Local Programs Procedures

LPP 08-04 **Manual Update**
Subject: **Life Cycle-Manual Change Part II**

Reference: *Local Assistance Procedures Manual* (LAPM), Chapter 1-Introduction and Overview, Chapter 2-Roles and Responsibilities, Chapter 3-Project Authorization, Chapter 4-Agreements, Chapter 5- Accounting/Invoices, Chapter 7- Field Review, Chapter 10-Consultant Selection, Chapter 11-Design Standards, Chapter 12-Plans, Specifications & Estimate, Chapter 13-Right of Way, Chapter, Chapter 14-Utility Facilities, Chapter 15-Advertise and Award Project and *Local Assistance Program Guidelines* (LAPG), Chapter 1-Introduction and Overview, Chapter 2-Financing the Federal-aid Highway Program, Chapter 3-Transporation and Enhancement Activities, Chapter 23-Local Agency State Transportation Improvement Program Projects

Effective Date: December 31, 2008 **Approved:** **_Original Signed By__**
Earl Seaberg, Acting Chief
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WHAT IS AN LPP

LPPs are Local Programs Procedures. These documents are used for the deployment of new procedures and policies between updates of the Local Assistance manuals, guidelines and programs. They are numbered according to calendar year and order in which released. This is the fourth LPP issued in 2008; hence, it is LPP 08-04.

PURPOSE

The purpose of this LPP is to make changes to various chapters in the *Local Assistance Procedures Manual* (LAPM) and *Local Assistance Program Guidelines* (LAPG), in response to the Federal Highway Administration (FHWA) Local Agency Process Review dated August 31, 2007. This Process Review has been commonly referred to as the Local Agency Life Cycle Review and each related LPP will be referred to as the Life Cycle-Manual Change. This is the second LPP released. Other minor administrative changes have been made as well.

USER FRIENDLY FEATURES

- These procedures are incorporated in the electronic version of the LAPM and LAPG that are available at the Division of Local Assistance (DLA) Home Page on the Internet at: http://www.dot.ca.gov/hq/LocalPrograms/. Under "Publications" select "*Local Assistance Procedures Manual*" or "*Local Assistance Program Guidelines*."

- You may also purchase the Publications for Local Assistance DVD, which acts as a one-stop shop for information and promotes flexible access to helpful information for local project delivery at: http://www.dot.ca.gov/hq/LocalPrograms/lam/LApubsCD.htm

- Additional user-friendly features were developed to make the manual easier to edit and to access on the DLA Web site. **Sidebars denote changes and these pages are to replace the affected pages in the hard copy of your LAPM and LAPG**.

- To receive an electronic notification when new information is posted on the DLA Web site, please subscribe to the DLA list server at: http://www.dot.ca.gov/hq/LocalPrograms/sub.htm

- Comments and suggestions for improvement to the manual or the processes and procedures are welcome. They may be submitted to:

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SUMMARY OF CHANGES

In the following chapters, references to ISTEA and TEA- 21 were updated to SAFETEA-LU. Other chapters that may not be included in this LPP, but may contain references to ISTEA and TEA-21 are currently being rewritten in its entirety. The revisions to these chapters will be released as individual LPP.

LAPM Item	Change
Chapter 1 Table of Contents	Updated the Table of Contents.
Section 1.1 (Purpose), page 1-1	Corrected the "Procedures Manual" to "*Local Assistance Procedures Manual* (LAPM)."
Section 1.2 (Background) page 1-1	First paragraph, updated "*ISTEA*" to "*SAFETEA-LU*." Revised the third paragraph.
Section 1.3 (Related Manuals), pages 1-1, 2	Revised the second paragraph to include "departmental policy and guidance…." Fourth paragraph, changed "*guidebooks*" to "LAPG." Fifth paragraph, corrected the web site mentioned for the Local Assistance Home Page on the Internet.
Section 1.4 (Terms and Definitions), pages 1-5, 8, 9	The following changes were made in this section: • FTIP- replaced the… "three-year list"… to …"four-year list"…. • FSTIP - replaced the …"three-year list"… to …"four-year list"…. • ISTEA - updated its definition. • Added in the list the following terms "SAFETEA- LU" and "TEA-21." • State Funds – Used the acronyms DLA and LAPG instead of the spelled out words.
Section 1.5 (Manual Organization), pages 1-9a, 9b	Pages were shifted due to the revisions made to the previous sections.
Chapter 2 Section 2.1 (Introduction), page 2-1	Made revisions to the first and second paragraphs under "Federal-aid Projects" referencing to SAFETEA-LU.

Section 2.2 (National Highway System), page 2-2	Made revisions to this section to clarify NHS extent, composition, and determination. Established the acronym "SHS" for "State Highway System."
Section 2.3 (State-Authorized Projects), page 2-2	Updated "TEA-21" to "SAFETEA-LU."
Section 2.6 (Reengineering of Local Assistance Procedures), pages 2-5, 6	Under "Projects on the National Highway System (NHS)" deleted "*Effective with the publication of this manual*"…. Used the acronym "SHS" for "State Highway System." The subheading "PS&E Procedures for Major NHS Projects" was changed to "PS&E Procedures for Significant NHS Projects." The term "major" was changed to "significant" in this section. Under "Design Standard" clarified the use of Caltrans Standards for SHS projects. Under "Method of Construction" restated the first sentence to say… "construction contracts on"….. The subheading "Construction Administration for Major NHS Projects" was changed to "Construction Administration for Significant NHS Projects." The term "major" was changed to "significant" in this section. Under "Quality Assurance Programs" the "Independent Assurance Sampling and Testing (IAST)" was changed to "Independent Assurance (IA)." Under "Final Inspection" revised the paragraph to include final inspection for non-oversight projects.
Section 2.8 (Caltrans Responsibilities), page 2-8	Under "Program Management" the word …"*meet*"…. was changed to … "*in accordance with*"….
Chapter 3 Section 3.1 (Introduction) pages 3-3, 4	Revised the italicized text with asterisk to explain when prior FHWA approval is required. Under "ACRONYM" deleted the text "HBP" that was enclosed in parenthesis.
Section 3.10 (FTA Transfer) page 3-16,	Updated "ISTEA" to "SAFETEA-LU."

Section 3.12 (Reference) page 3-20	Corrected the "Local Assistance Home Page" to "Division of Local Assistance Home Page." Updated the list of references.
Section 4.5 (Federal-aid Project Authorization to Proceed (E-76)), page 4-7	Added reference to "SAFETEA-LU."
Section 4.7 (References), page 4-8	Updated the list of references.
Exhibit 4-C, pages 4-17, 18, 19, 20	Under "Article V- Retention of Records/Audits" added the information on federal requirement for record retentions. Pages were shifted due to the revisions made to this section.
Chapter 5 Section 5.2 (Requirements for Reimbursement), page 5-4	Clarified authorization eligibility for emergency work. Under "Invoice Submittal" established the acronym "DLA" for "Division of Local Assistance."
Section 5.4 (Method of Reimbursement), page 5-9	In the last sentence of this section heading, corrected the sentence to say … "see section 'Electronic Fund Transfer (EFT) Reimbursement Method' below."
Chapter 7 Section 7.5 (Preparation of Field Review Form), page7-7	Under "Field Reviews Attended by Caltrans and the FHWA" updated "HBRR" to "HBP."
Section 7.6 (Field Review Data), page 7-8	Under "Environmental Process" revised the paragraph to include federal environmental process that federal-aid projects must follow.
Exhibit 7-A, page 7-11	Under Item 3. "Programming Data" deleted the acronym (ER) for Emergency Relief. Included "Regional Transportation Plan" as a requirement for federal-aid funded projects.
Chapter 8 Section 8.2 (Necessity for a Public Hearing), pages 8-2, 3, 4, 5	Under "Categorical Exclusion" established the acronym "CE" for "Categorical Exclusion." Under "Environmental Impact Statement" further explained the Environmental Impact Statement (EIS), also added reference to Caltrans Project Development Procedures Manual (PDPM) Chapter 11 regarding procedures for public hearing. Pages were shifted due to the revisions made to this section.

Chapter 10 Section 10.8 (Miscellaneous Considerations), page 10-26	Added third bullet item in regards to the requirement for "Liability Insurance" from the consultants.
Chapter 11 Section 11.5 (References), page 11-29	Under "References" corrected one of the listed references from.. "Guide 2001." to …. "Guide 2006."
Chapter 12 Section 12.1 (Introduction), pages 12-1, 1a	Spelled out the acronyms "PS&E" to "Plans, Specifications & Estimate" and "NHS" to "National Highway System" since this is the first time the terms were used in this chapter. Under "Cost-effectiveness/Public Interest Finding" used the acronym "NHS" for National Highway System.
Section 12.4 (Method of Construction), pages 12-6,7	Revised the second sentence under "Emergency Work." Second paragraph updated the HBRR to HBP and clarified the used of HBP funds. Under "Definitions" redefined the term "Project."
Section 12.7 (Plans), pages 12-8, 9, 11	Updated the phone number of Caltrans Central Publications Distribution Unit. Under "Plan Sheet and Specification Signatures" clarified PS&E signature. Under "Transportation Management Plan (TMP)" added the topic "Responsible Persons" to explain who has the primary responsibility and sufficient authority to implement the TMP.
Section 12.9 (Required Federal Contract Provisions), page 12-17	Included in list Item No. VI the title of Exhibit 17-H. Made revisions to list Item No. VII "Subletting or Assigning the Contract."
Section 12.10 (Restricted Contract Provisions), page 12-27	Under "Indian Preference" updated "ISTEA" to "SAFETEA-LU."
Section 12.13 (Estimates), pages 12-35, 36	Clarified the local agency's eligibility participation under "Local Agency Furnished Materials." Under "Construction Engineering" updated "HBRR" and "HES" to "HBP" and "HSIP" respectively.

Cont….Section 12.13 (Estimates), pages 12-35, 36	Deleted spelled word for "Division of Local Assistance" and replaced with the acronym (DLA).
Section 12.15 (PS&E Certification), page 12-38	Clarified the certification signature requirements. Under "PS&E Checklist" deleted the spelled word for "National Highway System" and replaced with the acronym "NHS."
Section 12.17 (References), page 12-40	Updated the list of references.
Exhibit 12-E, page 12-60	Updated Item B.2.c. and B.2.d.
Exhibit 12-E, page 12-63	Made the following changes to Item List no. XIII: • List A. updated "ISTEA" to "SAFETEA-LU." • List D. deleted the text enclosed in parenthesis. • List E. deleted the text enclosed in parenthesis.
Exhibit 12-E, Attachment B, page 12-73	Under "Vl. Record of Materials, Supplies, and Labor" item List No. 1. added a punctuation mark after the parenthesis.
Exhibit 12-E, Attachment M, page 12-105	Updated the section "Buy America Requirements."
Exhibit 12-F, pages 12-109, 110	Deleted asterisks on items that do not require "Public Interest Finding" for projects off the NHS. Added asterisks on items that require Caltrans/FHWA approval. Under "Instructions" modified list Item No. 1.
Chapter 13 Section 13.2 (Federal-aid and the Federal/State/Local Agency Relationship), page 13-1	Updated "ISTEA" to "SAFETEA-LU."
Chapter 14 Section 14.2 (Federal Reimbursement), page 14-5	Updated "ISTEA" to "SAFETEA-LU."

Section 14.5 (References), page 14-10	Updated the list of references.
Chapter 15 Section 15.2 (Definition of Terms), pages 15-3, 4	Updated list under the "Definition of Terms."
Section 15.5 (Contract Bid Opening), page 15-10	Under "Procedures" corrected the name of Exhibit 15-G in the first and second bulleted items.
Section 15.6 (Contract Award), page 15-12	Deleted the duplicated word "engineer" in the sixth paragraph under "Bid Analysis Process."
Section 15.7 (Award Package) pages 15-15, 16	Third paragraph, corrected … "Local Assistance Program"… to … "Division of Local Assistance"…. Updated the acronyms for "HES" and "HBRR" to "HSIP" and "HBP" respectively.
Section 15.8 (References), page 15-16	Updated the list of references.
LAPG Item	**Change**
Chapter 1 Section 1.1 (Purpose), page 1-1	Established the acronym "LAPG" for Local Assistance Program Guidelines. Added "SAFETEA-LU" in the second paragraph.
Section 1.2 (Background), page 1-2	Added the information on "SAFETEA-LU" in the fourth paragraph.

Section 1.3 (Roles of the Local and Regional Agencies), pages 1-2, 3	Added "SAFETEA-LU" in the first paragraph. Included "goals" as part of the Regional Transportation Plan (RTP). "STIP" was redefined. Under "FTIP" changed the "three-year priority list" to "four-year priority list." The second "STIP" was corrected to "FSTIP" and changed the… "three-year priority list"…. to … "four-year priority list"…. Under "Regional-Metropolitan Planning Organization" added in the third bulleted item … "*as defined by US Census*."
Section 1.4 (Federal Programs), page 1-4	Added "SAFETEA-LU" in this section. Updated "Highway Bridge Replacement and Rehabilitation (HBRR)" to "Highway Bridge Program (HBP)." Updated "Hazard Elimination Safety" to "Highway Safety Improvement Program (HSIP)" and corrected the chapter title to "Federal Safe Routes to School."
Section 1.5 (State Programs), page 1-6	Corrected the chapter title to … "Chapter 24 Federal Safe Routes to School"….
Section 1.6 (References), page 1-6	Updated the list of references.
Exhibit 1-A, page 1-7	Updated this exhibit.
Exhibit 1-B, pages 1-9, 9a, 9b	Updated this exhibit.
Chapter 2 Section 2.2 (National Level Actions), pages 2-1, 2, 3, 4	Added reference to SAFETEA-LU in the first paragraph. Replaced "TEA-21" with "SAFETEA-LU" in "Figure 1. Contract Authority Programs." Second paragraph under "Authorizations and Deductions," corrected federal-aid programs to "Congestion Mitigation and Air Quality (CMAQ) Improvement Program" and updated the HBRR to "Highway Bridge Program (HBP)." Under "Obligational Authority," updated the "TEA-21" to "SAFETEA-LU."

Section 2.3 (Sate Level Actions), pages 2-4, 5, 6, 8	Under "Local Agency Apportionments" made the following corrections: • First bulleted item updated "HBRR," "HES," and "SR2S" to "HBP," "HSIP," and "SRTS" respectively. • Second bulleted item changed "manual" to "*Local Assistance Program Guidelines* (LAPG)." • Third bulleted item made some minor corrections. Under "Local Obligational Authority" updated "TEA-21" to "SAFETEA-LU." Under "Tracking Obligational Authority" corrected the Division of Local Assistance Web site mentioned.
Section 2.4 (Project Level Actions), pages 2-8, 9, 10, 11	Under "Local Agency-State Master Agreement" added compliance with federal environmental law. Under "Project Inclusion in the FTIP/FSTIP and Approved Eligibility Lists" the following changes were made: • Revised the first paragraph to say… "must be included in a Federal Statewide Transportation Improvement Program (FSTIP) before work can be authorized and initiated." • Third paragraph corrected …"lump-sum listing"…. to… "grouped project listing." The reference mentioned on the "Lump-Sum Guidelines" was corrected to "Grouped Project Listing." • Updated "TEA-21" to "SAFETEA-LU." • Updated the chapter titles in the bulleted items. • Last paragraph corrected the "Local Assistance web page" to "DLA Web site." Under "Authorization to Proceed" second paragraph corrected the "environmental clearance" to "NEPA approval." Also updated "TEA-21" to "SAFETEA-LU."
Section 2.5 (References), page 2-11	Updated the list of references.
Chapter 3 Section 3.1 (Introduction), page 3-1	The following changes were made in this section: • Revised the last sentence of the first paragraph to say …" *now there is one system, the National Highway System (NHS). The Interstate System"*… • Revised the first sentence of the second paragraph to say "*Although there is only one federal-aid system….*" • Updated "ISTEA" to "SAFETEA-LU." • Other minor changes were made.

Section 3.2 (Federal-aid Routes), pages 3-1, 2	Under "National Highway System" the following changes were made: • Used the acronym "NHS" for "National Highway System." • "Interstate System" was changed to "Interstate Highways." • Added information when the NHS listing was updated. Corrected the subsection title from "Federal-aid Highways (On System)" to "Federal-aid System." Also corrected the total mileage of federal-aid system. Corrected the subsection title from "Other Public Roads (Off System)" to "Other Public Roads." Other minor changes were made.
Section 3.3 (Functional Classifications), pages 3-3, 4, 5	Under "Urban" hyphenated "intraurban" to "intra-urban" in the first bulleted item. Under "Rural" first bulleted item deleted the sentence… "*It serves virtually all urban areas with populations of 50,000 and above.*" Under "Changes in Functional Classification" made revisions to the last paragraph.
Section 3.4 (References), page 3-5	Updated the list of references.
Chapter 23 Section 23.4.4 (Additional Guidance on Highway Projects), pages 23-19, 20	Revised the second paragraph to update "ISTEA" and "TEA-21" to "SAFETEA-LU" in regards to the delegation of responsibility for NEPA approval.
Section 23.6 (RSTP/CMAQ/Regional TEA Match Reserves) pages 23-21, 22	Pages were shifted due to the revisions made in the previous section.
Section 23.9 (References) page 23-22	Updated the list of references.

CHAPTER 1 INTRODUCTION AND OVERVIEW

CONTENTS

Section/Description ..... Page Number

1.1 PURPOSE 1-1

1.2 BACKGROUND 1-1

1.3 RELATED MANUALS 1-1

1.4 TERMS AND DEFINITIONS 1-2

1.5 MANUAL ORGANIZATION 1-9

FEDERAL-AID PROJECTS 1-9
STATE FUNDED PROJECTS 1-9
CHAPTER SUMMARIES 1-9

1.6 MANUAL UPDATES 1-9

FLOW CHARTS

CHART **DESCRIPTION** **PAGE NUMBER**

1.1 PROJECT DEVELOPMENT FLOW CHART (TYPICAL PROCEDURES FOR FEDERAL-AID PROJECTS) 1-11

1.2 PROJECT DEVELOPMENT FLOW CHART (TYPICAL PROCEDURES FOR "STATE-ONLY" PROJECTS) 1-13

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CHAPTER 1 INTRODUCTION AND OVERVIEW

1.1 PURPOSE

The *Local Assistance Procedures Manual* (LAPM) has been prepared to aid California local agencies scope, organize, design, construct and maintain their public transportation facilities when they seek Federal Highway Administration (FHWA) funded federal-aid or state funding. This manual describes the processes, procedures, documents, authorizations, approvals and certifications, which are required in order to receive federal-aid and/or state funds for many types of local transportation projects.

1.2 BACKGROUND

This manual is a compilation and summary of information from many sources including federal and state law, regulations, guidelines and operating practices. It reflects the procedures and practices developed over many years of providing federal-aid funding and state funding for local projects. These practices and procedures have been modified many times by superseding legislation, most recently for changes made by the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) enacted in 2005.

The general thrust of the changes under the above legislation and reengineering has been to provide the local agency with broad delegation, latitude and responsibility for developing its projects. However, under Title 23, United States Code, Caltrans is responsible for the administration of federal-aid (FHWA funded) transportation projects in California and cannot delegate this overall administrative responsibility.

This manual is meant to be used in conjunction with the *Local Assistance Program Guidelines* (LAPG).

1.3 RELATED MANUALS

The LAPG describes each of the federal-aid and state-aid local assistance programs and the requirements for obtaining project funding for these individual programs.

The Standard Environmental Reference (SER) provides a departmental policy and guidance on compliance with the National Environmental Policy Act (NEPA) and related federal environmental laws, executive orders, regulations, and policies. The reference is intended for statewide use by local agencies and Caltrans.

For local agency projects on the State Highway System (SHS), all applicable Caltrans manuals and guidelines shall be used. These describe the process and procedures for developing state system projects. These also contain discussions of the regional and state planning and programming processes.

The LAPG provides detailed descriptions of the various state and federal programs available for financing local public transportation projects.

Other state and federal manuals and documents, including those noted as references, should be consulted for specific guidance in developing a project. Pertinent documents can be accessed through the Division of Local Assistance Home Page on the Internet at: http://www.dot.ca.gov/hq/LocalPrograms/index.htm

1.4 TERMS AND DEFINITIONS

- Action - A highway or transit project proposed for FHWA funding. It also includes activities such as joint and multiple use permits, changes in access control, etc., which may or may not involve a commitment of federal funds.
- Administering Agency - The state or a city, county, other public agency, or nonprofit organizations, that advertise, opens bids, award and administer the contract. They are frequently called local agency or agency and were previously called responsible agency.
- Affected Environment - The physical features, land, area, or areas to be influenced, or impacted, by an alternative alignment under consideration. This term also includes various social and environmental factors and conditions pertinent to an area.
- Affecting - Means will or may have an effect [or impact].
- Alternative - One of a number of specific transportation improvement proposals, alignments, options, design choices, etc., in a defined study area. For a transportation project, alternatives to be studied normally include the no-action alternative, an upgrading of the existing roadway alternative, new transportation routes and locations, transportation systems management strategies, multi-modal alternatives, if warranted, and any combinations of the above.
- Area of Potential Effect (APE): A term used in Section 106 (Cultural Resource studies) to describe the area in which historic resources may be affected by a federal undertaking.
- Avoidance Alternative -A general term used to refer to any alignment proposal, which has been either developed, modified, shifted, or downsized to specifically avoid impacting one or more resources.
- California Environmental Quality Act (CEQA): State environmental law requiring State and local agencies to consider the environmental impacts of their decisions when approving public and private projects. Local agencies are the CEQA lead agency for local agency transportation projects “off” the SHS, but Caltrans is the CEQA lead agency for local agency transportation projects “on” the SHS unless otherwise delegated.
- Categorical Exclusion (CE): One of three (3) Classes of Action which prescribes the level of documentation required in the NEPA process. The CEs are Class II Actions, which do not individually or cumulatively have a significant effect on the environment; therefore, neither an EA, nor an EIS is required. Under NEPA Delegation, there are two means of categorically excluding a project: 1) Section 6004 Categorical Exclusions and 2) Section 6005 Categorical Exclusions.

- Finding of No Significant Impact (FONSI) - A document by a federal agency that briefly presents the reasons why an action will not have a significant effect on the environment and for which an environmental impact statement, therefore, will not be prepared.
- FTIP - Federal Transportation Improvement Program, a four-year list of all transportation projects proposed for federal surface transportation funding within the planning area of one of the eighteen Metropolitan Planning Organizations (MPOs) in the State. These are only valid for reference when incorporated into the FSTIP and approved by FHWA/FTA (see Chapter 4 of the Caltrans *Project Development Procedures Manual* for more discussion).
- FSTIP - Federal Statewide Transportation Improvement Program, a four-year list of all state and local transportation projects proposed for federal surface transportation funding with the state. This is developed by Caltrans with cooperation of the MPOs and in consultation with the local non-urbanized government. The FSTIP includes the FTIPs, which are incorporated by reference and other rural federally funded projects. The FSTIP, including incorporated FTIPs is only valid for use after FHWA/FTA approval. See Chapter 4 of the Caltrans *Project Development Procedures Manual* for more discussion. Also see STIP below.
- FTA - Federal Transit Administration, the federal agency responsible for administering the federal transit program. Rules for the transit program are not covered in this manual (see Chapter 3, "Project Authorization," Section 3.10 for procedures for transferring federal-aid funds from FHWA to FTA).
- Fully Funded – As related to the NEPA document, projects must be fully funded and shown in the applicable FTIP/RTP before Caltrans can approve the related NEPA document. Partial funding of a project may get their Preliminary Engineering (PE) started but the environmental NEPA document is not approvable without the total funding.
- Headquarters - The headquarters office of the Department located at 1120 "N" St., Sacramento, CA 95814.
- Impacts - A term to describe the positive or negative effects upon the natural or human environment as a result of a specific project or projects.
- Independent Utility - The ability of a transportation improvement to be usable and be a reasonable expenditure even if no additional transportation improvements in the area are made.
- Indirect Effects - Effects caused by a given action, occurring later in time, or farther removed in distance, but which are reasonably foreseeable. Induced changes to land use patterns, population density or growth rate are examples.
- ISTEA – Intermodal Surface Transportation Efficiency Act of 1991 was an Act signed by the President on December 18, 1991, providing authorization for six (6) years for highways, highway safety, and mass transportation. ISTEA was superseded by TEA 21 in 1998 and by SAFETEA-LU in 2005.

- Level-of-Service (LOS) - Also known, as "Traffic Service." LOS is a qualitative measure describing operational conditions within a traffic stream. LOS is based on service measures such as speed and travel time, freedom to maneuver, traffic interruptions, comfort and convenience. LOS is also affected by conditions such as number of access points, lane width, number of lanes, and percentage of large vehicles. Six levels of service are defined by letter designations from A to F with LOS A representing the best operating conditions, and LOS F the worst.
- Local Agency - A California City, county, or other local public agency. In many instances this term is used loosely to include nonprofit organizations.
- Logical Termini - Features such as cross route locations that are considered rational end points for a transportation improvement and which serve to make it useable.
- Metropolitan Planning Organization (MPO) - Federally mandated regional organizations responsible for comprehensive transportation planning and programming for in urbanized areas. Work products include the Transportation Plan, the Transportation Improvement Program, and the Unified Planning Work Program.
- Mitigation Measures - Specific design commitments made during the environmental evaluation and study process, which serve to moderate or lessen impacts deriving from the proposed action. In accordance with CEQ, mitigation includes avoidance, minimization, rectification, reduction, and compensation.
- National Environmental Policy Act (NEPA) – Federal environmental law requiring federal agencies to consider the environmental impacts of their actions, evaluate least damaging alternatives,and ensure decisions are made in the public's best interest based on a balanced consideration of the need for safe and efficient transportation.
- New Location - An area or an alignment proposed for highway development that is not currently used for transportation purposes.
- NHS - National Highway System (see Chapter 2, "Roles and Responsibilities," Section 2.2).
- No Action - An alternative that is used as the basis to measure the impacts and benefits of the preferred alternative(s) in an Environmental Assessment or EIS. The No Action alternative consists of the existing conditions on the roadway, plus any safety or maintenance improvements, which have been identified in the CDOT 5-Year Transportation Improvement Program.
- No-Build Alternative - Normally includes short-term, minor restoration types of activities (e.g., safety and maintenance improvements) that maintain continuing operation of an existing facility. The no-build alternative serves as a baseline for the comparison of other alternatives.
- Notice of Intent (NOI) - A notice published in the Federal Register that an EIS will be prepared and considered. The notice shall briefly describe the proposed action and possible alternatives, describe the agency's proposed scoping process including whether, when, and where any scoping meetings will be held, and state the name and address of a person within the agency who can answer questions about the proposed action and the EIS.

- Permit - Written permission given by a governmental agency to take certain action during specific steps of the transportation project development process. Permits may include permission for any construction, excavation, depositing of material, or other work in navigable waters (Corps of Engineers), permission required for the discharge of dredged, or fill material into waters of the United States (Corps of Engineers), and permission to construct bridges, causeways, and drawbridges in navigable waters (U.S. Coast Guard). A permit may also refer certain other clearances or certifications such as a clearance from the Federal Aviation Administration for proposed highway construction in the vicinity of public use and military airports, and water quality certifications for the licensing of an action that would result in a discharge into regulated waters. These approvals, plus certain others relating to solid waste management, underground storage tanks, coastal zone areas, etc., involve approvals and documentation commonly referred to as permits.
- Phase - For the purposes of federal-aid authorization, the development of a project is broken into stages or phases: Preliminary Engineering, Right of Way and Construction. Each of these phases must be individually authorized, usually at different times in the development of a project.
- Preliminary Engineering (PE) - This phase includes all project initiation and development activities undertaken after its inclusion in the approved FSTIP through the completion of PS&E. It may include preliminary Right of Way engineering and investigations necessary to complete the environmental document.
- Project Development - The overall process of advancing a transportation project from concept to implementation. Project development typically encompasses environmental and engineering tasks including planning, location, preliminary design, final design, and construction.
- Project Need - A detailed explanation of the specific transportation problems or deficiencies, which have generated the search for improvements. It should refer to technical information, as necessary, such as measures of traffic efficiency, or demand (origin-destination patterns, modal links, queue lengths, motorist delays, level of service, etc.), and other goals (economic development, safety improvement, legislative directives, etc.). Much of this information should be generated by the transportation planning process at a very early stage. The explanation of need should be a problem statement discussion, not a solution oriented discussion.
- Project Purpose - A broad statement of the overall intended objective to be achieved by a proposed transportation facility. Normally, the purpose can be defined in just a few sentences. For instance, it may address expanded capacity in a given transportation corridor to facilitate the safe and efficient movement of people and goods, or improved access to a given area or community.
- Public Hearing - A meeting designed to afford the public the fullest opportunity to express opinions on a transportation project. A verbatim record (transcript) of the proceedings is made part of the project record.
- Public Involvement - These activities, which present information to the public, seek public comments and which serve to ensure consideration of public opinion.

- Public Meeting - An announced meeting conducted by transportation officials designed to facilitate participation in the decision-making process, and to assist the public in gaining an informed view of a proposed project at any level of the transportation project development process. Also, such a gathering may be referred to as a public information meeting.
- Record of Decision (ROD) -The ROD documents the Secretary of Transportation's decision to approve the Preferred Alternative as described in the Environmental Impact Statement (EIS).
- Record Retention – Project records shall be kept for **at least 3 years** after FHWA's final payment of the final voucher, per 49 CFR, Part 18.
- Right of Way (R/W) - This phase includes the work necessary to appraise and acquire project right of way, relocate individuals or businesses, and revise or relocate utilities.
- S&H Code - California Streets and Highways Code, this code contains many of the laws governing funding and development of local streets and roads projects.
- SAFETEA-LU –Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users signed into law by President George W. Bush, on August 10, 2005, with guaranteed funding for highways, highway safety, and public transportation totaling $244.1 billion. SAFETEA-LU represents the largest surface transportation investment to date. SAFETEA-LU was built on the foundation established by two preceding federal transportation Acts: ISTEA and TEA-21
- Scope - Scope consists of the range of actions, alternatives, and impacts to be considered in a NEPA document.
- Scope of Work - A detailed description of tasks is prepared in advance of engineering and environmental work to explicitly define the contents of studies.
- Section 4(f) - Section 4(f) of the U.S. Department of Transportation Act of 1966 permits the use of land for a federally-funded transportation project from a significant publicly owned park, recreation area, wildlife or waterfowl refuge, or historic site when it has been determined that: (1) there are no feasible and prudent alternatives to such use, and (2) the project includes all possible planning to minimize harm to the property.
- Significant Impacts - Any number of social, environmental, or economic effects, or influences which may be brought about as a result of the implementation of a transportation improvement. "Significant impacts" may include effects, which are direct, secondary, or cumulative. The term "significant" is used and interpreted by the FHWA in determining which type of NEPA document is appropriate. Categorical exclusions are those actions, which do not involve significant effects. Environmental Impact Statement (EIS) projects in most cases can and do involve significant impacts.
- Significantly - As used in NEPA requires consideration of both context and intensity. Context means that the significance of an action must be analyzed in several contexts such as society as a whole (human, national), the affected region, the affected interests, and the locality. Intensity refers to the severity of the impact.

- State funds - As used in this manual, includes the state funds provided to local agencies for specific transportation projects and programs administered by the DLA. State funds are currently provided for the following projects: Bicycle Lane Account, Proposition 116, Bicycle Projects, Proposition 116, Environmental Enhancement and Mitigation (EEM), Federal Apportionment Exchange and State Match programs. The LAPG further defines these programs.
- STIP - State Transportation Improvement Program, a seven-year list of projects proposed in RTIPs and the Proposed STIP that are approved and adopted by the California Transportation Commission (CTC) (see Chapter 4 of the Caltrans *Project Development Procedures Manual* for more discussion).
- Study Area - An identified amount of land or topography, selected, and defined at the outset of engineering, or environmental evaluations, which are sufficiently adequate in size to fully identify, analyze, document impacts and effects for proposed projects within its boundaries.
- TEA 21- Transportation Equity Act for the 21st Century was enacted on June 9, 1998, which authorized the federal surface programs for highways, highway safety, and transit for the six (6) year period 1998-2003. It was superseded by SAFETEA-LU in 2005.
- Transportation Project Development Process - An interactive, multi-phase series of activities typically spanning a period of years which involve comprehensive planning, prioritization, detailed engineering and environmental studies, and agency and public involvement which lead to the selection, design, and construction of identified transportation improvements.
- 23 USC - The section (Title 23) of the United States Code containing laws relating to highways.
- 23 CFR - The section (Title 23) of the Code of Federal Regulations containing regulations (general and permanent rules published in the Federal Register) relating to highways. Not included are regulations based on Civil Rights requirements in Title 49, the Uniform Relocation Assistance and Real Property Policies, and other federal laws and regulations as described in this manual.

