

DIVISION OF LOCAL ASSISTANCE



CONSTRUCTION OVERSIGHT INFORMATION NOTICE



DLA COIN Issue #09-02

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Welcome to COIN!

This is the second issue of a new Caltrans Local Assistance Program publication — the **Construction Oversight Information Notice**, or “**COIN**” for short. These short, single-topic bulletins are intended to provide outreach information and guidance to local agencies on issues pertaining to the construction of Federal-aid projects. They will cover a wide variety of subjects, including discussions of findings resulting from process reviews by Caltrans and/or FHWA, changes in procedures or regulations, reminders of existing procedures or best practices, and other timely information. The goal is to ensure proper and timely delivery of Federal-aid projects.

Our Topic: FHWA Risk Management Plan for Recovery Act Projects

The Issue: The Federal Highway Administration (FHWA) has identified “Local Public Agency” projects funded with federal-aid “American Recovery and Reinvestment Act of 2009 (Recovery Act)” funds as being high risk and requiring a significant increase in oversight by Caltrans and FHWA.

Recently an “Interim Construction Oversight Plan” was jointly developed by Caltrans, FHWA, and local agency representatives which identifies local agency, District Local Assistance Engineer (DLAE), and Division of Local Assistance (DLA) responsibilities from chapters of the Local Assistance Procedures Manual associated with projects during construction. The “Interim Construction Oversight Plan” is available for your information on the Caltrans Division of Local Assistance website at:

http://www.dot.ca.gov/hq/LocalPrograms/Reports_db.htm

In addition to increased oversight for Recovery Act projects by Caltrans Local Assistance and FHWA California Division, FHWA will also be fielding “National Review” teams to evaluate Recovery Act projects. Since California is receiving in excess of 60 percent of the Recovery Act funds, a large number of local agencies with Recovery Act projects are expected to be reviewed by FHWA and/or Caltrans Local Assistance. To provide guidance, FHWA has made available the attached draft copy of a 7-page “Local Public Agency (LPA) Federal-Aid Projects Checklist”, a 2-page “Billing/Payment Process of State and Local Governments Division Office Checklist”, and a 2-page “Indirect Costs of State and Local Governments Division Office Checklist - March 10, 2009”. These have been specifically prepared for review of Recovery Act projects. Local agencies with Recovery Act projects should take time to examine these attachments to help ensure that their project will be in full compliance. Any questions regarding these attachments should be emailed to: **eugene.shy@dot.ca.gov**

The Construction Oversight Information Notice (COIN) is prepared by Caltrans, Division of Local Assistance, Office of Policy Development and Quality Assurance. Comments or suggestions should be directed to the COIN Editor: Tom_Glover@dot.ca.gov .



LOCAL PUBLIC AGENCY (LPA) FEDERAL-AID PROJECTS CHECKLIST

The FHWA Risk Management Plan identifies the major risk areas in implementing the American Recovery and Reinvestment Act of 2009 (Recovery Act). For Division Offices consideration, example checklists have been developed for use in "visible monitoring" efforts. The LPA Checklist should be completed by the Division Office in the review of LPA Recovery Act projects to ensure projects are being administered in accordance with all applicable Federal-aid laws, regulations, and policies.

Also refer to the **Financial Management Checklists:**

- Local Project Administration Policies and Procedures
- Billing/Payment Process of State and Local Governments
- Indirect Costs of State and Local Governments

PROJECT DATA

Item No.	
Federal Project Number	
County	
Route	
Engineer's Estimate	
Contract ID	
Letting Date	
Description	

GENERAL REFERENCES

Regulations and Guidance

<http://staffnet.fhwa.dot.gov/programadmin/localovr.cfm>

PLANNING

Checklist Item	Yes	No	N/A
1. Is the project programmed in the currently approved STIP? 23 CFR 450.216 Ref. _____			
2. Is this project in an MPO area and programmed in the MTP and TIP? 23 CFR 450.322 MTP Ref. _____ 23 CFR 450.324 TIP Ref. _____			

