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CALIFORNIA DIVISION
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October 6, 2008

IN REPLY REFER TO
HDA-CA
Document #: S52126

Mr. Will Kempton, Director
California Department of Transportation
1120 N Street
Sacramento, CA 95814

Attention: Mr. Earl Seaberg, Chief
Division of Local Assistance

Dear Mr. Kempton:

SUBJECT: Local Agency Program Review, Phase II

Enclosed is the final report for the Local Agency Program Review, Phase II that was conducted by the Federal Highway Administration (FHWA) California Division in cooperation with the California Department of Transportation (Caltrans).

We appreciate Caltrans prompt action and request that Caltrans provide FHWA, by November 14, 2008, with the actions and associated milestones to implement the corrective actions. One of the most significant corrective actions is the development of a comprehensive Oversight Action Plan for the Local Assistance Program. FHWA expects the Oversight Action Plan to be completed by the end of the Federal Fiscal Year 2009. Given that the resolution of the corrective actions are of high importance to FHWA and that the schedule for the development of the Oversight Action Plan is ambitious, FHWA is committed to working closely with Caltrans to carry out the corrective actions.

We want to thank you and all of the Caltrans' staff that participated in this review. If you have any questions, please contact Gary Sweeten at (916) 498-5128.

Sincerely,

For
Gene K. Fong
Division Administrator

MOVING THE AMERICAN ECONOMY

California Division Office
Local Agency Program Review, Phase II

September 2008

Federal Highway Administration (FHWA-CA)

Approved:

VINCENT MAMMANO, FHWA
California Division,
Chief Operating Officer

9/30/08
Date

Acknowledgements

We would like to acknowledge the many people who contributed to this review. First, we would like to thank the 35 local public agencies (LPAs) that provided staff time to meet with the review team, respond to the review questions, and make project documentation available. Second, we would like to thank Caltrans District Local Assistance Engineers for not only responding to the review questions, but also helping arrange the site visits to the LPAs. Mr. Eugene Shy, Caltrans Division of Local Assistance, also contributed to arranging the site visits. Finally, we really appreciate the efforts of all the FHWA personnel involved in the review. The review team consisted of California Division (Division) staff from four different Division Teams, and the review required a significant amount of travel by those individuals. We also thank the Division Leadership Team and FHWA staff, external to the Division, for providing valuable input on the review report.

TABLE OF CONTENTS

ACKNOWLEDGEMENTS ..... **II**

TABLE OF CONTENTS ..... **III**

LIST OF ACRONYMS ..... **IV**

EXECUTIVE SUMMARY ..... **V**

INTRODUCTION **1**

PURPOSE OF REVIEW 2
Background *2*
SCOPE/APPROACH 3

REVIEW RESULTS **5**

LOCAL AGENCY AND PROJECT RESULTS 5
Findings and Corrective Actions *5*
Observations and Recommendations *7*
Best Practices *8*
DISTRICT LOCAL ASSISTANCE ENGINEER RESULTS 8
Findings and Corrective Actions *8*
Observations and Recommendations *9*
Best Practices *9*

CONCLUSIONS **9**

FUTURE ACTIONS **11**

TABLE 1 - LOCAL AGENCY AND PROJECT FINDINGS AND CORRECTIVE ACTIONS **12**

TABLE 2 - LOCAL AGENCY AND PROJECT OBSERVATIONS AND RECOMMENDATIONS **14**

TABLE 3 - LOCAL AGENCY AND PROJECT BEST PRACTICES **15**

TABLE 4 - CALTRANS DISTRICT LOCAL ASSISTANCE ENGINEER (DLAE) FINDINGS AND CORRECTIVE ACTIONS **17**

TABLE 5 - CALTRANS DISTRICT LOCAL ASSISTANCE ENGINEER (DLAE) OBSERVATIONS AND RECOMMENDATIONS **18**

TABLE 6 - CALTRANS DISTRICT LOCAL ASSISTANCE ENGINEER (DLAE) BEST PRACTICES **18**

APPENDIX A: Project List
APPENDIX B: Local Agency Questions and Document Request
APPENDIX C: District Local Assistance Engineer Questions
APPENDIX D: Matrix of Review Results by Project Phase and Review Question
APPENDIX E: Contract Document Retention Clause
APPENDIX F: Review Team
APPENDIX G: Past Process Reviews

LIST OF ACRONYMS

AAA	Advertised, Awarded, and Administered
Caltrans	California State Department of Transportation
CCPR	Construction Contractor Payment Review
CFR	Code of Federal Regulations
Division	Federal Highway Administration, California Division
DLA	Caltrans Division of Local Assistance
DLAE	District Local Assistance Engineer
FAHP	Federal-aid highway program
FHWA	Federal Highway Administration
FIN	Federal Ineligibility Notice
FY	Fiscal Year
ICAP	Indirect Cost Allocation Plan
LAP	Local Assistance Program
LAPG	Local Assistance Program Guidelines
LAPM	Local Assistance Procedures Manual
LP2000	Caltrans Local Assistance Project Database
LPA	Local Public Agency
NEPA	National Environmental Policy Act
NHS	National Highway System
NRP	National Review Program
PIF	Public Interest Finding
PES	Preliminary Environmental Study
PS&E	Plans, Specifications, and Estimate
QAP	Quality Assurance Program
RE	Resident Engineer
ROW	Right-of-Way
RTP	Regional Transportation Plan
SHS	State Highway System
STA	State Transportation Department
TIP	Transportation Improvement Program
USC	United States Code

Executive Summary

Through the *Stewardship Agreement*, May 12, 1992 and the current *Joint Stewardship and Oversight Agreement*, September 4, 2007 (http://www.fhwa.dot.gov/cadiv/), and in accordance with 23 United States Code (USC) 106, the Federal Highway Administration (FHWA), California Division Office (Division) delegated, and the California Department of Transportation (Caltrans) accepted, the Secretary's responsibilities for administration of the Federal-aid highway program (FAHP) to the greatest extent possible. As part of the delegation, Caltrans accepted responsibility for the administration and oversight of the Local Assistance Program (LAP) for local public agency (LPA) Federal-aid transportation projects in California. "Re-engineering" of the LAP in the mid-1990s resulted from a reduction of staff available to oversee LPA projects. At that time, Caltrans made a conscious decision to further delegate Federal-aid responsibilities, including construction oversight, for projects located off the State Highway System (SHS) to the LPAs. Since that time, the local FAHP has grown significantly in size and complexity. The Caltrans Division of Local Assistance (DLA) has the primary stewardship responsibility of the LAP, now oversees more than one billion dollars annually, which is available to over six hundred LPAs in California.

Through Program Analysis and Risk Assessment at both the national and state level, the FHWA has identified Federal-aid projects administered by the LPAs to be an area of high risk within the FAHP. The primary concern is due to the large number of Federal-aid transportation projects administered by the LPAs. Additionally, FHWA is uncertain about the LPA's familiarity with the Federal-aid requirements and their level of expertise in delivering complex transportation projects.

To address these concerns, the Division initiated a multi-year, multi-disciplinary LPA Program Review (Phase I and II) in fiscal year (FY) 07 and 08. The purpose of the review was to examine the overall health of the LAP by determining if LPAs are complying with Federal and State laws, regulations, and policies pertaining to the delivery of the Federal-aid transportation projects and whether Caltrans is providing adequate oversight of the program. One recommendation from the Phase I review was to perform a Phase II review of the "life-cycle" (planning, environmental, right-of-way, design, and construction) program delivery of a representative sample set of individual LPA projects to determine program compliance on a more extensive basis.

The LPA, Phase II review was carried out by the Division between November 2007 and September 2008. The specific purpose of the Phase II review was to:

- Verify that Caltrans Local Assistance is providing adequate oversight of the LPA Federal-aid project delivery "life-cycle" including planning, environmental, right-of-way (ROW), design, construction and maintenance; and
- Assure that Caltrans processes for ensuring proper Federal-aid eligibility determinations and project cost reimbursements are efficient, properly documented, and in accordance with the requirements outlined in the Federal laws, regulations, and policies governing this program.

