District Office Engineer (OE) is responsible for preparing the FFAR package. The instructions, submittal requirements, and FFAR template are in the OE's Authority to Advertise District Delegation (AADD) Database.

It is highly encouraged that the OE submits the FFAR package to OFR as soon as a project has reached Milestone M460, Ready-To-List. Processing the request and obtaining the final E-76 authorization from the FHWA will typically take 6-8 weeks after OFR receives a complete FFAR package. The project development team is required to plan for the transaction time and set the project advertisement date accordingly.

As a part of Caltrans' advertisement process, OFR is required to notate "No Federal Aid" in the AADD database for projects that are not qualified for Federal-aid funding. For these projects, the OE is still required to submit the FFAR Memo and the Engineer's Estimate to OFR for final determination of Federal-aid funding.

C. Requesting Federal-aid funding for R/W Capital and Support

For initial requests, R/W capital and support funding is requested together for federal authorization. A request package submitted to OFR includes the following documents:

- Current R/W Data Sheet (estimate) of all R/W capital cost
- Utility relocation list that shows the utility owner name, type of utility conflict, and relocation cost estimate
- Approved programming information from the Federal Transportation Improvement Program (FTIP) and CTIPS printout showing the support estimate or California Transportation Commission (CTC) vote

Modifications to the initial requests are allowed as project development progresses. A modification request package is submitted to OFR when changes occur and includes the following supporting documentation:

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- An up-to-date R/W Data Sheet which reflects capital costs already expended plus estimated remaining costs, and a utility relocation list that shows the utility owner names and type of utility conflicts
- Approved G-12, CTC supplemental vote, or Documentation PCR for support cost estimate

D. Cooperative Agreements (COOP)

If a portion of a project receives Federal-aid funding contributed by a Local Agency through a COOP, the entire project is qualified for Federal-aid funding. An executed COOP (or equivalent) must be submitted to OFR at the time of the E-76 request and the COOP must be project specific. A Master Agreement without project specific information usually is not sufficient for federal authorization.

Cost adjustment may often trigger a COOP amendment. The cost adjustments on a Federal-aid project with a COOP must conform to Federal-aid requirements. After the initial project federal authorization, any COOP amendment that involves Federal-aid funding is reviewed by OFR for federal regulation conformity. Typically, eligible cost increases should be proportional to the original ratio in the E-76 authorization between federal and non-federal funds and the COOP amendment documents such accordingly.

E. Requesting an Exception to the Federal-Aid Project Funding Guidelines

State-only funding will only be considered on an exception basis for projects otherwise qualified for Federal-aid Highway Funds under the provisions of these guidelines. Use of state funding temporarily for a phase of a project does not relieve the requirement to maintain federal eligibility for that phase or other phases of the project unless the approval for State-only funding indicates that Federal-aid funding will not be requested for the project in the future.

- Requests for State-only funding for construction capital and R/W capital are to be submitted to the Chief, Division of Budgets. Instructions for requesting an exception are available on the Division of Budgets website:
<https://budgets.onramp.dot.ca.gov/welcome-office-federal-resources/federal-funding-policy>
- Project Management Directive (PMD) 006R1 allows projects to advance with state funds on the support phases when expedited delivery is warranted. Requests to advance with state funds for PE, R/W support, and construction support must be submitted to the Assistant Division Chief, Project Management. Instructions for requesting an exception are available on the Division of Project Management website:
https://projmgmt.onramp.dot.ca.gov/downloads/projmgmt/files/Policy/PM_Policies/PM_Directives/PM_Directive-06-R1_State_Only_Funds_COS_2016-09-01.pdf

F. Project of Division Interest (PoDI)

A PoDI project requires the FHWA's direct involvement in oversight and may have more requirements than most Federal-aid projects. The following criteria are used to determine if a project is a PoDI project. The final determination is made by the FHWA.