Comments:

ENVIRONMENT

Checklist Item	Yes	No	N/A
1. Has the environmental documentation for the project been approved? 23 CFR 771 <input type="checkbox"/> Programmatic Categorical Exclusion (PCE) Date Approved _____ <input type="checkbox"/> Categorical Exclusion Level 1 (CE-1) Date Approved _____ <input type="checkbox"/> Categorical Exclusion Level 2 (CE-2) Date Approved _____ <input type="checkbox"/> Categorical Exclusion Level 3 (CE-3) Date Approved _____ <input type="checkbox"/> Environmental Assessment (EA) / FONSI Date of FONSI _____ <input type="checkbox"/> Environmental Impact Statement (EIS) / ROD Date ROD Signed _____			
2. Is a reassessment or re-evaluation of the environmental document needed? 23 CFR 771.129			
3. Have environmental commitments been incorporated into the final design and contract documents? Y <input type="checkbox"/> N <input type="checkbox"/> N/A <input type="checkbox"/> Historic Preservation 36 CFR 800 Prop./Plan Ref. _____ Y <input type="checkbox"/> N <input type="checkbox"/> N/A <input type="checkbox"/> Stream/Wetland Mitigation 23 CFR 777 Prop./Plan Ref. _____ Y <input type="checkbox"/> N <input type="checkbox"/> N/A <input type="checkbox"/> Noise Abatement 23 CFR 772 Prop./Plan Ref. _____ Y <input type="checkbox"/> N <input type="checkbox"/> N/A <input type="checkbox"/> Section 4f 23 CFR 771.135 Prop./Plan Ref. _____ Y <input type="checkbox"/> N <input type="checkbox"/> N/A <input type="checkbox"/> Endangered Species Act 50 CFR 402.12(c) Prop./Plan Ref. _____ Y <input type="checkbox"/> N <input type="checkbox"/> Other _____ Prop./Plan Ref. _____			
4. Have all permits for the project been secured?			
5. Is the contractor responsible for obtaining any permits or external agency approvals for this project? Permit/Agency Approval _____ Prop./Plan Ref. _____			

Comments:

RIGHT OF WAY & UTILITIES

Checklist Item	Yes	No	N/A
1. Has all Right-of-Way for the project been secured? 23 CFR 635.309 <input type="checkbox"/> Right-of-Way Certificate Date Approved _____ Proposal Ref. _____			
2. If the Right-of-Way will not be clear prior to authorization, are proper stipulations contained in the proposal? Y <input type="checkbox"/> N <input type="checkbox"/> N/A <input type="checkbox"/> Restrictions on the contractor Proposal Ref. _____ Y <input type="checkbox"/> N <input type="checkbox"/> Estimate of when the Right-of-Way will be clear Prop. Ref. _____			

3. Is the project located within 2 miles of an airport? 23 CFR 620.103 Y <input type="checkbox"/> N <input type="checkbox"/> Coordinated with FAA Y <input type="checkbox"/> N <input type="checkbox"/> Vertical clearance adequate			
4. Have utility agreements for all utilities affected by this project been completed and approved?			
5. Have all utilities affected by this project been relocated or will be relocated prior to advertisement? Utility Clearance Note Proposal Ref. _____			
6. If all utilities have not been relocated prior to advertisement, does the proposal include a special provision stipulating utility coordination with the prime contractor for each utility? For each utility relocation coordinated with the prime contractor, provide the utility name, relocation date specified in the utility agreement, and a proposal reference: Utility Co. Name: _____ Relocation Date: _____ Prop. Ref. _____ Utility Co. Name: _____ Relocation Date: _____ Prop. Ref. _____ Utility Co. Name: _____ Relocation Date: _____ Prop. Ref. _____			
7. Does the project require use of or adjustment of railroad facilities? 23 CFR 646 Y <input type="checkbox"/> N <input type="checkbox"/> Railroad Agreement approved Y <input type="checkbox"/> N <input type="checkbox"/> Liability Insurance requirements provided in proposal Proposal Ref. _____			