The Phase I review found that the Local Assistance Procedures Manual (LAPM) and the Local Assistance Program Guidelines (LAPG) provide well-written, comprehensive guidance and are

in substantial compliance with the Federal-aid laws, regulations, and policies. The Phase II review used the LAPM and LAPG as well as the Federal-aid requirements to identify those areas in the project delivery process that are a high risk to FHWA. The review focused mostly on the design, right-of-way, and construction phases of project delivery with just a very few questions on planning (mostly on programming the project) and environmental documentation. No issues were identified in the planning and environmental phases (Metropolitan Planning Organizations and Caltrans are very involved in the oversight of these areas, respectively). Five minor issues were identified in the design phase dealing with the Plans, Specifications and Estimates (PS&E). Construction and ROW utility relocation are specific areas where improvements are needed. The general conclusions resulting from the objectives of the Phase II review are:

1) LPAs are not following the guidance provided by Caltrans, the LAPM and LAPG, especially in the ROW and the construction phases of project delivery.
2) Caltrans does not have an adequate process to verify that the LPAs self-certification documentation ensures the project meets Federal-aid requirements.
3) Caltrans oversight of the LAP is insufficient based upon the findings in the ROW and construction phases of the reviewed projects.
4) Caltrans shall reassess their entire oversight process and methods for determining and verifying compliance and develop a comprehensive oversight action plan.
5) The Caltrans DLA has committed to a schedule for updating the LAPM and LAPG consistent with the recommendations from Phase I of this review. FHWA is providing comments on the draft updates as they are made. Caltrans and FHWA meet periodically to track the progress of the updates. Overall, the Division determined from the Phase I review that the Caltrans LAPM and LAPG, and other resources provide comprehensive guidance to the LPAs.

During the review, the team identified seventeen best practices by LPAs and nine best practices by the District Local Assistance Engineers (DLAE) that provide better oversight and/or documentation for the project. These best practices ranged from design reviews to electronic record retention.

The size and complexity of the LAP has grown significantly since the initial Federal-aid program delegations in the early 1990s. Based on the results of the LPA Review, the Division and Caltrans need to re-assess the appropriate level and methods of oversight for the LAP. The expected outcome of the re-assessment is a comprehensive oversight action plan to be implemented by Caltrans.

The results of this review are summarized in tables starting on page 12 of this report. Since the review included interviews with staff from both the LPAs and the DLAEs, the results are documented in separate tables. Tables 1-3 have the results for the LPAs and Tables 4-6 have the results for the DLAEs. Additionally, the results of each are categorized by: 1) findings and corrective actions (Tables 1 & 4); 2) observations and recommendations (Tables 2 & 5); and 3) best practices (Tables 3 & 6). Findings are defined as identified deficiencies that did not comply with Federal laws, regulations and policies or with the Caltrans LAPM. Observations are circumstances where FHWA felt there is a potential for a process or project delivery improvement. Best practices are considered activities that are being carried out by an LPA or DLAE that have the potential to provide more efficient and/or effective implementation of the Federal-aid program.

The spreadsheet in Appendix D is a visual representation of the distribution of the findings and observations by project and review question. The findings from the Construction Contractor Payment Review are also included in the matrix.

Over the next few years, the Division will work closely with Caltrans to implement the changes, as appropriate, resulting from program and project reviews and from an overall re-assessment of Caltrans oversight. Specific activities will include, but are not limited to:

- Documenting Caltrans current processes for oversight, verification, and quality control of the LAP;
- Developing a comprehensive oversight action plan to implement necessary changes to ensure that substantial compliance is being achieved in the LAP;
- Monitoring and assisting in Caltrans efforts to update and implement necessary changes to the local programs manuals;
- Developing and delivering focused training and information to Caltrans field staff and to the LPAs staff through webinars and other appropriate means; and
- Conducting a comprehensive re-evaluation of LAP compliance within the next five years. (Individual program reviews of the LAP will be conducted in the interim for specific areas of the program.)

INTRODUCTION

The United States Congress has charged the Federal Highway Administration (FHWA) with administering the Federal-aid highway program (FAHP) under title 23 of the United States Code (USC), Title 23 of the Code of Federal Regulations (CFR), and other associated laws and regulations. In the 1990s, the flexibility afforded in the Intermodal Surface Transportation and Efficiency Act and Transportation Equity Act for the 21st Century allowed for the state transportation agencies (STAs) to have an increased role in approval actions on Federal-aid projects. Through the *Stewardship Agreement*, May 12, 1992 and the current *Joint Stewardship and Oversight Agreement*, September 4, 2007 (http://www.fhwa.dot.gov/cadiv/), and in accordance with 23 USC 106, the California Department of Transportation (Caltrans) accepted responsibility for administering the Federal-aid program to the greatest extent possible.

As part of its delegation, Caltrans accepted responsibility for the administration and oversight of the local public agency (LPA) programs in California. "Re-engineering" of the Local Assistance Program (LAP) in the mid-1990s resulted in the reduction of staff available to oversee LPA projects. At that time, Caltrans made a conscious decision to further delegate Federal-aid responsibilities, including construction oversight, for LPA Federal-aid projects located off the State Highway System (SHS) to the LPAs. Since that time, the local FAHP has grown significantly in size and complexity due to a 1997 change in the law giving local agencies control of 75% of the State Transportation Improvement Program. The Caltrans Division of Local Assistance (DLA) has primary stewardship and oversight responsibility of the LAP, now oversees more than one billion dollars annually, which is available to over six hundred LPAs in California. The day-to-day oversight of the LAP is performed by twelve independent Caltrans Districts responsible for their geographical areas.

Through Program Analysis and Risk Assessment, at both the national and state level, the FHWA has identified Federal-aid projects administered by the LPAs to be an area of high risk within the FAHP. The main reason for concern is due to the large number of Federal-aid projects administered by the LPAs. Additionally, FHWA is uncertain about the LPAs familiarity with Federal-aid requirements for the project delivery process. A final concern relates to the level of expertise needed to effectively develop and deliver a Federal-aid project, regardless of whether the local agency uses in-house staff, or contract consultants.

The FHWA, California Division Office (Division) initiated a multi-year, multi-disciplinary LPA Program Review in fiscal year (FY) 07. The purpose of the review was to examine the overall health of the California LAP by determining if the LPAs are complying with the Federal and State laws, regulations, and policies that pertain to the delivery of Federal-aid transportation projects and whether Caltrans is providing adequate management and oversight of the program. The Phase I review resulted in three recommendations. The first recommendation was to update Caltrans guidance to local agencies for the delivery of Federal-aid projects; the Local Assistance Procedures Manual (LAPM) and the Local Assistance Procedures Guidelines (LAPG). The second recommendation was to develop a quality control process at the State level that will statistically verify that the Federal-aid local assistance program requirements are being met. The last recommendation was to conduct a "life-cycle" program delivery review, Phase II, to include a representative sample set of individual LPA projects to determine program compliance on a more extensive basis. This last recommendation has resulted in this Phase II review which looked at the Caltrans and LPAs' project documentation, from programming through

construction, to determine if the LPA projects met the requirements of Federal and State laws, regulations, and policies.

Purpose of Review

As previously noted, the purpose of the overall LPA Review was to determine if the LPAs are complying with the Federal and State laws, regulations, and policies that pertain to the delivery of Federal-aid transportation projects and whether Caltrans is providing adequate management and oversight in the administration of the program.[1]

Specifically, the purpose of the FY 08 LPA Review, Phase II was to:

- Verify that Caltrans Local Assistance is providing adequate oversight of the LPA Federal-aid project delivery "life-cycle" including planning, environmental, right-of-way, design, construction and maintenance; and
- Assure that Caltrans processes for ensuring proper Federal-aid eligibility determinations and project cost reimbursements are efficient, properly documented, and in accordance with the requirements outlined in the Federal laws, regulations, and policies governing this program.

This compliance review also evaluated the LPAs' and Caltrans implementation of the LAPM and the LAPG which contain the processes and procedures that LPAs are to follow.