1.5 MANUAL ORGANIZATION

The manual is divided into twenty chapters. Each chapter describes a process and procedural steps important to the development of a local assistance project. Projects may not need to fulfill each process to be successfully implemented and to be eligible for federal or state funding, but each should be considered.

FEDERAL-AID PROJECTS

Federal-aid projects require consideration of the processes described in each chapter in this manual. For these projects, each chapter should be reviewed to determine whether the actions, activities, and decisions required are applicable to the individual project.

The LAPG further defines these programs.

Flow Chart 1-1 outlines the federal-aid project process and references the associated chapters. This chart is not intended to represent the actual chronological sequence of federal-aid implementation.

STATE FUNDED PROJECTS

Projects seeking only state funds require less oversight and review than those seeking federal-aid funds. Not all of the processes described in the chapters of this manual apply to these projects. Chapters 1, 2, 3, 4, 5, 10, 17 and 19 apply in whole, or in part to these projects.

The LAPG further defines these programs.

Flow Chart 1-2 highlights the actions needed for state funded projects.

CHAPTER SUMMARIES

The chapters are generally in chronological sequence when developing a project, however, some of the procedures can be done concurrently, or must be repeated for the next phase of a project. The flow charts in the exhibits for this chapter define the general relationship between the processes. The flow charts at the beginning of most chapters further define the relationships between these processes and procedures.

Chapter 2, “Roles and Responsibilities,” defines the roles and responsibilities for the various entities involved in developing a local assistance project.

Chapter 3, “Project Authorization,” describes the process to obtain project authorization and fund obligation required for each phase of a federal-aid project. It also discusses the federal policy concerning funding projects at less than the full allowable federal share (underfunding) transferring funds to FTA, and the CTC fund allocation vote process.

Chapter 4, “Agreements,” describes the agreements needed between the local agency and the State and between the State and FHWA to obtain reimbursement of funds.

Chapter 5, “Accounting/Invoices,” describes the general accounting procedures necessary to receive reimbursement for work done in any phase of the project.

Chapters 6-8, “Environmental Procedures,” “Field Review,” and “Public Hearings,” discuss the project initiation and environmental procedures needed to bring a project to the stage at which the local agency decision-makers commit the project to final design and implementation.

Chapter 9, “Civil Rights and Disadvantaged Business Enterprises (DBE),” describes the requirements for establishing and reporting DBE program and project goals. This process may be necessary during the initial project stage, or may not be required until a later phase.

Chapter 10, “Consultant Selection,” describes the requirements for selecting and hiring consultants to perform project activities.

Chapters 11 & 12, “Design Standards and Plans, Specifications & Estimate,” describe the design standards to be used and the Plans, Specifications and Estimate (PS&E) development necessary to bring the project to the advertising and construction stage.

Chapters 13 & 14, “Right of Way” and “Utility Facilities,” describe the procedures used to acquire right of way or relocate utilities.

Chapters 15-17, “Advertise and Award Project,” “Administer Construction Contracts,” and “Project Completion,” describe the procedures from advertising through construction administration, project completion, and completion of the final reports.

Chapter 18, “Maintenance,” describes the ongoing maintenance responsibilities and activities needed to assure that the project remain a functional public asset, and the related inspection and reporting requirements.

Chapter 19, “Process Reviews,” describes the process reviews by which Caltrans and/or FHWA will make periodic checks to ensure that the agencies have complied with their commitments and certifications under federal and state laws, regulations, and these procedures.

Chapter 20, “Deficiencies and Sanctions,” describes the course of action to be expected when local agencies fail to comply with state and federal requirements during their project. An appeal process is available when district decisions or sanctions are not acceptable.

1.6 MANUAL UPDATES

This manual is available to each local agency in a printed format and is also available on the Internet. The Caltrans Web Server is at http://www.dot.ca.gov. For direct access to this manual at the Division of Local Assistance Homepage go to: http://www.dot.ca.gov/hq/LocalPrograms/index

As updates are made, they will be available on the Internet and the agency will be responsible for obtaining its own printed copy if needed.

Comments and suggestions for improvement to the manual or the processes and procedures described herein are welcome. They may be submitted to:

Department of Transportation
Division of Local Assistance, Office of Procedures Dev. and Training - MS 1
Attention: The Chief
P.O. Box 942874
Sacramento, CA 94274-0001
FAX (916) 654-2409

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CHAPTER 2 ROLES AND RESPONSIBILITIES

2.1 INTRODUCTION

Within Caltrans, the responsibility for administering and managing the federal and state local assistance highway programs resides in the Division of Local Assistance (DLA) under Planning and Modal Programs. Each of the twelve Caltrans districts has a District Local Assistance Engineer (DLAE) who is the local agency's primary contact for processing projects, providing assistance for local agency development efforts and answering local agency questions. Please refer to Exhibit 2-A "Caltrans District Local Assistance Offices," of this chapter for current district boundaries and mailing addresses.

The responsibility for implementing individual projects on the local streets, roads, and other transportation systems resides with the local agencies, principally the cities and counties.

STATE FUNDED PROJECTS

State funded local assistance projects must be developed in accordance with policy and procedural requirements as specified in state law, by the California Transportation Commission (CTC), and Caltrans. These state policies and procedural requirements are separate from federal requirements. It is Caltrans' policy to provide these funds to local transportation programs with a minimum of state oversight. However, because procedures vary with each state funding program the *Local Assistance Program Guidelines* (LAPG) should be referenced for a detailed explanation of the roles and responsibilities.

FEDERAL-AID PROJECTS

The Federal Highway Administration (FHWA) is the federal agency most typically involved in the transportation projects undertaken with federal funding and/or approval action for the programs discussed in this manual. It has the authority and responsibility for implementing and monitoring federal laws, regulations, and executive orders affecting these programs. When a project involves federal funding, the FHWA is involved according to these responsibilities and the delegations in the Stewardship Agreement described below. When another federal agency has permit jurisdiction or other role in the development of a project, the FHWA frequently becomes involved in the process as either lead or co-lead federal agency.

Caltrans obtained major delegations of authority and/or responsibility from FHWA as allowed under the provisions of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) of 2005 and previous Transportation Acts. Since the reengineering of local assistance procedures in 1995, Caltrans has passed on these delegations to local agency partners to the greatest extent possible. With each delegation goes the accountability for initiating and completing each project phase in accordance with the appropriate state, and federal laws and regulations without extensive FHWA, or State oversight. Caltrans has the responsibility to ensure that locals are administering the federal-aid program in conformance with the applicable federal requirements.

Federal-aid projects must be included in the approved Federal Statewide Transportation Improvement Program (FSTIP). This inclusion must precede fund authorization for any activity for which federal-aid funds are being sought. The responsibility for selecting the

program of projects for inclusion in the urbanized area Federal Transportation Improvement Program (FTIP) resides with the Metropolitan Planning Organizations (MPOs). The County Transportation Commissions and Regional Transportation Planning Agencies (RTPAs) have also a role in programming projects for the FSTIP and the state funded State Transportation Improvement Program (STIP). Their selections must be done in consultation with the state, cities, counties, and other transportation agencies within the area. The FTIPs are incorporated into the FSTIP. Caltrans works with the non-MPO local agencies to program projects in the FSTIP.

Exhibit 2-B "Federal-Aid Local Assistance Responsibilities," outlines the roles and responsibilities of the parties involved in local federal-aid transportation projects. The chapters in this manual provide the details for carrying out these responsibilities.

2.2 NATIONAL HIGHWAY SYSTEM

ISTEA established provisions for Congress to adopt a National Highway System (NHS) to provide an interconnected system of principal arterials that serve major population centers, international border crossings, ports, airports, public transportation facilities, intermodal transportation facilities, other major travel destinations, meet national defense requirements, and serve interstate and interregional travel.

Until Congress made its official adoption, the NHS was defined as all principal arterials, including the Interstate System. On November 28, 1995, the President signed the legislation defining the NHS to include all Interstate routes, a selection of urban and rural principal arterials, the defense strategic highway network including strategic highway connectors and Intermodal connectors. Currently there are about 160,000 NHS miles nationwide, including 7,655 NHS miles in California. Only about 324 of the 7,655 NHS miles in California are off the State Highway System (SHS).

See LAPG, Chapter 3, *Federal-Aid Routes & Functional Classifications*, for further discussion and a listing of the local agency NHS routes.

2.3 STATE-AUTHORIZED PROJECTS

The SAFETEA-LU and an agreement between FHWA and Caltrans, allow Caltrans to assume Title 23 Oversight responsibility for non-Interstate NHS projects (including 3R projects [Resurfacing, Restoring, Rehabilitation]), all Interstate projects with a construction cost less than $1 million, all Interstate 3R projects greater than $1 million, and all non-NHS federal-aid highway projects including local streets and roads, and state highways (see Figure 2-1 "FHWA Oversight," of this chapter). The oversight responsibility and delegation of authority from FHWA to Caltrans for these projects referred to as State-Authorized projects is contained in a "Stewardship Agreement" between FHWA and Caltrans. For State-Authorized projects, Caltrans has been delegated both the pre-construction and construction-related responsibilities.

2.5 RIGHT OF WAY CERTIFICATION DELEGATION

In addition to the delegations discussed above, the FHWA has also approved Caltrans request for delegation of right of way certificate approval for projects considered State-Authorized and not subject to FHWA oversight per the Stewardship Agreement. Procedures for processing local agency right of way certifications are described in Chapter 13, "Right of Way," of this manual.

2.6 REENGINEERING OF LOCAL ASSISTANCE PROCEDURES

PROJECTS OFF THE NATIONAL HIGHWAY SYSTEM (NON-NHS)

Effective July 1, 1995, the reengineering of local assistance procedures gave local agencies additional responsibility and accountability for non-NHS projects. Many of the responsibilities delegated to Caltrans under the Stewardship and Letters of Agreement were further delegated to the local project sponsors. Caltrans preliminary engineering, construction review and approval activities were reduced, other activities involving environmental reviews, project authorization, Disadvantaged Business Enterprises, consultant selection, and agreement procedures were streamlined to eliminate duplication of effort and multiple reviews.

PROJECTS ON THE NATIONAL HIGHWAY SYSTEM (NHS)

The delegation of responsibilities to local agencies described above for non-NHS projects also applies for NHS projects. With the following exceptions (discussed in detail in the appropriate chapters of this manual), procedures are the same for both types of projects.

FIELD REVIEWS

Caltrans will make the decision whether to hold a field review for major NHS projects and projects on the Interstate, which are subject to FHWA "Full Oversight." Generally, a field review will only be required for major projects (over $10 million involving unusual structures, or projects on a corridor involving more than one agency). All projects on the Interstate and SHS and NHS projects that are considered "major" will require the Plans, Specifications & Estimate (PS&E) and construction administration approvals described below.

PS&E PROCEDURES FOR SIGNIFICANT NHS PROJECTS

When Caltrans requires a field review for significant NHS projects, PS&E procedures (standards, agencies involved, use of consultants, project management, specifications, etc.) will be discussed. These procedures will be put in writing for Caltrans approval before final design is initiated. With approval, the local agency will then certify their PS&E(s) for these projects the same as they do for non-NHS projects upon completion of the PS&E. Caltrans may review the PS&E(s) if resources are available, or as part of a process review. NHS projects that are not on the Interstate, SHS, or considered "significant" will not require this approval procedures.

DESIGN STANDARDS

Local agencies 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 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 except on Interstate projects, which requires FHWA approval.

METHOD OF CONSTRUCTION

In general, an open and competitive bidding process should be used for construction contracts on federal-aid projects. Exceptions to competitive bidding of construction contracts must be approved by Caltrans for "Delegated" projects or FHWA for Full Oversight projects.

RESTRICTED CONSTRUCTION CONTRACT PROVISIONS

Warranty clauses are restricted on NHS projects and the use of proprietary items is restricted on all federal-aid projects.

CONSTRUCTION ADMINISTRATION FOR SIGNIFICANT NHS PROJECTS

When Caltrans requires a field review for significant NHS projects, the local agency'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

Local agencies shall use the Quality Assurance Program described in this manual for projects on the NHS. Caltrans will be responsible for performing Independent Assurance (IA).

FINAL INSPECTION

The FHWA will make a final inspection of completed NHS projects prior to authorizing reimbursement of the final project voucher. For projects on the NHS, but off the SHS (including Interstate) and for projects off the NHS, the DLA or staff will perform project verification.

SAFETEA-LU MAJOR FEDERAL-AID PROJECTS OF $100 MILLION TO $500 MILLION OR MORE

The passage of "Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users" (SAFETEA-LU) requires a local agency 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 local agencies for such projects as may be identified by FHWA, submit to Caltrans for each project:

- A Project Management Plan
- An Annual Financial Plan

OVERSIGHT

Interstate - For Interstate projects on the NHS over $1 million (except 3R projects), the FHWA has overall responsibility for ensuring compliance with all federal requirements.

For all other projects, FHWA responsibility for ensuring compliance with federal requirements is limited to non-Title 23 activities (right of way and civil rights).

Major Intelligent Transportation Systems (ITS) Projects (both NHS and non-NHS). An ITS project that implements part of a regional ITS initiative that is multi-jurisdictional, multi-modal, or otherwise affects regional integration of ITS systems.

The local agencies must submit a Systems Engineering Management Plan (SEMP) for all major ITS projects to FHWA for approval prior to authorization (E-76) for final design. See Chapter 12.6, "Intelligent Transportation Systems," of the LAPG for details.

Minor ITS Projects - These ITS projects do not require a System Engineering Review Form (SERF) or SEMP approval by Caltrans or FHWA. However, the SERF still must be filled out as part of the field review package. The procedures for minor ITS will follow the traditional 1- Phased Federal-aid Preliminary Engineering procedures.

Minor projects include:

- Legacy System Expansion – This includes expansion and/or upgrading of existing systems, which add no new capabilities or interfaces. For example, expansion of existing traffic signal systems with similar equipment and no new software. Another example would be purchase of additional buses using similar specifications as for existing vehicles.
- Commercial Off-The-Shelf ("COTS") – Example: purchasing new electronic fare boxes that do not interface with other transit ITS packages and do not require any software development. COTS software is often customized for an installation, but only by selecting modules and/or setting parameters – not by writing software.
- Application Service Provider ("ASP") – Example: contracting for off-site operations and maintenance of a pre-existing "next bus arrival" web site, with no new interfaces and no software development. In essence, this involves leasing a pre-existing service rather than buying a product.

Projects that fit one or more of the above definitions are "minor" projects regardless of project cost. It should be recognized that, although there may be no "formal" Systems Engineering (SE) requirements or oversight for such minor projects (beyond filling out the SERF), good procurement practices should still ensure that the solicitation documents contain detailed system requirements and specifications, plus a thorough Acceptance Testing Plan. These items are elements of the SE process; hence, this is one example of scaling down the SE process to fit the needs of a small project.

While its is the FHWA's policy to rely primarily on their Program Review/Product Evaluation Program to carry out these responsibilities, other process review techniques, including project-specific activities may be used when appropriate.

2.8 CALTRANS RESPONSIBILITIES

Caltrans is responsible to the FHWA for administering the successful implementation of federal-aid programs and projects in accordance with laws, regulations, and policies that govern the federal-aid program. Caltrans also administers the implementation of state funded programs and projects for the CTC and State Legislature.

These responsibilities are divided into three areas: Policy and Procedures, Program Management, and Project Implementation.

POLICY AND PROCEDURES

Caltrans establishes uniform policies and procedures to assist the local agencies in meeting the program requirements for their projects. Caltrans in collaboration with FHWA interprets federal and state laws, rules and regulations, and provides guidance in the form of manuals, guidebooks, handbooks, reference materials and service, and training to assist the agencies in planning, designing, constructing, and maintaining their transportation systems.

Caltrans policy and procedure development is achieved in coordination and consultation with the FHWA, representatives of local agencies, MPOs, RTPAs, other affected agencies, and organizations.

PROGRAM MANAGEMENT

Each specific local assistance program provides funding which requires distribution, management, and oversight control to ensure that the funds are expended in accordance with the program requirements and that allocations and budget authority are not exceeded. Caltrans distributes both state and federal fund allocations to the MPOs, RTPAs, cities, counties and others as specified by law.

Once the distributions are established, Caltrans provides program guidance for their expenditure. Some programs may require annual or periodic project application and selection to establish eligibility lists. Caltrans also monitors project implementation to ensure that the projects are implemented in a timely manner to achieve program goals. LAPG manual describes each current program.

PROJECT IMPLEMENTATION

Some major federal-aid project implementation steps delegated by the FHWA to Caltrans cannot be further delegated to the local agency level and remain Caltrans' responsibility. These include:

- Approval of Authorization to Proceed (E-76) for projects that are State-Authorized
- Preparation of Agreements
- Decision to hold Field Review for NHS projects
- Approval of Local Agency DBE Program/Annual Anticipated DBE Participation Level
- Pre-award audit review of consultant contracts >$250,000

CHAPTER 3 PROJECT AUTHORIZATION

3.1 INTRODUCTION

GENERAL

Prior to beginning highway work for which federal reimbursement will be requested, the project or project phase must be formally authorized (approved) by the Federal Highway Administration (FHWA). Each federally funded phase of work such as: Preliminary Engineering (PE), Right of Way (R/W), Utility Relocation (R/W-UTIL), and Construction (CON) require a separate federal authorization (the authorization of federal funds may be subdivided within a phase as well). Any work performed prior to federal "Authorization to Proceed" is not eligible for federal reimbursement and may disqualify that phase. *

On December 26, 2002, the FHWA and California Department of Transportation (Caltrans) entered into the current "Project Approval and Oversight Letter of Agreement." This Agreement outlines the roles and responsibilities for oversight and approval of federally funded transportation projects under the jurisdiction of the FHWA. The Agreement defines the categories of projects subject to "Full Oversight" by the FHWA, as well as those categories that may be "State-Authorized." On "Full Oversight" projects, Caltrans recommends federal authorization and the FHWA formally authorizes the work. For "State-Authorized" projects, the FHWA has delegated various project oversight and approval responsibilities to Caltrans, which includes the authority to federally authorize the project. The determination as to whether a project is subject to "Full Oversight" by the FHWA, or may be "State-Authorized" is based primarily on the following: 1) type of federal-aid route involved, 2) type of work, and 3) project costs (see Chapter 2, Figure 2-1, "FHWA Oversight" of the *Local Assistance Procedures Manual* [LAPM]). The federal authorization and oversight of complex and/or high-cost projects are handled on a project-by-project basis as agreed to by the FHWA, Caltrans, and the project sponsor.

** Exception – For Emergency Relief projects, prior FHWA approval is not required for Emergency Opening and Preliminary Engineering. Permanent Restoration work must have prior FHWA program approval and authorization, unless the work is done as part of Emergency Opening repairs.*

ACRONYMS

AC - Advance Construction

CE - Construction Engineering

CMAQ - Congestion Mitigation and Air Quality Improvement Program

CON - Construction

CFR - Code of Federal Regulations

CTC - California Transportation Commission

CTIPS - California Transportation Improvement Program System

DLA - Caltrans Division of Local Assistance

DLAE - Caltrans District Local Assistance Engineer

DMT - Caltrans Division of Mass Transportation

DTR - Caltrans District Transit Representative

DBE - Disadvantaged Business Enterprise

EA - Expenditure Authorization Number (for accounting purposes)

ER – Emergency Relief

E-76 - Electronic Authorization to Proceed

FADS - Federal-Aid Data System (State Database)

FHWA - Federal Highway Administration

FMIS - Fiscal Management Information System (Federal Database)

FPN - Federal Project Number

FSTIP - Federal Statewide Transportation Improvement Program

FTA - Federal Transit Administration

FTIP - Federal Transportation Improvement Program

FY - Fiscal Year (State)

FFY - Federal Fiscal Year

HBP - Highway Bridge Program

HES - Hazard Elimination and Safety Program

IIP - Interregional Improvement Program portion of STIP

ISTEA - Intermodal Surface Transportation and Efficiency Act of 1991

ITS - Intelligent Transportation Systems

LPA - Local Programs Accounting Branch

LAPG - Local Assistance Program Guidelines

LAPM - Local Assistance Procedures Manual

LSSRP - Local Seismic Safety Retrofit Program

MPO - Metropolitan Planning Organization

NEPA - National Environmental Policy Act

NBI - National Bridge Inventory

NBIS - National Bridge Inspection Standards

OA - Obligation Authority

OFR - Caltrans Office of Federal Resources

PA/ED - Project Approval/Environmental Document

PE - Preliminary Engineering

PSA - Program Supplement Agreement

The following local federal-aid programs are eligible for Advance Construction:

- Congestion Mitigation & Air Quality Improvement (CMAQ) Program
- Regional Surface Transportation Program (RSTP)
- Highway Bridge Program (HBP previously HBRRP)

A project authorized under advance construction procedures must comply with all federal requirements including programming in the FTIP. Local advance construction federal authorization does not constitute a commitment of federal funds to the project, and a program supplement agreement will not be issued. The Federal Authorization date establishes the start date for performing federally reimbursable work. If and when federal funds become available, a follow-up Authorization to Proceed (E-76) must be processed to obligate the federal funds (i.e., place funds under agreement with FHWA). The project or project phase must be listed in the current FTIP/FSTIP at this time. The program supplement agreement between Caltrans and the local agency also must be executed and/or finance letter signed/approved by Caltrans before a local agency can receive federal reimbursement.

NOTE*: Federal-aid projects utilizing "tapered match" provisions (discussed below) are not eligible for advance construction authorization.*

3.8 TAPERED MATCH

The use of "tapered match" provisions enables a project sponsor to vary the nonfederal share of a federal-aid project over time provided, the federal contribution toward the overall project does not exceed the federal pro rata limit.

Traditionally, a project sponsor is responsible for paying the required nonfederal share of the project costs on each invoice submitted for reimbursement. Under the tapered match approach, a nonfederal-matching ratio is assigned to the project, rather than individual payments. The federal share can be as high as one-hundred percent in the early stages of project reimbursement provided, that the overall federal contribution does not exceed the statutory federal-aid limit at the end of project completion.

Tapered match provisions cannot be used on advance construction projects, STP funded projects where the nonfederal match is being provided on program-wide-basis, and bond projects authorized under Title 23-Section 122. These activities are considered inconsistent with the intent of tapered match.

The use of tapered match provisions is subject to review and approval by both Caltrans (Office of Federal Resources) and FHWA (California Division). The project sponsor must submit written taper match plan to the DLA for review. The project sponsor shall also show that they have their matching pro rata share available and are committed to providing it as applicable. The request must include the justification and a tapered match schedule.

The FHWA may approve cases where tapered match would:

- Expedite project completion.
- Reduce the project's overall cost.
- Provide incentive to attract additional nonfederal funds to the project.

3.9 FLEXIBLE MATCH

Federal flexible match provisions allow a wide variety of public and private contributions to be credited toward the nonfederal match for federal-aid projects. Eligible contributions include donations of public and private cash, R/W (Acquisition) and in certain cases, public and private materials or services rendered.

The use of flexible match also is subject to review and approval by both Caltrans (Office of Federal Resources) and the FHWA (California Division). The project sponsor must submit a written flexible match plan to the DLAE for review. The plan must specify the appraised value (fair market value) of donated property, materials, and/or services.

Eligibility of flexible match for credit against nonfederal match is subject to the following:

- **Cash** - Private, state, and local entity funds must be received during the period between project approval/authorization and submittal of the project final voucher.
- **Right of Way** - Private, state, local agency property may be donated any time during the project development process. The property must be appraised to determine the fair market value and must be included in the total project cost. The donation of the property shall not influence the NEPA process.
- **Materials** - Private and local entity donation of materials must be appraised to determine fair market value. Credit for state donated materials is not permitted.
- **Services** - State and local entity services may only be credited toward the nonfederal match for Transportation Enhancements (TE) projects. Private donation of services must be documented as to fair market value.

In addition to the referenced flexible match opportunities above, certain sources of federal grant funds may be eligible to match certain categories of highway projects. For more information refer to FHWA's "*Innovative Finance Primer*" Chapter 2 "Innovative Management of Federal Funds," located at:

http://www.fhwa.dot.gov/innovativefinance/ifp/innoman.htm

3.10 FTA TRANSFER

Under provisions of the ISTEA of 1991, continued by the Transportation Equity Act for the 21st Century (TEA-21), and superseded by the 2005 Safe, Accountable, Flexible, Efficient Transportation Equity Act - A Legacy for Users (SAFETEA-LU), state, regional, and local agencies have greater opportunity to select transit-related projects to meet their transportation needs. These provisions include:

- An expanded eligibility criteria under major funding programs (including STP and CMAQ) to implement both highway and transit improvements,
- The ability to transfer federal funds from one funding program to another permitting the implementing agencies to capitalize on expanded eligibility (e.g., HBP to STP), and
- The ability to transfer federal funds from the jurisdiction of the FHWA to that of the FTA and vice versa.

FTA TRANSFER PROCEDURES

Under ISTEA the transfer of FHWA funds to the FTA was accomplished via the Federal Authorization and Obligation Process (E-76). The transferred federal funds remained with FHWA (Washington D.C.) until the FTA submitted project invoices that were reimbursed by the FHWA.

The FHWA and FTA have since developed procedures that provide for the direct transfer of federal funds and Obligation Authority (OA) to the recipient federal agency. Caltrans submits a formal FTA transfer request to the FHWA (California Division) via a "Request for Transfer of Federal Funds to the FTA" letter (see Exhibit 3-J). Upon FHWA concurrence, the federal funds are transferred and deducted from the appropriate State and RTPA/MPO apportionment balances.

See Exhibit 3-K, "Administrative Procedures for Transfer of Local Federal-aid Funds to the Federal Transit Administration," for a step-by-step discussion of the transfer of FHWA apportioned local federal-aid funds to the FTA.

Federal-aid funds programmed in the STIP also may be transferred to the FTA. The DLAE and DLA are **not** involved in the transfer process (except for TE funds) instead, Caltrans DMT and the Office of Federal Resources within the Division of Budgets process the transfer of these funds.

Detailed procedures for Transfer of STIP to the FTA funds under the Section 5307, 5311, and 5310 Grant programs are available on the Caltrans DMT website at:

http://www.dot.ca.gov/hq/MassTrans/

Upon transfer of FHWA apportioned federal funds to the FTA, the Applicant Agency, typically will deal directly with the FTA on all subsequent project-related matters. However, occasionally a FTA transfer project may qualify to receive State Match Funds through the STIP. The project must be programmed to receive the STIP State Match Funds by an RTPA/MPO and be used, eligible activities under Article XIX of the California State Constitution.

Prior to reimbursement with STIP State funds: 1) the CTC must allocate the STIP match funds, 2) a Program Supplement Agreement (PSA) between the Applicant Agency and Caltrans must be signed and executed, 3) the Applicant Agency must prepare and sign a project specific Finance Letter, and 4) the Applicant Agency must provide evidence that payment of federal funds were invoiced/received from the FTA. Invoice format and procedures must adhere to Chapter 5, "Accounting/Invoices," of the LAPM.

3.11 MPO/RTPA PROGRAMMED FUND BALANCES

Under state law, certain federal funds are apportioned to the RTPA/MPO regions by formula. These funds include RSTP and CMAQ funds. These funds are programmed to local agencies for specific projects through the FTIP/FSTIP processes. Both Caltrans and the FHWA monitor the obligation and balance of federal funds. Caltrans maintains reports showing the obligation

of funds summarized at the District, MPO and county levels. These reports show fund balances and list the individual city and county projects. Please refer to the Division of Local Assistance Home Page for balances located at:

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

3.12 REFERENCES

- 23 CFR 635.301 et. seq. at: http://www.fhwa.dot.gov/legsregs/legislat.html
- 23 CFR 630.106
- 23 CFR 645
- USC 134(k)
- 49 USC, Section 5301, et. seq. (Federal Transit Laws)
- A Guide to Federal-Aid, Programs, Projects and Other Uses of Highway Funds, Federal Publication No. FHWA-IF-99-006, dated May 1999
- Federal-Aid Data System Instructions 06/06/02
- Federal Uniform Relocation Assistance and Real Property Acquisition Act
- Financing Federal-Aid Highways, Federal Publication No. FHWA-PL-99-015 dated August 1999.
- *Local Assistance Program Guidelines* (LAPG) Web site: http://www.dot.ca.gov/hq/LocalPrograms/public.htm
- Project Approval and Oversight Letter of Agreement (Stewardship Agreement) dated 12/26/2002
- SAFETEA-LU Web site: http://www.fhwa.dot.gov/safetealu/index.htm

4.5 FEDERAL-AID PROJECT AUTHORIZATION TO PROCEED (E-76)

Section 106(a) of Title 23 of the United States Code (USC), as revised under the Transportation Equity Act for the 21st Century (TEA-21) and as superseded by the Safe Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) combined the project authorization, obligation of funds, and the execution of the federal-aid project agreement into a single action. To support SAFETEA-LU, the Federal-Aid Data System (FADS) was upgraded and implemented this new federal-aid processing requirement. Under the upgraded FADS, one electronic form entitled "Authorization to Proceed" (E-76) replaced the PR-2, PR-2A, and FNM-76. The E-76 now acts as both project authorization and federal-aid project agreement with Caltrans.

4.6 STATE HIGHWAY SYSTEM AND OTHER AGREEMENTS

Various types of agreements are required when working within the State highway right of way or with other State agencies. Included are: Grade Separation Fund, Cooperative, Joint Powers, Highway Powers, Highway Improvement, Escrow, Maintenance, Petroleum Violation Escrow Account (PVEA), and Contribution Agreements and Service contracts. These are not processed to agencies by DLA but are developed and processed as defined in other Caltrans manuals and documents. The local agency should not overlook the need for one or more of these agreements during project development.

RAILROAD SERVICE CONTRACTS

These contracts are required when a railroad company will perform work on a project. When the work is funded with Grade Crossing funds, the contracts are made between Caltrans and a railroad company and are directly processed to the railroad.

The Program Supplement Agreements for these federal-aid projects are processed as described previously.

4.7 REFERENCES

- 23 U.S.C. 630.301 et. Seq
- Published Memos: Weaver/Kiff, 2/20/93, Everitt 5/28/93 & 1/5/95 (Exchange & Match procedures)
- SAFETEA-LU Web site at: http://www.fhwa.dot.gov/safetealu/factsheets.htm
- Section 106 (a) United Codes revised under TEA-21

6. When additional federal-aid funds are not available, the ADMINISTERING AGENCY agrees that the payment of federal funds will be limited to the amounts approved by the E-76 or its modification and agrees that any increases in PROJECT costs must be defrayed with ADMINISTERING AGENCY funds.

7. ADMINISTERING AGENCY shall use its own nonfederal-aid funds to finance the local share of eligible costs and all expenditures ruled ineligible for financing with federal funds. STATE shall make the determination of ADMINISTERING AGENCY cost eligibility for federal fund financing.

8. Any overpayment to ADMINISTERING AGENCY of amounts invoiced shall be returned to STATE by ADMINISTERING AGENCY upon written demand.

9. Should ADMINISTERING AGENCY failed to refund all moneys due STATE as provided hereunder or should ADMINISTERING AGENCY breach this Agreement by failing to complete PROJECT, then, within 30 days of demand, or within such other period as may be agreed to in writing between the parties hereto, STATE, acting through the State Controller, the State Treasurer, or any other public agency, may withhold or demand a transfer of an amount equal to the amount owed to STATE from future apportionment, or any other funds due ADMINISTERING AGENCY from the Highway Users Tax Fund or any other funds and/or may withhold approval of future ADMINISTERING AGENCY Federal-aid projects.

10. Should ADMINISTERING AGENCY be declared to be in breach of this AGREEMENT or otherwise in default thereof by STATE, and if ADMINISTERING AGENCY is constituted as a joint powers authority, special district, or any other public entity not directly receiving funds through the State Controller, STATE is authorized to obtain reimbursement from whatever sources of funding are available, including the withholding or transfer of funds, pursuant to Article IV - 9, from those constituent entities comprising a joint powers authority or by bringing of an action against ADMINISTERING AGENCY or its constituent member entities to recover all funds provided by STATE hereunder.

ARTICLE V - RETENTION OF RECORDS/AUDITS

1. For the purpose of determining compliance with Public Contract Code Section 10115, et. seq. and Title 21, California Code of Regulations, Chapter 21, Section 2500 et, seq., when applicable, and other matters connected with the performance of the Agreement pursuant to Government Code Section 10532, ADMINISTERING AGENCY and any third party under contract with ADMINISTERING AGENCY shall retain all original records to the project financed with federal funds and shall make records available upon request by Federal and State representatives. Following final settlement of the project costs with FHWA, the records/documents may be microfilmed by the ADMINISTERING AGENCY, but in any event shall be retained for a period of three years from STATE payment of the final voucher, or a four-year period from the date of the final payment under the contract, whichever is longer. If any litigation, claim, negotiation, audit or other action involving the records has been started before the expiration of the three-year period, the records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular three-year period, whichever is later (49 CFR 18.42[b][2]). ADMINISTERING AGENCY shall retain records/documents longer if required in writing by STATE.