Comments:	
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PLANS & SPECIFICATIONS

Checklist Item	Yes	No	N/A
1. Have all comments and issues from previous review reports, meeting summaries, etc. been satisfactorily addressed?			
2. Do the contract plans describe the location and design features and the construction requirements in sufficient detail to facilitate construction and the estimation of construction costs of the project? 23 CFR 630.205 Do the contract plans contain the following: Y <input type="checkbox"/> N <input type="checkbox"/> Title Sheet Y <input type="checkbox"/> N <input type="checkbox"/> Typical Sections Y <input type="checkbox"/> N <input type="checkbox"/> Summary of Quantities Y <input type="checkbox"/> N <input type="checkbox"/> Plan Sheets Y <input type="checkbox"/> N <input type="checkbox"/> Profile Sheets Y <input type="checkbox"/> N <input type="checkbox"/> Drainage Sheets Y <input type="checkbox"/> N <input type="checkbox"/> Cross Sections Y <input type="checkbox"/> N <input type="checkbox"/> Traffic Control Plans Y <input type="checkbox"/> N <input type="checkbox"/> Signing Plans Y <input type="checkbox"/> N <input type="checkbox"/> Lighting Plans Y <input type="checkbox"/> N <input type="checkbox"/> Traffic Signal Plans Y <input type="checkbox"/> N <input type="checkbox"/> Special Detail Sheets			

Y <input type="checkbox"/> N <input type="checkbox"/> Structure/Bridge Plans Y <input type="checkbox"/> N <input type="checkbox"/> Utility Relocation Plans Other _____			
3. Does the design conform to Federal-aid design standards for geometric and structural design of highways and/or STA policy and guidance manuals? 23 CFR 625			
4. Are any design exceptions incorporated into this project? 23 CFR 625.3(f) Design Exception: _____ Y <input type="checkbox"/> N <input type="checkbox"/> Reviewed and approved by the STA and FHWA (if applicable per current State DOT/FHWA Stewardship Plan) Date Approved _____			
5. Does the project involve new or revised Interstate Access? Y <input type="checkbox"/> N <input type="checkbox"/> Interchange Justification/Modification Study approved by FHWA Date Approved _____			
6. Are Right-of-Way, easement, and control of access lines shown on the plans?			
7. Is the Right-of-Way acquired adequate to facilitate construction of the project?			
8. Are all traffic control devices provided with this project consistent with the current edition of the Manual on Uniform Traffic Control Devices (MUTCD)? 23 CFR 655.603			
9. Is a temporary traffic control plan provided and consistent with regulations on Work Zone Safety & Mobility as described in 23 CFR 630 (J)? Prop./Plan Ref. _____ Y <input type="checkbox"/> N <input type="checkbox"/> N/A <input type="checkbox"/> Transportation Management Plan (TMP) Approved by the STA and FHWA (if applicable per current STA/FHWA Stewardship Plan) Date Approved _____			
10. Are the clear zone and safety appurtenances provided for this project in accordance with the current edition of the AASHTO Roadside Design Guide?			
11. Are appropriate accommodations provided for bicyclists and pedestrians along the project and intersecting roadways? 23 CFR 652			
12. Are pedestrian facilities designed in accordance Americans with Disabilities Act requirements? http://www.access-board.gov/			
13. Does the project utilize the current version of Standard Drawings?			
14. Are local standard drawings, sepia drawings, or special details incorporated into the project? Prop./Plan Ref. _____ Y <input type="checkbox"/> N <input type="checkbox"/> Reviewed and approved by the STA and FHWA (if applicable per current STA/FHWA Stewardship Plan) Date Approved _____			
15. Does the project utilize the current version of the State Standard Specifications?			