The following objectives used for this Phase II review were taken from the list of nationally identified objectives for local program reviews:

1) Determine if the Caltrans program delivery guidance, LAPM and LAPG, are being followed by the LPAs.
2) Verify the adequacy of Caltrans efforts to assure that LPAs' self-certifications meet Federal-aid requirements.
3) Determine the adequacy of Caltrans Local Assistance project oversight and program administration.
4) Determine what changes may be needed to ensure that substantial compliance is being accomplished.
5) Monitor the progress of Caltrans efforts to update and implement necessary changes to the LAPM and LAPG as identified during the Phase I of the process review.

Background

Three key activities have created the need to conduct a comprehensive review of the LPA Federal-aid program delivery process in California. These key activities included the 2006 LPA Review by FHWA National Review Program (NRP); the recommendation in the Phase 1 (FY 07) of the Division's Local Agency Process Review; and the Division's annual Program Analysis and Risk Assessment.

[1] These requirements are generally encompassed in the 2007 *Joint Stewardship and Oversight Agreement* between the Division and Caltrans.

The national FHWA Review of the LPA Program in FY 06 was entitled "The Administration of Federal-aid Projects by Local Public Agencies"[2]. In 2005, the Office of Professional and Corporate Development (OPCD) asked the FHWA Division Offices and other units of FHWA to rank the FHWA programs that warranted review at the national level. As a result of that survey, the administration of Federal-aid projects by LPAs was the first program reviewed under the rejuvenated national review program. FHWA Associate Administrator for the OPCD and the Director of Field Services West, co-sponsors of the national review, requested that the review; 1) verify or refute concerns relating to a lack of oversight by the STAs and/or the FHWA; 2) identify common weaknesses and recommendations for improving them; and 3) identify successful practices.

The national review looked at thirty-nine projects administered by thirty-five different LPAs. Twelve of the projects were located in California. The national review found that there were program weaknesses that allowed shortcomings in ensuring project eligibility and compliance with laws and regulations and there were findings of non-compliance in almost all project delivery areas, including those projects in California.

The California Division Office responded to the findings from the national review by undertaking a multi-disciplinary, multi-year program review to examine the overall health of the Local Assistance Program in California. Phase I of the review was completed in FY 07 and focused on the adequacy of Caltrans' guidance to the LPAs for delivery of Federal-aid projects; the LAPM and LAPG. FHWA determined that "*The LAPM and LAPG are updated regularly and provide well written comprehensive guidance, however some sections have not been updated to include all of the changes to the federal requirements mandated by SAFETEA-LU. Caltrans does have a process where it issues Local Program Procedures (LPPs) as a rapid deployment of new procedures and policies between update of the manual and guidelines*."

The final activity was the Division's annual Program Analysis and Risk Assessment. Through the Program Analysis and Risk Assessment, the Division identified Federal-aid projects administered by the LPAs to be one of its highest risk potentials. This determination was largely based on the Division's past delegation of local agency responsibility and oversight to Caltrans via the stewardship agreements. Caltrans, in turn, further delegated many of the responsibilities to the LPAs for Federal-aid transportation projects off the SHS.

Consistent with the recommendation from the Phase I review, this Phase II review was performed to verify that Caltrans Districts and the LPAs are implementing the Federal-aid program pursuant to Federal and State laws, regulations and policies as well as the LAPM and LAPG. In addition, based on the NRP report, the review was performed to verify that Caltrans' DLA is providing adequate oversight that ensures LPA compliance throughout the project delivery "life-cycle."

Scope/Approach

The scope of the Phase II review was to assess the "life-cycle" program delivery of approximately 40 representative LPA Federal-aid projects. A comprehensive review of all the projects was performed to determine if the projects were Federal-aid compliant and the required

[2] http://staffnet.fhwa.dot.gov/programadmin/070404att01.pdf

life-cycle documentation was completed and retained for the project. The review included only projects off the SHS. Projects on the SHS that are advertised, awarded, and administered (AAA) by LPAs were not included since they are under the direction of and overseen by Caltrans Project Management.

In addition to project-specific questions, the review also included interviews with the Caltrans District Local Assistance Engineer (DLAE) and the LPA staff regarding their overall administration of Federal-aid transportation projects. Interviews with Caltrans DLAEs were geared toward determining sufficiency of allocated resources, program delivery implementation and Caltrans existing process review program.

To minimize disruption to the DLAEs and the LPAs, this program review was conducted concurrently with two other reviews being performed by the Division. The Division Office, Financial Services Team was required to perform project reviews for the Construction Contractor Payment Review (CCPR), so the same projects were used for both reviews. Staff conducting the Division's Bridge Program Delivery Review also participated in the reviews when the project included a bridge.

The following steps were taken to accomplish the review: 1) individual projects were selected for review; 2) a list of required project documentation to be provided by DLAEs and LPAs; and two lists of interview questions were developed; one for the DLAEs and one for the LPAs; 3) site visits were made to the offices of the LPAs and the DLAEs to conduct the interviews and review the project records; and 4) the Division office performed final review of the project information and summarized significant findings.

Forty-two projects were randomly selected from a statewide list of active construction projects. For purposes of this review, an active construction project was considered to be one having an invoice submitted between January 24, 2007 and October 3, 2007. FHWA did, however, ensure that at least one project from each Caltrans District was included in the review. Two of the projects were subsequently eliminated from the review since one was an AAA project and one was a transit project. The list of projects for Phase II is included in Appendix A.

A list of project documentation and standardized interview questions was developed for the review. The review team utilized Caltrans LAPM in developing the questions and the required documentation. The questions for the Financial Services Team CCPR were incorporated into the list of interview questions which is included in Appendix B. The list includes both the project-specific questions as well as the general questions. The project-specific questions were divided into the project delivery phases of planning, environment, ROW, design, construction and finance. The number of planning and environment questions was limited. With the assignment of the National Environmental Policy Act (NEPA) responsibilities to Caltrans, the environmental questions focused on only the date of the Preliminary Environmental Study (PES) form, the date and type of environmental decision and the environmental commitments.

General questions were also included to provide the review team with an idea of the experience level the LPA staff had with the Federal-aid process. Also included in Appendix B is the list of project documentation requested for each project. Similarly, a list of standard review questions was developed for the interviews with the DLAE. The DLAE questions are included in Appendix C of the report.

All site visits were coordinated by Caltrans DLA and performed between January 24, 2008, and April 30, 2008. The site visits included interviews with the appropriate Caltrans DLAE and LPA staff, examination of project records, and, when possible, a project field visit. Responses to the interview questions were retained in a database developed by the Division. After the site visits, the Division completed a final multidisciplinary review of the project information and followed-up with Caltrans and/or the LPA on any outstanding issues.

REVIEW RESULTS

The review results are summarized in the following sections and also in tables starting on page 12 of this report. Since the review included interviews with staff from both the LPAs and the DLAEs, the results are documented in separate tables. Tables 1-3 have the results for the LPAs and Tables 4-6 have the results for the DLAEs. Additionally, the results of each are categorized by: 1) findings and corrective actions (Tables 1 & 4); 2) observations and recommendations (Tables 2 & 5); and 3) best practices (Tables 3 & 6). Findings are defined as identified deficiencies that did not comply with Federal laws, regulations and policies or with the Caltrans LAPM. Observations are circumstances where FHWA felt there is a potential for a process or project delivery improvement. Best practices are considered activities that are being carried out by an LPA or DLAE that have the potential to provide more efficient and/or effective implementation of the Federal-aid program.

The review objectives were used to assess programmatic elements of the LAP including Caltrans oversight, LPA self-certification (i.e. the LPA's assurance to Caltrans that the project has met all Federal-aid requirements) and Federal-aid compliance. Accordingly, most of the review findings and observations were those that occurred on multiple projects and that appeared to be systemic to program delivery. There were a number of individual project deficiencies included in the report since these were considered to be more serious in nature. Detailed information on the CCPR findings have not been included in this report but are available in the Finance report.

Local Agency and Project Results

Findings and Corrective Actions

Findings and corrective actions related to the reviewed projects are documented in Table 1. There are ten project-related findings and corresponding corrective actions. The findings are organized by project delivery phase. The appropriate regulatory/LAPM reference is also included in the table. The areas with significant findings are shown on the spreadsheet in Appendix D. The matrix illustrates the distribution of the findings and observations by project and review question. The findings from the CCPR review are also included in the matrix.