2. Per the Single Audit Act of 1984, any ADMINISTERING AGENCY that receives $300,000.00 or more per fiscal year in Federal Financial Assistance shall have an audit performed by an independent audit firm per the Single Audit Act - (see OMB-A128, “Audits of State and Local Governments”).

ARTICLE VI - FEDERAL LOBBYING ACTIVITIES CERTIFICATION

1. By execution of this AGREEMENT, ADMINISTERING AGENCY certifies to the best of the signatory officer's knowledge and belief that:

A. No STATE or federal appropriated funds have been paid or will be paid, by or on behalf of ADMINISTERING AGENCY, to any person for influencing or attempting to influence an officer or employee of any STATE or Federal agency, a Member of the State Legislature or United States Congress, an officer or employee of the Legislature or Congress, or any employee of a Member of the Legislature or Congress in connection with the awarding of any STATE or Federal contract including this Agreement; the making of any STATE or federal loan; the entering into of any cooperative contract; and the extension, continuation, renewal, amendment, or modification of any STATE or Federal contract, grant, loan, or cooperative contract.

B. If any funds other than federal appropriated funds have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a member of Congress, an officer or employee of Congress or an employee of a member of Congress in connection with this Agreement, grant, local, or cooperative contract; ADMINISTERING AGENCY shall complete and submit Standard Form-LLL, "Disclosure Form to Rep Lobbying," in accordance with the form instructions.

C. This certification is a material representation of fact upon which reliance was placed when this Agreement was made or entered into. Submission of this certification is a prerequisite for making or entering into this Agreement imposed by Section 1352, Title 31, U.S. Code. Any party who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

2. ADMINISTERING AGENCY also agrees by signing this document that the language of this certification will be included in all lower tier sub-agreements which exceed $100,000 and that all such sub-recipients shall certify and disclose accordingly.

ARTICLE VII - MISCELLANEOUS PROVISIONS

1. Neither STATE nor any officer or employee thereof shall be responsible for any damage or liability occurring by reason of anything done, or omitted to be done, by ADMINISTERING AGENCY under, or in connection with, any work, authority or jurisdiction delegated to ADMINISTERING AGENCY under this AGREEMENT. It is understood and agreed that pursuant to Government Code Section 895.4, ADMINISTERING AGENCY shall fully defend, indemnify and save harmless STATE, its officers, and employees from all claims, suits or actions of every name, kind and description brought for, or on account of, injury (as defined in Government Code Section 810.8) occurring by reason of anything done, or omitted to be done, by ADMINISTERING AGENCY under, or in connection with, any work, authority or jurisdiction delegated to ADMINISTERING AGENCY under this Agreement. STATE reserves the right to represent itself in any litigation in which STATE's interests are at stake.

2. Neither ADMINISTERING AGENCY, nor any officer or employee thereof, shall be responsible for any damage or liability occurring by reason of anything done, or omitted to be done, by STATE under,or in connection, with any work, authority, or jurisdiction delegated to STATE under this AGREEMENT. It is also understood and agreed that pursuant to Government Code Section 895.4, STATE shall fully indemnify and hold ADMINISTERING AGENCY harmless from any liability imposed for injury (as defined by Government Code Section 810.8) occurring by reason of anything done or omitted to be done, by STATE under, or in connection

with any work, authority, or jurisdiction delegated to STATE under this Agreement. ADMINISTERING AGENCY reserves the right to represent itself in any litigation in which ADMINISTERING AGENCY's interests are at stake.

3. ADMINISTERING AGENCY and the officers and employees of ADMINISTERING AGENCY, when engaged in the performance of this Agreement, shall act in an independent capacity and not as officers, employees or agents of STATE.

4. STATE may terminate this AGREEMENT with ADMINISTERING AGENCY should ADMINISTERING AGENCY fail to perform the covenants herein contained at the time and in the manner herein provided. In the event of such termination, STATE may proceed with the PROJECT work in any manner deemed proper by STATE. If STATE terminates this AGREEMENT with ADMINISTERING AGENCY, STATE shall pay ADMINISTERING AGENCY the sum due ADMINISTERING AGENCY under this AGREEMENT prior to termination, provided, however, that the cost of PROJECT completion to STATE shall first be deducted from any sum due ADMINISTERING AGENCY under this AGREEMENT, and the balance,if any, shall then be paid ADMINISTERING AGENCY upon demand.

5. Without the written consent of STATE, this AGREEMENT is not assignable by ADMINISTERING AGENCY either in whole, or in part.

6. No alteration or variation of the terms of this AGREEMENT shall be valid unless made in writing and signed by the parties hereto, and no oral understanding or Agreement not incorporated herein shall be binding on any of the parties hereto.

7. ADMINISTERING AGENCY warrants, by execution of this AGREEMENT that no person or selling agency has been employed or retained to solicit or secure this AGREEMENT upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by ADMINISTERING AGENCY, for the purpose of securing business. For breach or violation of this warranty, STATE has the right to annul this AGREEMENT without liability, pay only for the value of the work actually performed, or in STATE's discretion, to deduct from the price of consideration or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

8. In accordance with Public Contract Code Section 10296, ADMINISTERING AGENCY hereby certifies under penalty of perjury that no more than one final unappealable finding of contempt of court by a Federal court has been issued against ADMINISTERING AGENCY within the immediate preceding two-year period, because of ADMINISTERING AGENCY's failure to comply with an order of a Federal court that orders ADMINISTERING AGENCY to comply with an order of the National Labor Relations Board.

9. ADMINISTERING AGENCY shall disclose any financial, business or other relationship with STATE or the FHWA that may have an impact upon the outcome of this AGREEMENT. ADMINISTERING AGENCY shall also list current contractors who may have a financial interest in the outcome of this AGREEMENT.

10. ADMINISTERING AGENCY hereby certifies that it does not now have, nor shall it acquire any financial or business interest that would conflict with the performance of PROJECT under this AGREEMENT.

11. ADMINISTERING AGENCY warrants that this AGREEMENT was not obtained or secured through rebates, kickbacks or other unlawful consideration either promised or paid to any STATE employee. For breach or violation of this warranty, STATE shall have the right, in its discretion, to terminate this AGREEMENT

without liability, to pay only for the work actually performed, or to deduct from the PROGRAM SUPPLEMENT price, or otherwise recover the full amount of such rebate**,** kickback or other unlawful consideration.

12. This Agreement is subject to any additional restrictions, limitations, conditions or any statute enacted by the State Legislature that may affect the provisions, terms or funding of this AGREEMENT in any manner.

ARTICLE VIII - TERMINATION OF AGREEMENT

1. This Agreement and any PROGRAM SUPPLEMENT(s) executed under this AGREEMENT shall terminate upon 60 days prior written notice by STATE.

2. Each separate PROGRAM SUPPLEMENT shall separately establish the term and funding limits for each described PROJECT funded under this federal-aid program. No STATE or FHWA funds are obligated against this AGREEMENT.

IN WITNESS WHEREOF, the parties have executed this AGREEMENT by their duly authorized officers.

STATE OF CALIFORNIA «CityCounty of»
DEPARTMENT OF TRANSPORTATION

By_____ By_____

_____ _____
Chief, Division of Local Assistance ADMINISTERING AGENCY
Project Implementation Representative Name & Title
(Authorized Governing Body Representative)

Date _____ Date _____

CHAPTER 5 ACCOUNTING/INVOICES

The purpose of this chapter is to provide local agencies with basic information required to obtain reimbursement for their expenditures on local federal-aid and state funded projects. Additional information may be obtained from Local Program Accounting (LPA) through the District Local Assistance Engineer (DLAE). Payments made under these provisions are for expenditures paid by the local agency prior to claiming reimbursement from the Department of Transportation (Caltrans).

5.1 TRACKING OF STATUS INVOICES

As invoices are received in the LPA, they are logged into the Invoice Control System. Local agencies can monitor the status of their invoices by viewing this data at www.dot.ca.gov/hq/asc/ and selecting the "Local Assistance Payment System" option. This site is updated daily and contains all invoices for projects not yet final vouchered.

5.2 REQUIREMENTS FOR REIMBURSEMENT

If an agency is participating in the Department's Electronic Fund Transfer (EFT) Payment program, payments will normally be made within 15 days of invoice receipt by LPA; otherwise, they will be processed within 25 days. Details on how to participate in the EFT program are in Section 5.4. "Methods of Reimbursement" in this chapter. In either case, the following conditions must be met prior to reimbursement of costs:

BUDGET AUTHORITY

The State Legislature and Federal Government have provided budget authority and the projects have met all program budget conditions, e.g., timely use of funds.

AGREEMENT

1. The Administering Agency-State Master Agreement (Master Agreement) must be fully executed (all required signatures obtained), if one is used. This is an agreement between the state and a city, county or other local agency defining the general terms and conditions, which must be met to receive federal-aid and/or state funds.
2. The Program Supplement, project agreement, or some other required applicant-state agreement must be fully executed. These documents are agreements between the state and local agency (or applicant) identifying the type and amounts of funds used to finance the project and the specific covenants related to the project. **The State can only reimburse the agency that signed this contractual document, unless there is a covenant in the Program Supplement authorizing another entity to bill and/or be paid on behalf of the agency signing the Program Supplement.**

For additional information about agreements, please see Chapter 4, "Agreements," of the *Local Assistance Procedures Manual* (LAPM).

FEDERAL-AID PROJECT AUTHORIZATION (E-76)

Prior to the beginning of the reimbursable work, the project phase of work eligible for reimbursement from federal funds must be formally authorized (approved) by Caltrans and the Federal Highway Administration (FHWA). The payment of federal funds is limited to the amounts approved on the "Authorization to Proceed" or "E-76." To initiate a federal project authorization for a phase(s) of work, or to increase the authorization for additional phases, the local agency must prepare the "Request for Authorization" package (see Chapter 3 "Project Authorization" of the LAPM) that provides the information needed by Caltrans and FHWA to process the request in a timely manner.

Important note: Costs incurred prior to the authorization date are not eligible for FHWA reimbursement except for Emergency Opening and Preliminary Engineering work that is part of the Emergency Relief program. See Chapter 11 "Disaster Assistance" of the *Local Assistance Program Guidelines* (LAPG*)* for additional details.

For additional information about phases of work and project authorization process, see Chapter 3, "Project Authorization" of the LAPM.

INDIRECT COSTS

With the enactment of Transportation Equity Act for the 21st Century (TEA-21) on June 9, 1998, indirect costs are eligible for federal reimbursement. Should the local agency seek reimbursement of their indirect costs, they must receive an Approval Letter of Indirect Costs Rate for the fiscal year involved from Caltrans' Audits and Investigations **prior** to billing for indirect costs. If a project involves more than one fiscal year, approval of the indirect cost rate for **each** fiscal year is 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. See Section 5-14 "Obtaining Approval for Indirect Costs" in this chapter for details on obtaining approval of indirect cost rates.

INVOICE SUBMITTAL

The local agency may submit monthly invoices for reimbursement of participating costs (costs eligible for federal and/or state reimbursement). Amounts claimed must reflect the cost of completed work, which has been paid for. The local agency must claim all reimbursable work within 180 days of project completion or prior to the expiration date of the project agreement, whichever comes first.

Towards the end of the state fiscal year (June 30), it is very important for local agencies to submit invoices timely for all incurred project costs so that accrued expenditures are properly identified on Caltrans' financial statements.

Each fiscal year, the Division of Local Assistance (DLA) will notify local agencies regarding projects funded from lapsing appropriations (funds that will expire/not be available for spending June 30 of that fiscal year). They will be notified of the deadline for submitting invoices for these projects.

5.4 METHODS OF REIMBURSEMENT

Local agency invoices are routinely processed for payment within 25 days after LPA receives the invoices, unless the local agency has enrolled in the EFT payment program. To receive your reimbursement 10 days sooner, see section “Electronic Fund Transfer (EFT) Reimbursement Method” below.

Due to LPA's workload, local agency invoices should be submitted no more than once a month. The invoice format must follow the requirements in this chapter. If they do not follow the format, they will be returned to obtain the additional information needed by LPA to process the payment.

PAYMENT IN ARREARS

Federal and state law requires that all federal and most state funded local agency project payments be done on a reimbursable basis. Therefore, the local agency must incur the expenditures and pay their contractor prior to invoicing Caltrans for reimbursement of their costs. The local agency is required to submit one copy of proper documentation with their invoices to validate that the expenditures were properly incurred. Acceptable documentation includes copies of cancelled checks made payable to the vendors or contractors.

LUMP SUM PAYMENT UP FRONT

Projects in which there is a request for direct deposit of funds into an escrow account must be approved by the DLAE and submitted to LPA 30 days prior to closing escrow for the purchase of the property. LPA will not process the invoice unless the local entity is able to provide a firm escrow closing date.

Planning, Programming & Monitoring (PPM) and Freeway Service Patrol (FSP) projects Agreement clauses, when used, allow lump sum advance payments to all agencies, which receive $300,000 or less per fiscal year. Sixty days after all expenditures have been made by the local agency; they must submit a Final Report of Expenditures, including a final invoice, to the Caltrans showing how the advance has been spent. Agencies that receive over $300,000 will be paid on a reimbursable basis.

State Match and Exchange Program (X projects) and TEA Exchange Program (TX projects) These funds are advanced to the local agencies to be spent in accordance with the provisions in the Local Agency – State Agreement. **It is the responsibility of the Regional Transportation Planning Agencies (RTPA) to provide LPA and the DLAE with an annual report on these funds.** The report with an "as of date of June 30," is due August 1 of each year. It must show the amounts given to each of the city and/or county. Failure to provide this report will result in future exchanges being held in abeyance. The State Controller’s Office (SCO) will review the actual expenditures to verify compliance with state law.

ELECTRONIC FUND TRANSFER (EFT) REIMBURSEMENT METHOD

Caltrans offers an Electronic Fund Transfer (EFT) option to local agencies. Participation in the EFT program is limited to the local agencies that do not have a delinquent account receivable with Caltrans.

EFT is the transfer of funds from the State Controller's Office (SCO) to a State-contracted bank and then directly into a local agency's designated banking account.

1. EFT Processing Time

   The processing time within LPA for invoices paid by either EFT or warrant will be the same. EFT, however, will decrease the processing time at the SCO from 14 days to 4 days. With EFT, LPA will forward the invoices to the SCO on Mondays and Wednesdays. The SCO will process the payments for the invoices submitted on Monday by electronically depositing the payments to the local agency's bank account on Thursday of the same week. The payments for invoices submitted on Wednesday will be deposited on Monday of the following week.

2. Enrolling in the EFT Program

   The EFT program involves the electronic direct deposits of payments of local agency's invoices to their banking account. Therefore, it is very important that the local agencies verify with their financial institution that EFT payments are allowable.

   Download the "EFT" Enrollment form from www.dot.ca.gov/hq/asc/eft or request it from LPA if a form cannot be obtained.

   If a local agency has not done business with Caltrans before, they are required to fill out the Payee data Form STD 204 (request from LPA) and EFT Enrollment Form.

   If the local agency has done business with Caltrans and has several accounts with Caltrans (multiple remittance addresses in Caltrans' accounting system), the local agency's Finance and Public Works Directors must jointly decide if one or more of those accounts will be designated for EFT payments. Each account to be converted to an EFT account must have a complete separate Enrollment Form. Once an account has been identified to receive EFT payments, all payments will be made through EFT. Contact LPA for help in identifying the Vendor Number(s) that Caltrans uses to identify each mailing address.

   For each account to be converted to EFT, the local agency must complete a separate Enrollment Form. Section I and II of the Enrollment Form must be filled out by the local agency by typing or printing the following information:

   - Name of the local agency and the address that will receive the Automated Clearing House (ACH) payment
   - The local agency Federal Tax ID (FEIN)
   - The designated contact person and telephone number information.
   - The signature of the authorized contact person.

   Section III of the Enrollment Form is filled out by the local agency's financial institution, which will receive the Automatic Clearing House (ACH) payment by printing or typing the following information:

   - Name and the address of the agency's financial institution, which will receive the ACH payments.
   - ACH coordinator's name and phone number.
   - Nine-digit routing transit number.

- Initial submittal of the PES form (completed and with supporting information attached) for Caltrans review and approval (see Chapter 6, "Environmental Procedures," of the *Local Assistance Procedures Manual* (LAPM)).
- Submittal of the Agreements Checklist requesting a Supplemental Agreement.

FIELD REVIEWS ATTENDED BY CALTRANS AND THE FHWA

For projects on the NHS, early review and discussions should be held with the DLAE and the FHWA engineer. Similar early discussions should occur for HBP funded (Bridge) projects to ensure funding eligibility.

If a field review is required, Caltrans and the FHWA will attend. Caltrans and the FHWA may also attend optional field reviews, if requested. The local agency shall fill out the Field Review Form as completely as possible prior to the field review and send a copy with a location map to each of the interested parties attending the field review. This allows the participants to come to the meeting prepared to discuss the specific issues and methodologies, which can lead to successful project implementation. The earliest date for the field review should be two weeks after the receipt of the draft Field Review Form by the district. Copies for the FHWA, DLA, and Office of Structure Design must be submitted to the district for further transmittal.

Caltrans has delegated design exception approval authority to the City/County Public Works Director (see Chapter 11, "Design Standards," of the LAPM). However, proposed design exceptions should be identified and discussed at the field review.

The Field Review Form should be updated and signed by the local agency, district, and FHWA representatives, as appropriate, at the field review even if some of the questions remain unanswered. Information determined after the field review is to be provided by the local agency as a supplement to the Field Review Form and may require FHWA concurrence.

OPTIONAL FIELD REVIEWS NOT ATTENDED BY CALTRANS OR THE FHWA

If the field review is optional and Caltrans and the FHWA will not be attending, the local agency may complete the Field Review Form without a formal or informal review or meeting. An on-site visit by the project engineer and project manager is recommended as good practice to verify the data and information used to complete the forms. The forms should be transmitted to the DLAE as soon as they are complete.

7.6 FIELD REVIEW DATA

SCOPE

The project must be defined in sufficient detail to accurately specify where it is, why it is necessary and what will be done. This process of project definition began with the planning and programming process. Now, further details are needed to clarify the limited FSTIP information with the specific project location, system and conditions as they currently exist and as they will be upon project completion. If the scope changes significantly from the approved FSTIP description, now or at any time during project development, a FSTIP amendment may be necessary. Items 1 to 5 on the "Field Review Form" (Exhibit 7-B) and Exhibits 7-C ("Roadway Data"), 7-D ("Major Structure Data"), 7-E ("Railroad Grade Crossing Data"), vicinity maps, typical section(s), alternative sketches, signal warrants, and collision diagrams, as appropriate, provide data related to the general scope of the project. For non-roadway projects, the Field Review Form and

attachments would be modified as appropriate for the project activity and scope, e.g., site plans, work plans, building sketches.

ENVIRONMENTAL PROCESS

All federal-aid projects must follow the federal environmental process (NEPA) described in Chapter 6, "Environmental Procedures," of the LAPM. NEPA approval (Caltrans signed Categorical Exclusion [CE], Finding of No Significant Impact [FONSI] or Record of Decision [ROD must be obtained prior to commencing with final design, Right of Way acquisition or construction. The Preliminary Environmental Study (PES) Form documents the requirements for technical studies and the NEPA Class of Action (CE, EA, EIS) and is equally as important as the environmental approval. Environmental requirements and procedures for processing required technical studies and the NEPA document are discussed in Chapter 6 of this manual. Specific information regarding the format and content of required technical studies and NEPA documents (CE, EA, EIS) is contained in the SER.

The "Preliminary Environmental Study (PES) Form," Exhibit 6-A is designed to identify:

- The scope of the project
- The existing condition of the project area
- The potential existence of sensitive environmental resources within the project area
- Required technical studies
- The responsible or regulatory agencies where early coordination or consultation is necessary or where approvals and permits are needed
- NEPA Class of Action

RIGHT OF WAY

The need to acquire right of way or relocate utilities can significantly affect project development, especially costs and scheduling. Activity within Caltrans right of way requires coordination and an encroachment permit. Federal laws and regulations must be followed if there is FHWA participation in any project phase, whether in R/W phase or only in the construction phase**.** The acquisition and relocation program will be conducted in accordance with the Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970, as amended (42 US Code 4801, et. seq.). Item 7 of the "Field Review Form" (Exhibit 7-B) highlights the possible right of way activities with a cost estimate breakdown. The need for utility relocation should be identified.

PROJECT COST

Good initial estimates are needed to define whether there are sufficient funds available to implement the project. Item 7 of the Field Review Form provides for an overview by phase and anticipated federal participation. Item 8 can be used to further break this down by federal fund type and state funding. State or local funds are normally required to match the federal funds. To the greatest extent possible, FHWA funded projects should be funded at the full federal participating ratio (see Chapter 3, "Project Authorization," Section 3.6 "Underfunded Policy").

PROJECT ADMINISTRATION

The agency submitting the request is normally responsible for administering all phases of the project. If another arrangement is expected, this should be noted. If the agency plans to hire a consultant to assist with any phase, this should be noted. This allows the agency

INSTRUCTIONS FOR FIELD REVIEW FORM

The Applicant shall complete the Field Review Form in accordance with Chapter 7, "Field Review" of this manual. The District Local Assistance Engineer (DLAE) should be consulted for clarification. If Caltrans or other interested parties are to be involved in meetings, to assist in completion, the applicant should fill out the form as completely as possible prior to any meeting(s). The form must be completely filled out prior to submission of the PES Form.

Item 1. PROJECT LIMITS

Briefly describe the physical limits or nature of project. Attach a list, as needed, for multiple or various locations. Indicate length of project to nearest one-tenth of mile. Use 0.1, if a spot location. Include additional sheets, if needed, to clearly define the project location or scope of work.

Item 2. WORK DESCRIPTION

Briefly describe major components of the proposed work, e.g., signals, bridge replacement, ridesharing, pedestrian features, etc.

Item 3. PROGRAMMING DATA

All federal-aid funded projects (except Emergency Relief unless additional capacity is being added) are required to be included in a Regional Transportation Plan and the most current FHWA/FTA approved FSTIP. If project is within an MPO area, indicate the MPO or RTPA's FTIP[1] that includes the project and the fiscal years of the FTIP. Also list the page of the FTIP or Amendment Project Planning Number (PPNO), if available and the FHWA/FTA approval date. For non-MPO areas include the same information from FSTIP.

Indicate the federal funds and phases listed in the FTIP/FSTIP. For CMAQ projects name the Air Basin.

Item 4. FUNCTIONAL CLASSIFICATION

For a roadway project, check appropriate functional classification category. See the discussions of specific fund programs in the *Local Assistance Program Guidelines* (LAPG*)* for system eligibility. Indicate N/A for projects not related to a specific road or street system.

Item 5. STEWARDSHIP CATEGORY

For roadway projects, indicate if project is on the National Highway System (NHS), and whether project is State-Authorized or a FHWA Full Oversight project on the Interstate per stewardship agreement. With some exceptions, projects on the State Highway System are subject to Caltrans Oversight, and on the Interstate are subject to FHWA Full Oversight; otherwise, the project is subject to DLAE oversight. Refer to Figure 2-1, "Required FHWA Oversight Federal-Funded Projects" in Chapter 2 of this manual.

Item 6. CALTRANS ENCROACHMENT PERMIT REQUIRED

An encroachment permit is required for projects encroaching within the state highway right of way. The applicant should contact the District Permit Officer early in the process.

[1] The FTIP must be incorporated into an FHWA approved FSTIP.

Item 7. COST BREAKDOWN ESTIMATE

List estimated breakdown of all project phases and indicate phases for which federal participation will be requested. Include all known costs, but include each cost in only one group. Check whether "Value Engineering Analysis" is required for this project. (For structures-related projects financed with Highway Bridge Program [HBP] funds, the current HBP operating procedures limit preliminary engineering costs including environmental costs to twenty-five (25%) percent of the total construction cost. Any exceptions must be approved in writing by the HBP program manager.)

Item 8. PROPOSED FUNDING

Fill in total cost of federal-funded project, type, and amount of federal-aid funds, i.e. STP, CMAQ, etc., and the matching-fund breakdown.

If state funds are involved, indicate source such as STIP.

Item 9. PROJECT ADMINISTRATION

Indicate name of agency that will be responsible for administering each project phase. Also indicate the use of a consultant for any phase. Indicate if Caltrans' review of PS&E will be requested. If Yes, begin discussions with DLAE on availability of staff. All PS&E documents to be reviewed must be in Caltrans format.

Item 10. SCHEDULES

The local agency should indicate their proposed advertisement date. This will give the involved parties a date for scheduling. However, the discussion of requirements and time frames may require adjustment of the advertisement date. Critical dates in the schedule should be noted in the remarks.

ITEM 11. PROJECT MANAGER'S CONCURRENCE

The local agency project manager shall sign and date the field review form to signify agreement on the parameters proposed for development of the project. The DLAE and FHWA representative shall sign the document when attending field reviews. This document is then a guidance reference for further development of the project to assure that it adheres to the programmed concept, or that any changes is approved by the manager (and/or DLAE and FHWA, if appropriate).

Item 12. LIST OF ATTACHMENTS

The first two items are appropriate for all reviews. Others to be added depend on the type of project. For required field reviews, all applicable attachments must be submitted. For optional field reviews, see the "[ ]" notations for attachments required for specific types of projects. All existing federal, state, or local Americans with Disabilities Act (ADA) deficiencies, if not identified on other Attachments, should be listed here

Note: The Federal Damage Assessment Form (DAF) shall be used as the field review document for Emergency Relief projects.

CHAPTER 8 PUBLIC HEARINGS

8.1 INTRODUCTION

Community involvement is essential to developing local transportation projects that fully consider social, economic, environmental and other impacts and minimize the effects on the community and environment. All affected interests must be aware of the project's impact. Community involvement must be an integral part of the overall project development process.

Generally, the most productive interaction with the public and other agencies takes place through informal meetings, conferences, and direct correspondence rather than through formal public hearings. The number and extent of these informal meetings will vary greatly depending on the proposal, impacts, location, etc. A basic strategy for securing community involvement should be determined early in the project development process. Who to contact, size of groups, area of interest, details of presentation, how to contact, etc. must be decided on a project by project basis. Individuals, businesses, neighborhood associations and other officials and institutions may be affected by the project and interested in participating in the development process.

As a culmination of the project and environmental information gathering and development, a public hearing is required for certain federal-aid projects (discussed later). This public hearing process may be satisfied through either a "formal" or an "open forum" public hearing.

FORMAL PUBLIC HEARING

The formal public hearing process provides a structured forum in which to test the conclusions reached during the preliminary stages of project development, specifically needed for the project, project alternatives and major design features, social, economic, environmental and other impacts, and consistency with local, regional and state planning goals and objectives.

The formal public hearing is conducted as a structured meeting between the project authorities and the "public" audience. A presiding officer has the project team of experts explain the project to the audience and then the audience, one at a time, responds with comments and questions. All these activities are formally recorded and entered into a hearing record. The record is held open after the formal meeting for 10 to 30 days for additional written comments.

The formal hearing or opportunity for a hearing occurs during circulation of the draft environmental document prior to making any commitment to a specific design alternative or location.

OPEN FORUM PUBLIC HEARING

The open forum hearing is conducted in an open meeting format similar to a map showing or project briefing. Individuals may arrive at various times, be given a brief orientation and then directed to project team members for one-on-one explanations and discussions about their specific concerns and questions. The opportunity is provided to have their comments and questions recorded verbally or in writing for the hearing

record. The less formal atmosphere of this type hearing can contribute to a better understanding of the project features, provide for a more direct response to specific individual questions and concerns and move toward the solution of problems.

The open forum hearing also occurs during circulation of the draft environmental document prior to making any commitment to a specific design alternative or location. The public notices of the hearing and a hearing record are required as in the formal hearing process.

Chapter 11 of Caltrans *Project Development Procedures Manual* outlines the general concept and features for the two types of hearings. A review of these sections may assist the local agency in deciding which type is most appropriate for its project.

8.2 NECESSITY FOR A PUBLIC HEARING

FEDERAL REGULATIONS

The agency shall hold or sponsor public hearings or public meetings whenever appropriate or in accordance with statutory requirements applicable to the agency (40 CFR 1506.6(c)). The criteria shall include whether there is:

- Substantial environmental controversy concerning the proposed action,
- Substantial interest in holding the hearing, or
- A request for a hearing by another agency with jurisdiction over the action, supported by reasons why a hearing will be helpful.

CATEGORICAL EXCLUSION

Projects processed with a Categorical Exclusion (CE) are actions which will not have any significant social, economic, or environmental effects, and therefore, do not require a public hearing.

ENVIRONMENTAL ASSESSMENT

Projects processed with an Environmental Assessment (EA), must involve environmental agencies, applicants and the public to the extent practicable (40 CFR 1501.4[b]). 23 CFR 771.111(h) requires that one or more public hearings or opportunities for hearings be provided for any federal-aid project which:

- Requires significant amounts of right of way
- Substantially changes the layout or functions of connecting roadways or the facility being improved
- Has a substantial adverse impact on abutting property
- Otherwise has a significant social, economic, environmental or other effect, or
- For those projects that Caltrans (under National Environmental Policy Act [NEPA] Delegation) determines a public hearing is in the public interest

ENVIRONMENTAL IMPACT STATEMENT

A public hearing is required during the circulation period of all Draft Environmental Impact Statements (EIS) when it is determined to be in the public interest.

The Caltrans *Project Development Procedures Manual* (PDPM) Chapter 11 sets forth Department policy and procedures regarding public hearings. The manual provides explicit information and instructions regarding when public hearings are necessary; how to conduct a public hearing; Title V1 compliance documentation, open forum versus formal hearing, coordination with DED availability; public notices and publicity; map showings; hearing room arrangements; presiding officers, briefings; presentations; handouts; exhibits and interpreters, and hearings for local projects. Refer to the guidelines and samples for public hearing notices, PDPM Appendix HH.

EXCEPTION TO THE PUBLIC HEARING PROCESS

Compliance with the public hearing process is not required for emergency opening work on disaster assistance projects (see Chapter 11 "Emergency Relief" of the *Local Assistance Program Guidelines* [LAPG]).

8.3 OPPORTUNITY FOR HEARING AND WITHDRAWAL OF REQUEST FOR HEARING

If there is reason to believe that the project is noncontroversial and that it is unlikely that a hearing would be requested, either by the public or any agency, a Notice of Opportunity for a Public Hearing may be utilized rather than directly scheduling a hearing.

When only a small number of requests for a hearing are received, it is permissible to meet with the parties at a convenient time and location, explain the project and answer any questions. These meetings shall be very carefully documented and made a part of the project record. If satisfied, the requesting party may withdraw the request for a hearing in writing. If the requesting party does not wish to withdraw the request, a hearing shall be held.

8.4 PUBLIC NOTIFICATION

Public notices are published as a means to inform the public of various proposals and to invite public participation. Methods of public notification include:

- Paid public notice in a local newspaper
- Supplemental news releases and special paid notices
- Flyers or bulk rate circulars distributed to residents
- Notices on bulletin boards in public places such as city halls, libraries, supermarkets
- Television and radio
- Distribution of notices through schools and service clubs
- Indication in the draft environmental document that a hearing will be held or a notice of opportunity for a hearing will be published.

40 CFR 1506.6(b) requires that a public notice of NEPA related hearings, public meetings, and the availability of environmental documents be provided to inform those persons and agencies who may be interested or affected. This includes groups, agencies or individuals who:

- Have requested notification, or

- By nature of their function, interest, or responsibility may be interested in or affected by the proposal

In all cases where non-English speaking people are affected by the proposal, the local agency determines if the language barrier is of such magnitude as to warrant special publicity in the language of those affected. Particular effort is to be made to seek out and invite minority leaders and representatives of low mobility groups. In lieu of sending the representatives of low mobility groups the notice, a letter containing the pertinent data can be sent.

In the case of an action with effects primarily of local concern, notification may include:

- Notice to state and area wide clearinghouses
- Notice to Indian tribes when effects occur on reservations
- Publication in local newspapers (in papers of general circulation rather than legal papers)
- Notice through other local media
- Notice to potentially interested community organizations including small business associations
- Publication in newsletters that may be expected to reach potentially interested persons
- Direct mailing to owners and occupants of nearby of affected property
- Posting of notice on and off site in the area where the action is located

CONTENT OF THE NOTICE

Both the Notice of Public Hearing and the Notice of Opportunity for Public Hearing shall include:

- Sufficient detail of the surrounding area to enable the reader to readily identify the proposal location
- An appropriate schematic map depicting the proposal limits. Alternative design features are to be either displayed by schematic inserts or described in the notice. Indicate if any alternatives would be located in wetlands.
- A statement to the effect that project maps, drawings, the environmental assessment or draft environmental impact statement, and other pertinent information received and/or developed by the local agency will be available for inspection and copying at the local agency's office or other convenient location in the vicinity of the proposal. In addition to the required information, any other data that will make the notice more informative should be included.
- A specific note that an open forum format will be used when this is the case

To ensure widespread and comprehensive project notification, the local agency shall establish and maintain a list upon which any federal agency, local official, public advisory group or agency, civic association, community group, or individual may enroll to receive notices of proposals in the area specified.