<p>16. Are local specifications or supplemental specifications utilized on the project? Proposal Ref. _____ <input type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> Reviewed and approved by the STA and FHWA (if applicable per current STA/FHWA Stewardship Plan) Date Approved _____</p>			
<p>17. Are all pay items covered by an appropriate specification that agrees with the plans for basis of payment?</p>			
<p>18. Are any materials to be supplied by the Local Public Agency or the State? 23 CFR 635.407 Material: _____ <input type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> Public Interest Finding (PIF) approved by the STA and FHWA (if applicable per current STA/FHWA Stewardship Plan) Date Approved _____</p>			
<p>19. Are patented or proprietary materials shown in the plans or specifications? 23 CFR 635.411 Material/Product: _____ <input type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> Use of Material approved by the STA and FHWA (if applicable per current STA/FHWA Stewardship Plan) Date Approved _____</p>			
<p>20. Is state or local force account construction work to be utilized on this project? 23 CFR 204 <input type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> Cost Effective Determination approved by the STA and FHWA (if applicable per current STA/FHWA Stewardship Plan) Date Approved _____</p>			
<p>21. Are experimental features utilized on this project? (Federal-aid Policy Guide G 6042.4) Experimental Feature: _____ <input type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> Work Plan approved by the STA and FHWA (if applicable per current STA/FHWA Stewardship Plan) Date Approved _____</p>			
<p>Comments:</p>			

ESTIMATE

Checklist Item	Yes	No	N/A
1. Does the estimate include a pay item for all work included in the plans?			
2. Are all estimated unit prices reasonable and comparable to average unit bid prices or construction industry trends?			
3. Are Federal-aid non-participating items included in this project? Y <input type="checkbox"/> N <input type="checkbox"/> Non-participating items separately listed in the estimate and/or plans items include: _____			
4. Is the amount of the estimate consistent with the amount of Federal-aid funding requested for the construction phase?			

Comments:

PROPOSAL

Checklist Item	Yes	No	N/A
1. Is the FHWA-1273 Required Contract Provisions for Federal-Aid Construction Contracts included? 23 CFR 633.102 Proposal Ref. _____			
2. Are Equal Employment Opportunity (EEO) special provisions included? Proposal Ref. _____			
3. Does the proposal contain a Disadvantaged Business Enterprise (DBE) goal? 23 CFR 635.107 & 49 CFR 26 DBE Goal: _____ Proposal Ref. _____			
4. Is a non-collusion provision included? 23 CFR 635.112(f) Proposal Ref. _____			
5. Are standardized changed condition clauses included? 23 CFR 635.109 Specification/Proposal Ref. _____			
6. Are training special provisions included? Proposal Ref. _____			
7. Are the minimum wage rates determined by the United State Department of Labor included? 23 CFR 117(f) Proposal Ref. _____			
8. Are the Buy America Act Provisions included? 23 CFR 635.410 Specification/Proposal Ref. _____			
9. Is the contract time/completion date realistic and adequately supported? 23 CFR 635.121 Proposal Ref. _____ Completion: Date / Work Days / Calendar Days (Circle One)			
10. Does the proposal contain incentive/disincentive clauses? Proposal Ref. _____			

Comments:	
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AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 (RECOVERY ACT)

This category of items will ensure contract documents for projects utilizing Recovery Act funds satisfy additional requirements and include the necessary provisions as set forth in the Recovery Act. For additional guidance and information related to the Recovery Act, please visit www.fhwa.dot.gov/economicrecovery/index.htm

Checklist Item	Yes	No	N/A
1. Is this project included in Section 1511 Certification and is the information accurate?			
2. Does the contract package for the project include provisions regarding the special reporting requirements of the Recovery Act?			
3. Does the contract package for the project include a provision to override the general applicability provisions in form FHWA-1273, Section IV and V? Note that Davis-Bacon Prevailing Wage Rate requirements shall apply to all Recovery Act funded construction projects regardless of location / roadway classification. Proposal Ref. _____			
4. Does the contract package require installation of Recovery Act Project Construction Signing?			
5. Does the contract package for the project include a provision for Section 902 regarding U.S. Comptroller General authority?			
6. Does the contract package for the project include a provision for Section 1515 regarding Inspector General authority?			