The most recurrent finding was that project files were incomplete. Documentation problems were found mostly in the construction phase, but miscellaneous documentation was missing in other project development phases as well. Complete and organized project files are essential in demonstrating compliance with laws, regulations and policies.[3]

[3] LAPM, Chapter 16, Page 16-11.

For thirty-five projects, pertinent information was either missing or incomplete. Incompleteness of project field records and resident engineers' (REs) diaries resulted in findings on eight projects. A Federal Ineligibility Notice (FIN) was issued for one of the projects as a result of the CCPR review. In some cases, support for pay quantities was not readily available in the project files. FHWA was able to follow-up with those LPAs and obtained the documentation subsequent to the site visit. Some of the documentation was obtained by LPA from outside sources (e.g. subcontractors, suppliers, etc.).

One concern relating to record retention was that project files were not always kept in one central location, especially when a consultant was used. Additionally, the LPAs did not always have copies of the Caltrans signed and/or approved LAPM forms; for a number of projects, those documents had to be provided by the Caltrans DLAE.

Findings related to the ROW project phase were identified for eight projects. Six projects had issues ranging from a lack of utility agreements to including utility betterments on bridges. As part of the CCPR review, FHWA determined that a steel conduit betterment included in a bridge reconstruction project was ineligible for Federal-aid funding since it was included solely for the benefit of the City, and a FIN is pending for the project. For two projects, the Uniform Act should have been followed but documentation was not available. The LAPM reiterates that Federal laws and regulations pertaining to ROW must be followed when Federal funding is used in any phase of the project.[4] A number of project sponsors believed, however, that the regulations only applied if Federal funding was used in the ROW phase.

The majority of findings were related to the construction phase of the projects. In addition to the project field records (e.g. payment item quantities, RE diaries, material receipts and certifications, etc), labor compliance employee interviews were not conducted on two projects; documentation of the interviews could not be produced on two projects; and on one project interviews were conducted on an infrequent basis. Some project sponsors were not aware of this labor compliance requirement for employee interviews which is included in the LAPM.[5] One project should have had a public interest finding (PIF) for work performed by the LPA, but the documentation was not available. A number of the LPAs commented that they did not know what a PIF was or when it should be used.

There were also a number of findings related to Quality Assurance Programs (QAPs). The LPAs are required to have an adopted QAP for projects off the National Highway System (NHS). Caltrans is to verify the QAPs prior to construction authorization[6]. Three local agencies did not have QAPs, five had QAPs that were outdated, and several LPAs used their consultant's QAP. It is unknown if the Caltrans DLAEs approved the consultant's QAPs prior to authorization since documentation was not available. Issues identified during the review included frequency of testing, independent assurance, and acceptance testing. One agency elected not to do any testing on a pavement rehabilitation project. If acceptance testing was performed and a "fail" occurred, the project records did not always indicate that there was appropriate follow-up testing. In cases where consultants are performing acceptance testing, the LPA should ensure that the consultants receive and use the LPAs QAP unless a decision has been made to use the consultants' QAP.

[4] LAPM, Chapter 13, Page 13-3.
[5] LAPM, Chapter 16, Page 16-10.
[6] LAPM, Chapter 16, Page 16-25.

Four other individual project issues were identified that did not necessarily appear to be systemic problems, but were serious enough that the Division included them in the review summary. First, for two projects, the construction contract was advertised prior to FHWA authorization. For delegated projects, the Division and Caltrans, letter dated June 15, 1993, had agreed that the projects could be advertised for construction after Caltrans approval of the construction authorization. This policy was revised, per FHWA letter dated July 31, 2006, to be consistent with 23 CFR 635.112 which states that a project cannot be advertised until FHWA has approved the construction authorization. The LAPM, however, has not been updated to reflect this change.

Second, one LPA project reviewed had at least two contract issues. First, materials were salvaged from the project and then sold to a third party. The resulting revenues were deposited into the local agency road improvement account. In this situation, Federal regulations require that the grant program be reimbursed the cost of the federal share of the salvaged item (i.e. in this case, 80% of the proceeds). In addition to the salvage credit, the local agency requested reimbursement for a construction item that was not included in the original bid quantities or in a contract change order. FHWA is in the process of reviewing this project to determine if a FIN will be issued for these items.

The third individual project issue was related to the consultant selection process. A LPA awarded a sole-source consultant contract for construction engineering services. The LPA believed they could award a sole-source contract if the contract amount was less than $100,000. Federal regulations do allow for "simple and informal" procurement methods for small purchases, and Caltrans has defined small purchases to be less than $100,000[7]. However, "simple and informal" processes do not include sole-source contracting. Sole-source contracting is acceptable in only very limited situations and with prior approval by FHWA. FHWA is currently determining whether a FIN will be issued as part of the CCPR for this project.

The final individual project issue was related to the use of a third party to advertise, award and administer a Federal-aid project. Caltrans Master Agreement and Project Agreements have to be modified to accommodate this type of arrangement. It also resulted in confusion over which environmental document applied to the Federal-aid project.

Observations and Recommendations

Observations and recommendations related to the projects are documented in Table 2. Four observations were noted. In the planning phase, an observation was made that related to the project listings in the Transportation Improvement Program (TIP) and the Regional Transportation Plan (RTP). It was observed that many projects were of the type that they did not have to be individually listed in the TIP. In these cases, the project documentation should include the lump sum back-up listing that can be obtained from the metropolitan planning organization. This would allow auditors to easily confirm that the project met planning regulations at the time of authorization.

In the ROW phase, one local agency was in litigation over utility issues. The local agency didn't have the ROW easement documentation to defend against allegations of prior rights. Having the

[7] LAPM, Chapter 10, page 10-13.

ROW easement documentation could potentially save the LPA and FHWA the cost of moving utilities.

The other two observations dealt with financial issues. Caltrans must ensure that LPAs have sufficient accounting controls in place to properly manage Federal funds. The results of this review indicated that most of the LPAs followed some sort of internal control and separation of duties for progress invoicing. At least ten LPAs did not, however, have written procedures in place.

LPAs could request reimbursement for indirect costs on seven of the projects. However, their Indirect Cost Allocation Plan (ICAP) has not been approved by Caltrans. Caltrans is aware of the issue, and FHWA has been working with Caltrans to get this issue resolved.

Best Practices

Best practices, as identified through the review of the individual projects or in the interview with an LPA, are documented in Table 3. FHWA came across numerous best practices that are being implemented by the LPAs. FHWA encourages Caltrans to distribute these practices to the other LPAs for use in the management of the Federal-aid program. Further details on these best practices can be obtained from the Division.

District Local Assistance Engineer Results

Findings and Corrective Actions

Findings and corrective actions related to DLAE oversight are included in Table 4. These findings, in conjunction with the project findings in Table 1, indicate there are significant gaps in the oversight of the LAP.

As stated in the LAPM, process reviews are Caltrans primary mechanism for ensuring compliance with Federal laws, regulations, and policies and has typically been a DLA function. From 2000 through 2004 twelve process reviews were conducted. Of those reviews, two were mini reviews (one day) and two were conducted through mailed surveys. Six of the twelve reviews were conducted during 2003. From 2005 through 2007 eleven process reviews were conducted, ten of which were initiated by FHWA (Appendix G). The gap in initiating and conducting reviews from 2004 on does not adequately provide verification that federal requirements are being met. The Process Review Committee as outlined in the LAPM, Chapter 19, page 19-2 was established to guide and approve the yearly process review monitoring plan. FHWA is unaware of any activities being performed by this committee. In addition, it was noted during the review that eight of the twelve Caltrans Districts do not typically perform process reviews; they address issues as they arise.

Plans, specification and estimate (PS&E) reviews were also discussed with the DLAEs. The LAPM states that DLAEs will review one PS&E package per agency per year. Eleven of the twelve Districts indicated that they were following this guidance. The last District indicated that it reviews one PS&E package per agency per year as their workload allows.