NOTICE OF PUBLIC HEARING

The Notice shall be published at least twice in a newspaper having a general circulation in the vicinity of the proposal and in any newspaper having a substantial circulation in the

area concerned such as foreign language and community newspapers. The first Notice shall be published at least 30 days prior to the scheduled hearing. The second Notice should be published approximately one week before the hearing. The timing of additional publication is optional.

If a draft EIS is to be considered at a public hearing the agency shall make the statement available to the public at least 15 days in advance of the hearing (unless the purpose of the hearing is to provide information for the draft EIS (40 CFR 1506.6(c)(2)).

In addition to the items noted in the above "Content of the Notice," each notice of public hearing shall specify:

- The date, time, and place of the hearing
- That tentative schedules for right of way and construction will be discussed
- That relocation assistance programs will be discussed
- That written statements and exhibits may be submitted up to a specified date at least 10 days after the hearing with the procedure for submissions

On projects of particular local interest or great complexity, the local agency may wish to consider the use of bulk-rate type circulars in addition to the published notices.

The local agency shall furnish the District Local Assistance Engineer (DLAE) with a clipping or legible copy (identify newspaper and date published) of the notice of public hearing at the time of first publication. Copies of all notices shall be incorporated into the hearing record.

- A sample public hearing notice is shown in Exhibit 8-A.

NOTICE OF OPPORTUNITY FOR PUBLIC HEARING

The notice of opportunity for public hearing shall explain the procedure and specify the deadline for requesting a public hearing. The deadline for requesting a public hearing shall not be less than 21 days after the date of publication of the first Notice, or less than 14 days after the date of publication of the second notice.

The local agency shall furnish the DLAE with a clipping or legible copy (identify newspaper and date published) of the Notice of Opportunity for Public Hearing at the time of first publication.

A sample notice of opportunity is shown in Exhibit 8-B.

8.5 JOINT PUBLIC HEARINGS

The local agency shall cooperate with State and other local agencies to the fullest extent possible to reduce duplication between NEPA, State and local requirements unless the agencies are specifically barred from doing so by some other law (40 CFR 1506.2). This procedure provides for concurrent compliance with the public review requirements, including joint public hearings of both NEPA and CEQA.

If a joint NEPA and CEQA environmental document is being prepared for a local agency project, and it has been determined that the criteria for deciding whether to hold a hearing has been met (40 CFR 1506.6[c]), a combined public hearing should be considered.

8.6 SCHEDULING

Federal regulation 40 CFR 1502.6(c)(2) states that if a Draft EIS is to be considered at a public hearing, the agency shall make the Draft EIS available to the public at least 15 days in advance (unless the purpose of the hearings is to provide information for preparing the Draft EIS).

Formal or open forum public hearings are held after the EA or Draft EIS has been approved for circulation by the Caltrans District Director (DD) and prior to commitment to any of the alternatives to be presented at the hearing.

8.7 HEARING PROCEDURES

Public hearings are held at a place and time convenient for persons affected by the proposal.

Whether a hearing is conducted by representatives of the local agency or of a cooperating agency, the local agency arranges to have suitable personnel available to respond to questions which may arise. The local agency is responsible for successful completion of all hearing requirements.

A presiding officer shall be identified for the hearing. If the hearing covers controversial issues, the agency should consider selecting a neutral person, who has no interest in the project, to act as presiding officer.

At each public hearing, it shall be announced that:

- The hearing is being held to present studies to date on the location and/or design features of the proposal, and to provide a forum for public discussion of the major features, including social, economic and environmental effects of the proposal.
- The hearing is being held prior to making any commitment to the various alternatives being presented at the hearings that no studies or plans will be finalized until the complete public record has been analyzed including data gathered at the public hearing and received in response to the draft environmental document.
- The final deadline for submitting written statements and exhibits will be no later than 10 days after the hearing or for more complex or controversial proposals, a longer and clearly specified period. Written material should be submitted to the local agency at the address given in the handout.
- Subsequent to the hearing and prior to requesting approval, all data gathered at the hearing or submitted for the record will be available for inspection and copying at the local agency's office or other location.

The items to be covered in the presentation and/or hearing handouts are:

- A discussion of the local, State and federal roles for developing the proposal.
- A summary of coordination and interaction to date.

CLOSEOUT PROJECTS

Local agencies are encouraged to close out consultant contracts quickly. If the contract was for preparation of PS&E, environmental, preliminary material testing and/or material reports, or preliminary surveys, such closeouts should be delayed within the requirements of the "Timely Use of Fund" policy until after physical construction of the project is completed, and all construction claims are settled. Delaying the closeout until project completion ensures the consultant's availability, if problems arise, or if the need for a change occurs relative to the consultant's work.

After making final payment of consultant invoices, the local agency is to follow the requirements in this chapter and in Chapter 5, "Accounting/Invoices," of the LAPM to request final reimbursement.

PERFORMANCE EVALUATION

The Contract Administrator evaluates the consultant's performance after the consultant's final report has been submitted, and the Contract Administrator has conducted a detailed evaluation with the consultant's project manager. See Exhibit 10-S, "Consultant Performance Evaluation" form of a suggested format for use by the local agency.

PROJECT RECORDS

For audit purposes, project records and documentation shall be kept for three (3) years after payment of the final federal and/or state voucher. Among the records to be retained as follows:

- Copies of RFPs and RFQs
- Documentation of DBE participation, when applicable
- Solicitation/advertisement records
- Identification of selection committee members
- Evaluation and ranking records
- Independent cost estimate
- Record of negotiations
- Pre-award audit when applicable
- Executed consultant contracts and amendments
- Construction oversight/progress meetings
- Progress and final payments
- Performance evaluation
- Consultant contract checklists
- Accounting records documenting compliance with state and federal administrative requirements

10.8 MISCELLANEOUS CONSIDERATIONS

RETAINING A CONSULTANT AS AN AGENCY ENGINEER

A local agency may retain qualified consultants on its staff in professional capacities such as agency consultant engineers or architects. The agency consultants can be an individual or a firm providing professional and/or management services.

Eligibility for federal and/or state reimbursement for these services requires the following:

- Compliance with the selection procedures specified in this chapter.
- Existence of a contract between the local agency and the consultant specifying the services to be performed.
- Written designation by the local agency of the responsibilities and authority of the consultant as an agency engineer.
- Selection on an open and competitive basis within the last three (3) years.

If engineering services for a project are within the scope of the services described in the retained consultant's agreement, these services may be performed by the person or firm designated as an agency engineer. If the services are not within the scope, eligibility for federal and/or state reimbursement for these services require a new consultant agreement to be developed using the selection procedures in this chapter. Retained consultants involved in the preparation of the Request for Proposal (RFP), or Request for Qualifications (RFQ) shall not be considered in the selection of consultants for the resulting project specific work.

When engineering or architectural consultants are procured with the federal-aid funds, the local agency (subgrantee) shall fully comply with the following:

- Subparagraphs of 49 CFR §18.36(b)(2) "…maintain a contract administration system…."; and (3) "…maintain a written code of standards…. No employee, officer or agent of the …subgrantee shall participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved…."
- Subparagraph of 23 CFR §172.9(d) "Consultant in management roles," which requires that if a local agency has or intends to have a consultant in a management role, the local agency shall receive approval from Caltrans. In addition, any federal-aid projects designated as High Profile Projects, approval may also be needed from FHWA.
- Liability insurance should normally be required from the consultant (errors and ommisions, etc.)

CONSTRUCTION ENGINEERING SERVICES

Under federal-aid regulations and state policy, the primary responsibility for general supervision of construction must remain with the local agency. The local agency must also ensure that the work is performed in accordance with the approved plans and specifications, by employing or retaining as a consultant a registered engineer for construction engineering services on the project.

All activities performed by a consultant must be under the overall supervision of a full-time employee of the agency who is responsible in-charge. These activities may include construction surveys, foundation investigations, measurement and computation of quantities, testing of construction materials, checking of shop drawings, preparation of estimates, reports, and other inspection activities necessary to ensure that the construction is being performed in accordance with the plans and specifications. The construction engineering consultant's agreement defines the relative authorities and responsibilities of the full-time employee of the local agency in charge of the project and the consultant's construction engineering staff.

3. FEDERAL OR FEDERAL HIGHWAY ADMINISTRATION (FHWA)

- *23 USC Standards*
- *23 CFR Part 650 Bridges, Structures and Hydraulics*
- *28 CFR Part 36 Nondiscrimination on Basis of Disabilities by Public Accommodations and in Commercial Facilities, Appendix A Standards For Accessible Design*
- *28 CFR Part 35 Nondiscrimination on the Basis of Disability in State and Local Government Services*
- *41 CFR Part 101*
- *Designing Sidewalks and Trails for Access (Part 2), FHWA-EP-01 027*
- *Federal-Aid Policy Guide, Subchapter G, Engineering and Traffic Operations, Part 625 - Design Standards for Highways*
- *FHWA Internet Home Page:* http://www.fhwa.dot.gov
- *FHWA Contract Administration Core Curriculum Participant's Manual and References Guide,* 2006
- Hydraulic Engineering Circulars
  - *Design of Riprap Revetment* - Hydraulic Engineering Circular #11,
  - *Evaluating Scour at Bridges* - Hydraulic Engineering Circular #18,
  - *Stream Stability at Highway Crossings* - Hydraulic Engineering Circular #20,
- *Manual on Uniform Traffic Control Devices (MUTCD), current edition*
- *Recording and Coding Guide for the Structure Inventory and Appraisal of the Nation's Bridge, Report No. FHWA-ED-89-044*

4. OTHER

- *Designing Safer Roads - Practices for Resurfacing, Restoration and Rehabilitation, Special Report 214, Transportation Research Board*
- *Multiple-Service-Level Highway Bridge Railing Selection Procedures, National Cooperative Highway Research Program Report 239*
- *Roadside Safety, Transportation Research Record 1065, Transportation Research Board*
- *Recommended Procedures for the Safety Performance Evaluation of Highway Appurtenances, National Cooperative Highway Research Program Report 230*
- *Recommended Procedures for the Safety Performance Evaluation of Highway Features, Report 350*
- *Standard Plans for Public Works Construction*, developed and promulgated by the American Public Works Association, Southern California Chapter, and the Associated General Contractors of California, Southern California Districts
- *Standard Specifications for Public Works Construction*, developed and promulgated by the American Public Works Association, Southern California Chapter, and the Associated General Contractors of California, Southern California Districts

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CHAPTER 12 PLANS, SPECIFICATIONS, & ESTIMATE

12.1 INTRODUCTION

For locally sponsored projects on the State Highway System (SHS), the local agency must enter into a cooperative agreement with Caltrans to establish the responsibility for project Plans, Specifications & Estimates (PS&E) (see Caltrans *Cooperative Agreement Manual*).

The preparation of the plans, specifications, and estimate (PS&E) for local federal-aid projects off the SHS is the responsibility of the local agency.

Except for major National Highway System (NHS) projects, local agencies will certify that their project PS&E complies with all applicable federal and state regulations and procedures. The "PS&E Checklist" form is included as Exhibit 12-D in this chapter and summarizes the items requiring local agency compliance. The local agency's project PS&E certification checklist must be submitted to the Caltrans District Local Assistance Engineer (DLAE) along with their "Request for Authorization" to proceed with construction. Local agency's PS&Es are reviewed on a periodic basis as part of Caltrans' process review program.

Major federal-aid projects in which the total project costs are expected to be $100 million or more, require an annual Financial Plan be prepared when all elements of the plan are fully known, <u>but not later</u> than the request for authorization of federal financial assistance for construction. Caltrans/FHWA may request submittal of the Financial Plan for projects of $100 million or more on a project-by-project basis. **FHWA has now requested that Financial Plans for projects of $100 million or more be submitted to the Caltrans DLAE.** Submittal of the Financial Plan and Project Management Plan are required for projects of $500 million or more. Major federal-aid projects of $500 million or more require a draft Project Management Plan be prepared and submitted to Caltrans/FHWA prior to the environmental determination. Final Project Management Plan be submitted within 90 days after the environmental determination. For more information see Chapter 2 "Roles and Responsibilities," of the *Local Assistance Procedures Manual* (LAPM).

The policies and procedures contained in this chapter reflect current federal requirements for the PS&E phase of local federal-aid projects. These instructions do not necessarily address the relevant state laws and local regulations with which a local agency must also comply.

DEFINITIONS

<u>Design Standards</u> - The standards, specifications, procedures, guides and references listed herein that are acceptable for application in the geometric and structural design of federal-aid projects (see Chapter 11, "Design Standards" of the LAPM).

<u>Controlling Criteria</u> - The specific minimum criteria and controls contained in the design standards for highway projects that are considered of primary importance for safety. Deviations from these controlling criteria require design exception approval (see Chapter 11, "Design Standards" of the LAPM).

Cost-Effectiveness/Public Interest Finding – A written document outlining the basis for a proposed deviation from a standard procedure as required in Title 23 of the Code of Federal Regulations. The finding contains supporting documentation such as cost /benefit analysis, product compatibility, etc., and includes reasons that the proposed deviation is considered to be cost-effective or for the public's best interest. Exhibit 12-F, "Request for Approval of Cost-Effectiveness/Public Interest Finding" of this chapter, is a preprinted blank form that should be used by local agencies to prepare a "Cost-Effectiveness/Public Interest Finding." FHWA approval is required for local agency projects that are "FHWA Full Oversight," and Caltrans' approval is required for local agency projects that are "State-Authorized" on the SHS. The City or County Public Works Director's approval is required for local agency projects that are "State-Authorized" off the SHS or NHS.

Design Exception Approval - A process to justify, approve, and document allowable deviations from controlling criteria.

Specifications - The directions, provisions, and requirements contained in the contract documents for a specific construction project. Included are various proposal conditions, contract administration provisions, required construction methods, and technical requirements for materials.

Standard Specifications - A published document that contains commonly used specifications developed for use as a reference for construction contract documents.

Standard Plans - A collection of plan details developed for use as a reference for construction contract documents. Included are standard abbreviations, symbols, design notes, design conditions and data, construction details, specifications, layouts, and measurement and payment details.

The performance of work by force account on a federal-aid project may be appropriate when:

- It is determined that the rights or responsibilities of the community are so affected as to require a special course of action, including a lack of competition or unreasonable bids (must be documented).
- By the inherent nature of the operation, it is deemed cost-effective to perform minor adjustments of railroad and utility facilities while the major work is still accomplished by competitive bidding (the use of force account work under this circumstance has been predetermined to always be cost-effective without further documentation or authorization).
- It is deemed cost-effective to perform some work (incidental to the main purpose of the project and other than minor adjustments of railroad and utility facilities), while the major work is still accomplished by competitive bidding.

A public interest finding fully justifying the use of force account work on a local federal-aid project must be prepared by the local agency. The documentation should include:

- An identification and description of the project and the kinds of work to be performed.
- A comparison of the detailed cost estimates for work by force account versus a competitive bid contract.
- An estimate of federal funds to be provided based on the reimbursement ratio of the qualifying costs.
- The reason(s) the use of work by force account is considered to be cost-effective or an emergency.
- An authorization by the City or County Public Works Director authorizing local agency forces to perform the work and certifying that the documentation reflects the true and current estimates of costs to perform the work.

The cost estimates for competitive bidding may be based on unit prices, including any engineering and administrative costs necessary to prepare, monitor, and close-out the project. Unit prices must be based on the estimated actual cost of performing the work, but shall not exceed unit prices currently being obtained by competitive bidding on comparable construction work in the same general locality.

Incidental force account work must be carefully incorporated into a project's PS&E package. The local agency must keep precise project records documenting: the date(s) of authorization, actual work performed, date of performance, and costs for personnel, materials and equipment. Documentation of costs should include:

- Personnel
  - Time sheets
  - Salaries and payrolls
  - Foreman's reports
- Materials
  - Invoices for materials and supplies, and for any special services
  - Cost of producing materials supplied by the local agency
- Equipment

- Time and cost for using equipment owned by the local agency
- Time and rates for using rented equipment

Project records must be kept at least three years after the federal government completes a final voucher of the project.

EMERGENCY WORK

In an emergency situation competitive bidding may be waived on any of the federal-aid programs, and the work may be performed by either force account or negotiated contract. For projects that are exempt from FHWA oversight, the waiver shall be approved by the DLAE. An emergency is a situation that requires emergency repair work, as provided under Emergency Relief (ER) Program (see Chapter 11 "Disaster Assistance" in the *Local Assistance Program Guidelines*), or when a major element or segment of a highway system has failed and the situation is such that competitive bidding is not possible or is impractical. Competitive bidding under such circumstance may not be possible or may be impractical because immediate action is necessary to:

- Minimize the extent of the damage
- Protect remaining facilities, or
- Restore essential travel

As an example: a local agency has a bridge programmed for replacement, using Highway Bridge Program (HBP) funds and has begun preliminary engineering on the bridge replacement project, a major storm does damage to the bridge before the local agency completes the design of the bridge, such that repairing the bridge is not practical. At this point, for projects that are exempt from FHWA oversight, the local agency can contact their DLAE to be granted a waiver ("Authorization to Proceed"), so as to begin negotiations with contractor(s) to replace the bridge using HBP funds and using the plans that have been completed to date.

It should be noted that this waiver to competitive bidding only applies to emergency repairs as defined above, reconstruction work and permanent repairs that can be separated from emergency repairs, are to be performed using the competitive bidding process.

12.5 VALUE ENGINEERING ANALYSIS

SAFETEA-LU

Federal requirements included in "SAFETEA-LU" Section 1904 "Stewardship and Oversight," mandate that a "value engineering analysis" be performed on federal-aid projects on the federal-aid system with a total project cost of $25 million or more and for bridge projects with a total project cost of $20 million or more, The "value engineering (VE) analysis" consists of a systematic process of review and analysis of the project during the concept and design phases, by a multi-disciplined team of persons not involved in the project.

The local agency administering the project has been delegated the responsibility to ensure that VE analysis is performed under Caltrans delegation authority. For each project, the local agency shall indicate in the appropriate checkbox on the PS&E Checklist whether VE analysis was performed.

DEFINITIONS

Project - A portion of a highway or local road that a local agency proposes to construct, reconstruct, or improve as described in the FSTIP, RTIP. A project may consist of several contracts or phases over several years.

Value Engineering Analysis - The systematic application of recognized techniques by a multi-disciplined team to identify the function of a product or service; establish a worth for that function; generate alternatives through the use of creative thinking; and provide the needed functions to accomplish the original purpose of the project, reliably, and at the lowest life-cycle cost without sacrificing safety, necessary quality, and environmental attributes of the project.

PROCEDURES

The multi-disciplined team can be qualified local agency staff, qualified personnel from the current design consultant contract, or qualified personnel from a certified "value engineering analysis" consultant contractor. The most important factor is for the multi-disciplined team be qualified and not involved in the project in which they are performing the "value engineering analysis" The following web sites may be of assistance when undertaking a "value engineering analysis":

http://www.value-eng.org/

http//www.fhwa.dot.gov/ve/

http://www.dot.ca.gov/hq/oppd/pdpm/pdomn.htm

The multi-disciplined team performing "value engineering analysis" shall provide recommendations:

- To improve the value and quality of the project
- To provide the needed functions safely, reliably, and at the lowest overall cost
- To reduce the time to complete the project
- To combine or eliminate otherwise inefficient use of costly parts of the original proposed design for the project
- To completely redesign the project using different techniques, materials, or methods so as to accomplish the original purpose of the project

For bridge projects, the multi-disciplined team shall also include bridge substructure requirements based on construction material and be evaluated as follows:

- On engineering and economic bases, taking into consideration acceptable designs for bridges.
- Using an analysis of life-cycle and duration of project construction. For VE Studies of projects on the State Highway System, it is advisable to have Caltrans' participation on the VE team.

This process concludes with a value analysis report that contains the approved recommendations. A copy of this report shall be submitted by the local agency to the DLAE who forwards it to the District Value Analysis Coordinator (DVAC) that is responsible for the project. The DVAC will submit this report to the Value Analysis Branch in headquarters, who will then include it in their annual report to FHWA. As a guide, Chapter 19 "Value Analysis" of the *Project Development Procedures Manual* may be used. The DVAC may be consulted for applicable sections.

12.6 HISTORY OF METRICATION

TRANSITION FROM METRIC UNITS TO U.S. CUSTOMARY UNITS

The 1991 Intermodal Surface Transportation Efficiency Act (ISTEA) mandated that all PS&Es for federal-aid construction projects use metric units after September 30, 1996. In 1993, Caltrans adopted the International System of Units (SI: aka the Metric System) as our preferred system of weights and measures to comply with federal law. The law has subsequently been changed making the use of the Metric System optional. A decision document was approved on August 20, 2004, committing Caltrans to re adopt the U.S. Customary (English) system of units and measures as its preferred system. Caltrans began its transition from metric units to U.S. Customary system in March 2005. Caltrans Standard Plans, Standard Specifications and Standard Special Provisions have been converted to U.S. Customary units.

Beginning April 1, 2006, PS&E for all projects on and off the SHS (including those administered by local agencies) must be in U.S. Customary (English) units. During the transition from metric units to U.S. Customary units, either English or metric units may be used when the local agency, or their consultant prepares the final PS&E package for bridge retrofit projects. On the other hand, English units must be used when Caltrans' consultants prepare the final PS&E package for seismic retrofit design. Regardless of the units used, both the bridge and roadway units must be the same (see Chapter 7, "Seismic Safety Retrofit Program," of the *Local Assistance Program Guidelines* [LAPG]).

CONVERSION TO U.S. CUSTOMARY (ENGLISH) UNITS

There are two ways to convert from metric units to U.S. Customary Units:

- "Soft" conversion - a direct mathematical conversion to an exact or nearly exact English equivalent, for example: a 3.6 meters lane can be "soft converted" to 11.811 feet.
- "Hard" conversion - a rounded, rationalized, English number that is convenient to work with and easy to remember, for example: the old metric standard lane width of 3.6 meters (see Chapter 300 of the Caltrans *Highway Design Manual*, 5th edition) is 12 feet.

The Institute of Transportation Studies - University of California Berkeley (ITS), through the Cooperative Training Assistance Program (CTAP) and the Local Technical Assistance Program (LTAP), offers training courses in understanding metric conversion for local agencies. Also available through ITS are AASHTO's *Guide to Metric Conversion*, Caltrans' booklet entitled *Getting into Metrics*, and CD-ROM metric training packages.

12.7 PLANS

Project plans shall describe the location, design features, and construction requirements in sufficient detail to facilitate the construction, contract control, and estimation of construction costs for the project.

A local agency may use the Caltrans *Drafting and Plans Manual* as a guide for preparing contract plans. This manual is available at Caltrans Central Publication Distribution Unit at 1900 Royal Oaks Drive, Sacramento, California 95815, Tel. No. (916) 263-0822.

DESIGN STANDARDS

Standards for design of federal-aid highway projects are contained in Chapter 11, "Design Standards," of this manual.

DESIGN EXCEPTIONS

The Public Works Director or the person to whom approval authority has been delegated shall sign approval for design exceptions. The person with approval authority must be a registered Civil Engineer in the State of California. Additional procedures concerning documentation requirements and delegation of this approval authority shall be in accordance with Chapter 11, "Design Standards," of this manual.

PLAN SHEET AND SPECIFICATION SIGNATURES

On local agency federal-aid projects, the title sheets of the plans and specifications shall bear the signature and seal or stamp, the date of signing and sealing or stamping, and the expiration date of the licensed professional engineer in the State of California, who is the local agency's responsible person (employee or consultant) for the plans and specifications being signed. If signed by a local agency consultant, the title sheets shall also be signed by a full-time employee of the local agency who is responsible for the project. Additional local agency signatures on the title sheet are optional. Plans and specifications for projects advertised, awarded and administered by the local agency do not include the State Engineer's signature, except as required for a state encroachment permit and/or cooperative agreement. The title sheets of the plans and specifications must also show the federal-aid project number.

Other plan sheets (including typical section sheets) must bear the signature of the professional engineer under whose direction the sheets were prepared. Signature of the sheets may be delegated to a California registered engineer retained by the local agency to prepare the plans.

STANDARD PLANS

Caltrans *Standard Plans* shall be used for locally sponsored projects on the SHS.

The following Standard Plans are acceptable for use with local federal-aid projects off the SHS:

- The current edition of the Caltrans *Standard Plans*
- The current edition of the *Standard Plans for Public Works Construction*, developed and promulgated by the American Public Works Association - Southern California Chapter and the Associated General Contractors of California - Southern California Districts

In addition to the above, standard plans which are developed locally for non-federally funded projects may be used on local federal aid projects. The local standard plans shall

be signed (with registration number) by the local agency's responsible person in charge who must be registered in California in the professional field for the type of standard plan being signed. Details included in local standard plans used for projects on the NHS shall meet statewide geometric standards.

Bridge construction details included in local standard plans shall meet Caltrans' bridge design standards.

When a local agency requests structure-review assistance from Caltrans, the *Caltrans Standard Plans* must be used, as appropriate, for the structure portion of the project. However, Caltrans' review will be contingent upon availability of staff.

EROSION CONTROL PLANS

Erosion control measures and practices shall be taken to inhibit the dislodging and transporting of soil particles by water or wind, including actions that limit the area of exposed soil and minimize the time the soil is exposed.

Emphasis shall be placed on erosion control in the preparation of PS&E. All reasonable steps shall be taken to ensure that highway project designs for the control of erosion and sedimentation and the protection of water quality comply with applicable standards and regulations of other agencies.

The *AASHTO Highway Drainage Guidelines*, Volume III and *Erosion and Sediment Control in Highway Construction*, 1992, are guidelines to be followed on all construction projects. These guidelines are not intended to pre-empt any local requirements or State law if such requirements are more stringent.

Federal-aid funds shall not be used in erosion and sediment control actions made necessary because of contractor oversight, carelessness, or failure to implement sufficient control measures.

WORK ZONE SAFETY AND MOBILITY

LOCAL AGENCY POLICY

23 CFR Part 630-Subpart J "Work Zone and Safety and Mobility" requires the implementation of a policy by the local agency for systematic consideration and management of work zone impacts on all federal-aid transportation projects. This policy may take the form of processes, procedures and/guidance, and may vary based on the characteristics and expected work zone impacts of individual projects or classes of projects.

Each local agency may develop its own policy, or may choose to pattern their policy after Caltrans to provide a smooth and efficient flow of traffic, while retaining safety through the roadway work zone. For Caltrans' policy refer to the Deputy Directive-60 "Transportation Management Plan," which is available from the office of the District Local Assistance Engineer (DLAE). The local agency's policy can be as simple as to provide a smooth and efficient flow of traffic, while retaining safety through the roadway work zone. This simple policy is used in the "Sample Notice to Contractors & Special Provisions" of the "Sample Boiler Plate for Contract Documents" available at the

The PS&Es shall include appropriate pay item provisions for implementation of the TMP, either through method or performance-based specifications:

1) For method-based specifications individual pay items, lump sum payment or a combination thereof may be used.
2) For performance-based specifications, applicable performance criteria and standards may be used (e.g., safety performance criteria such as number of crashes within the work zone; mobility performance criteria such as travel time through the work zone delay, queue length and traffic volume; incident response and clearance criteria; work duration criteria).

Responsible Persons

The local agency and the contractor shall each designate a trained person at the project level who has the primary responsibility and sufficient authority for implementing the TMP and other safety and mobility aspects of the project

WORK ZONE IMPLEMENTATION AND IMPROVEMENT PROCEDURES

- **Work Zone Assessment and Management Procedures**

  A local agency shall develop and implement systematic procedures to assess work zone impacts in project development and manage safety mobility during project implementation. The scope of these procedures shall be based on the project characteristics.

- **Work Zone Data**

  A local agency shall use field observations, available work zone crash data and operational information to manage work zone impacts for specific projects during the implementation. A local agency shall continually pursue improvement of work zone safety and mobility by analyzing work zone crash and operational data from multiple projects to improve the processes and procedures. A local agency shall maintain elements of the data and information resources that are necessary to support these activities.

- **Training**

  A local agency shall require that personnel (either staff or contract personnel) involved in the development, design, implementation, operation, inspection or enforcement of work zone related transportation management and traffic control be trained appropriate to the job descriptions each individual is required to perform. A local agency shall require periodic training updates that reflect changing industry practices and state processes and procedures.

- **Process Review**

  In order to assess the effectiveness of work zone safety and mobility procedures, Caltrans shall perform a process review at least every two years. The process review may include the evaluation of work zone data at the local agency level and/of review of randomly selected projects throughout the local agency's jurisdictions. Appropriate personnel who represent the project development stages and the different offices within Caltrans and FHWA should participate in this review. Other non-state stakeholders may also be included in this review, as appropriate. The results of the review are intended for the improvements in the work zone processes and procedures, data and information resources, and training programs to enhance efforts in addressing safety and mobility of both current and future projects.

AMERICANS WITH DISABILITIES ACT (ADA) COMPLIANCE PLANS

Within the project limits, the plans (and specifications if applicable) must comply with the federal ADA and the California and Local Building Codes. For construction or alteration that commenced after January 26, 1992, *Title 28 Code of Federal Regulations (CFR) Part 35* "*Nondiscrimination on the Basis of Disability in State and Local Government Services*" or *Title 28 CFR Part 36* "*Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities*" including "*Appendix A*" require each new or altered facility (includes roads and streets) or part of a facility constructed or altered by, on behalf of, or for the use of a public entity shall be designed and constructed or altered in such manner that the facility or part of the facility is readily accessible to and usable by individuals with disabilities. Each altered facility shall to the maximum extent feasible, be altered in such manner that the altered portion of the facility is readily accessible to, and usable by individuals with disabilities.

As mentioned in Chapter 11 "Design Standards," "Title II-6.6000"of the Department of Justice's "*Technical Assistance Manual*," when streets, roads, or highways are newly built or altered, they must have ramps or sloped areas, wherever there are curbs, or other barriers to entry from a sidewalk, or path. Likewise, when new sidewalks or paths are built or are altered, they must contain curb ramps or sloped areas, wherever they intersect with streets, roads, or highways. The "Curb Ramp Details" included in the Caltrans "Standard Plans" fully comply with both the federal and state requirements for curb ramps.

Alterations include items such as reconstruction, major rehabilitation, widening, resurfacing (e.g., structural overlays, mills and fills), signal installation and upgrades, and projects of similar scale and effect. They do not consider maintenance activities, such as filling potholes to be alterations. They do consider resurfacing beyond normal maintenance to be an alteration. Maintenance activities include actions that are intended to preserve the system, retard future deterioration, and maintain the functional condition of the roadway without increasing the structural capacity. These activities include, but are not limited to, thin surface treatments (nonstructural), joint repair, pavement patching (filling potholes), shoulder repair, signing, striping, minor signal upgrades, and repairs to drainage systems.

held for the days the contractor did not pay overtime. The local agency can enforce the withholding of $10 per day against the contractor or subcontractor for each underpaid employee. Other actions such as termination of the contract or legal action may be enforced if there are any serious violations of the contract.

Contractors must pay the **higher** of either the minimum federal wage rates or State prevailing wage rates.

State prevailing wage rates are available from the State Department of Industrial Relations, Division of Labor Statistics.

V. STATEMENTS AND PAYROLLS

This section of Form FHWA 1273 applies to all federal-aid construction contracts exceeding $2,000 and all related subcontracts, except for projects not located on a federal-aid route (see "Note" above).

Under the Copeland Act, workers are protected from paybacks to employers. The contractor and subcontractors must furnish weekly-certified payroll statements so that the Davis Bacon requirements can be verified.

VI. RECORD OF MATERIALS, SUPPLIES, AND LABOR

This section of Form FHWA 1273 applies to all federal-aid projects in excess of $1 million that are on the NHS excluding force account, beautification, and railroad protective device projects.

Under this provision, the contractor is required to complete and submit a "Statement of Materials and Labor Used by Contractors on Highway Construction Involving Federal Funds" (see as Exhibit 17-H "Statement of Materials and Labor Used by Contractors FHWA [Form 47]," of this manual).

VII. SUBLETTING OR ASSIGNING THE CONTRACT

This section of Form FHWA 1273 applies to all federal-aid highway construction projects.

The contractor is required to perform work amounting to not less than 30 percent of the original contract amount with his/her own organization, excluding specialty items.