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- Major Project (Total costs > \$500 million)
- Potential Major Project (Total costs have possibility to be over \$500 million due to risk)
- Innovative Financing (TIGER, TIFIA, GARVEE, etc.)
- Innovative Contracting (Design/Build, CMGC, PPP, etc.)
- Other risk-based criteria

Each PoDI project has a Project Oversight Agreement (POA) which is developed with FHWA as soon as the project is identified as a PoDI. Early involvement with OFR is recommended during project development. The PE phase (phase 0 and 1) for a PoDI project is authorized by an individual E-76, not under the SPES program.

IV. FEDERAL RULES

This section explains a few typical federal rules related to federal fund management.

A. Federal Legal Share

A Federal-aid project is funded either by pro-rata or by lump sum method. Pro-rata is when Federal funds are set up at a specified percentage of the project's total participating cost. Lump sum is used when a project has a fixed contribution or is limited to a specified dollar amount not to exceed the legal pro-rata amount. Once a Federal-aid project has been obligated as either pro-rata or lump sum, the federal reimbursement ratio or federal legal share of participating costs is considered fixed for the life of the project. If additional federal funds are subsequently needed to account for participating project cost increases, the federal legal share cannot be exceeded.

B. Toll Credit

Toll credit will no longer be automatically applied on new Federal-aid projects, unless an exception is approved by the Chief, Division of Budgets.

C. Inactive Projects

FHWA requires billing (Federal reimbursement) at least once per year for a project to remain active. Justification to FHWA on project inactivity is required on a quarterly basis. If FHWA deems that the project inactivity is improper, the project may lose Federal-aid funding through a unilateral de-obligation by FHWA.

<https://budgets.onramp.dot.ca.gov/inactive-projects-and-accurate-federal-authorizations>

D. Preliminary Engineering Over 10 and Right of Way Over 20

Projects that receive Federal-aid funding for the PE phase must proceed to R/W acquisition or commence construction by the close of the 10th fiscal year following the fiscal year in which the PE project is authorized. This is commonly referred as the "10-year rule". Any PE project that

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does not proceed to construction or R/W acquisition within 10 years will risk the loss of federal funds per 23 CFR 630.112(c)(2).

If a project receives federal authorization for R/W acquisition, the project must proceed to construction by the close of the 20th fiscal year following the fiscal year in which the R/W project is authorized. Any Federal-aid project that does not proceed to construction within 20 years of R/W authorization will risk the loss of federal funds per 23 CFR 630.112(c)(1).

Time extensions can be requested with proper justifications for FHWA approval. FHWA has the final authority to determine if an extension will be granted.

E. Other Federal Rules

When a project has multiple funding sources, including federal funds, the funds are to be expended proportionally unless funds are provided as a lump-sum or the FHWA has approved a different expenditure plan. If tapered match, sequential expenditures, or other funding mechanism is utilized on a project, the CTC must provide prior approval in addition to approval by FHWA.

F. Financial Integrity Review and Evaluation Program

The FHWA has adopted a “risk-based” assessment of Federal-aid funding use called the Financial Integrity Review and Evaluation (FIRE) Program. This is a multi-pronged approach by the FHWA to identify and address practices and conditions that might cause a loss of fiscal integrity. The reduction of exposure to risk means more stringent FHWA fiscal reviews and controls. The result is an iterative process of review and notification conducted by the FHWA with timelines for Caltrans to respond to preserve Federal-aid funding.

Management of Inactive Obligations is a primary example of such a process wherein an ongoing review and control is applied (i.e., unilateral de-obligation of federal funds if no project billing is posted by a certain date). Another example is the treatment of projects with unbilled federal expenditures above the amount of the Federal-aid agreement. The FHWA requires additional documentation to validate charges for federal eligibility and, if provided justification is deemed inadequate, reimbursements may be denied or limited.

OFR alerts the Division of Accounting, District Project Control, Project Managers, and Single Focal Points when projects are identified by the FHWA for further review. It is the responsibility of the Project Manager to ensure the validity of project charges and to work with District Project Control to correct any coding errors or mischarges. It is the responsibility of the District to monitor and address project funding levels prior to exceeding the approved budget authority including requests for additional resources. Project Managers are also to initiate timely requests for final voucher at project completion and are to provide the Division of Accounting with required documentation.