In the construction phase, most DLAEs indicated that they provided little if any construction support. Some Districts will get involved if there is a major change order, request for added funding, or a specific request. This level of involvement is, however, consistent with the LAPM.

Observations and Recommendations

There were only two observations noted for the DLAEs, and they are listed in Table 5. First, two Districts noted that they developed and are maintaining their own databases to track local projects. The purpose of having a separate District database is to be able to include information that was not necessarily provided for in the Caltrans DLA's statewide project database (LP2000). FHWA recommends that Caltrans consider updating LP2000 to include complete project information needed by the Districts.

During the construction phase, and consistent with the procedures in the LAPM, the Districts are not always copied on progress invoices that are sent to Local Programs Accounting. As a result, District staff is not aware of project status and do not review eligibility of pay items until the final voucher. Caltrans should consider having District staff copied on the progress invoices to review project status and eligibility of pay items.

Best Practices

There are nine best practices identified for DLAEs oversight, and they are listed in Table 6. Three of the best practices pertain to the Districts' interaction with the LPAs. The others related to the environmental and construction phases of project development. Two Districts stated that they do perform construction reviews and the District uses an inspection checklist for those reviews. In addition to the best practices included in the table, many of the LPAs were very complimentary of both Caltrans' DLA/DLAE staff and the training and service that Caltrans provides.

CONCLUSIONS

Based on the results of the LPA Review (Phases I and II), the current level of Caltrans oversight of the LPAs is not adequate. The Phase I review found that the Local Assistance Procedures Manual (LAPM) and the Local Assistance Program Guidelines (LAPG) provide well-written, comprehensive guidance and are in substantial compliance with the Federal-aid laws, regulations, and policies. The Phase II review used the LAPM and LAPG as well as the Federal-aid requirements to identify those areas in the project delivery process that are a high risk to FHWA. The review focused mostly on the design, right-of-way, and construction phases of project delivery with just a very few questions on planning (mostly on programming the project) and environmental documentation. No issues were identified in the planning and environmental phases (Metropolitan Planning Organizations and Caltrans are very involved in the oversight of these areas, respectively). Five minor issues were identified in the design phase dealing with the Plans, Specifications and Estimates (PS&E). Construction and ROW utility relocation are specific areas where improvements are needed. The general conclusions resulting from the objectives of the Phase II review are:

1) LPAs are not following the guidance provided by Caltrans, the LAPM and LAPG, especially in the ROW and the construction phases of project delivery.

2) Caltrans does not have an adequate process to verify that the LPAs self-certification documentation ensures the project meets Federal-aid requirements.
3) Caltrans oversight of the LAP is insufficient based upon the findings in the ROW and construction phases of the reviewed projects.
4) Caltrans shall reassess their entire oversight process and methods for determining and verifying compliance and develop a comprehensive oversight action plan.
5) The Caltrans DLA has committed to a schedule for updating the LAPM and LAPG consistent with the recommendations from Phase I of this review. FHWA is providing comments on the draft updates as they are made. Caltrans and FHWA meet periodically to track the progress of the updates. Overall, the Division determined from the Phase I review that the Caltrans LAPM and LAPG, and other resources provide comprehensive guidance to the LPAs.

During the review, the team identified seventeen best practices by LPAs and nine best practices by the District Local Assistance Engineers (DLAE) that provide better oversight and/or documentation for the project. These best practices ranged from design reviews to electronic record retention.

As stated in the LAPM, process reviews are Caltrans primary mechanism for ensuring compliance with Federal laws, regulations, and policies and has typically been a DLA function. From 2000 through 2004 twelve process reviews were conducted. Of those reviews, two were mini reviews (one day) and two were conducted through mailed surveys. Six of the twelve reviews were conducted during 2003. From 2005 through 2007 eleven process reviews were conducted, ten of which were initiated by FHWA (Appendix G). The gap in initiating and conducting reviews from 2004 on does not adequately provide verification that federal requirements are being met. The Process Review Committee as outlined in the LAPM, Chapter 19, page 19-2 was established to guide and approve the yearly process review monitoring plan. FHWA is unaware of any activities being performed by this committee. In addition, it was noted during the review that eight of the twelve Caltrans Districts noted that they do not typically perform process reviews; they address issues as they arise.

The Local Agency Program has grown considerably in size and complexity since the original delegations in the early 1990s. Original oversight strategies, that may have been appropriate in the 1990s, are not meeting the current needs of the program. The emphasis of Caltrans oversight has been to provide tools and training for the LPAs; Caltrans is to be commended for those efforts. The emphasis has not been, however, on assuring that the tools and information are being properly used by the LPAs. Therefore, the Division and Caltrans need to re-assess the appropriate level and methods of oversight for the LAP. The outcome of the re-assessment would be an oversight action plan to be implemented by Caltrans.

In FY 09, the Division will spend additional time with the DLA to focus on implementation including re-assessing Caltrans oversight of the verification methods currently used by the DLA. As a result of Phase I of this review, Caltrans DLA is also in the process of documenting the existing oversight program. While this review highlighted the general areas where oversight improvements need to be made, detailed recommendations for oversight changes will be made after the Division and Caltrans reassess current processes and procedures.

FUTURE ACTIONS

Phase II completes the Division's multi-disciplinary, multi-year LPA Program Review. Over the next few years, the Division will work closely with Caltrans to implement the changes, as appropriate, resulting from program and project reviews and from an overall re-assessment of Caltrans oversight. Specific activities will include, but are not limited to:

- Documenting Caltrans current processes for oversight, verification, and quality control of the LAP;
- Developing a comprehensive oversight action plan to implement necessary changes to ensure that substantial compliance is being achieved in the LAP;
- Monitoring and assisting in Caltrans efforts to update and implement necessary changes to the local programs manuals;
- Developing and delivering focused training and information to Caltrans field staff and to the LPAs staff through webinars and other appropriate means; and
- Conducting a comprehensive re-evaluation of LAP compliance within the next five years. (Individual program reviews of the LAP will be conducted in the interim for specific areas of the program.)

The Division will work with Caltrans to develop a reasonable time frame to respond to the findings and observations included in this report. The quality control and quality assurance plan recommended from Phase I review will be incorporated into the oversight action plan required by this review. The Division office will work closely with Caltrans to develop the most efficient and effective plans for oversight of the LAP.

Table 1

LOCAL AGENCY AND PROJECT FINDINGS AND CORRECTIVE ACTIONS

Per Federal Laws, Regulations, and Policy and the Caltrans Local Assistance Manual

Project Phase	Reference	Finding(F)/Corrective Action(CA)
General	**49 CFR 18.42** Retention and access requirements for records	**F1** – Thirty-five projects were missing project documentation or the documentation was incomplete. This occurred in all phases of project delivery including, but not limited to, LAPM forms, PIFs, quantities estimates, utility agreements, and project RE diaries. Additionally, project information was not always maintained in one location.
		CA1 – 49 CFR 18 requires that complete project records are retained for three years from FHWA's approval of the final voucher. Caltrans shall develop a process for verifying that project records are complete and retained by the project sponsor for the required period of time.
Right of Way	**23 CFR 645** Utility Relocations, Adjustments, and Reimbursement	**F2** – Six projects were missing documented agreements for commitments by utility companies to use and/or pay for conduit on public bridge facilities. Additionally, a number of project sponsors believed that CFR regulations and LAPM procedures pertaining to ROW did not have to be followed if utilities were non-participating items.
		CA2 –Caltrans shall ensure that local agencies adhere to Federal ROW laws and regulations regardless of whether or not Federal funds were used in the ROW phase. FHWA will work with Caltrans to develop and deliver corrective training.
	49 CFR 24 Uniform Relocation Assistance And Real Property Acquisition	**F3** – For two projects, documentation was not available to demonstrate that the Federal Uniform Act was followed.
		CA3 – Caltrans shall ensure that local agencies adhere to Federal ROW laws and regulations regardless of whether or not Federal funds were used in the ROW phase. FHWA will work with Caltrans to develop and deliver corrective training.
Construction	**23 CFR 635** **49 CFR 18** Construction Retention and access requirements for records	**F4** – For eleven projects, field records were not adequately maintained to support quantities submitted for payment. Additionally, on six projects, RE diaries were not complete to support time charges, work progress, and time extensions. For five of the projects, employee interviews were either not performed or the appropriate number of interviews were not performed.
		CA4 – Caltrans shall develop a process for verifying that project records are complete and retained by the project sponsor for the required period of time. 1) FHWA and Caltrans will develop and deliver focused training and information to the LPAs through webinars and other appropriate means on construction documentation requirements (e.g. RE diaries, quantity calculations, QAP, etc.). 2) FHWA will work with Caltrans to develop clear guidance for REs. 3) FHWA will work with Caltrans to develop an oversight action plan including a construction element.