No portion of the work may be sublet, assigned or otherwise subcontracted without the written consent of the local agency.

Conformance with State Public Contract law regarding subcontracting shall be provided elsewhere in the contract provisions.

Note: Local agencies which use *Caltrans Standard Specifications* or the *Greenbook Standard Specifications for Public Works Construction* and choose to use the 30 percent option specified for federal-aid projects must include a special provision to override the *Caltrans Standard Specifications Section 8-1.01,* or the *Green book Specifications Section 2-3.1,* which require that the minimum percentage of work that a contractor must perform with its own organization is 50 percent excluding any identified specialty items.

VIII. SAFETY: ACCIDENT PREVENTION

On all federal-aid construction contracts, the contractor must comply with all federal, State, and local laws governing health, safety, and sanitation. The contractor must protect the life and health of employees and safety of the public and property. Laborers and mechanics should not be allowed to work under unsanitary or hazardous conditions as determined by construction safety standards. The Department of Labor has right of entry to any construction site of a contract for inspection or investigation of Occupation, Safety, and Health Act (OSHA) standards. The local agency must enforce State safety standards, report violations, and provide cooperation.

IX. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

On all federal-aid construction contracts, the use of false statements is a felony. False claims for the purpose of obtaining payments against federal funds are subject to a $2,000 fine per each violation. Willful distortion or misrepresentation of any facts related to the project violates federal law. A "false statements" poster (Form FHWA 1022) must be posted on the project site. Copies of the poster may be obtained through Caltrans or FHWA Offices.

X. CLEAN AIR ACT AND WATER POLLUTION CONTROL ACT

On all federal-aid construction contracts and all related subcontracts of $100,000 or more, concrete or asphalt plants used in construction must meet air standards of the Clean Air Act and the water quality standards Federal Water Pollution Control Act.

Form FHWA 1273 implements the EPA regulations, which requires violating facilities be listed and not used on government contracts. Use of Form FHWA 1273 constitutes a certification by the contractor that the facilities being used on the contract are not under consideration for inclusion on the EPA's "List of Violating Facilities." The contractor is required to inform the local agency of any notification from EPA showing that the facility may soon be on the list.

The EPA's "List of Violating Facilities" appears in the *Federal Register*. Changes to this list are published weekly in the *EPA Environmental News.*

The "List of Violating Facilities" consists of the following sub lists:

- Violating Facilities of the Clean Air Act (mandatory listed) and
- Facilities that are or have been in recurring noncompliance with clean air or water standards and have one or more of the following:
- A conviction under the Clean Air Act under Section 113C(2)
- Any injunction or judgment including consent decrees or other forms of civil ruling by a federal, state, or local court issued because of noncompliance with

suspended for other reasons or if an adjustment is provided for, or excluded, under other terms or conditions of the contract.

MATERIAL CHANGES IN THE SCOPE OF THE WORK

This clause provides for the adjustment of the contract terms if the resident engineer orders, in writing, an alteration in the work or in the quantities that significantly change the character of work. The term "significant change" shall be constructed to apply only to the following circumstances:

- The altered character of the work differs materially from that of the original contract, or
- A major item of work, as defined in the contract, is increased or decreased by more than 25 percent of the original contract quantity (adjustments shall apply only to that portion in excess of 125 percent of original contract quantity, or in case of a decrease, to the actual quantity performed)

This clause provides for adjustments resulting from formal change orders by the resident engineer, in writing, to the extent that the impacted work is part of the contract. Either party may initiate an adjustment and both must be in agreement before the work is performed. As with the suspension of work provision, this clause does not preclude the recognition of constructive suspensions or delays.

12.10 RESTRICTED CONTRACT PROVISIONS

INDIAN PREFERENCE

Generally, local agencies may not use local hiring practices on federal-aid construction projects. However, SAFETEA-LU permits an Indian employment preference provision for federal-aid projects on or near Indian reservations or Indian lands. Roads near an Indian reservation are those within a reasonable commute to and from the reservation. Indian preference shall be applied without regard to tribal affiliation or place of enrollment.

In setting employment goals, consideration should be given to the potential employment requirements of the contractor and core-crew. A contractor shall not layoff or terminates a core-crew employee to meet a preference goal**.** Any sanctions for failure to meet employment goals should be included as part of the contract.

Many tribes have a Tribal Employment Rights Office (TERO) tax, which applies to contracts performed within the reservation boundaries. FHWA will reimburse any local tax as long as it does not single out federal-aid highway construction contracts. TERO's can bill contractors for services rendered during recruitment and related support services. These fees are not eligible for federal participation. If part of a project is not within the reservation boundaries, the TERO tax shall not apply to that portion. "On" and "Off" reservation portions of the project should be clearly indicated in order to avoid over-payment.

BONDING AND PREQUALIFICATION

Bonding is grouped into three classifications which are:

- Bid bonds -- consisting of a bond, certified check or negotiable instrument submitted with the bid as assurance that the bidder will execute the contract within the specified time.
- Performance bonds -- executed with the contract to assure the contractor's obligations under the contract.
- Payment bonds -- executed in connection with a contract to assure payment, as required by law, to all persons supplying labor and material in the contract.

Prequalification is defined "as a means of predetermining job experience and work capacity and is used to identify individuals and organizations from which the local agency may accept a bid."

The FHWA does not require implementation of procedures or requirements for prequalification, bonding, or licensing on federal-aid projects. However, if the local agency has such procedures or requirements, they must conform to the FHWA's competitive bidding policy as follows:

- No procedures or requirements for bonding, insurance, prequalification, qualification, or licensing of contractors shall be used which may operate to restrict competition, prevent submission of a bid by or prohibit consideration of a bid submitted by any responsible contractor, whether a resident or nonresident of the State wherein the work is to be performed.
- No contractor shall be required to obtain a license before the submission of a bid or before the bid may be considered for award of a contract.

PRICE ADJUSTMENT CLAUSES

On all federal-aid construction projects, price adjustment clauses may be implemented under the following conditions:

- Material costs are extremely volatile
- Suppliers are unable to provide a price quote for the full term of the contract
- Price quotes are subject to delivery or market conditions
- Shortages are expected

These provisions should be limited to materials whose price volatility may produce a large effect on contract prices. The standard adjustment(s) should be quantifiable and set out in the contract specifications. The standard adjustment(s) should be based on a price or base index, which is not susceptible to manipulation by contractors or suppliers, such as the consumer price index. Published price data may be found in the Bureau of Labor Statistics: Producer *Price Indexes*, *Engineering News Record* (weekly) or various oil-related publications with price data for oil-related products.

The above work must also be identified and segregated for the purposes of the preliminary and detail estimates.

Quantities for each structure shall be shown separately with an appropriate structure code. Miscellaneous work, such as utility adjustments by a utility company, shall 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. After September 30, 1996, metric units shall be used for all items of work for projects on the SHS. For projects off the SHS, the local agency has the option of using English or Metric units until October 30, 2000. However, the local agency must use Metric units if the local agency project uses Caltrans' contract documents (*Standard Plans*, *Standard Specifications*, etc.), or when it is requested that Caltrans review the structure portion of a project.

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 local agency with or without the item code number. The contract item list should be used if the local agency is using Caltrans *Standard Specifications* as the item descriptions are matched with the specifications.

LOCAL AGENCY FURNISHED MATERIALS

Local agency furnished materials are a part of the total cost of the project and should be subtotaled and included in the total project cost.

To be eligible for federal participation, any material (other than local natural material) purchased by the local agency 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, approved by the local agency and submitted to the DLAE for review justifies the use of another method of acquisition. The unit cost eligible for federal participation is limited to the unit cost of such material to the local agency.

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, right of way obligations, 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 of this manual).

For additional information on the use of supplemental work as an item of work, refer to the Caltrans *PS&E Guide*, available from the Caltrans Central Publications Distribution Unit.

CONTINGENCIES

Estimates may include contingencies, including supplemental work, of five to ten percent of the total estimate. Contingency amounts should be adjusted to give the total contract a round number. If there is a large amount of supplemental work, ten percent may be exceeded, but contingencies should always be at least five percent.

CONSTRUCTION ENGINEERING

The Code of Federal Regulations defines construction engineering as the supervision and inspection of construction activities; additional staking functions considered necessary for effective control of the construction operations; testing materials incorporated into construction; checking shop drawings; and measurements needed for the preparation of pay estimates.

Construction engineering costs should be shown on the Estimate, if federal reimbursement is desired.

Federal participation in construction engineering is generally limited to fifteen percent of the federal participating construction costs. However, for the HBP, HSIP, and other programs, the DLA may approve request for reimbursement of construction engineering costs in excess of fifteen percent.

FEDERAL TRAINEE PROGRAM

Estimates for federal-aid projects may include an estimated amount for the federal Trainee Program. It is up to the local agency to establish the number of trainees for each project. For additional information on the Federal Trainee Program refer to the "Other Required Contract Provisions" section of this chapter.

ESTIMATES FOR FORCE ACCOUNT (DAY LABOR)

If force account work (day labor) is to be included in the project, it must be listed in the estimate as a separate item. Such work must be justified and documented as described in Section 12.4 of this chapter.

12.14 OPTIONAL BRIDGE REVIEW

When a bridge or major structure is involved, the local agency may request a cursory review of the structural designs by Caltrans Division of Structures, Local Assistance. Caltrans review and comments will be advisory only. If requested, Caltrans' decision to review structural plans will be based on:

- Experience of local agency staff
- Complexity of project, type of structure
- Availability of Caltrans staff

If the local agency requests a cursory review, they must submit checked plans to Caltrans Division of Structures. The checker's signature or initials must appear on each sheet of the structure plans. Unsigned plans will be returned to the local agency. The project special provisions and engineering reports must have the engineer's stamp, signature and registration number on the title sheet.

For major federal-aid construction projects on the NHS, involving a bridge or major structure, the bridge review shall be in accordance with PS&E procedures described in Section 12.2 of this chapter.

When transmitting the project documents to the Division of Structures for review, the local agency must identify the following:

- Agency advertising the project
- Estimated advertising date
- Type of funding
- Expenditure authorization number on State-advertised projects

When structure design documents are to be reviewed by Caltrans, the following number of copies, as appropriate, are to be submitted to the Division of Structures. These figures represent the minimum number of copies required.

Document Submitted	Number Required
Plans (reduced or full size prints)	3
Special provisions (for bridge portion)	3
Hydraulic report	2
Foundation report	2

12.15 PS&E CERTIFICATION

Local agencies must certify their PS&E. A PS&E Checklist that identifies the critical federal requirements is provided to assist the local agency. The local agency must submit the local agency PS&E Certification and the PS&E Checklist along with the PS&E package to the Caltrans DLAE when making their request for authorization to proceed with construction.

The "PS&E Certification" (Exhibit 12-C) must be signed by the engineer responsible for the project. Either a local agency employee or a consultant retained by the local agency and must be a professional civil engineer registered to practice in California.

In the certification, the local agency certifies that the PS&E has been prepared in accordance with this chapter and that any necessary design exceptions have been approved by the Public Works Director or his/her designee. The certification must also acknowledge that review of PS&E will not be performed by Caltrans. By this certification, the local agency accepts responsibility for compliance with applicable design standards, Title 23 of the United States Code, and other applicable federal requirements (DBE, EEO, federal and state wage rates, license requirements, etc.). Failure to comply with any of these requirements may cause withdrawal of funds.

PS&E CHECKLIST

Local agencies will complete the "PS&E Checklist" (Exhibit 12-D) and attach it to all PS&E Certification Letters submitted to the DLAE. The checklist has been developed to address the flexibility allowed under federal regulations and still ensure that the minimum required provisions are included in each set of contract documents. For instance, some provisions included in FHWA Form 1273 may not apply to some projects. This will depend on estimated cost, functional classification of the road, and whether the project is on the NHS. However, if any of the required provisions are left out of a construction contract, the project will not be eligible for federal reimbursement.

"PS&E Checklist Instructions" (Exhibit 12-E) are included in order to lead the local agency through the checklist and determine which of the various federal contract provisions are required. Samples of each required federal contract provision are attached. These samples are based on Caltrans *Standard Specifications*, however, the local agency may use equivalent provisions based on other standard specifications as long as the intent of the federal requirement is met.

CHECKLIST REVIEW BY CALTRANS

The DLAEs will review each checklist to ensure that the local agency has completed the form in accordance with the instructions in this manual. Except as discussed below, this review will be limited to the actual checklist and will not involve a review of the PS&E package.

SPECIAL PROVISIONS REVIEW BY CALTRANS

The DLAE has the responsibility to confirm that the correct Special and Federal Contract Provisions are included in the contract provisions as indicated on the checklist. The DLAE should ensure that at least one set of Special and Federal Contract Provisions is reviewed per year for each local agency that submits a PS&E. Also, the DLAE will decide if additional documents will be reviewed based on past experience with the agency; the number of federal-aid projects; the agency has done since the reengineering of Local Assistance procedures; and the amount of resources the district can direct to this effort. Local agencies requesting reviews will be accommodated to the extent that resources are available.

The checklist has been designed to facilitate this review by providing space for the local agency to indicate the page number of the appropriate federal provisions. This review will help the local agencies become familiar with the use of the checklist and the corresponding federal contract provisions. It will not, however, relieve the local agency of responsibility for compliance with all federal requirements.

DLAE ACCEPTANCE OF THE CHECKLIST

The DLAE will indicate acceptance of the checklist by checking the type of review (i.e. whether the checklist review included a review of the special provisions) and signing the form. The local agency's request for authorization for the construction phase of a project will not be forwarded to the Division of Local Assistance (DLA) for approval prior to acceptance by the DLAE.

SUBMITTAL OF PLANS, SPECIFICATIONS AND ESTIMATE (PS&E)

As a minimum, local agencies will submit the contract special provisions and the preliminary estimate with the PS&E Certification Letter. At the discretion of the DLAE, a set of plans will be also required. The plan requirement may be waived based on past experience with the agency and the number of federal-aid projects the agency has completed previously. As soon as the project is advertised, the local agency shall furnish the DLAE one copy of the "as advertised" plans and special provisions, or two copies if structures (bridges) are involved.

PROCESS REVIEW

Process reviews of a random sample of the local agency PS&E packages will be conducted as needed. The process reviews will be conducted on a "post audit" basis.

Local agencies should be aware that if deficiencies are found during a process review, it may be too late to make corrections and the loss of all or a portion of the project federal funding will result.

12.16 PROJECTS WITHOUT TRADITIONAL PS&E

Some projects, on or off the NHS, such as Congestion Mitigation and Air Quality (CMAQ) and Transportation Enhancement (TE) may consist of studies and other nonconstruction type projects. Examples include: Traffic Demand Management (TDM) studies relating to regional air quality, ride sharing, commuter incentives and commuter computer centers.

These projects will not have a set of plans or PS&E, but may only consist of a consultant contract agreement. The local agency shall submit the following to DLAE (see Exhibit 12-B Scope of Work-CMAQ/TE Project in this chapter):

- Work plan
- Budget, with schedule
- Consultant agreement
- Request for Authorization form (prior to consultant approval)

Unlike the traditional PS&E, these studies are submitted for preliminary engineering, only. The project work plan, budget, and consultant agreement are submitted in lieu of PS&E and a detailed estimate. If the project is part of a regional study done by a Metropolitan Planning Organization (MPO), then the local federal-aid portion of the work plan must be segregated to show the project costs associated with each local agency.

12.17 REFERENCES

The Civil Rights Act of 1964
STAA Section 165
23 USC 106(b)(2)
23 USC 112
23 USC 113
23 USC 114
23 USC 140
23 USC 140(b)
23 USC 313
23 USC 315
23 USC 324
25 USC 472a
40 USC 276 (a) Davis-Bacon &
(c) Copeland Act
40 USC 333
23 CFR 200
23 CFR 230
23 CFR 230 A&D
23 CFR 230.111
23 CFR 635.410
23 CFR 627.5
23 CFR 630.1010(a)(2)
23 CFR 633
23 CFR 635.410
23 CFR 771.113
25 CFR 170
28 CFR 35
29 CFR 1,3,5
29 CFR 1630
29 CFR 1926
41 CFR 60
48 CFR 31
49 CFR 1.48
49 CFR 20
49 CFR 21
49 CFR 23
Section 6730-6749 California
Business and Professions Code

Presidential Executive Order 13202 "Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federal and Federally Funded Construction Projects" dated February 17, 2001 (Federal Register: February 22, 2001; Volume 66, Number 36, Presidential Documents, Pages 11225-11226)

Presidential Executive Order 13208 "Amendment to Executive Order 13202 Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federal and Federally Funded Construction Projects," dated April 6, 2001 (Federal Register: April 11, 2001; Volume 66, Number 71, Presidential Documents, Pages 18717-18718)

Caltrans Memorandum to "All District Directors" dated June 12, 2000; Subject: Delegation of Authority for Use of A+B Bidding and Incentive/Disincentive (I/D) Provisions

Stewardship Agreement known as "Project Approval and Oversight" between FHWA and Caltrans, dated December 2002

SAFETEA-LU Web site: http://www.fhwa.dot.gov/safetealu/index.htm

http://www.dot.ca.gov/hq/LocalPrograms/lam/prog_p/p09crdbe.pdf

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

http://www.ada.gov/stdspdf.htm

http://www.access.gpo.gov/nara/cfr/waisidx_04/28cfr35_04.html

X. PROJECT PLANS AND SPECIFICATIONS

Project plans shall be signed and stamped on behalf of the local agency by the person in responsible charge and who is a registered professional engineer licensed to practice in the State of California. A traffic control plan shall be included in the PS&E for all federal-aid highway construction projects. Check boxes to indicate requirements are met. Failure to check both boxes will result in denial of the "Request for Authorization".

Erosion control plans may be required; see Section 12.7 Plans, in the *Local Assistance Procedures Manual* (LAPM). If required, check box.

Project plans and specifications may be required to meet the Americans with Disabilities Act (ADA) requirements under federal 28 CFR Part 35 or Part 36. Whenever applicable, project plans will need to comply with the federal 28 CFR Part 35 or Part 36, and the California and Local Building Codes within the project limits. In accordance, with 28 CFR Sec. 35.151, curbs ramps must meet current ADA standards if the project includes streets that are to be newly constructed or altered (includes repaving). For ADA requirements, see Chapter 11 "Design Standards," and Section 12.7 of this chapter of LAPM. If ADA requirements apply and will be complied with, check box.

XI. STANDARD SPECIFICATIONS

For projects off the State Highway System, the local agency may use Caltrans *Standard Specifications, the Standard Specifications for Public Works Construction,* or subject to the conditions described in Chapter 11, "Locally Approved Standard Specifications." Check appropriate box.

XII. REQUIRED FEDERAL CONTRACT PROVISIONS (SEE ATTACHMENTS A thru N, THIS EXHIBIT)

A. GENERAL FEDERAL REQUIREMENTS

General provisions must be included to reference FHWA Form 1273, Performance of Previous Contract, Noncollusion Provision, and Participation by Minority Business Enterprises In Subcontracting. Caltrans SSP - *SECTION 14. FEDERAL REQUIREMENTS FOR FEDERAL-AID CONSTRUCTION PROJECTS* (Attachment A, pages FR-1 & FR-2) or equivalent provisions shall be used.

Check appropriate box (i.e. Caltrans SSP or equivalent) and indicate page number.

B. FHWA FORM 1273

1. Incorporation of FHWA Form 1273 into Contract

FHWA Form 1273- *REQUIRED CONTRACT PROVISIONS, FEDERAL-AID CONSTRUCTION CONTRACTS, (Exclusive of Appalachian Contracts)* (Attachment B, pages FR-3 thru FR-14) shall be made a part of, and physically incorporated into all contracts as well as appropriate subcontracts and purchase orders. The provisions contained in FHWA Form -1273 are generally applicable to all federal-aid construction projects. Except as described below, the form may not be modified.

Check the appropriate box, (i.e. unmodified or modified), and indicate page number.

2. Modification of FHWA Form 1273

If the provisions contained in FHWA Form 1273 will be modified, fill in the required project information before completing Sections **2.a.** thru **2.d.**

a. Section IV. Payment of Predetermined Wages

This section applies to all federal-aid highway construction projects exceeding $2,000 dollars and to all related subcontracts, except for projects not located on the Federal-aid System (roadways classified as local roads or rural minor collectors), which are exempted. If exempted, this section may be crossed out, removed, or it may be specified elsewhere in the contract that it does not apply.

Check the appropriate box, (i.e. not modified or modified). If this section has been modified, indicate how the section was modified (i.e. crossed out, removed or specified elsewhere in the contract that it does not apply).

b. Section V. Statements and Payrolls

This section applies to all federal-aid highway construction projects exceeding $2,000 dollars and to all related subcontracts, except for projects not located on the Federal-aid System (roadways classified as local roads or rural minor collectors), which are exempted. If exempted, this section may be crossed out, removed, or it may be specified elsewhere in the contract that it does not apply.

Check the appropriate box, (i.e. not modified or modified). If this section has been modified, indicate how the section was modified (i.e. crossed out, removed or specified elsewhere in the contract that it does not apply).

c. Section VI. Record of Materials, Supplies, and Labor

This section applies to all federal-aid projects in excess of $1 million only on the NHS. Certain projects are excluded on the NHS. If not applicable, this section may be crossed out, removed, or it may be specified elsewhere in the contract that it does not apply.

Check the appropriate box (i.e. not modified or modified). If this section has been modified, indicate how the section was modified (i.e. crossed out, removed or specified elsewhere in the contract that it does not apply).

d. Section VII. Subletting or Assigning the Contract

This section applies to all federal-aid projects. This section may be crossed out, removed, or it may be specified elsewhere in the contract that it does not apply, if the local agency chooses 50 percent as the minimum percentage of work, excluding any identified specialty items, as specified in the *Caltrans Standard Specifications* or the *Greenbook Specifications*. A special provision must be included specifying which percentage is to be used.

Check the appropriate box (i.e. not modified or modified). If this section has been modified, indicate how the section was modified (i.e. crossed out, removed or specified elsewhere in the contract that it does not apply).

A. INDIAN PREFERENCES

Generally, local agencies may not use local hiring practices. However, SAFETEA-LU permits an Indian employment preference provision for projects on or near Indian reservations or Indian lands. Check the appropriate box.

B. BONDING AND PREQUALIFICATION

Bonding and prequalification procedures are not required for federal-aid projects. However, any procedures or requirements for bonding, insurance, prequalification, qualification, or licensing of contractors shall not be used which may operate to restrict competition, prevent submission of a bid by or prohibit consideration of a bid submitted by any responsible contractor, whether a resident or nonresident of California. Check appropriate boxes and if bonding and/or prequalification are used check the last box to indicate the requirement will be met.

C. PRICE ADJUSTMENT CLAUSES

Price adjustment clauses may be implemented if certain conditions are met. If these clauses are used, the local agency must provide documentation of the required conditions in the project files. Check the appropriate box.

D. WARRANTY CLAUSES

Warranty clauses may be implemented if the conditions described in Section 12.12 of Chapter 12 are met. The local agency must provide documentation of the required conditions in the project files. Check the appropriate box.

E. PROPRIETARY ITEMS

The use of proprietary items is restricted as described in Section 12.12 in Chapter 12. If the use does not meet these restrictions, a Public Interest Finding justifying the use must be approved by the local agency and documented in the project files. Check the appropriate box.

XIV. MATERIALS AND EQUIPMENT

Unless otherwise noted, see Section 12.12 of Chapter 12 for details.

A. Publicly Owned Equipment (for use by Contractor)

The use of publicly owned equipment on a project going to bid must be justified with a Public Interest Finding. The local agency may approve the use provided it meets conditions described in Chapter 12. Check the appropriate box.

B. Equipment Purchases for Local Ownership

The cost of equipment purchased by the local agency or by the contractor with ownership transferred to the local agency for construction engineering is limited. Check the appropriate box.

C. Convict Produced Materials

Materials produced by convict labor may be used on any federal-aid project if they meet certain conditions. Check appropriate box.

D. Local Agency Furnished Materials

The use of local agency furnished materials not acquired on the basis of competitive bidding must be supported by a Public Interest Finding justifying the use (see Section 12.13 of Chapter 12). The justification must be approved by the local agency and documented in the project files. If these materials are included, check the appropriate box indicating the method of acquisition.

XV. PRELIMINARY ESTIMATE

An estimate of the contract items of work must be prepare in a format which describes the items of work, unit amount, quantity, unit price, amount, a subtotal, contingencies and a total. (Exhibit 12-A " Preliminary Estimate of Cost," or equivalent). The estimate must be broken down into items sufficient in detail to meet the stated requirements. Check boxes if these requirements are met.

If the project is funded with more than one type of federal-aid it must be segregated by fund types (see Chapter 3, "Project Authorization," of the LAPM). Check box if this requirement is met.

XVI MAJOR PROJECTS WITH TOTAL COSTS EXPECTED TO EXCEED $100 MILLION OR $500 MILLION

The federal SAFETEA-LU requires that a local agency receiving any amount of federal financial assistance for "major" projects with an estimated total costs exceeding $100 million must have a financial plan and for projects exceeding $500M must also have a project management plan. For details of the required submittal and approval of these two plans, which are required for all "major" projects exceeding the two estimated total costs, refer to Chapter 2 "Roles and Responsibilities" of the LAPM .

XVII. LOCAL AGENCY SIGNATURE

The Federal Contract Provisions Checklist shall be signed by the person preparing the contract specifications. The checklist shall be signed even if prepared by the same person who will sign the PS&E Certification.

XVIII. CALTRANS ACCEPTANCE

Caltrans will indicate the appropriate acceptance statement based on the type of review, as described in Chapter 12, "Plans, Specifications & Estimate," of the LAPM and sign the bottom of the form.

c. Each contractor and subcontractor shall furnish, each week in which any contract work is performed, to the SHA resident engineer a payroll of wages paid each of its employees (including apprentices, trainees, and helpers, described in Section IV, paragraphs 4 and 5, and watchmen and guards engaged on work during the preceding weekly payroll period). The payroll submitted shall set out accurately and completely all of the information required to be maintained under paragraph 2b of this Section V. This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal stock number 029-005-0014-1), U.S. Government Printing Office, Washington, D.C. 20402. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors.

d. Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his/her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) that the payroll for the payroll period contains the information required to be maintained under paragraph 2b of this Section V and that such information is correct and complete;

(2) that such laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in the Regulations, 29 CFR 3;

(3) that each laborer or mechanic has been paid not less that the applicable wage rate and fringe benefits or cash equivalent for the classification of worked performed, as specified in the applicable wage determination incorporated into the contract.

e. The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 2d of this Section V.

f. The falsification of any of the above certifications may subject the contractor to civil or criminal prosecution under 18 U.S.C. 1001 and 31 U.S.C. 231.

g. The contractor or subcontractor shall make the records required under paragraph 2b of this Section V available for inspection, copying, or transcription by authorized representatives of the SHA, the FHWA, or the DOL, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the SHA, the FHWA, the DOL, or all may, after written notice to the contractor, sponsor, applicant, or owner, take such actions as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

VI. RECORD OF MATERIALS, SUPPLIES, AND LABOR

1. On all Federal-aid contracts on the National Highway System, except those which provide solely for the installation of protective devices at railroad grade crossings, those which are constructed on a force account or direct labor basis, highway beautification contracts, and contracts for which the total final construction cost for roadway and bridge is less than $1,000,000 (23 CFR 635); the contractor shall:

a. Become familiar with the list of specific materials and supplies contained in Form FHWA-47, "Statement of Materials and Labor Used by Contractor of Highway Construction Involving Federal Funds," prior to the commencement of work under this contract.

b. Maintain a record of the total cost of all materials and supplies purchased for and incorporated in the work, and also of the quantities of those specific materials and supplies listed on Form FHWA-47, and in the units shown on Form FHWA-47.

c. Furnish, upon the completion of the contract, to the SHA resident engineer on Form FHWA-47 together with the data required in paragraph 1b relative to materials and supplies, a final labor summary of all contract work indicating the total hours worked and the total amount earned.

2. At the prime contractor's option, either a single report covering all contract work or separate reports for the contractor and for each subcontract shall be submitted.

VII. SUBLETTING OR ASSIGNING THE CONTRACT

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the State. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635).

a. "Its own organization" shall be construed to include only workers employed and paid directly by the prime contractor and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor, assignee, or agent of the prime contractor.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid on the contract as a whole and in general are to be limited to minor components of the overall contract.

Form 1273 — Revised 3-95
08-07-95

2. The contract amount upon which the requirements set forth in paragraph 1 of Section VII is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. The contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the SHA contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the SHA contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the SHA has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract.

VIII. SAFETY: ACCIDENT PREVENTION

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the SHA contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333).

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333).

IX. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, the following notice shall be posted on each Federal-aid highway project (23 CFR 635) in one or more places where it is readily available to all persons concerned with the project:

NOTICE TO ALL PERSONNEL ENGAGED ON FEDERAL-AID HIGHWAY PROJECTS

18 U.S.C. 1020 reads as follows:

"Whoever being an officer, agent, or employee of the United States, or any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 1, 1916, (39 Stat. 355), as amended and supplemented;

Shall be fined not more that $10,000 or imprisoned not more than 5 years or both."

X. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

(Applicable to all Federal-aid construction contracts and to all related subcontracts of $100,000 or more.)

By submission of this bid or the execution of this contract, or subcontract, as appropriate, the bidder, Federal-aid construction contractor, or subcontractor, as appropriate, will be deemed to have stipulated as follows:

1. That any facility that is or will be utilized in the performance of this contract, unless such contract is exempt under the Clean Air Act, as amended (42 U.S.C. 1857 et seq., as amended by Pub. L. 91-604), and under the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq., as amended by Pub. L. 92-500), Executive Order 11738, and regulations in implementation thereof (40 CFR 15) is not listed, on the date of contract award, on the U.S. Environmental Protection Agency (EPA) List of Violating Facilities pursuant to 40 CFR 15.20.

2. That the firm agrees to comply and remain in compliance with all the requirements of Section 114 of the Clean Air Act and Section 308 of the Federal Water Pollution Control Act and all regulations and guidelines listed thereunder.

3. That the firm shall promptly notify the SHA of the receipt of any communication from the Director, Office of Federal Activities, EPA, indicating that a facility that is or will be utilized

5-1.__ BUY AMERICA REQUIREMENTS. -- Attention is directed to the "Buy America" requirements of the Title 23 United States Code, Section 313 and the regulations adopted pursuant thereto. In accordance with said law and regulations, all manufacturing processes for steel and iron materials furnished for incorporation into the work on this project shall occur in the United States; with the exception that pig iron and processed, pelletized and reduced iron ore manufactured outside of the United States may be used in the domestic manufacturing process for such steel and iron materials. The application of coatings, such as epoxy coating, galvanizing, painting, and any other coating that protects or enhances the value of such steel or iron materials shall be considered a manufacturing process subject to the "Buy America" requirements.

A Certificate of Compliance, conforming to the provisions in Section 6-1.07, Certificates of Compliance, of the Standard Specifications, shall be furnished for steel and iron materials. The certificates, in addition to certifying that the materials comply with the specifications, shall also specifically certify that all manufacturing processes for the materials occurred in the United States, except for the exceptions allowed herein. The requirements imposed by said law and regulations do not prevent a minimal use of foreign steel and iron materials if the total combined cost of such materials used does not exceed one-tenth of one percent (0.1%) of the total contract cost or $2,500, whichever is greater. The Contractor shall furnish the Engineer acceptable documentation of the quantity and value of any foreign steel and iron prior to incorporating such materials into the work.