Comments:	
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Billing/Payment Process of State and Local Governments Division Office Checklist

Division Offices: Please use the following checklist to assist you in assessing compliance related to claims for reimbursement and payment in your state. This checklist will also help prepare you in responding to questions raised during subsequent outside reviews of various agency-identified high risk areas. While these review team members will have some level of familiarity with the FHWA billing processes and procedures, the Division Offices are responsible for ensuring compliance with all applicable Federal requirements by State, local and other subrecipient entities receiving Federal-aid funds.

Review of State DOT billing/payment process

- Does the Division conduct periodic billing transaction reviews (other than the required IPIA review)?
 - If no, how does the Division verify billings submitted through RASP are accurate/supportable?
- If the Division performs periodic billing transaction reviews:
 - How current is the latest review?
 - Have all findings been satisfactorily resolved?
 - Have there been any changes to the billing system/process since last assessment?
 - What is the Division/State doing to address any concerns resulting from these changes?
 - Has resolution to concerns been tested?
 - Are results of tests conclusive? Sufficient?
 - Were the review, results, and follow-up documented?
- Does the Division insure credits have been applied when an Ineligibility Notice has been issued? Is documentation of the credits maintained?
- Is the State implementing a new accounting and billing system or billing module?
 - Has the Division been working with FHWA FST to mitigate risks of new system implementation?
 - What conclusions have been reached regarding evaluations of new billing modules?
 - Have all applicable concerns been satisfactorily resolved/mitigated?
 - Is resolution satisfactorily documented?

Review of State DOT Local Project Administration (LPA) billing/payment process

- Does the State DOT have written procedures for processing claims for reimbursement submitted by subrecipients of Federal funds?
- Does the State DOT reimburse the local agency according to their procedures and in a timely manner?
- Does the State DOT have a systematic process of auditing the claims submitted by local agencies? If so, please briefly describe the process.
- Does the LPA accounting and billing process comply with generally accepted accounting principles and standards of internal controls?
- Does the documentation submitted by the local agencies support the claims for reimbursement?

- Does the State or Local Agency have an audit function that reviews final claims for locally administered federal-aid projects?
 - Are these final claims supported with audit reports and do they accompany the claim?
 - Do persons with authority to take appropriate action receive and review the reports?
 - How does State or Local Agency handle the disposition of significant findings that impact the claim for Federal funds?
 - Has the quality of these audits been determined and what were the results of this review?
- Did the State or local agency have any Single Audit findings involving Federal-aid billing processes?
 - If so, were findings satisfactorily resolved and documented?

Review of Miscellaneous FAHP recipients not run through the State's billing system

- Does the Division periodically review claims for reimbursement from recipients of Federal Funds who do not use the current billing process RASP (Recreational Trails for example)?
- Periodic billing transaction reviews performed by the Division Office:
 - How current is the latest review?
 - Have all findings been satisfactorily resolved?
 - Have there been any changes to billing system/process since last assessment?
 - What is the Division/State doing to address any concerns resulting from these changes?
 - Has resolution to concerns been tested?
 - Are results of tests conclusive? Sufficient?
 - Were the review, results, and follow-up documented?
- Does the Division insure credits have been applied when an Ineligibility Notice has been issued? Is documentation of the credits maintained?
- Does the recipient's accounting and billing process comply with generally accepted accounting principles and standards of internal controls?
- Does the documentation submitted by the recipient support the claims for reimbursement?
- Does the recipient have an audit function that reviews final claims for federal-aid projects not processed through the state DOT's billing system?
 - Are these final claims supported with audit reports and do they accompany the claim?
 - Do persons with authority to take appropriate action receive and review the reports?
 - How does the recipient handle the disposition of significant findings that impact the claim for Federal funds?
 - Has the quality of these audits been determined and what were the results of this review?
- Was the recipient subject to the Single Audit requirements under OMB A-133?
 - Were there any findings involving Federal-aid funds?
 - Were the findings adequately resolved and documented?