Project Phase	Reference	Finding(F)/Corrective Action(CA)
	23 CFR 635.112 Advertising for bids and proposals	**F5** – Two projects were advertised for construction based on Caltrans approval which was prior to FHWA's approval of the E-76.
		CA5 – These projects were authorized by procedures agreed to in a letter dated June 15, 1993 between the Division and Caltrans. By letter dated July 31, 2006, the Division rescinded that provision and clarified that FHWA must approve the e-76 prior to the authorization to proceed to be consistent with 23 CFR 635.112. Caltrans shall update the LAPM to reflect these requirements.
	23 CFR 635.204/205 Cost effectiveness	**F6** – One project was missing documentation for PIFs. Additionally, at least five LPAs indicated that they were not aware of the requirements for a PIF.
		CA6 – Caltrans shall ensure that PIFs are completed and approved where necessary. FHWA and Caltrans will develop and deliver focused training and information to the LPAs through webinars and other appropriate means on PIFs.
	23 CFR 172.5 Methods of procurement	**F7** – One agency awarded an engineering support contract without using a competitive bidding process. They believed that they did not have to use a competitive process if the contract was for less than $100,000.
		CA7 – Caltrans shall ensure that Federal contract procurement procedures are followed. FHWA and Caltrans will develop and deliver focused training and information to the LPAs through webinars and other appropriate means on including contract procurement.
	49 CFR 18.36 Uniform Administrative Requirements	**F8** – One LPA contract required the contractor to salvage materials that the LPA then sold to a third party and deposited the funds into their road fund account. Federal regulations require that the grant program be reimbursed the cost of the federal share in that item. In this case 80%.
		CA8 – Caltrans shall ensure that the LPAs properly account for salvage credits in the LPA's contracts.
	LAPM 16.14 Quality Assurance Program	**F9** – Three local agencies did not have QAPs, five had QAPs that were outdated, and several LPAs used their consultant's QAP. It is unknown if the Caltrans DLAEs approved the consultant's QAPs prior to authorization since documentation was not available. Sixteen local agencies had a QAP; however, the QAPs were not consistent with the guidance in the LAPM (e.g. testers, laboratories, acceptance tests, re-tests, etc.).
		CA9 – Caltrans shall ensure that LPAs have an approved QAP and that it is consistent with their guidance prior to construction authorization. 1) Caltrans will provide local agencies with their updated QAP manual. 2) FHWA and Caltrans will work to develop an approach for verifying that local agency projects have valid QAPs.
	LAPM 4.2 General Agreements	**F10** – One local agency entered into an agreement with a third party for the third party to advertise, award, and administer the Federal-aid project.
		CA10 – Caltrans shall incorporate procedures, which have been approved by FHWA, into the LAPM for these types of arrangements.

Project Phase	Reference	Finding(F)/Corrective Action(CA)
Note: Incompleteness of project field records and RE's diaries resulted in one Federal Ineligibility Notice (FINs) being issued as part of the CCPR review. FHWA is still reviewing documentation of three additional projects to determine if FINs will be issued.		

Table 2

LOCAL AGENCY AND PROJECT OBSERVATIONS AND RECOMMENDATIONS

Project Phase	Observation(O)/Recommendation
Planning	**O1** – Thirty-two of the local agency projects are of the type that they do not have to be individually listed in the TIP; they can be included in a lump sum listing.
	R1 – For projects that are contained in a lump sum listing, the back-up list of projects for the lump sum listing should be retained in the project files with the TIP listing.
Right of Way	**O2** – Allocations of cost responsibilities for a utility relocation could not be made because the utility claimed prior rights and/or private easements applied to their facilities. The local agency did not have or could not locate adequate records to clearly define the public R/W.
	R2 – Local agencies should keep track of their ROW easements so they can defend allegations of prior rights.
Finance	**O3** – Thirty-six of the local agencies typically adhere to Caltrans LAPM requirements for progress invoicing and most agencies have several levels of reviews and approvals when processing payment requests. However, most agencies did not have written internal procedures for approval of payments on Federal-aid projects.
	R3 – Local agencies should develop and implement written internal procedures, which comply with Federal regulations and Caltrans LAPM requirements, outlining the internal controls for the proper management of Federal funds. Outreach training is recommended to stress the importance of ensuring that all laws and regulations are adhered to with respect to Federal-aid billing. In addition, developing and implementing internal controls will aid in training as a result of high local agency staff turn over.
	O4 - Seven of the projects included indirect costs. LPAs mentioned that the process is very time consuming and not worth the effort. On seventeen percent of the projects reviewed, the LPA stated that the process of approving the Indirect Cost Allocation Plan (ICAP) held up the billing process.
	R4 –Caltrans is aware of the issue, and is in the process of sending all LPAs a letter addressing ICAPs. The Division office and Caltrans will continue to work together to ensure adequate processing and monitoring of ICAPs.

Table 3

LOCAL AGENCY AND PROJECT BEST PRACTICES

Project Phase	Best Practice
General	Project records are digitized for long-term retention.
	Records are retained for ten (10) years after project completion. For the first three (3) years after project completion the project records are stored on site in their entirety. After three (3) years, the certified payrolls are destroyed and disposed of, and all remaining documents are scanned and stored electronically. The original documents are all destroyed after they are scanned and filed electronically.
	The consultant agreement includes a provision that all documents, plans and drawings, maps, photographs and other papers, or copies thereof prepared by consultant become the property of the city. See Appendix E.
Environmental	A Mitigation Monitoring and Reporting Program has been established to document and track mitigation recommended by the environmental document for each project. Each mitigation is summarized along with the implementation and notification action by the project applicant and site inspection and written verification by the LPA environmental manager.
Design	A Regional Standards Committee reviews and approves regional standard drawings. A twenty-five member Greenbook Committee (comprised of representatives from the cities, counties, utilities and contractors) reviews and approves the Greenbook.
	Utility agencies are included and participate as stakeholders during the design phase.
	A Traffic Safety Committee is used to address design exceptions. The city makes the determination.
	The local agency conducts constructability reviews (30%, 70%, and 100%) with each review having a two-week turn around. All Department sections review and comment so the reviews include multidisciplinary experts. These Sections include Construction, Materials Engineering Laboratory, Field Surveys, Environmental, Traffic Engineering, Field Engineering and Operations, and Land Development, Private Development. Review comments for each Section are reviewed and incorporated.
Construction	An electronic file system was used and it was in good operating order. Windows and Adobe Acrobat were used to create the file system. The daily diaries provided good supporting documentation.
	The local agency tracks contractor's payments to the subcontractors by making the contractor certify within thirty days that they have paid all of the subcontractors. This ensures that the contractors are meeting the prompt payment contract provisions.
	A requirement for retaining a biologist was included in the special provisions of the construction contract to ensure that environmental commitments were being enforced.
	All material testing is done in accordance with the LAPM. The County provided a test summary log which showed only one failed test which was redone. The failed compaction test was logged. The area was then retested and all second tests passed. The County does not accept jobs if there are failing tests. All