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U.S DEPARTMENT OF TRANSPORTATION | FEDERAL HIGHWAY ADMINISTRATION | CALIFORNIA DEPARTMENT OF TRANSPORTATION

REQUEST FOR APPROVAL OF COST-EFFECTIVENESS/PUBLIC INTEREST FINDING

COST-EFFECTIVENESS DETERMININATION REQUIRED	**PUBLIC INTEREST DETERMININATION REQUIRED**
☐ Experimental Contracting methods (23 CFR 635.204) ☐ Informal Bid (Less than three week advertisement) (23 CFR 635.112)* ☐ Use of force account (day labor) (23 CFR 635.201) ☐ Use of publicly owned equipment (23 CFR 635.106) ☐ Other: _____	☐ Use of State-furnished materials (23 CFR 635.407) ☐ Mandatory use of borrow/disposal sites (23 CFR 635.407) ☐ Use of patented and proprietary materials (23 CFR 635.411) ☐ Waiver of Buy America Requirements (23 CFR 635.410)* ☐ Other: _____ * **Requires Caltrans/FHWA approval**

FEDERAL-AID PROJECT	CLASS OF FEDERAL FUNDS: ☐ IM ☐ NH ☐ STP ☐ OTHER:		
	STEWARDSHIP: ☐ STATE AUTHORIZED ☐ FULL OVERSIGHT		
EA	DIST-CO-RTE- PM	ESTIMATED COST	FEDERAL FUNDS

GENERAL LOCATION	GENERAL DESCRIPTION OF WORK:

REASONS THAT REQUESTED APPROVAL IS CONSIDERED TO BE COST-EFFECTIVE OR IN THE PUBLIC'S BEST INTEREST (STATE):

REMARKS (STATE) :

APPROVED BY LOCAL AGENCY'S REPRESENTATIVE (State Author. Projects)	REPRESENTATIVE NAME AND TITLE:	Date:

Distribution: 1) Local Agency File –Original 2) DLAE –Copy 3) Caltrans Project Manager -Copy if on the SHS

INSTRUCTIONS

1. Check appropriate box under "Cost-Effective Determination Required" or "Public Interest Determination Required."
2. Check "Class of Funds" as follows: IM-Interstate Maintenance, NH-National Highway, STP-State Transportation Program, Other (all other classes).
3. Provide the Federal-aid Project EA number in first column.
4. Identify Caltrans District-County-State Route-Post Mile, or City and street in second column.
5. List Estimated Cost of the portion of the project subject to this "Finding".
6. List the amount of the Federal Funds in the portion of the project subject to this "Finding."
7. Describe "General Location" applicable to this "Finding."
8. Provide "General Description of Work" affected by this "Finding."
9. Explain and give "Reasons that requested approval is considered to be cost-effective, or in the public's best interest." Provide cost analysis or comparison as evidence of cost-effectiveness.
10. "Remarks" is for the Local Agency Representative approving the Finding.
11. Signature, Name, and Title of Local Agency Representative approving "Finding."
12. Date of Local Agency Representative's signature.

NOTES:

a. Local agency "State Authorized" Projects **off** the State Highway System (SHS) or NHS requires the signature of the City or County Public Works Director.

b. Local agency "State Authorized" Projects **on** the State Highway System, or NHS also requires Caltrans approval.

c. Local agency "State Authorized" Projects on the Interstate requires both Caltrans and FHWA approval.

d. One exception to the foregoing is the local agency "Waiver of Buy America Requirements" which requires both Caltrans and FHWA approval, **off** and **on** the State Highway System or NHS.

e. Questions, the local agency should check with the DLAE for projects **off** the SHS, and the Caltrans Project Manager for projects on the SHS or Interstate.

CHAPTER 13 RIGHT OF WAY

13.1 GENERAL

"Right of Way" refers to the real property rights, which local agencies must possess to construct local assistance transportation projects utilizing federal funds. The provisions of this chapter apply to all local assistance projects involving federal funds **off** the State Highway System (SHS), whether or not these funds are expended for purchase of real property rights. For local agency projects on the SHS or any portion thereof, Caltrans and/or the local public agency must follow the Caltrans Manuals that apply to the work being done, among them, the *Right of Way Manual* and the *Cooperative Agreement Manual.*

The authority to acquire property for a public project is found in the US Constitution and the Bill of Rights and the processes to exercise this authority are contained in federal law.

Under federal laws and regulations that apply whenever federal funds are used for a project, affected property owners and those displaced by the project are entitled to be treated in ways that provide the due process of law and which ensure they are justly compensated for losses they experience.

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 right of way 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 AGENCY RELATIONSHIP

The Federal Highway Administration (FHWA) is the federal agency most typically involved in transportation projects undertaken with federal funding for the programs discussed in this manual. 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, the FHWA is involved pursuant to these responsibilities and the delegations described below.

Caltrans has obtained major delegations of authority from FHWA under the provisions of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) that superseded the Transportation Equity Act of the 21st Century (TEA-21), and previous Transportation Acts. Further, it has passed on these delegations to local agency 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.

ISTEA established provisions for Congress to adopt a National Highway System (NHS) of 155,000 miles of major roads in the United States. This system was established to

provide an interconnected system of principle arterials, which serve major populated centers, international border crossings, ports, airports, public transportation facilities, and which meets national defense requirements as well as serving interstate travel. Until Congress made its official adoption, the NHS was defined as all principal arterials, including the Interstate System.

On November 28, 1995, the President signed the legislation defining the NHS. The system includes all interstate routes, a selection of urban and rural principal arterials, the defense strategic highway network and strategic highway connectors.

In California, about 180 miles of local agency principal arterials were selected to be a part of the NHS. Some procedures in this manual for projects on the NHS are different from those for projects not on the NHS (non-NHS). One of the early local agency determinations should be whether the project is on the NHS.

FHWA ROLE

For all federal-aid projects FHWA is responsible for the following project activities:

- Obligation of federal funds
- Approval of E-76 for Right of Way activities and utilities under the Alternate Procedure
- Execution of Project Agreements
- Acceptance of Right of Way Certification for projects on the NHS where total project costs exceed $1 million

The intent of this chapter is to provide local agencies with the basic understanding of Right of Way procedures for locally sponsored federal-aid transportation projects. Local agencies, which will be actively involved in right of way acquisition and relocation, must comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended in 1987 (the Uniform Act). This law can be found in Chapter 10 of the Caltrans *Right of Way Manual*, the FHWA *Project Development Guide* (see Appendices A and B) and at Section 49 of the Code of Federal Regulations (CFR) Part 24.

Note: The Uniform Act <u>must</u> be followed on all local agency projects even if no federal funds are used for the acquisition of right of way for the project. Although, substantial responsibility for the administration of local agency projects has been delegated to Caltrans (see below, “Caltrans Role”), FHWA has retained the overall responsibility for compliance with the Uniform Act. Towards this end, FHWA periodically performs Process Reviews of local agency projects to ensure that the Uniform Act requirements are being met.

In addition, local agencies must also comply with all requirements of Title VI of the 1964 Civil Rights Act on federal-aid projects. This is to ensure that all services and/or benefits derived from any right of way activity will be administered without regard to race, color, gender, or national origin (see FHWA *Project Development Guide*, Appendix C-12. For additional details on the FHWA/Caltrans relationship, refer to Chapter 2, “Roles and Responsibilities,” of the *Local Assistance Procedures Manual* (LAPM).

14.2 FEDERAL REIMBURSEMENT

Federal regulations governing utility relocation are described extensively in 23 CFR Part 645. Local agencies should be familiar with these regulations. The following procedures are based on the above-mentioned and other federal regulations. **When the local agency requests federal participation in utility relocations, these regulations must be followed.**

Under the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy Users (SAFETEA-LU) and the FHWA Alternate Procedure process 23 CFR 645.119, and E-76, utility relocation work has been delegated to Caltrans on "State-Authorized" projects for full review oversight requirements by FHWA (see Figure 2-1 "FHWA Oversight," Chapter 2 of the LAPM), and Caltrans also has approval authority for "Specific Authorization" and "Approval of the Utility Agreement."

The Utility Coordinator will send all submissions to the Caltrans District Utility Coordinator for review and approval.

The following items must be included in the request:

1. Copy of Notice to Owner
2. Fully executed Utility Agreement
3. Approved owner's conflict resolution plan showing the necessary relocations
4. The completed Report of Investigation and any supporting documents
5. An itemized estimate of the local agency's relocation costs

Such review typically takes three (3) weeks. Submission must be submitted in advance of the proposed ROW Certification date. The DLAE is not responsible for delays due to an incomplete or erroneous relocation package.

ANTICIPATED UTILITY RELOCATIONS

To apply and qualify for federal reimbursement, these steps must be followed:

AUTHORIZATION TO PROCEED (E-76)

Prior to the start of any physical utility relocation work, the local agency must complete the "Request for Authorization to Proceed with Utility Relocation" form (see Exhibit 3-C, Chapter 3 and Exhibit 3-E "Request for Authorization Data Sheet," of the LAPM,) where all anticipated utility facilities requiring relocation will be listed with an estimated cost to relocate each facility.

On page 2 of the above referenced Exhibit 3-C, under Utility Relocation, the "Alternate Procedure" box must be checked. The completed E-76 must request the use of the Alternate Procedure 23 CFR 645.119 (e) (2)) and must include a list of every utility facility anticipated to be relocated along with the utility company's name and best available estimate of the total local agency costs involved for each facility.

The E-76 request must be submitted to the DLAE, who will forward the request to the Caltrans District Utility Coordinator for review and comment. The E-76 request form will then be processed by the DLAE.

SPECIFIC AUTHORIZATION TO RELOCATE UTILITIES

In addition to the "Request for Authorization to Proceed" and prior to commencement of any physical relocation, the local agency must also request and receive a "Specific Authorization to Relocate Utilities" (Form RW 13-15-or Exhibit 14-C in this chapter) for each utility relocation. Either the utility owner or the construction contractor may perform all or portions of the utility facility relocation for which Specific Authorization approval is requested.

NOTE: RW Form 13-15 (Exhibit 14-C) is a dual form, containing both the "FHWA Specific Authorization to Relocate Utilities" and "FHWA Approval of Utility Agreement."

i) Work by Utility Owner or Owner's Contractor

If the relocations are to be performed by the utility owner and federal participation is requested, the Field Review Form (see Chapter 7, "Field Review," of the LAPM) should include the item with sufficient detail to allow programming of the work in the right of way phase for approval by FHWA under a Utility Agreement.

NOTE: Prevailing Wages are required for any works performed by Owner's contractor (Labor Code Section 1720)

ii) Work by Local Agency's Highway Contractor

If the relocations are to be performed during the construction phase by the local agency's highway contractor, the work should be included in the plans and specifications like any other work. The local agency must add an explanation to this effect to the "Remarks" section of the Specific Authorization Request to Relocate Utilities (Exhibit 14-C) and must attach a copy of the approved Specific Authorization to the Right of Way Certification submittal. Utility relocation costs may be included in the highway contract as a bid item, as supplemental work, or as a contract change order, and financed from funds in the construction work authorization.

In the event a major change in scope of work and/or relocation cost is found to be necessary, a revised Specific Authorization to Relocate Utilities must be immediately submitted for authorization prior to the new work being commenced.

Any minor change that does not include changes in scope of the work, addition or deletion of the proposed conflict resolution plan, may be submitted in a letter to Caltrans describing the change including revised maps and estimate, and requesting that the change be included under the original authorization.

APPROVAL OF UTILITY AGREEMENT

The local agency must submit each executed Utility Agreement and a request for FHWA approval of the Utility Agreement to the DLAE for processing. This approval authority has been delegated to Caltrans Division of Right of Way and Land Surveys by FHWA. Such review and approval typically takes three (3) weeks if the local agency used the pre-approved utility clause ("Utility Agreement Clauses," Exhibit 14-G, of this chapter).

Upon approval, Caltrans will provide the local agency with the FHWA Approval of Utility Agreement form (Exhibit 14-C) for each Utility Agreement. Any exceptions to the approval will be noted in writing on the "Remarks" section of the form, and the local agency will be requested to concur with the exceptions or to prepare a rebuttal. It is anticipated that agreement will be reached on all such items prior any physical work commencement to avoid the loss of eligibility.

WRITTEN AUTHORIZATION

If a written Special Authorization to Relocate Utilities is obtained, a complete request package ("Submittal Requirements for Federal Participation in Utility Relocations," Exhibit 14-A in this chapter) must be submitted to the DLAE within 30 days. The DLAE will forward the request package to the Caltrans District Utility Coordinator for review and approval.

The approval should contain a statement that the Caltrans District Utility Coordinator has reviewed the relocation plans and is familiar with the circumstances requiring Special Authorization to Relocate Utilities.

VERBAL AUTHORIZATION

Verbal Special Authorization to Proceed may be requested, if during construction a previously unknown utility conflict is discovered that will delay the contractor. Verbal Special Authorization to Proceed may be obtained from the Caltrans District Utility Coordinator (via the DLAE) by telephone or fax. The Caltrans District Utility Coordinator will confirm each verbal authorization via letter to the local agency's Project Engineer. Such confirmation letters shall be issued within five (5) working days or sooner, depending on the complexity of the relocation and the circumstances, which necessitate it. A copy of each confirmation letter will be sent to the DLAE.

If Verbal Special Authorization to Proceed is obtained, the local agency must furnish a written submittal to the DLAE confirming the information and containing a fully documented relocation plan. This must be accomplished within 30 days. An appropriate diary of decisions and discussions shall be maintained.

14.3 HIGH AND LOW RISK UNDERGROUND FACILITIES

Caltrans' Policy on High and Low Risk Underground Facilities Within Highway Rights of Way requires all high risk utility facilities located within project limits are positively identified and to be shown on project plan.

For Federally Participating "Off-System" projects, compliance with the state's policy on High and Low Risk Underground Facilities is not mandatory. It is, however, highly recommended that this policy be followed to insure the maximum safety during construction of the project.

NOTE: When it is an "On-System" project.

All local agency projects on the SHS shall conform to the state's "Policy on High and Low Risk Underground Facilities within Highway Rights of Way." See *Caltrans Project Development Procedures Manual* (PDPM), Appendix LL, Utilities. A copy of the policy may be obtained from Caltrans Division of Design. It is also available online at: http://www.dot.ca.gov/hq/oppd/pdpm/apdx_htm/apdx_ll/apdx_ll.htm

When performing Right of Way Utility Relocation on a "On-System" project, local agency's Project Engineer must complete the "Project Engineer's Certification of Utility Facilities" and submit it as an attachment to the project certification, as required by the policy.

14.4 AUDIT REQUIREMENTS

Utility Coordinator is responsible to submit request for any applicable audits as described in Section 5.8 of Chapter 5 of the LAPM.

NOTE: When it is an "On-System" project.

The following are requirements for Pre-Award Evaluation and Post Award Audit. The Utility Coordinator is responsible to submit requests for audit when applicable:

PRE-AWARD EVALUATION:

Caltrans pre-award evaluation is required for Utility Agreements, contracts and subcontracts involving federal funds. The local agency shall make a written request through the DLAE, for a pre-award evaluation to Caltrans Audits on Utility Agreements which exceed $250,000, for lump sum Utility Agreements over $100,000, or where a consultant will perform preliminary engineering exceeding $250,000. These requirements are subject to change. Please contact the Caltrans District Utility Coordinator for information on current authorization limits and details.

POST AWARD AUDIT:

The State is responsible to conduct final post audits of actual and necessary costs incurred by utility owners pursuant to a Utility Agreement or contract on federal-aid projects. This also applies to subcontractors under the prime agreement.

14.5 REFERENCES

- 23 *Code of Federal Regulations* (CFR) 645
- 48 *Code of Federal Regulations* (CFR), Chapter 1, Part 31
- *California Streets and Highways Code*, Sections 702, 703, 705, and 706
- *Caltrans Encroachment Permits Manual*
- *Caltrans Project Development Procedures Manual*, Appendix LL, Utilities
- *Caltrans Right of Way Manual* (ROW Manual)
- *Code of Civil Procedure*, Section 1268.350
- *Government Code*, Section 53630
- *Intermodal Surface Transportation Efficiency Act* (ISTEA)
- *Water Code* Sections 7034 and 7035
- SAFETEA-LU Web site at: http://www.fhwa.dot.gov/safetealu/factsheets.htm".

- DLAE - The District Local Assistance Engineer, the individual in each district responsible for providing services and assistance to the local agencies.
- E-76 - Federal-aid Program Document titled: "Authorization to Proceed" Form
- EA - Expenditure Authorization number
- EEO - Equal Employment Opportunity
- ER - Emergency Relief
- Finance Letter - A document required by Local Program Accounting (see Exhibit 15-N) and submitted by the administering agency to Caltrans with information required as backup for the federal-aid/state project agreement.
- Full Oversight – Projects on the Interstate that are new or reconstruction (not 3R) greater than $1 million for which FHWA has Full Oversight.
- FTIP – Federal Transportation Improvement Program
- FSTIP - Federal Statewide Transportation Improvement Program
- FHWA - Federal Highway Administration
- HPMS - Highway Performance Monitoring System
- Headquarters - The Headquarters office of the Department located at 1120 "N" St., Sacramento, CA 95814.
- ISTEA - Intermodal Surface Transportation Efficiency Act of 1991. ISTEA was an Act signed by the President on December 18, 1991, providing authorization for six (6) years for highways, highway safety, and mass transportation. ISTEA was superseded by TEA-21 in 1998 and by SAFETEA-LU in 2005.
- Invoice - A detailed list of expenditures that an administering agency requests reimbursement for with federal funds, pursuant to the Local Agency-State Agreement (see Chapter 5, Exhibit 5-B, "Sample Federal-aid Invoice with Two Appropriations & Different Reimbursement Rates").
- LRH – Last Resort Housing
- Local agency - A California city, county or other local public agency. In many instances this term is used loosely to include nonprofit organizations.
- Local Agency-State Agreement - Agreement between the state and local agency. Generally refers to the Master agreement and all supplemental agreements (Program Supplements) to the master agreements. These agreements are required for the state to provide reimbursement to the local agency for all federal-aid projects.
- Locode - Numeric identifier for each local agency or administering agency (assigned by the Division of Local Assistance).
- LPP – Local Programs Procedures. Documents used for deployment of new procedures and policies between updates of Local Assistance manual, guidelines and programs. Each procedure is numbered according to calendar year and order in which released.

- MPO – Metropolitan Planning Organization
- NHS - National Highway System, a specially Designated Highway System established by the Intermodal Surface Transportation and Efficiency Act of 1991 and adopted by the United States Congress.
- Office Engineer - Chief of the Headquarters or District Office of Office Engineer. The office engineering unit is responsible for insuring that the PS&E is complete, biddable and buildable.
- PS&E - Plans, Specifications & Estimate
- PE - Preliminary Engineering, this phase includes all project initiation and development activities undertaken after its inclusion in the approved FSTIP through the completion of PS&E. It may include preliminary Right of Way engineering and investigations necessary to complete the NEPA document.
- Prequalification - The AASHTO defines prequalification as a means of predetermining job experience and work capacity and to identify individuals and organizations from whom the agency may accept a bid. The AASHTO also has encouraged the use of prequalification procedures in its 1981 Suggested Guidelines for Strengthening Bidding and Contract Procedures.
- R/W - Right of Way, This phase includes the work necessary to appraise and acquire project right of way, relocate individuals or businesses, and revise or relocate utilities.
- RAP - Relocation Assistance Program
- Report of Expenditures – Collectively refers to the following final report documents: Final Inspection of Federal-aid Project (FIF 7/96), final Invoice, Final Detail Estimate, Change Order Summary (containing liquidated damages/contractor's claims, date of completion, date of acceptance by City or County), Final Report of Utilization of Disadvantaged Business Enterprise (DBE), Materials Certificate, and Report of Completion of Structures if bridges were constructed.
- SAFETEA-LU – Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users signed into law by President George W. Bush on August 10, 2005, with guaranteed funding for highways, highway safety, and public transportation totaling $244.1 billion. SAFETEA-LU represents the largest surface transportation investment to date. SAFETEA-LU was built on the foundation established by the two preceding Federal Transportation Acts: ISTEA and TEA-21.
- TEA-21- Transportation Equity Act for the 21st Century. Enacted on June 9, 1998, which authorized the federal surface programs for highways, highway safety, and transit for the six year period 1998-2003.

Just as the bid may be rejected for being irregular or unresponsive, a bid may also be rejected on the grounds that the bidder is not a responsible bidder. A bidder may be deemed not responsible because of past unsatisfactory performance, as evidenced by failure to meet the local agency's qualification requirements, or because of State or federal suspension/debarment action. The administering agency should check to see if a contractor is suspended or debarred from federal contracts. A publication titled, *A Listing of Parties Excluded from Federal Procurement and Nonprocurement Programs* is available electronically via the internet at http://epls.arnet.gov.

Note: Contractor's "Debarment and Suspension Certification" is part of the "Notice to Contractors and Special Provisions" boilerplate.

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

PROCEDURES

The administering agency shall follow its own procedures for bid opening, provided such procedures include:

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

If a local agency elects to prequalify contractors, the agency's prequalification procedures shall not include procedures or requirements for bonding, insurance, prequalification, qualification or licensing of contractors, which may operate to restrict competition, to prevent submission of a bid by, or to prohibit the consideration of a bid submitted by any responsible contractor, whether resident or nonresident of the State wherein the work is to be performed.

Prequalification of contractors may be required as a condition for submission of a bid or award of contract only if the period between the date of issuing a call for bids and the date of opening of bids affords sufficient time to enable a bidder to obtain the required prequalification rating. For further discussion on prequalification of bidders see: AASHTO publication on *Suggested Guidelines for Strengthening Bidding and Contract Procedures* (which is available in the FHWA *Contract Administration Core Curriculum*).

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

The administering agency shall retain the following completed documents for the successful bidder in the project file:

- Local Agency Bidder-DBE (Construction Contracts)-Information (Exhibit 15-G)
- A list of bidders and total amounts bid with an item-by-item breakdown (see Exhibit 15-D, "Sample Bid Tabulation Summary Sheet (Sample)") of the three lowest bidders
- The Noncollusion Affidavit (see Chapter 12, "Plans Specifications & Estimate," Exhibit 12-E, Attachment D, "Noncollusion Affidavit")
- A Local Agency Bid Opening Checklist (Exhibit 15-I)

For NHS projects, the local agency shall submit the following to the DLAE (who will transmit it to FHWA headquarters) immediately following the bid opening:

- A letter of "Submission of Bid Tabulation" for all NHS projects (see Exhibit 15-E), (original plus 1 copy).

- A Bid Price Data (FHWA Form-45) for all federal-aid projects where the value of work on the NHS is $500,000 or more (see Exhibit 15-F), (original plus 1 copy).

Where the lowest bid exceeds the engineer's estimate by an unreasonable amount as defined by established agency procedures, or where competition is considered to be poor for the size, type, and location of project, bids may be rejected unless an award of contract is justified as being in the best interest of the public. See Section 15.6, "Contract Award, Bid Analysis Process," and *FHWA Technical Advisory T 5080.4 (December 29, 1980), and T 5080.6 (December 17, 1982)* for additional information regarding bid reviews. These technical advisories can be found in the appendix to the *US DOT, FHWA pub; Contract Administration Core Curriculum.*

The administering agency shall assure that all bid proposals submitted include a completed addenda certification statement. The addenda certification statement is as follows:

ADDENDA - This Proposal is submitted with respect to the changes to the contract included in addendum number/s__(Fill in number/s if addenda have been received.)

Warning - If an addendum or addenda have been issued by the administering agency and not noted above as being received by the bidder, this proposal may be rejected.

15.6 CONTRACT AWARD

INTRODUCTION

WARNING:

No project shall be advertised for bids, nor shall any project work (by contract or other than contract) be undertaken, and no materials shall be purchased on any federal-aid project, prior to issuance of "Authorization to Proceed" by Caltrans or the FHWA. Violation of this requirement shall result in the project ineligible for federal funding.

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

BID ANALYSIS PROCESS

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

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

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

The *Contract Cost Data* publication by Caltrans is available to assist local agencies in preparing accurate engineers estimates. This annual publication is available in electronic form on the Internet. Instructions for downloading this information are located at Internet address at http://tresc.dot.ca.gov./office_engineer/CoCoda.html.

Not all of the factors above need to be considered for bids that indicate reasonable prices or show good competition. However, when the low bid exceeds the engineer's estimate by an unreasonable amount, a more thorough analysis should be undertaken to determine if the bids should be rejected or a justification for award of the contract can be made. In order to justify award of a contract under these circumstances, the following criteria should be examined:

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

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

Regarding the adequacy of competition, the FHWA *"Guidelines on Preparing Engineer's Estimate, Bid Reviews and Evaluatio*n" outlines recommended procedures for preparing engineer's estimates and or reviewing bids prior to award. The web site is at http://www.fhwa.dot.gov/programadmin/contracts/ta508046.cfm. Location and availability of bidders should also be considered when determining adequacy of competition. Some projects may be so essential that deferral, even for 60 days, would not be in the public's interest. Examples of such projects might include:

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

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

- A mathematically unbalanced bid is a bid that contains lump sum or unit bid items that do not reasonably reflect the actual costs (plus reasonable profit, overhead costs, and other indirect costs) to construct the item, and

- A materially unbalanced bid is a bid that generates reasonable doubt that award to that bidder would result in the lowest ultimate cost to the government.

(1) The amount representing the payments made under the original contract plus payments made under the new contract, or

(2) The amount representing what the cost would have been if the construction had been completed as contemplated by the plans and specifications under the original contract.

(e) If the surety awards a contract for completion of a defaulted federal-aid contract, or completes it by some other acceptable means, the FHWA considers the terms of the original contract in effect and that the work be completed in accordance with the approved plans and specifications included therein. No further FHWA approval or concurrence action is therefore needed in connection with any defaulted federal-aid contract awarded by a surety. Under this procedure, the construction amount eligible for federal participation on the project should not exceed the amount representing what the cost would have been, if the construction had been completed as contemplated by the plans and specifications under the original contract.

15.7 AWARD PACKAGE

The administering agency shall complete and forward the following information as **one** package to the DLAE immediately after award of the contract and prior to submitting the first invoice of the construction phase:

- Local Agency Bidder-DBE (Construction Contracts)-Information (see Exhibit 15-L)
- The Local Agency Contract Award Checklist (see Exhibit 15-L)
- Detail Estimate (see Exhibit 15-M)
- Finance Letter (see Exhibit 15-N)
- Resident Engineer's Construction Contract Administration Checklist (see Exhibit 15-B)

The purpose of the Local Agency Award Checklist is to minimize delays in processing payments for federal-aid projects.

A "Detail Estimate" (see Exhibit 15-M) and "Finance Letter" (see Exhibit 15-N) must be prepared outlining all project costs by Improvement Type Code. From the information contained in the Detail Estimate, Division of Local Assistance will prepare a revised Authorization to Proceed (E-76), which automatically updates the funding agreement between Caltrans and FHWA. If the award amount is more, or significantly less than the amount estimated at the time of authorization, the administering agency should submit a revised E-76 and revised Finance Letter to the DLAE along with the Award Package.

NOTE: If the amount of federal funds obligated and agreed to in the E-76 "Authorization to Proceed" is less than the full pro-rata share, the federal reimbursement ratio used in the Detail Estimate and subsequent progress invoices will be held at the ratio of federal funds to total project funds authorized in the E-76. That ratio may be increased in the final Detail Estimate and final invoice, up to the full pro-rata share to utilize the full amount of federal funds authorized.

The local agency and State personnel involved shall ensure timely processing of the master agreement, program supplement, detail estimate, and finance letter. The local agency is responsible for ensuring that the various forms are complete and accurate.

If at any time during construction, the project cost is expected to overrun, the administering agency must submit a Revised Detail Estimate **along with a request for modification of the Authorization to Proceed E-76**, and a revised finance letter. The Revised Detail Estimate should include the effects of all change orders and anticipated changed work through the end of the contract. This is to avoid future revisions.

It is the administering agencies responsibility to ensure that there are enough federal-aid funds programmed by their MPO/RTPA (STP, TEA, or CMAQ) or Caltrans (HSIP, HBP, ER, and RRX), to cover an increase due to a revised detail estimate. If additional federal funds are required, the local agency must obtain written approval from the MPO/RTPA or Caltrans prior to submitting a Revised Detail Estimate.

The resident engineer assigned to the project shall complete and sign the Resident Engineer's Construction Contract Administration Checklist. The purpose of this checklist is to assure that the resident engineer is familiar with the federal requirements before the project starts. Deficiencies in contract administration procedures discovered by process reviews are difficult to correct "after the fact." If the project has proceeded to the point that a deficiency cannot be corrected, federal and/or state funds may be withdrawn.

The DLAE shall perform a review of these documents for correct format and obvious errors and/or omissions. Complete and accurate documents will be forwarded to the DLA. The master agreement and program supplement must be executed prior to reimbursement. Invoices from the administering agency for the construction phase will be processed for reimbursement only after the project award information is submitted.

15.8 REFERENCES

23 USC 112
23 USC 114(a)
23 CFR 635
23 CFR part 40
23 CFR 630 Subpart C
49 CFR 23
California Public Contract Code, Chapter 6, Section 6100
California Public Contract Code Section 7106
FHWA TA T 5080.4, *Preparing Engineer's Estimate and Reviewing Bids* - 1980
FHWA TA T 5080.6 *Guidelines on Contract Procedures with Emphasis on Bid Reviews and Evaluation* - 1982
DOT, FHWA 1997 *Contract Administration Core Curriculum*
FHWA *Final Report Process Review on Competition in Bidding and Engineer's Estimate Review* - 1991
US DOT/US Dept. of Justice, *Suggestions for the Detection and Prevention of Construction Contract Bid Rigging* - 1983
AASHTO *Suggested Guidelines for Strengthening Bidding and Contract Procedures* - 1981
SAFETEA-LU Web site: http://www.fhwa.dot.gov/safetealu/index.htm

CHAPTER 1 INTRODUCTION/OVERVIEW

1.1 PURPOSE

The purpose of the *Local Assistance Program Guidelines* (LAPG) is to provide local project sponsors with a complete description of the federal and state programs available for financing local public transportation-related facilities. Each program is discussed in detail and addresses such topics as: project eligibility, project selection process, funding levels, key decision-makers, significant dates, relevant statutory references and related publications.

With the 1997 State enactment of Senate Bill 45 (SB 45), the enactment of the 1998 federal "Transportation Equity Act for the 21st Century" (TEA-21), superseded by the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), new programs and increased funding levels have become available for local transportation projects.

Exhibit 1-A State & Federal Programs Available for Local Transportation Projects, illustrates the various federal and state programs available for financing local transportation projects and the typical annual funding level for each of the programs. Note that state program funding levels are subject to inclusion in the annual state budget approved by the Governor.

Exhibit 1-B, Local Assistance Programs, lists the various federal and state programs available for financing local transportation projects and includes a brief discussion of the programs and the eligible uses of the funds.

1.2 BACKGROUND

On September 12, 1997, the Governor signed SB 45, making substantial changes in the State's transportation programming process.

SB 45 was enacted with the following basic objectives:

(*SB 45 amended, added, and repealed sections 14523-55 and 65071-86 of the Governmental Code, 99310-18 of the Public Utilities Code, and 163-7, 188, 199 and 2600-02 of the Streets and Highways Code.*)

- Preserve the basic planning and programming process, avoid legislative budgeting of projects, while changing the State Transportation Improvement Program (STIP) from a project delivery document to a resource management document.
- Transfer transportation decision-making responsibility to those who are closest to the problem.
- Eliminate artificial constraints and barriers to programming.
- Place state highways, local roads and transit projects on equal footing for access to support costs.
- Recognize the Caltrans role as owner-operator of the State Highway System (SHS), while removing Caltrans from lead responsibility for resolving urban congestion problems created largely by local decisions.
- Provide incentives for regional accountability for the timely use of funds.
- Retain the California Transportation Commission (CTC) role as guardian of state capital dollars, with responsibility for determining how best to manage those dollars in a wise and cost-effective manner.

In June 9, 1998, the President signed TEA-21 authorizing highway, highway safety, and other surface transportation programs for the next six years, which significantly increased federal funding

authorizations for state and local highways, and mass transportation. Federal funds allocated to California and available for state, local, and mass transportation projects were increased to approximately $2.5 billion annually.

SAFETEA-LU signed into law by President George W. Bush on August 10, 2005, guaranteed funding for highways, highway safety, and public transportation totaling to $244.1 billion for the five-year period 2005-2009. SAFETEA-LU promotes more efficient and effective federal surface transportation programs by focusing on transportation issues of national significance, while giving state and local transportation decision- makers more flexibility for solving transportation problems in the communities.

The types of projects and activities now eligible for federal funding provide state and local governments with unprecedented flexibility in developing a mix of highway, transit and other alternatives to address statewide, regional and local transportation needs.

The CTC intends to carry out these objectives through its guidelines, stressing accountability and flexibility.

1.3 ROLES OF THE LOCAL AND REGIONAL AGENCIES

Cities, counties, Metropolitan Planning Organizations (MPOs), Regional Transportation Planning Agencies (RTPAs), and other authorities work independently as well as with Caltrans in the development of long and short-range improvement plans. The role of local communities in the design of transportation improvement programs and selection of projects has continued to expand through the enactment of ISTEA, TEA-21, SB 45, and SAFETEA-LU. Transportation planning begins at the city and county level with the inclusion in their "General Plan" of a transportation (circulation) element. One key in local decisions is land use. The transportation elements developed in a local General Plan are incorporated along with air, water, congestion and environmental concerns into planning and programming documents developed by RTPAs and Metropolitan Planning Organizations (MPOs). Exhibit 1-C, MPO RTPA Map, is a map showing the location of MPOs and RTPAs in the state.

Transportation planning begins at the city and county level with the inclusion of a transportation element in a local "General Plan." The transportation elements developed in a General Plan are incorporated along with other concerns into planning and programming documents that RTPAs and MPOs develop.