Indirect Costs of State and Local Governments
Division Office Checklist
March 10, 2009

Division Offices: Please use the following checklist to ensure you are prepared to respond to questions related to Indirect Cost Allocation in your state.. There will likely be subsequent outside reviews of various agency-identified high risk areas, and they will be using the same checklists in their evaluations. While these review team members will have some level of familiarity with the various federal cost principles, the Division Offices, as cognizant agency for indirect cost allocation, are responsible for ensuring compliance with all applicable Federal requirements by State, local and other subrecipient entities receiving Federal-aid funds.

Annual approval of State DOT indirect cost allocation plan (ICAP) and indirect cost (IDC) rate(s) (if applicable)

- Has Division Office approved current ICAP and IDC rates for use by State DOT?
- Was the ICAP submitted and approved in a timely manner?
- Is there documented evidence of review of the ICAP submittal in the Division Office files?
- Did the Division utilize the Health and Human Services, FHWA ICAP Review Guide, or other appropriate checklist to determine that the State's ICAP conforms to the requirements of 2 CFR 225?
- Has an agreement been executed by both the State DOT and FHWA Division?
- Is the State DOT observing the FHWA prohibition on indirect cost projects? (see Indirect Cost Policy memo: FHWA Indirect Costs May 5 2004)

State's responsibilities for Local Public Agency (LPA) ICAP and IDC rate approvals

- Is the State aware of, and is it exercising its responsibilities for negotiation and monitoring LPA ICAPs, in accordance with 23 USC 106(g)(4) and 2 CFR 225 Appendix E(D)(1)(b)?
- Are there any LPAs for which the State is not exercising this responsibility?
 - If yes, identify steps being taken to ensure compliance.
 - Are the follow up steps tied to the Office of Infrastructure's LPA corrective action plan?

Other subrecipients with ICAPs

- Has the State exercised its responsibilities regarding non-profit ICAPs (per 23 U.S.C. 106(g)(4)(A)(ii)) and their compliance with 2 CFR 230?
- Is the State aware of the most recent approved ICAP for universities? (likely approved by either HHS or the Office of Naval Research, depending on who provides the most federal funding)?

Effects of infusion of ARRA funds on equity of indirect cost allocation to all benefiting cost objectives (2 CFR 225 Appendix A(F)(1), Appendix E(D)(2)(c) and (D)(3)(e))

- States – Has the Division discussed impacts of ARRA funding infusion on the continued equity of distribution of indirect costs to all benefiting cost objectives, including FAHP and ARRA funded projects?

- If applicable, have risks been appropriately mitigated? (This will likely involve either not allowing any charging of indirect costs to ARRA funded projects for the remainder of the State's FY 2009 or taking necessary steps to adjust rates for the remainder of FY 2009 to take into account the increased infusion of Federal funds and to avoid unnecessary over recovery of indirect costs)
- LPAs – Has the Division discussed potential impacts of ARRA funding on LPA administered projects where indirect costs are involved?
- Does the State have plans to adequately address risk of effects on FAHP and ARRA funded projects?

Periodic checking of rate application to Federal-aid projects

- Has the Division verified that IDC rates are properly charged to FAHP and ARRA funded projects, in accordance with current FHWA approval letter, and/or subsequently modified rates to mitigate effects of ARRA infusion of funding
 - For State administered projects?
 - For LPA administered projects?
- Is the State charging indirect costs to projects funded with Emergency Relief funds?
 - If so, has the Division ensured that such allocations do not result in a “windfall” of federal funding to the State?
 - Has the Division documented efforts to avoid over recovery of indirect costs to the ER program, such as special ER indirect cost rate(s) being developed?