Project Phase	Best Practice
	required sampling and testing is performed in accordance with the County's QAP. In addition, material certifications are kept on file. This documentation supports contract payments and quality of materials.
	Subcontractors submit preliminary twenty-day notices. Throughout the course of the contract the subcontractors were paid by the prime contractor. If the subcontractor has not been paid, the County issues a "stop work notice". No issues were raised by subcontractors and no stop work orders were issued. This best practice assists in meeting the prompt payment provisions of the contract.
	Construction staff tracks project payments using contract pay item documents. A pay sheet is prepared each month per item. Pay sheets show location of work and amount of contract item paid to date. The County's Fiscal Section monitors payment and accruals on a tracking spreadsheet and in the Oracle fiscal program. Oracle will not allow user to use the same invoice number more than once. Oracle flags a second payment for the same amount--these must be manually reviewed by the Auditor and Controller. When preparing a claim, County staff reviews the Oracle report and pulls expense documents for each line tem to ensure that all expenses recorded are valid project expenditures.
	The LPA's Finance and Budget Division has published a template/memorandum that is attached to all project billings. This serves as an internal checklist and provides all individuals associated with the project: 1) background; 2) funding details; 3) project delivery provisions; 4) cost eligibility issues; 5) billing cycle; 6) final billing; 7) project management; 8) contacts; and 9) documentation required.
Finance	A number of the LPAs have published Administrative Manuals that are certified by the City Manager and provide procedures for the acquisition of personal property, services, and construction of public projects. The Finance Department also provides training on a re-occurring basis.
	The County has an effective segregation of duties and a good system of internal controls. Project Manager approves project invoices. All documents require initial input by Finance staff, from the Department of Public Works, and supervisory approval through the workflow process. Auditor and Controller Accounts Payable Division review the three way match and final approval before the warrant can be processed. Staff from Auditor and Controller Division run the report in Oracle and prepare the claim for submission to FHWA and prepare the revenue accrual in Oracle.

Table 4

CALTRANS DISTRICT LOCAL ASSISTANCE ENGINEER (DLAE) FINDINGS AND CORRECTIVE ACTIONS

Per Federal Laws, Regulations, and Policy and the Caltrans Local Assistance Procedures Manual

Project Phase	Reference	Finding(F)/Corrective Action(CA)[8]
General	**LAPM Chapter 19** Process Reviews	**F11** – Eight of the twelve Districts noted that they do not perform process reviews; they rely on the process reviews performed by Caltrans HQ to assure LPA compliance with Federal laws, regulations and procedures.
		CA11 – Caltrans shall assess their oversight strategies for ensuring compliance with Federal laws, regulations and procedures for incorporation into an oversight action plan.
General	**See Table 1 References**	**F12** – All nine findings listed in Table 1 are a result of inadequate oversight.
		CA12 – Caltrans shall assess their oversight strategies for ensuring compliance with Federal laws, regulations and procedures for incorporation into an oversight action plan.
Design	**LAPM Chapter 12.15** PS&E Certification	**F13** – One District did not regularly review one PS&E package per local agency per year.
		CA13 – Districts must ensure that they meet the minimum of reviewing one PS&E package per year per agency. FHWA and Caltrans will reassess this requirement to determine if this level of review is adequate.
Construction	**23 USC 106** Project approval and oversight	**F14** – In most cases, the Districts provide limited, if any, construction oversight. Some Districts only get involved if there are major change orders or if there are specific requests from the local agency.
		CA14 – Caltrans shall provide construction oversight to ensure that Federal-aid requirements are being met. FHWA will work with Caltrans to develop an oversight action plan including a construction element.

[8] Numbering continued from Table 1.

Table 5

CALTRANS DISTRICT LOCAL ASSISTANCE ENGINEER (DLAE) OBSERVATIONS AND RECOMMENDATIONS

Project Phase	Observation (O)/Recommendation(R)[9]
General	**O6** – At least two Districts maintain their own database to track projects. They felt that the information included in LP2000 is of more use to HQs than to the Districts.
	R6 – Caltrans should consider updating LP2000 to include information that is useful to the Districts.
Finance	**O7** – The Districts do not receive copies of progress invoices submitted by the local agencies to Local Programs Accounting. As a result, the Districts are not aware of project status and do not review eligibility of pay items until the final voucher.
	R7 – The District staff should be copied on progress invoices.

Table 6

CALTRANS DISTRICT LOCAL ASSISTANCE ENGINEER (DLAE) BEST PRACTICES

Project Phase	Best Practice
General	At least one District has procedures in place to return signed copies of LPA submittals to the local agency. This is a good practice and provides the LPA with a complete file that verifies that submittals were received and approved.
	Five of the twelve Districts use some form of checklist to review documentation and process requests from the LPAs.
	A number of the Districts have established communications procedures for disseminating critical information to LPAs.
Environmental	One District has a dedicated environmental group and the DLAE has a good working relationship with them. In another District, the environmental group has a work plan so the DLAE knows when the environmental work will be completed on projects.
	Field reviews and HQ support were the two efforts identified to assure that cost-effective, feasible alternatives are achieved.
Construction	Two of the Districts use a construction checklist for construction inspections.
	One District performs mini-process reviews at 20% and 80% of construction completion.
	One DLAE utilizes the state furnished item justification in guiding local agencies for delivery of projects.
	Two Districts have documented process reviews.

[9] Numbering continued from Table 2.

APPENDIX A

LAP Review, Phase II Project List (Bill dates: 01/24/07 - 10/03/07)

FPN	PROJECT SPONSOR	PROJECT DESCRIPTION	Total Project Cost
Q2105914039	COUNTY OF LAKE - PUBLIC WORKS	Soda Bay Rd and Seigler Canyon Rd - OGAC Overlay for skid treatment	$711,111
H1005148001	CITY OF TEHAMA	Tehama Ave - Replace low water crossing with bridge	$1,815,030
H2405907013	COUNTY OF LASSEN	Skyline Road East - New alignment to relieve congestion	$9,003,437
Q1005068001	CITY OF REDDING	Cypress St @ Sac River - Rehabilitate/ widen bridges	$76,417,589
Q2105906067	COUNTY OF SHASTA - DEPT	Bear Mt Rd betw Golden Trls & Crk Trl - Curve Realignment	$839,400
Q1005912067	BUTTE COUNTY TREASURER	Oro-Bangor Hwy at Rocky Honcur Crk - Bridge rehab - painting and rail replacement	$349,266
Q2405924082	COUNTY OF SACRAMENTO	Watt Avenue, S of Folsom Bvld - Grade Separation	$21,840,907
H2205479006	CITY OF ELK GROVE	Elk Grove Blvd from Waterman to Elk Grove-Florin - Roadway enhancements & improvements	$3,262,232
H2405002084	CITY OF SACRAMENTO	Richards Blvd & 12/16th Streets - Construct new signalized intersection	$4,332,952
L2305095008	CITY OF ROCKLIN	Sunset Blvd btwn Topaz Ave and Pacific St - Reconstructionand and overlay	$2,878,628
Q1005924014	COUNTY OF SACRAMENTO	Franklin Rd at Mokelumne R Br. - Bridge replacement	$13,654,000
Q1205002054	CITY OF SACRAMENTO	Main Ave at Natomas E Main Dr Bridge - Bridge replacement	$23,300,000
H2305322027	CITY OF FREMONT	Fremont Blvd, Mowry Ave, Stevenson Blvd, Paseo Padre Parkway, & Durham Rd - Pavement rehabilitation	$2,798,915
Q4005226010	CITY OF SAN BRUNO	SR 82 - Sneath Lane to I-380 - Modify signal, turn pockets	$4,231,000
H2305050030	CITY OF HAYWARD	Hesperian Blvd - Industrial Blvd to Sleepy Hollow - Pavement rehab and AC overlay	$814,414
H1C05005038	CITY OF SAN JOSE	Willow Glen Way at Gudalupe River - Replace existing bridge	$3,887,950
LE206003010	GOLDEN GATE BRIDGE HIGHWAY&	Golden Gate Bridge -Seismic retrofit Phase II	$177,854,803
H2305137028	CITY OF RICHMOND	From Garrard Ave to San Pablo Ave - Construct Ped walkway and bike path	$2,623,971
H2305934126	CITY & COUNTY OF SAN FRANCISCO	16th Street Pavement renovation - Rehabilitate roadway	$3,424,886
Q1205031005	CITY OF WATSONVILLE	Harkins Slough Road @ Watsonville Slough - Bridge replacement	$10,978,195
H1005109046	CITY OF BAKERSFIELD	SB North Chester Ave across Kern River - Bridge replacement	$7,608,491
H2405235008	CITY OF EL SEGUNDO	Douglas St Gap Closure/ Grade separation - Grade separation & intermodal facility	$16,763,347