Various local agency specialty plans (e.g. air, water, land use, and congestion) influence and are incorporated (as needed) into the Regional Transportation Plan (RTP). An RTP is a 20-year transportation plan that describes policies, strategies, needs and goals. An RTP presents the local area's vision for local multimodal transportation systems. RTPs are required by state and federal law. Caltrans cooperates in the development of the regional documents by providing expertise and information. RTPs must be consistent with FHWA and FTA planning regulations. These regulations impose conditions for receiving federal-aid funds that require each urbanized area to have a continuing, comprehensive and coordinated transportation planning process that results in RTPs and Federal Transportation Improvement Programs (FTIP) consistent with planned development of the area.

Key documents in transportation planning and programming are defined below. Also shown are an outline of roles and a flowchart overview of the planning and programming process. For more details, go to the Transportation Programming Web site at: www.dot.ca.gov/hq/transprog/.

RTIP: The Regional Transportation Improvement Program (RTIP) is the RTPA's share of the state STIP and must be consistent with the RTP. Updated every two years, the RTIP is a five-year program identifying projects based on funding availability from the STIP fund estimate. Upon adoption by the RTPA, the RTIP is submitted to Caltrans for approval and incorporation into the STIP.

STIP: The State Transportation Improvement Program (STIP) is a five-year capital improvement program of transportation projects, on and off the State Highway System (SHS), with a 2-year project list

amendment, funded with revenues from the State Highway Account (SHA) as well as other funding sources.

FTIP: Each of California's 18 MPOs prepares a Federal Transportation Improvement Programs (FTIP) that includes a four-year priority list of highway and transit projects that are federally funded or are of regional significance. FTIPs also include federally funded capital improvements to the regions' transit systems along with associated federal operating assistance programs.

FSTIP: Prepared by Caltrans in cooperation with the MPOs and RTPAs, the Federal Statewide Transportation Improvement Program (FSTIP) is a four-year statewide intermodal transportation program that contains all projects in California that are federally funded or regionally significant.

Local — Cities, Counties & Other Agencies:

- Cities and counties set land-use policy and nominate transportation projects for funding by the RTPA.
- Transit agencies, such as Bay Area Rapid Transit (BART) and Los Angeles County Metropolitan Transportation Agency (LACMTA), nominate projects for funding and deliver transportation services and improvements.
- Environmental agencies at the local, State, and federal level review transportation projects and issue permits to ensure transportation improvements comply with environmental law.

Regional — Metropolitan Planning Organization (MPO)

- Currently there are 18 MPOs in California.
- Prepares the 20-year RTP and selects projects.
- The Governor designates an MPO in every urbanized area with a population over 50,000 as defined by US Census.
- Federally required planning bodies, typically, the same as an urban region's RTPA.

Regional — Regional Transportation Planning Agency (RTPA)

- Includes 48 agencies formed by special legislation, council/association of governments, and local transportation commissions.
- Administers State funds and allocates federal and local funds to projects.
- Selects projects for the Regional Transportation Improvement Program (RTIP) in the STIP.

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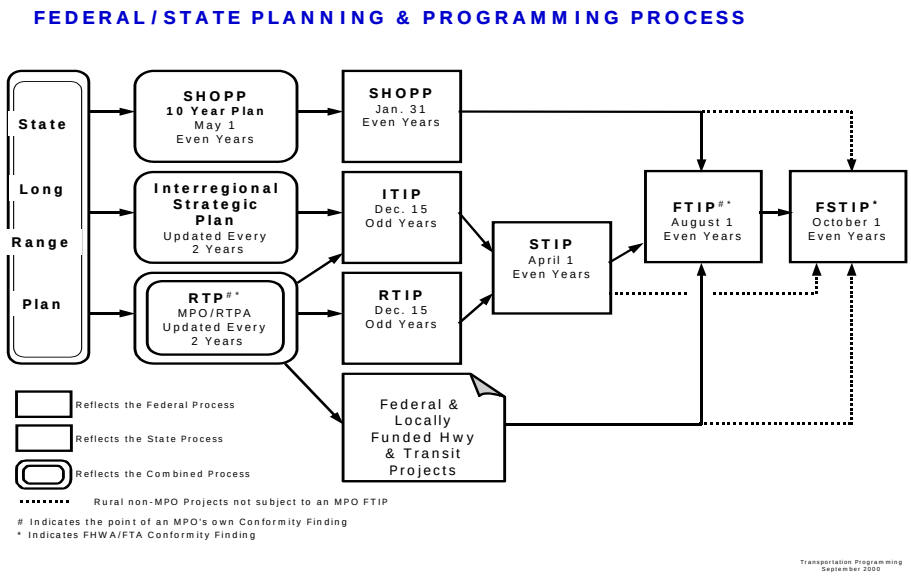

For more information, go to the Transportation Programming Web site at: www.dot.ca.gov/hq/transprog/.

1.4 FEDERAL PROGRAMS

The three major funding categories for local assistance projects are: the National Highway System (NHS), the Surface Transportation Program (STP) and the Congestion Mitigation and Air Quality Improvement Program (CMAQ).

NHS funds, typically restricted to projects located on the NHS, are programmed for local projects through the STIP. See Exhibit 3-A, California Local Routes on the National Highway System, of this manual for a complete listing of local routes on the NHS.

STP funds may be used on any public road except those functionally classified as local roads or minor collectors. These roads are collectively referred to as federal-aid roads (or highways). The exception to the functional classification criteria is that bridge, safety, carpool related, and bicycle/pedestrian projects may be located on any road. SAFETEA-LU allows a portion of the STP funds for rural areas to be used on rural minor collectors (see Chapter 4, "Surface Transportation Program (STP)," of this manual).

The CMAQ program provides a flexible funding source for transportation projects and programs that help meet the requirements of the Clean Air Act. Eligible activities include transit improvements, travel demand management strategies, traffic flow improvements, and fleet conversions to cleaner fuels, among others. Funding is available for areas that do not meet the National Ambient Air Quality Standards (non-attainment area), as well as former non-attainment areas that are now in compliance (maintenance areas) (see Chapter 5, "Congestion Mitigation and Air Quality (CMAQ)," of this manual).

Other funding categories for local assistance projects are described below.

The Highway Bridge Program (HBP) provides federal funds for bridgework on and off federal-aid highways. The purpose of this program is to help fund major reconstruction and replacement bridge projects. (see Chapter 6, "Highway Bridge Replacement and Rehabilitation (HBRR),"of this manual).

Ten percent of the STP apportionment authorized by SAFETEA-LU is reserved for Safety Programs: Highway Safety Improvement Program (HSIP) (see Chapter 9, "Highway Safety Improvement Program (HSIP)" and Chapter 24, "Federal Safe Routes to School," of this manual).

Another ten percent of the STP apportionment is reserved for Transportation Enhancements (TE). This reservation is used for projects directly related to surface transportation that are over and above normal and mitigation work, and are within the twelve categories in federal statute (see Chapter 8, "Transportation Enhancements (TE),"of this manual).

Emergency Relief funds are used for the reconstruction of roads, streets, and bridges on federal-aid highways that are damaged by floods, earthquakes, hurricanes or other catastrophes. These funds become available when the damage is extensive and an emergency is formally declared by the Governor and approved by the Federal Highway Administration (FHWA) (see Chapter 11, "Disaster Assistance," of this manual).

Minor federal programs, including the Public Lands Highways, Scenic Byways, Defense Access Roads, High Priority Projects (name changed under TEA-21 from Demonstration projects) and Discretionary Bridge programs are discussed in Chapter 12, "Other Federal Programs," of this manual.

1.5 STATE PROGRAMS

SB 45 terminated three state funded local assistance programs:

- State & Local Transportation Partnership Program (SLTPP or Partnership Program)
- Flexible Congestion Relief (FCR)
- Traffic System Management Program (TSM)

State funds that were available for local agencies under SLTPP, FCR and TSM are now available for local agencies under the STIP program. Also, old state STIP funds and new TEA-21 funds allocated to the state are available for local agencies. Locally sponsored transportation projects receiving STIP funding may receive either state funds, or federal funds with a state funded match.

Article XIX of the California Constitution permits the use of state revenues in the SHA only for state highways, local roads and fixed guide way facilities. This means, for example, that rail rolling stock and buses may be funded only from the federal revenues in the SHA. For such projects, the nonfederal match will have to be provided from a non-STIP source (see Chapter 23, "Local Agency STIP Projects," of this manual).

Other state programs available for locally sponsored transportation projects include:

- Environmental Enhancement and Mitigation Program
- Bicycle Transportation Account

The Optional Exchange program provides for qualifying RTPAs and counties to exchange their annual apportionment of Regional Surface Transportation Program (RSTP) funds and regional TE funds for state cash. The State Match program provides state funds to match federal RSTP funds. Exchange and Match funds are not tied to federal requirements, but instead must comply with Article XIX of the State Constitution (see Chapter 8, "Transportation Enhancements" and Chapter 18, "Optional Federal Exchange and State Match Programs," of this manual).

The Grade Separation Program provides state funds for the: 1) construction, reconstruction and alteration of grade separations to eliminate proposed or existing grade crossings, and 2) the removal or relocation of highways or railroad tracks to eliminate grade crossings (see Chapter 19, "Grade Separation," of this manual).

The Environmental Enhancement and Mitigation (EEM) program provides state funds for the transportation project to mitigate the environmental impacts of new or modified public transportation projects above and beyond that required by the environmental document (see Chapter 20, "Environmental Enhancement and Mitigation (EEM),"of this manual).

The Bicycle Transportation Account (BTA) provides funds to cities and counties for projects that improve safety and convenience for bicycle commuters (see Chapter 21, "Bicycle Transportation Account," of this manual).

The Safe Routes to Schools (SR2S) program provides funds to local governmental agencies based on the results of a statewide competition that requires submission of proposals for funding and rates those proposals on all of the following factors:

1. Demonstrated needs of the applicant.
2. Potential of the proposal for reducing child injuries and fatalities.
3. Potential of the proposal for encouraging increased walking and bicycling among students.
4. Identification of safety hazards.

5. Identification of current and potential walking and bicycling routes to school.
6. Consultation and support for projects by school-based associations, local traffic engineers, local elected officials, law enforcement agencies, and school officials.

(See Chapter 24, "Federal Safe Routes to School," of this manual.)

For further information about both federal and state programs contact the District Local Assistance Engineer (DLAE) for your area shown in Exhibit 1-D Caltrans District Local Assistance Offices.

1.6 REFERENCES

- "*A Summary – Transportation Equity Act for the 21st Century*" Publication No. FHWA-PL-98-038, HPP-20/8-98(15M)E.
- California Transportation Commission – "*1998 STIP Interim Guidelines,*" Amended (September 29, 1999) CTC Resolution G-99-03
- *"Statutes Relating to the Programming and Funding of Transportation Projects,*" 1999, State of California, Department of Transportation, Division of Transportation Programming
- SAFETEA-LU Web site: http://www.fhwa.dot.gov/safetealu/index.htm

EXHIBIT 1-A STATE & FEDERAL PROGRAMS AVAILABLE FOR LOCAL TRANSPORTATION PROJECTS

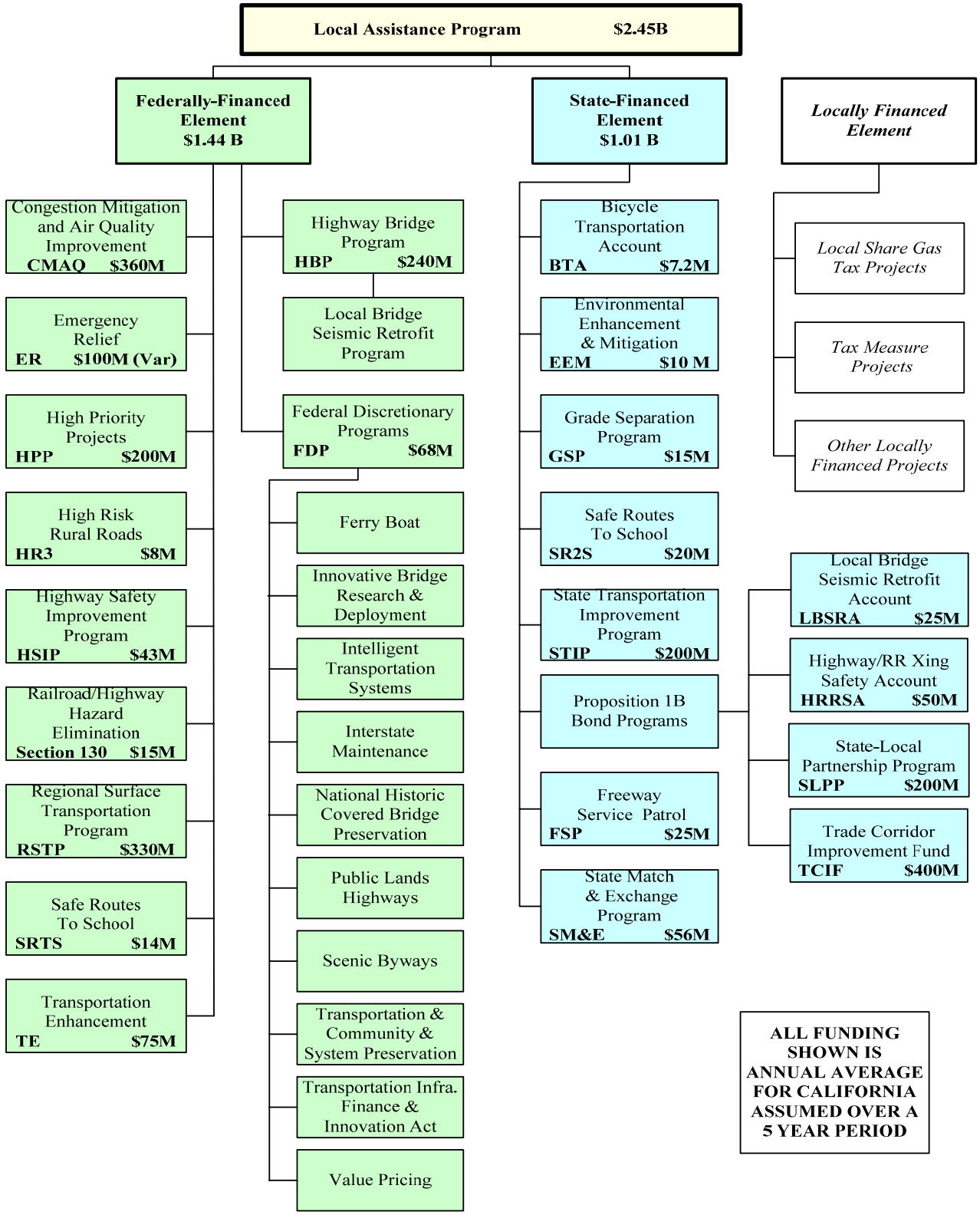

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EXHIBIT 1-B LOCAL ASSISTANCE PROGRAMS

Chapter	Federally-Financed Program	Eligible Uses of Funds
5	**Congestion Mitigation and Air Quality (CMAQ) Improvement**	Projects which contribute to the attainment or maintenance of the National Ambient Clean Air Quality Standards under the provisions of the Federal Clean Air Act.
6	**Highway Bridge Program (HBP)**	Funds to improve the condition of highway bridges through replacement, rehabilitation, and systematic preventative maintenance.
7	**Local Bridge Seismic Retrofit Program**	Bridges must be on the Caltrans candidate seismic list.
8	**Transportation Enhancements (TE)**	Funds transportation-related capital improvement projects that enhance quality-of-life, in or around transportation facilities.
9	**Highway Safety Improvement Program (HSIP)**	Project must be on any public road, publicly owned bicycle, pedestrian pathway, or trail. Projects must identify a specific safety problem that can be corrected or be improved substantially.
10	**High Risk Rural Roads (HR3) Program**	Project to correct or improve hazardous roadway locations or features to reduce the frequency and severity of accidents on rural roads. Project must be located on a rural major collector, a rural minor collector, or rural local road.
11	**Emergency Relief (formerly Disaster Assistance)**	Intended to aid states and local highway agencies in paying unusually heavy expenses of repairing serious damage to federal-aid highways resulting from natural disasters or catastrophic failures.
24	**Safe Routes To School (SRTS)**	Eligible projects fall under the category of infrastructure (capital improvements), or non-infrastructure (education, encouragement, enforcement). Infrastructure project must be located within a two mile radius of a grade school or middle school.
12	**High Priority Projects (HPP)**	Project is specially established and funded by Congress though federal law. The designated funding can only be used for projects as described in the law.
4	**Regional Surface Transportation Program**	Funds highway projects; bridges (including construction, reconstruction, seismic retrofit and painting); transit capital improvements; carpool, parking, bicycle and pedestrian facilities; safety improvements and hazard elimination; research; traffic management systems; advanced truck stop electrification

4	Cont….**Regional Surface Transportation Program**	systems; projects relating to intersections that have disproportionately high accident rates, have high congestions, and are located on federal highway; environmental restoration and pollution abatement on 4R projects (expenditures for this activity may not exceed 20 percent of the total costs of the project); surface transportation planning; transportation enhancement activities and control measures; and wetland and other environmental mitigation.
12	**Federal Discretionary Programs**	Funds for highway, transit, and rail discretionary programs available to California applicants authorized by various sections of SAFETEA-LU. Funding for these programs vary, some are formula driven and others are nationally competitive. Funds are distributed over the five-year life of SAFETEA-LU.
	a) Ferry Boat	Constructions of ferry boats and ferry terminal facilities which are publicly owned, majority publicly owned or publicly operated.
	b) Innovative Bridge Research & Deployment	Funds for states and local agencies to incorporate innovative materials and materials technologies in their bridge projects.
	c) Intelligent Transportation System	Funds for ITS integration and deployment projects; funding and projects are congressionally designated.
	d) Interstate Maintenance	For resurfacing, restoring, rehabilitating and reconstructing, including adding travel lanes on designated portions of Interstate System routes.
	d) National Historic Covered Bridge Preservation	Funds for states in their efforts to rehabilitate, repair, or preserve the Nation's historic covered bridges.
	e) Public Lands Highways	Funds for transportation projects eligible for assistance under Title 23 that are within, adjacent to, or provide access to the areas served by federal public lands highways.
	f) Scenic Byways	Funds for eligible scenic byways projects along all-American Roads or designated scenic byways and for the planning, design and development of State Scenic Byway programs.
	g) Transportation & Community & System Preservation	Funds for researching relationships between transportation, community preservation and the environment; funds projects to address transportation efficiency and community system preservation.
	h) Transportation Infrastructure. Finance & Innovation Act	Provides loans, lines-of-credit, and loan guarantees to certain surface transportation projects of national or regional significance.

	i) Value Pricing	Funds for value pricing projects – both pre-implementation and implementation projects to promote economic efficiency in the use of highways and support congestion reduction, air quality, energy conservation and transit productivity.
Chapter	**State-Financed Program**	**Eligible Uses of Funds**
19	**Grade Separation Program**	Funds portion of high priority grade separation projects. Public agencies which own roadways that cross railroad tracks are eligible. Railroad companies are also eligible applicants under certain conditions.
20	**Environmental Enhancement & Mitigation**	To mitigate the environmental impacts of new or modified public transportation facilities beyond the mitigation level required by the project's environmental document.
21	**Bicycle Transportation Account**	Funds for city and county projects that improve safety and convenience for bicycle commuters.
23	**State Transportation Improvement Program**	Multi-year capital improvement program resource management document to assist the state and local entities plan and implement transportation improvements and to utilize resources in a cost-effective manner.
24	**Safe Routes To School (SR2S)**	Projects must be located on any state highway or on any local road to correct identified safety hazard or problem on a route that students use for trips to and from school.
	Proposition 1B Bond Programs	Proposition 1B enacts the Highway Safety, Traffic Reduction Air Quality, and Port Security Bond Act of 2006 to authorize $19.925 billion of State general obligation bonds for specified purposes.

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CHAPTER 2 FINANCING THE FEDERAL-AID HIGHWAY PROGRAM

2.1 INTRODUCTION

This chapter describes the actions required for the financing of the Federal Highway Administration (FHWA) federal-aid projects on the national, state, and project levels. On the national level, the chapter covers the Federal-aid Highway Program actions taken in Washington D.C. to fund local federal-aid projects. State level actions cover the five kinds of federal funds available for local federal-aid projects as well as the monitoring and tracking of obligational authority. The project level actions outline the documents that need to be in place and tasks to complete before a local agency can begin invoicing for federal-aid funds.

DEFINITIONS

Allocation – An administrative distribution of funds among the states, done for funds that do not have statutory distribution formulas.

Apportionment – A statutorily prescribed division or assignment of funds. An apportionment is based on prescribed formulas in the law and consists of dividing authorized obligational authority for a specific program among the states.

Authorization – Formal federal process that establishes a date for which an agency can start reimbursable work for a phase(s) of a project. For the construction phase, an agency must obtain authorization prior to project advertisement. Authorization can be given by Congress, FHWA, or state depending on funding program regulations. Local agencies know they have authorization when they receive "Authorization to Proceed" from Caltrans.

Obligation – Commitments made by federal agencies to pay out money as distinct from the actual payments, which are "outlays." Generally, obligations are incurred after the enactment of budget authority. However, since budget authority in many highway programs is in the form of contract authority, obligations in these cases are permitted to be incurred immediately after apportionment or allocation. The obligations are for the federal share of the estimated full cost of each project at the time it is approved regardless of when the actual payments are made or the expected time of project completion.

Obligational Authority – Another term for limitation on obligations.

2.2 NATIONAL LEVEL ACTIONS

The process of financing the Federal-aid Highway Program begins with congressional approval of a Federal Highway Act. The most recent Federal Highway Act is the Safe, Accountable, Flexible, Efficient, Transportation Equity Act: A Legacy for Users (SAFETEA-LU) signed by President George W. Bush on August 10, 2005, which superseded the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), and the Transportation Equity Act for the 21st Century. The highway act is the primary instrument used by Congress to shape and redirect the federal-aid highway program.

Most programs (CMAQ, STP, etc.) within the federal-aid highway program operate under what is called "contract authority," a special form of budget authority. Under contract authority, the sums authorized in federal highway acts are made available for obligation without an annual appropriations action. The use of contract authority gives the states advance notice of the size of the federal-aid program as soon as the authorization is enacted. It should be understood that contract authority is unfunded by definition and does not allow the obligation of funds to a project. It does, however, allow an assignment of funds to projects when preparing planning documents, such as the Transportation Improvement Program. A subsequent appropriations act is necessary to pay obligations made under contract authority (discussed later). One program that does not operate under contract authority is the discretionary program. See the figure below for more information on contract authority.

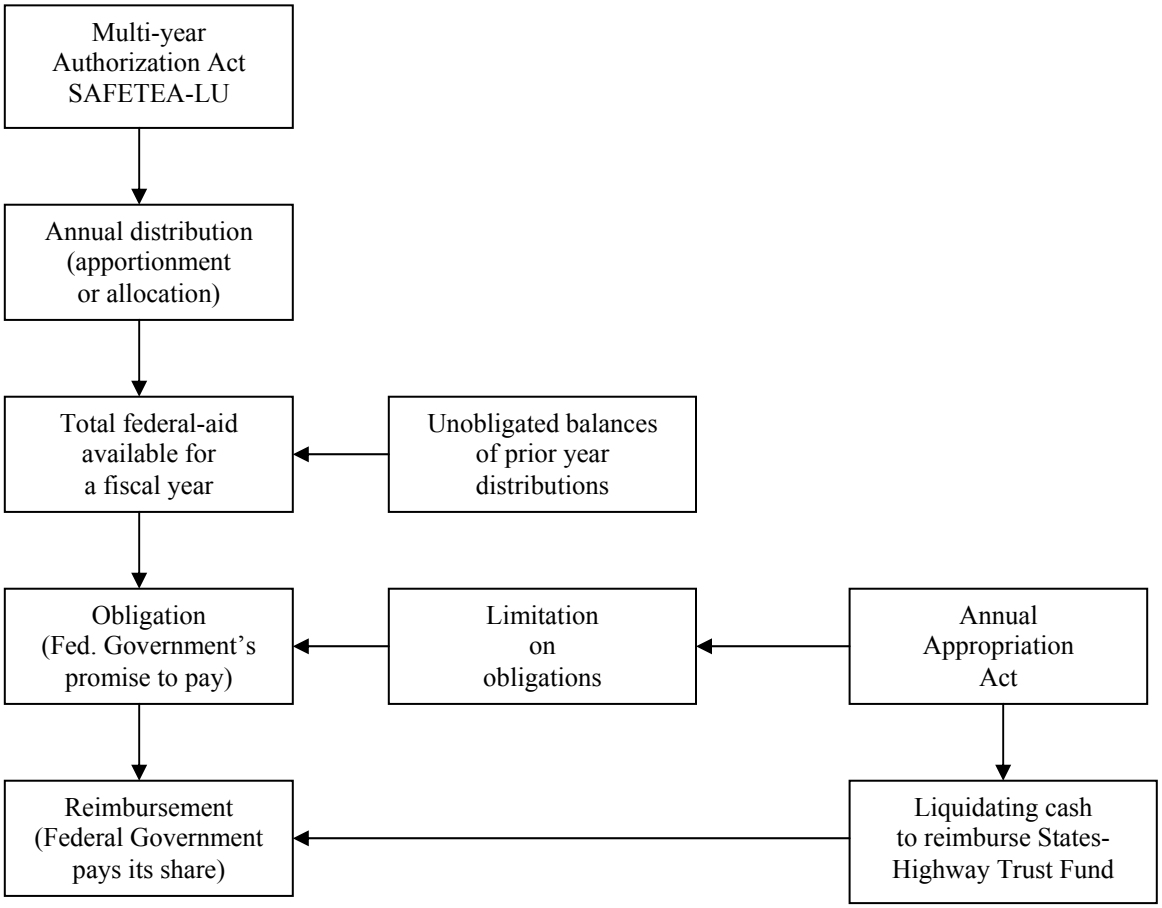

Figure 1.—Contract Authority Programs

Title 23 of the United States Code (23 USC) is titled "Highways," and contains most of the laws that govern the federal-aid highway program. It includes the provisions of law that Congress considers permanent or continuing, and need not be reenacted with each new highway act. As new highway acts are passed, sections of Title 23 are amended, added or repealed as necessary. Title 23 does not contain requests for studies, special projects, etc., and most authorizations are not codified.

AUTHORIZATIONS AND DEDUCTIONS

Congressional authorizations represent the upper limits on the federal funding commitments, which can be made against the various federal-aid highway programs included in a Federal Highway Act.

Before these authorizations are released to the states, two administrative deductions are made. The first deduction is for FHWA oversight of the highway program and FHWA sponsored research development and technology transfer. This deduction is limited to 3.5 percent of the funds apportioned to the states for most authorized programs. The second deduction is for metropolitan transportation planning activities mandated by 23 USC 134. This deduction is equivalent to 1.0 percent of the amount remaining after the FHWA oversight deduction is made from the Interstate Maintenance (IM), National Highway System (NHS), Surface Transportation Program (STP), Congestion Mitigation and Air Quality (CMAQ) Improvement Program and Highway Bridge Program (HBP).

APPORTIONMENTS AND ALLOCATIONS

The FHWA apportions (distributes) the remaining authorized program funds, after deductions and set asides, to the states using federally mandated formulas and procedures.

Federal apportionment of authorized amounts generally occurs on the first day of the federal fiscal year (FFY). The FFY begins October 1 and ends September 30 and is referred to by the ending year (e.g. 2000 fiscal year begins on October 1, 1999). Once an apportionment is made to a state, it cannot be taken away except by lapsing or through a congressional action.

The majority of Federal Highway Program funds are available for three years after the close of the fiscal year for which such sums are authorized. In effect, these funds are available for a four-year period. However, at the end of this period of availability, the authority to obligate remaining funds from that particular fiscal year's apportionment will lapse−it is no longer available for obligation.

The apportioned funds for the current year are added to the unused portion (unobligated balance) of the previous years' apportionments to establish the new unobligated balance. This balance represents the total funds authorized by Congress and distributed (apportioned) by FHWA for eventual obligation by the state. However, as discussed in the next section on "Obligational Authority," there is a limitation (established annually) on the total amount of apportioned funds, including unlapsed funds from previous fiscal years, which can be obligated in a given year.

"Allocation" is the distribution of funds where there are no federally mandated formulas. In most cases, allocated funds are divided among the states using administratively determined formulas and/or criteria provided by law.

OBLIGATIONAL AUTHORITY

Because of the multi-year authorization and multi-year availability of funds associated with the federal-aid highway program, federal limitations are placed on the amount of

funds that a state can obligate within a given fiscal year. This annual limitation is called "Obligational Authority" (OA) and applies to the total obligations of apportioned funds within a given fiscal year, regardless of the year in which the funds were apportioned. A limit on OA enables the federal-aid highway program to be more responsive to economic and budgetary conditions. The ceiling on annual OA does not take back authorized funds already apportioned to the states; it only limits the annual rate of obligation. The amount of OA is included in the federal annual appropriations act. Any unused OA does not carry over to subsequent years.

The OA ceiling is divided among the states based on each state's relative share of total apportioned funds. SAFETEA-LU, Section 1102 provides for an annual redistribution of this obligational ceiling after August 1. OA is redistributed from states unable to utilize their initial full share of OA to other states able to obligate more than their initial share. A state which uses up both its initial OA limit and any OA received through the August 1 redistribution before September 30 may also be eligible for an additional OA bonus. This process does not increase the overall total funds authorized to a state, however, it does permit a state to use their authorization faster.

OA only impacts apportioned funds. Allocated funds are either exempt from OA controls or are covered by their own spending authority. Please see individual program chapters to see which funds are impacted by OA.

ANNUAL APPROPRIATIONS ACTIONS

Although obligations are commitments by the federal government to reimburse the states for the federal share of a project cost, actual cash reimbursements by the Department of the Treasury cannot be made until approval of the annual appropriations act. The two primary functions of the annual appropriations act are to: 1) provide cash to liquidate (pay) the federal commitment and 2) establish the annual limit on obligational authority.

2.3 STATE LEVEL ACTIONS

LOCAL AGENCY APPORTIONMENTS

There are essentially five kinds of federal funds that are made available to local agencies to fund their projects. These are funds associated with:

- **Statewide pools of Federal-aid**
  The statewide funds set aside for local use include programs like Highway Bridge Program (HBP), Highway Safety Improvement Program (HSIP), and Safe Routes to School (SRTS). Projects are prioritized and placed on statewide program lists. Each one of these programs has its own unique method of determining prioritized lists based on program goals.
- **High Priority (Demonstration) Projects**
  Demonstration programs have project descriptions and locations defined in legislation so they are not a source for general purpose funding of local projects. Demonstration projects are earmarked in federal legislation. They come with their own OA, may have an impact on what the state receives in Minimum Guarantee funds and are not

subject to Senate Bill 45 (SB 45) rules. See Chapter 12, "Other Federal Programs," of the "*Local Assistance Program Guidelines* (LAPG)" for additional information.

- **Local Federal-aid**

  Federal-aid is apportioned to Regional Transportation Planning Agencies (RTPAs) and Metropolitan Planning Organizations (MPOs) based on state law.

  Regional Surface Transportation Program (Chapter 4, LAPG]) funds and Congestion Mitigation and Air Quality (CMAQ) Improvement Program (Chapter 5, LAPG) funds are apportioned to RTPAs and MPOs. State legislation (Section 182.6 of the Streets and Highways Code) defines how the funds are apportioned to RTPAs and MPOs within California. Each RTPA and MPO determines which projects are to be funded with these funds.

  The California Transportation Commission (CTC) adopted a resolution (G-98-20), at the October 28, 1998 meeting that divided up California's Transportation Enhancement Activity (TEA) allocation between regions, Caltrans and the Resources Agency. Regional TEA funds (Chapter 8, Transportation Enhancement Activities [TEA], LAPG) are apportioned to RTPAs and MPOs. Regional TEA funds are now divided by formula into county shares. RTPAs/MPOs decide when and how to use their county share.

  RSTP, CMAQ, and Regional TEA funds are subject to use it or lose it provisions of Assembly Bill 1012 (AB 1012) (Chapter 783 in Statutes of 1999).

- **State Transportation Improvement Program (STIP) funds**

  Under SB 45, the STIP consists of two broad programs, the Regional Improvement Program (RIP) funded from 75 percent of the STIP funding and the Interregional Improvement Program (IIP) funded from 25 percent of STIP funding. The 75 percent regional program is further subdivided by formula into county shares. County shares are available solely for projects (local streets and roads, state highway, or mass transportation must compete for the 75 percent regional share) nominated by RTPAs/MPOs in their Regional Transportation Improvement Programs (RTIPs). Caltrans will nominate only projects for the IIP. Under restricted circumstances, an RTPA/MPO may recommend a project for funding from the interregional share. See Chapter 23, "Local Agency STIP Projects," of this manual for further information on how this relates to federal funds.

- **Traffic Congestion Relief Program (TCRP)**

  The TCRP, created by Assembly Bill 2928, is a transportation funding measure which incorporates: 1) congestion relief and 2) additional funds for local street and road maintenance. The project descriptions, locations and funding amounts for congestion relief are defined by legislation. The maintenance funds will be allocated to cities and counties through the State Controller by formulation described within the legislation.

  See the TCRP Web site at www.dot.ca.gov/tcrp for the statute, its requirements, CTC guidelines, and the project application form.

LOCAL OBLIGATIONAL AUTHORITY

When ISTEA funds first became available to local agencies, available OA was not perceived as a problem (see Section 2.1 for a discussion of OA) because most local agencies were in the process of learning federal-aid procedures. At that time, most local agency obligations against apportionments statewide were well below the OA limit. Now, under SAFETEA-LU, many local agencies are familiar with the rules and flexibility of federal-aid so the obligations against total apportionments are much higher. Therefore, it is necessary to monitor obligations to ensure that all local agencies have the opportunity to use their apportionments. It is also necessary to monitor obligations to ensure that the Division of Local Assistance (DLA), as a whole, does not exceed its proportionate share of the OA limitation.

The following procedures are used in managing federal OA for Local Assistance projects:

- Based on state statute, after the beginning of each FFY (October 1), or when federal apportionments and OA allocations are received from FHWA, Caltrans will allocate federal apportionments and corresponding OA to each MPO/RTPA. The OA will be determined based on the obligation limitation established by FHWA for that year and the federal apportionments for RSTP, CMAQ, and Regional TEA for each MPO/RTPA.

- FHWA sets a 15 percent limitation of the annual OA allocation that can be used in the first quarter of the FFY.

- The DLA monitors apportionment and OA usage/transfers and provide online reports for the District Local Assistance Engineers (DLAEs) and MPOs/RTPAs.

- The DLA grants the MPOs/RTPAs flexibility in borrowing/loaning OA from other MPOs/RTPAs at any time during the year, provided that the DLA is notified of the agreement by the affected MPOs/RTPAs.

- When an MPO/RTPA region exhausts its OA allocation, the DLAE will ask any local agency submitting a "Request for Authorization," in the affected area, if it wants to obligate any project under Advance Construction (AC), or if they have arranged with another MPO/RTPA to borrow their OA (see Chapter 3, "Project Authorization," of the *Local Assistance Procedures Manual* (LAPM)).

- When an MPO/RTPA regional OA is exhausted, and the MPO/RTPA and local agencies in the region have not agreed to use AC, the DLAE will place all local agency "Requests for Authorization" (in that MPO's/RTPA's region) on hold until July 1 of that fiscal year.

  Note: Any MPO/RTPA may negotiate a loan of OA from any other MPO/RTPA and continue to obligate projects using the borrowed OA. MPOs/RTPAs must notify DLA in writing of any loans prior to, or at the time of, submitting a request to obligate funds that use the borrowed OA.

- On June 1 of each year, the DLA will transfer all unused OA, including statewide OA (bridge and safety programs are in the statewide OA), into a statewide pool. The DLA will then cash out all AC and obligate all projects on hold on a first-come, first-served basis until the OA is exhausted or all projects are obligated.

- Also on June 1, the DLA will request that local agencies provide "Requests for Authorization" to the DLAE for any additional projects that are not under AC or on hold and that could be obligated prior to September 30 of that year. This is in preparation for the "August Redistribution" of OA. In August of each year, FHWA redistributes OA (from states that have not used all of their OA) to states that (1) have used their OA or (2) can show that they will use all their OA by September 30 and have requested additional OA. Lists of projects on hold plus any additional projects are provided by the DLAEs to the DLA by July 20 of each year. Projects under AC will be identified by the DLA.

- On July 30 of each year, the DLA will provide the Federal Resources Office (FRO) with a list of AC projects (if any), projects that are still on hold (if any), and additional projects to be obligated before September 30. This list is used in requesting additional OA from FHWA.

- The FRO will request additional OA from FHWA on or around August 4.

- If additional OA is obtained from FHWA, a pro rata portion, based on the ratio of the dollar costs of Caltrans and local agency projects submitted for redistributed OA, is provided by FRO to the DLA.

- The DLA will cash out any remaining AC projects, obligate projects that are on hold (if any), and obligate those additional projects with "Requests for Authorization" submitted between July 1-20. This will be done on a first-come, first-served basis until the additional OA is exhausted.

- If OA is still remaining, the DLA will continue to obligate projects as they are requested until September 15, or until the statewide OA pool and the regional Minimum Allocation is exhausted.

- If there is OA remaining on September 15, the FRO will obligate Caltrans projects (or cash out AC for Caltrans projects) to utilize all the OA that is available statewide. This is necessary since OA is available for one year only and expires on October 1 of each year.

OBLIGATIONAL AUTHORITY AND ADVANCE CONSTRUCTION GUIDELINES

- Advance Construction (AC) allows agencies to begin work on a project. However, agencies are required to use their own funds and they have the option to seek federal reimbursement. Federal reimbursement is postponed until the OA is available to obligate funds for reimbursement. Federal Authorization must be received prior to beginning work that will be reimbursed later.

- Once funds are obligated on a project, they cannot be withdrawn and substituted with a different fund (e.g., cannot de-obligate RSTP and substitute with CMAQ).

- If AC is used, the federal participation rate can be set at the time AC is converted to federal funds. (This allows federal funds to be obligated when better cost data is available). This procedure works especially well for underfunded projects (see Chapter 3, "Project Authorization," of the LAPM) and can be used even if OA is available.

- AC can be used to fund part of the project costs when a project will be funded from various federal apportionments and whether or not all of the apportionments have OA available.

TRACKING OBLIGATIONAL AUTHORITY

Local agencies should track their own OA usage. To assist a local agency in tracking OA, a set of balance reports is available for use. The reports may be accessed via the Internet at the Division of Local Assistance Web site under "Reports and Databases" at: http://www.dot.ca.gov/hq/LocalPrograms/public.htm ."

2.4 PROJECT LEVEL ACTIONS

FEDERAL-AID PROJECT FINANCING

The federal-aid highway program is a reimbursable program. The federal government reimburses the state only for those eligible costs which are actually incurred by the project sponsor. Authorized funds, distributed to the state through apportionments or allocations, represent lines of reimbursement credit upon which a project sponsor may draw as they advance a federal-aid project. Typically, the sponsor of a federal-aid project must initiate a federal-aid project using their own money, i.e. provide front-end financing and receive monthly cash reimbursements for the federal share of the project cost as the work is completed. Refer to Chapter 5, "Accounting/Invoices," of the LAPM for the requirements to receive reimbursement.

These following sections outline the major project related documents and actions necessary before a local agency can begin invoicing for reimbursement of the federal share of a local federal-aid project.

LOCAL AGENCY-STATE MASTER AGREEMENT

A Local Agency-State Master Agreement must be executed before a local agency requests federal participation from the DLA. In the Master Agreement, a local agency agrees to comply with all federal laws and regulations and FHWA and Departmental policies and procedures relative to environmental compliance, design, right of way acquisition, construction and maintenance of the proposed facility, and for other authorized uses. Periodically, Master Agreements must be re-executed because of changes in laws and policies. Refer to Chapter 4, "Agreements," of the LAPM for additional information on the agreements used on federal and state-aid local transportation projects.

PROJECT INCLUSION IN THE FTIP/FSTIP AND APPROVED ELIGIBILITY LISTS

All projects, except Emergency Relief (ER), must be included in a Federal Statewide Transportation Improvement Program (FSTIP) before work can be authorized and initiated. ER projects must be included in the FTIP/FSTIP only if they involve substantial functional, location or capacity changes. Local agencies are responsible for ensuring that their project is programmed correctly with an FTIP prior to requesting authorization to proceed for that project. For additional information on FTIP/FSTIP, see Chapter 1, "Introduction/Overview," of this manual.

To provide local agencies with the increased flexibility in handling projects, expedite project delivery, and reduce paperwork, certain categories of projects (see Exhibit 2-A, "Transportation Improvement Program (TIP) Exempt Projects" - "Table 1") may be excluded from project-specific listing in Metropolitan Transportation Plans and TIPs. This exemption does not apply to Table 1 projects; if the MPO in consultation with other state and federal agencies under the interagency consultation requirements concurs that the project has potentially adverse emissions impacts for any reason.

Funding for Table 1 projects still must be listed in TIPs to meet the programming requirements under SAFETEA-LU, but that requirement may be fulfilled by an appropriate grouped project listing. For more information on lump sum listings, see the Transportation Programming Web site at www.dot.ca.gov/hq/transprog/fedpgm.htm, under "Grouped Project Listing."

Additional regulation allows certain types of regional transportation projects to be exempted from regional emissions analyses. These project types are listed in Exhibit 2-A, "TIP Exempt Projects" - "Table 2." The local effects of these projects with respect to carbon monoxide (CO) or particulate matter (PM10) concentrations must be considered to determine if hotspot analysis is required prior to making a project-level conformity determination (see Chapter 5, "CMAQ," of this manual). If a local agency determines a hot-spot analysis is not required, the local agencies can then proceed with the project development process and place those eligible projects for exemption under the appropriate lump sum listing. However, the exemption clause does not apply to those projects when the MPO, in consultation with other state and federal agencies under the interagency consultation conformity requirements, concurs that the project has potentially adverse emissions impacts for any reason. In addition, the following projects must also be included on the approved multi-year program lists:

- Grade Crossing Improvement funds - California Public Utilities Commission (CPUC) approved list (see Division of Rail, Rail Crossing Safety and Track Branch for more information)
- Highway Bridge Program (HBP) funds - Caltrans approved list (see Chapter 6, "HBRR," of this manual)
- Highway Safety Improvement Program (HSIP) funds - Caltrans approved list (see Chapter 9, "HSIP," of this manual)
- Safe Routes to School (SRTS) – California Highway Patrol and Caltrans approved list (see Chapter 24, "Federal Safe Routes to School," of this manual)

These multi-year program lists (or plans) are explained in detail in the appropriate chapters of this manual. The multi-year program lists may be downloaded from the DLA Web site.

AUTHORIZATION TO PROCEED

Prior to beginning reimbursable work on a federal-aid project, an "Authorization to Proceed" (E-76) (see Chapter 3, "Project Authorization," of the LAPM) must be granted by the FHWA or Caltrans (per stewardship agreements), which authorizes reimbursement with federal funds. Any work performed prior to such authorization is not eligible for federal participation. The project shall not be advertised prior to authorization of construction phase. The obligation of funds for all federal-aid projects is performed by the FHWA.

"Authorization to Proceed" is required for each phase of work for which federal reimbursement is sought. These include preliminary engineering, right of way, and construction, including construction engineering (concurrent phase authorization is permissible). However, right of way and construction cannot be authorized without NEPA approval. "Authorization to Proceed" may also be granted for a portion of a work phase, (e.g., utility work may be authorized as part of the right of way phase). Within a phase of work, the work for partial approval must be at logical break points as agreed to by Caltrans or the FHWA, based on task accomplishments and not a period of time. The work tasks must be specifically attributable to the development of the project.

For declared emergencies approved by the FHWA for Emergency Relief funding, emergency repair work (to open public roads to traffic) and preliminary engineering work may be initiated without prior authorization. Restoration work requires prior authorization. Provide documentation necessary to prepare the Disaster Assessment Form (see Chapter 11, "Disaster Assistance," of this manual).

For highway related projects, detailed procedures for obtaining federal authorization to proceed and obligating federal funds are contained in Chapter 3, "Project Authorization," of the LAPM.

SAFETEA-LU funds made available for public transit projects, which are typically administered by the Federal Transit Administration (FTA), must be transferred to the jurisdiction of the FTA. The procedures for transferring federal funds and administrative responsibility from the FHWA to the FTA are also discussed in Chapter 3, "Project Authorization," of the LAPM.

PROGRAM SUPPLEMENT AGREEMENT

A Program Supplement Agreement between the state and local agency must be executed prior to the reimbursement of federal funds for each project. This agreement is a supplement to the above referenced Local Agency-State Master Agreement and addresses project specific financial responsibilities (see Chapter 4, "Agreements," of the LAPM).

Program Supplement Agreements will no longer display phases of work on the front page of the agreement. Instead, special covenants will be added to the project Program Supplement Agreement that allow funding for future phases of the project to be encumbered upon approval of the "Request for Authorization" of those phases. The DLA will prepare a Program Supplement Agreement upon receiving and approving the agency's initial Request for Authorization, Finance Letter, and Agreement Checklist.

DETAIL ESTIMATE

Before the award of a construction contract, the project sponsor prepares a "Detail Estimate." The Detail Estimate is used to:

- Identify federally participating and non-participating portions of work
- Segregate work by major federal work type codes
- Quantify supplemental work, state/local agency furnished materials, and contingencies and construction engineering
- Establish the federal reimbursement ratio for the project

See Exhibit 15-M, "Detail Estimate," of the LAPM.

FINANCE LETTER

A Finance Letter is also prepared by the local agency to identify the funding sources of a project. It is based on the Detail Estimate and other costs for nonconstruction phases of work. A Finance Letter segregates project costs by eligible phases of work, identifies work performed by state and/or local forces, shows the total and participating and nonparticipating project costs, and identifies the various project funding sources. The Finance Letter is the basis for reimbursement of the federal funds shown in the Federal-aid Project Agreement (E-76). Eligible project costs cannot be reimbursed until a Finance Letter is submitted to the Local Program Accounting Branch via the DLAE and DLA. See Exhibit 15-N, "Finance Letter," of the LAPM.

COMBINED STATE AND FEDERAL-AID PROJECT FINANCING

Where the state is providing funds to match or supplement federal funding, the details of this funding shall be provided with the "Request for Authorization" (see Chapter 3, "Project Authorization," of the LAPM) submittal. Sufficient information and cost breakdown shall be provided to segregate the state funding.

Before beginning preliminary engineering, the local agency should discuss the current program rules with the DLAE.

2.5 REFERENCES

- SAFETEA-LU Web site: http://www.fhwa.dot.gov/safetealu/index.htm
- Section 176 (c)(4) of the Clean Air Act as Amended in 1990
- Section 182 Streets and Highway Code
- California Transportation Commission, *STIP Guidelines*, amended July 19, 2000, CTC Resolution G-00-20
- *Transportation Enhancement Activities Guidelines*, April 6, 1999 and April 27, 1999
- *Local Assistance Procedures Manual* (LAPM)
- 23 CFR 630.114
- 23 CFR 635.301 et.seq.
- 23 CFR 450
- *Financing Federal-aid Highways*
- Transportation Planning Web site: www.dot.ca.gov/hq/transprog/fedpgm.htm

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CHAPTER 3 FEDERAL-AID ROUTES & FUNCTIONAL CLASSIFICATIONS

3.1 INTRODUCTION

Prior to the Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991, the Federal-aid Highway Program was directed primarily toward the construction and improvement of four federal-aid systems: the Interstate (FAI), Primary (FAP), Urban (FAU) and Secondary (FAS) Systems. The National Highway System Act of 1995 restructured the federal-aid system and repealed the FAP, FAU and FAS systems. Instead of four federal-aid systems, now there is one system, the National Highway System (NHS). The Interstate System is a component of the NHS.

Although there is only one federal-aid system comprising of arterials, collectors and local roads, all public roads functionally classified above that of rural minor collector are eligible for federal assistance under new and/or continued programs provided by SAFETEA-LU. These are primarily funded under the Regional Surface Transportation Program (RSTP), the Congestion Mitigation and Air Quality (CMAQ) Improvement Program, and the Highway Bridge Program (HBP). Refer to Chapters 4 through 12 of this manual for complete discussions of the various federal-aid programs available to local agencies under the SAFETEA-LU.

3.2 FEDERAL-AID ROUTES

NATIONAL HIGHWAY SYSTEM

The NHS focuses federal resources on routes which are most important to interstate travel and the national defense, and roads that connect to other modes of transportation or are essential for international commerce. The NHS is designed to maintain system connectivity within the State and with adjacent states.

Section 103 (b) (1) of 23 U.S.C. defines the purpose of the NHS as:

> "to provide an interconnected system of principal arterial routes which will serve major population centers, international border crossings, ports, airports, public transportation facilities, and other major travel destinations; meet national defense requirements; and serve interstate and interregional travel."

The federally mandated components of the NHS are: 1) the Interstate Highways 2) other urban and rural principal arterials 3) intermodal connectors which provide motor vehicle access to a major port, airport, public transportation facility, or other intermodal transportation facility, 4) the Strategic Highway Network (STRAHNET) which is a network of highways important to the United States strategic defense policy and which provides defense access, continuity, emergency capabilities for the movement of personnel, materials, and equipment in both peace time and war time, 5) major STRAHNET connectors which are listed in the Military Traffic Management Command's report, STRAHNET Connector Atlas, SE89-4b-59, dated September 1991, and 6) High Priority Corridors which have been predetermined by Congress.

The task of designating the State's portion of the NHS was a cooperative effort between Caltrans, regional and local governments, and neighboring states. The National Highway System Designation Act, signed by the President on November 28, 1995 formally adopted the NHS. The NHS listing was updated in 2002; refer to Exhibit 3-A "Local Routes on the National Highway System," of this manual for the listing of the local routes on the NHS.

FEDERAL-AID SYSTEM

Highways which are classified higher than local roads or rural minor collectors are collectively referred to as "Federal-aid Highways." New and continued programs provided under SAFETEA-LU permit the use of federal funds on these types of facilities.

Within the State of California, the total mileage of the federal-aid system, (including about 7,638 NHS miles) is approximately 54,700 miles.

OTHER PUBLIC ROADS

Although most federal highway funds are spent on "federal-aid highways," some federal funds may be used to finance improvements on local roads and rural minor collectors. Under the Highway Bridge Program (HBP), at least 15% of the State's bridge apportionment is to be used for bridge projects on roads classified as local or rural minor collectors. In addition, the Surface Transportation Program provides federal funds for bridge, safety, carpool related, and bicycle/pedestrian projects on any public road, regardless of functional classification.

3.3 FUNCTIONAL CLASSIFICATIONS

Streets and highways are grouped into classes or systems according to the character of service they are intended to provide. This process is called functional classification. An integral part of this process is the recognition that individual roads and streets do not serve travel independent from the rest of the highway system. Rather, most travel involves movement through a network of roads, so it is necessary to determine how this travel can be channelized within the network in a logical and efficient manner. Functional classification defines the nature of this channelization process by defining the role that any particular road or street should play in serving the flow of trips through a highway network.

Functional classification can be applied in planning highway system development, determining the jurisdictional responsibility for particular systems, and in fiscal planning. Functional classification is also important in determining eligibility for federal-aid funding.

FUNCTIONAL CLASSIFICATION FEATURES

Urban and rural areas have fundamentally different characteristics as to density of street and highway networks, nature of travel patterns, and the way in which these elements are related in highway function. Therefore, it is necessary to provide separate classifications for urban and rural functional systems.

URBAN

The four functional systems for urban and urbanized areas are 1) principal arterials, 2) minor arterial streets, 3) collector streets, and 4) local streets.

- The urban principal arterial system of streets and highways serves the major centers of activity of a metropolitan area, the highest traffic volume corridors, and the longest trip desires, and carry a high proportion of the total urban area travel on a minimum of mileage. The system is integrated, both internally and between major rural connections.

  The principal arterial system carries the major portion of trips entering and leaving the urban area, as well as the majority of through movements desiring to bypass the central city. In addition, significant intra-area travels, such as between central business districts and outlying residential areas, between major inner city communities, or between major suburban centers, are served by this system. Frequently, the principal arterial system will carry important intra-urban as well as intercity bus routes. Finally, this system in small urban and urbanized areas provides continuity for all rural arterials which intercept the urban boundary.

- The urban minor arterial street system interconnects with and augments the urban principal arterial system and provides service to trips of moderate length and a somewhat lower level of travel mobility than principal arterials. This system also distributes travel to geographic areas smaller than those identified with the higher system.

  The urban minor arterial street system includes all arterials not classified as principal arterials and contains facilities that place more emphasis on land access than the higher system, and offer a lower level of traffic mobility. Such facilities may carry local bus routes and provide intra-community continuity, but ideally should not penetrate identifiable neighborhoods. This system includes urban connections to rural collector roads where such connections have not been classified as urban principal arterials.

- The urban collector street system provides both land-access service and traffic circulation within residential neighborhoods, commercial and industrial areas. It differs from the arterial system in that facilities on the collector system may penetrate residential neighborhoods, distributing trips from the arterials through the area to the ultimate destination. Conversely, the collector street also collects traffic from local streets in residential neighborhoods and channels it into the arterial system. In the central business district and in other areas of like development and traffic density, the collector system may include the street grid which forms a logical entity for traffic circulation.

- The urban local street (local roads) system comprises all facilities not on one of the higher systems. It serves primarily to provide direct access to abutting land and access to the higher systems. It offers the lowest level of mobility and usually contains no bus routes. Service to through traffic movement usually is deliberately discouraged.

RURAL

Rural functional classes are in the areas outside of urban areas. These areas include many small towns that have a population less than 5,000. The classes are similar to the urban functional classes. The differences in the nature and intensity of development between rural and urban areas cause these systems to have characteristics that are somewhat different from the correspondingly named urban systems. Rural functional classes consist of: 1) principal arterials, 2) minor arterials, 3) major collectors, 4) minor collectors, and 5) local streets.

- The rural principal arterial system consists of a network of continuous routes that serve corridor movements with trip length and travel density characteristics indicative of substantial statewide or interstate travel. Rural principal arterials provide an integrated network without stub connections except where unusual geographic or traffic flow conditions dictate otherwise.

- The rural minor arterial system forms a network linking cities, larger towns, and other traffic generators, such as resort areas capable of attracting travel over similarly long distances. Minor arterials, spaced at intervals consistent with population density, ensure that all developed areas of the State are within a reasonable distance of an arterial highway.

- The rural major collector system serves the larger towns not directly served by arterials and other traffic generators of intra-county importance.

- Rural minor collectors are spaced at intervals consistent with population density, collect traffic from local roads and serve the remaining smaller communities.

- Rural local streets primarily provide access to adjacent land and provide service to travel over relatively short distances as compared to collectors or other higher systems.

CHANGES IN FUNCTIONAL CLASSIFICATION

Caltrans has the primary responsibility for determining anticipated functional usage, and initially developing and periodically updating the **statewide** highway functional classification.

Changes in functional classification must comply with the requirements described in the *Highway Functional Classification -- Concepts, Criteria and Procedures* manual published by the Federal Highway Administration (FHWA).

- City Streets - Each incorporated city is responsible for initiating requests to change the functional classification of city streets. City staff provides the necessary justification for the proposed classification change. The changes should be consistent with approved FHWA guidelines

- County Roads - Each county is responsible for initiating requests to change the functional classification of county roads. County staff provides the necessary justification for the proposed classification change. The changes should be consistent with the approved FHWA guidelines

- State Highways - Caltrans Districts are responsible for initiating requests to change the functional classification of State highways. District staff provides the necessary justification for the proposed classification change. The changes should be consistent with the approved FHWA guidelines.

- Changes to other facilities - Forest Service roads, State Park roads, Indian Reservation roads, etc. must be initiated by the affected agency that has jurisdiction over the facility. The staff of each agency provides the necessary justification for the proposed classification change. The Caltrans Districts would assist with any questions these agencies may have regarding the proposed functional classification changes.

Once a request is initiated by the responsible agency, it must be submitted to the appropriate MPO or RTPA for concurrence. This requirement applies to all public roads (local, State and Federal) for which a functional classification change is proposed.

When a MPO/RTPA proposes the change of functional classification of a public road, it must involve the appropriate entity with jurisdiction over the facility to ensure that recommendations are mutually acceptable.

All requests for change, along with all the justifications, are forwarded through the Caltrans Districts to the Headquarters Division of Transportation System Information (TSI) for evaluation and recommendation to FHWA. The Districts review all proposals and submit their independent recommendations to Headquarters TSI. TSI updates the (Functional Classification) maps and sends to FHWA for approval. The change becomes official on the date the FHWA signs the maps.

3.4 REFERENCES

- FHWA, Highway Functional Classification--Concepts, Criteria and Procedures, March, 1989.
- Title 23, Ch 1, Section 103 and Section1006 of Publication 102-240
- 23 USC, section 130(b)(1)
- Division of TSI, Highway System Engineering Web site: http://www.dot.ca.gov/hq/tsip/hseb/index.html
- National Highway System Act of 1995
- SAFETEA-LU Web site: http://www.fhwa.dot.gov/safetealu/index.htm

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a Report of Expenditures or Project Close-Out Report (see Chapter 17, "Project Completion," of the LAPM). The reports provide key information required to initiate timely project closure and payment. The reports should describe any change to the project and the reason for such change, when compared to the original scoping document. The reports and the final invoice will be submitted to the Caltrans DLAE by the deadlines indicated above in Section 23.2.

CALTRANS' VERIFICATION

Caltrans will review the completed project and verify that it was completed in accordance with the scope and description of the project authorization documents before processing the final invoice. The agency is responsible for maintaining written source document records that identify agency costs and project development payments made to consultants, vendors and contractors. Contract records must be retained by the local agency for a minimum period of three years from the date of final payment.

AUDIT REQUIREMENTS

Local agencies receiving federal funds are subject to the audit requirements of the federal OMB Circular A-133, available on the Internet at: www.whitehouse.gov/OMB/Circulars/. A single audit is required if an agency receives more than $300,000 annually in federal funds from all sources. Local agency expenditures for all local assistance programs are also subject to financial and compliance audits by the State Controller's Office and Caltrans' Audits and Investigations. Normally, individual project audits are not necessary if the expenditures for a project are covered by a single audit report accepted by the appropriate federal agency.

23.4.4 ADDITIONAL GUIDANCE ON HIGHWAY PROJECTS

The preceding sections provided a brief summary of Reimbursement and Project Completion procedures for local highway projects. (Flow Chart 23-2, "Reimbursement and Project Completion," shows the process from the appropriation of funds in the budget to payment of the final invoice.) For a more detailed explanation of all the various procedures required to administer federal and state funded local highway transportation projects, see the LAPM. These procedures are based on the concepts of eliminating multiple reviews and delegating most project responsibilities and accountability to the administering agencies. Caltrans no longer approves local right of way certifications and PS&E packages. Instead, the local agency self-certifies right of way and PS&E.

Federal program efficiencies, beginning with the enactment of ISTEA and continuing with TEA-21, allowed delegation for most federal-aid project activities with the exception of National Environmental Policy Act (NEPA) approval. The Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) Section 6004 provided an opportunity for the Secretary of Transportation to assign and all states to assume responsibility for NEPA Categorical Exclusion (CE) approvals, and Section 6005 provided an opportunity for five States (Texas, Oklahoma, Utah, California, and Alaska) to participate in a Pilot Program, where the Secretary would assign and the pilot state would assume responsibility for approval of NEPA Environmental Assessments (EAs), Environmental Impact Statements (EISs), and for formal consultation with other federal agencies. On June 7, 2007, an MOU was executed between FHWA and Caltrans assigning those responsibilities under Section 6004 fro CE approvals. On June 22, 2007,

a second MOU was executed between FHWA and Caltrans assigning responsibilities under Section 6005 for EA and EIS approvals and for formal consultation with other federal agencies.

Local grant projects must also meet the requirements of the California Environmental Quality Act (CEQA). The local agency is the lead agency under CEQA and provides CEQA approvals and clearances. Caltrans is only involved in the review of local agency CEQA documents which impact a state route through the Intergovernmental Review (IGR) planning process.

23.5 PLANNING, PROGRAMMING, AND MONITORING (PPM) FUNDS

This section provides information for PPM funds. General information for all project types can be found in Sections 23.3 of this chapter.

Section 14527 of the Government Code, and the CTC *STIP Guidelines*, allow the programming by a region of an amount for project planning, programming and monitoring by the transportation planning agency. Programming of these funds comes from county shares and can be programmed for each year of the STIP. To streamline the allocation process for these funds, the Commission has delegated allocation authority to Caltrans as described above. To simplify the process further, all agencies will receive state-only funding for eligible PPM activities. Caltrans has prepared standard agreements for the distribution of these funds which allow lump sum "up front" payments to all agencies that programmed $300,000 or less per fiscal year. Agencies receiving over $300,000 per fiscal year will be paid on a reimbursed basis. Each agency is required to prepare a PPM plan to be included as part of the standard agreement.

Planning agencies shall request allocations and agreements for the upcoming year as they near completion of PPM expenditures for the current year. Caltrans will provide the Commission with monthly reports on the allocations made under the delegation. Because of the impact that the timely use of funds provisions have on county share balances, copies of allocation approval documentation will be provided to the responsible RTPA.

23.6 RSTP/CMAQ/REGIONAL TEA MATCH RESERVES

This section provides information for match reserves. General information for all project types can be found in Sections 23.3 of this chapter.

The CTC *STIP Guidelines* allow the programming by a region of a reserve of state funds in the STIP to provide matching funds for federal RSTP, CMAQ, and Regional TEA funds. These state-only funds are programmed from the regions' county shares for each year of the STIP. The reserve of state matching funds are available for any eligible federal RSTP and CMAQ projects and permissible under Article XIX of the California Constitution. The match amount must also be less than or equal to the required minimum state-match of federal participating costs, except when rounded to the nearest thousand.

To streamline the process and relieve the Commission of numerous, routine allocations, Caltrans has been delegated authority to allocate STIP funds from the RSTP/CMAQ/Regional TEA match reserves to local agencies as described above. Prior to allocating these funds, regions must identify specific projects to be matched from the

reserve programmed, including an indication of the responsible agency, and specific project match limits. The project identification can be made by submitting a specific list of projects or through regional agency sing-off on all match reserve allocation requests. Caltrans will then work directly with the local agencies to administer the reserves. As long as the local agency's request for funding allocation is equal to or less than the amount identified by the RTPA for the project, Caltrans will approve the request without further Commission or planning agency action.

Caltrans will prepare and approve an allocation document each time match funds are approved for a project and forward copies to the appropriate regional planning agency. Caltrans will provide the Commission with monthly reports on the allocations made under this delegation. Because of the impact that the timely use of funds provisions have on county share balances, copies of allocation approval documentation will be provided to the responsible RTPA. The RTPAs will be responsible for monitoring the allocation of the reserves each year to ensure that all reserves programmed have been allocated before the end of the fiscal year.

23.7 RIDESHARE PROJECTS

This section provides information for rideshare projects. General information for all project types can be found in Sections 23.3 of this chapter.

The CTC *STIP Guidelines* allow the programming of non-capital expenditures for transportation demand management projects that are a cost-effective substitute for capital expenditures.

To streamline the process and provide a continuous flow of funds for eligible expenditures, Caltrans has been delegated responsibility for the allocation of STIP funds for these rideshare projects as described above. State-only funding will be provided for all projects to allow the same simplified process for all rideshare projects. As long as the local agency's request for funding allocation is equal to or less than the programmed amount for each rideshare project, Caltrans will approve the request without further Commission action. Because of the impact that the timely use of funds provisions have on county share balances, copies of allocation approval documentation will be provided to the responsible RTPA.

The program supplement agreements allow lump sum "up front" payments for amounts of $300,000 or less per fiscal year. Agreements for over $300,000 per year will provide for payments on a reimbursed basis. Upon receipt of a request for a fund allocation from the project sponsor, Caltrans will prepare the program supplement agreement and submit it to the local agency for execution. Project sponsors will request allocations and agreements for the following year as they near completion of expenditures for the current cycle of agreements. Caltrans will also provide the Commission with monthly reports on the allocations made under the delegation.

23.8 REPORTING REQUIREMENTS

23.8.1 ASSEMBLY BILL 872

AB 872 requires Caltrans to report to the Legislature starting July 1, 2000, and annually thereafter, on STIP-programmed projects where reimbursable work began prior to

allocation. The report will include information about the projects implemented under provisions of AB 872 (outlined in Section 23.3.2 of this chapter). Specifically, the report will indicate agreement processing times for each project and provide detailed reasons for all projects for which an agreement was not executed within the 90-day period provided in statute. A description of any actions taken by Caltrans during the prior fiscal year to streamline, expedite, and simplify the Department's process for executing the specified agreements to transfer funds is also required.

23.8.2 DELEGATED ALLOCATIONS

As noted previously in this chapter, delegated allocations will be reported to the Commission on a monthly basis.

23.9 REFERENCES

OMB Circular A-110 and OMB Circular A-133
CTC *STIP Guidelines*, dated July 12, 2001
CTC Guidelines for Preparation of Project Study Reports
Project Study Report (Local Rehabilitation) Guidelines for 1998 STIP Projects off the State Highway System
Caltrans *Project Development Procedures Manual*, Appendix L – Preparation Guidelines for Project Study Report
Guidelines for Allocating, Auditing, and Monitoring of Local Assistance Projects
Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA_LU) Web site: http://www.fhwa.dot.gov/safetealu/index.htm