FPN	PROJECT SPONSOR	PROJECT DESCRIPTION	Total Project Cost
Q9200001002	PORT OF LONG BEACH	In Long Beach - SR 47 at Ocean Blvd - Construct Interchange	$44,546,188
L2305953492	LOS ANGELES COUNTY TREASURER	90th Street West - Ave D to Ave G, et al - Resurface/reconstruction	$1,731,262
Q2305953421	LOS ANGELES COUNTY TREASURER	Vermont Ave, et al - Resurface/reconstruction	$3,159,730
H1205953518	LOS ANGELES COUNTY TREASURER	Beverly Blvd over Rio Channel - Bridge replacement & temp bridge	$12,709,391
L2305006486	CITY OF LOS ANGELES TREASURER,	Citywide - Approximately 20 miles of streets - Resurfacing	$9,565,607
ER604211010	CITY OF MURRIETA	Murrieta Hot Springs Rd w of Via Princess - Roadway repair	$78,664
H2305058072	CITY OF RIVERSIDE	Arlington Ave - Fairhaven Drive to Tyler St - Roadway rehabilitation	$1,129,538
H4005954071	COUNTY OF SAN BERNARDINO	Intersection of Lugonia Ave (SR 38) & Wabash Ave - Traffic signal interconnect	$598,240
Q4006053061	SAN BERNARDINO ASSOCIATD GOVTS	I-210 - Linden Ave (Rialto) - H St (San Ben) - 6 mixed-flow & 2 HOV lanes freeway	$108,434,920
H2205125013	CITY OF BISHOP	Home St - SR 168 to Sierra Street - Pedestrian and bike improvements	$560,000
Q1205059054	CITY OF MODESTO	9th Street @ Tuolumne River - Seismic retrofit - Replace Bridge	$29,841,900
H1005929135	TREASURER SAN JOAQUIN COUNTY	Tracy Blvd @ Grant Line Canal - Seismic retrofit	$900,501
L1C05939021	COUNTY OF MERCED - DEPARTMENT	Almond Ave @ Livingston Canal - Bridge replacement	$1,134,296
H4005418014	CITY OF LEMON GROVE	Massachusetts Ave - Broadway to Lemon Grove - Signal interconnect	$460,600
L1105957056	COUNTY OF SAN DIEGO	Collier Way over Harbison Canyon Creek - Bridge replacement	$1,765,662
ER604213005	CITY OF CARLSBAD	Rancho Santa Fe Road - Stabilize landslide	$6,128,442
H2405167017	CITY OF BRAWLEY	Best Rd from Shank Rd to SR 78 - Roadway rehabilitation	$2,021,879
H2305063099	CITY OF SANTA ANA PUBLIC WORKS	Main Street from 18th St to Buffalo Ave - Pavement rehabilitation	$331,364

Appendix B
FHWA – CA Division
Local Agency Questions and Guide to Project Documents Review

I. General

1 How many active Federal-aid projects does your agency currently have?

2 How many Federal-aid projects has your agency delivered/completed in the last five years?

3 How many staff administer Federal-aid projects? (please supply organization chart)

4 What is your total annual budget for the capital roadway projects? What portion is reimbursed by the Federal-aid program?

4a What is the total PYs (Personnel Years)/ FTEs (full time equivalent) used to deliver Federal-aid projects? Break out in-house staff from consultants.

5 Please rate your in-house staffs' knowledge of Federal-aid project laws, regulations, processes and procedures? (Rating level 1-5 -- 5 most experienced)

6 What personnel is responsible for technical reviews and evaluation of Federal-aid project delivery (position titles & number of personnel involved)?

7 Identify the level of involvement of Caltrans in the project delivery? (Rating level 1-5 -- 5 high involvement)

8 What process and /or procedures manuals are used for project delivery by the local agency? If other than Caltrans procedure manuals are used, who was involved in the review and approval of the manual? (master agreement - pg 4-15) If local manual, what date was it adopted? (provide copy)

9 How are updates to the LAPM communicated to you, your staff and consultants?

10 What types of training have staff attended and when? (Caltrans LA, LTAP, etc.) If staff attended, what disciplines attended? How often is the training offered (monthly, quarterly, annually)? Is there training that you need?

II. Planning

11 Was the project listed in the approved Regional Transportation Plans (RTPs), Federal Transportation Improvement Plans (FTIPs), FSTIP at the time of authorization? (LAPM Page 3-7 LAPG pg 1-2) Please provide copies of the relevant pages from these documents.

12 Does the description of the project in the RTP, FTIP, environmental document and final project match?

13 How did you develop your traffic forecasting for this project? (Historic trends or travel demand modeling) If travel demand model, did you use a county or regional level model?

14 What design year was identified and was/will the project be opened to traffic within that expected design year?

III. Environment

15 Has the Preliminary Environmental Studies (PES) and field review forms been completed? What date were they approved? (exhibit 6A, pg 6-17)

16 What date was the environmental determination approved?

17 What mechanism did the LPA use to carry forward the environmental commitments to the design and construction phases (i.e. an Environmental Commitment Record)? Who verified environmental commitments were included in the completed PS&E to be advertised? Are they specifically called out in the plans and special provisions?

18 Have the environmental commitments been completed and is there a mechanism for final acceptance of the mitigation (establishment period, survival rate, and periodic monitoring reports to resource agencies)?

Construction Contractor Payment Review questions are highlighted in green.

19 Was a revaluation required for the project? If so, what was the date, what were the reasons, and what was Caltrans involvement and/or FHWA?

20 Was the project fully funded for the alternative at the time of authorization (Did the LPAs have problems acquiring matching funds and who certified the funds were available)?

21 How are the contrators aware of the environmental requirements on your project?

IV. Design

22 Was the project designed by in-house staff or consultants?

23 What roadway design standards (including standard plans) were used on this project? (i.e. Caltrans, AASHTO, local standards) If local standards were used, how were they approved and who approved them? (pg 11-23)

24 Did the design meet the current ADA standards? Does the local agency have ADA standard plans? (obtain copy) (pg 9-4, pg 11-8, pg 12-11a) If the project did not meet ADA standards, was it designed to the maximum extent possible to meet the requirements?

25 What standard specifications were used? If local standard specifications were used and the project was on the NHS, did Caltrans review and approve such use? (pg 11-23)

26 Was the PS&E checklist completed properly? (review the documentation provided with the checklist including appropriate signatures) (exhibit 12D, pg 12-47)

27 Were there any new/revised design exceptions and, if so, how were they coordinated with Caltrans if required? (explain the process for review and approval) (pg 11-26 and exhibit 11F, pg 11-51) Does the LPA have a design exception tracking system? (please provide) (pg 11-27)

28 Is there a combined and segregated estimate to support the use of funds from proposed Federal-aid funding sources? Were non-participating work items identified and noted in the estimate? (Please provide a copy) (pg 12-34, exhibit 12A)

29 Was a Value Analysis completed? Were any recommendations implemented and what were they? (pg 12-6)

30 Were innovative contracting methods used and why were they used (discuss accordingly)? (i.e. incentives/disincentives, design-build, A+B, lane rental) Was there a review/approval process used? (pg 12-20 and pg 12-30)

31 Was there a constructability review? If yes, what constructibilty procedures were used? (obtain copy)

32 Were Public Interest Findings (PIFS) included in the design package or in construction? How are they being filed? (review the documentation and approval process) (exhibit 12F, 12-109)

V. Right-of-Way

33 Did the LPA comply with the Federal Uniform Act? (pg 13-2)

34 Did the LPA acquire any right-of-way prior to the environmental document approval? (pg 13-14)

35 Were there any relocatees? (pg 13-19)

36 Were there any relocation appeals? How were they handled? (pg 13-19)

37 Identify the Certification used prior to advertisement? If a Certification No. 3 was used to advertise, was the certification upgraded to 1 or 2 prior to award and were there any work arounds? (pg 13-22, 23)

38 Were there any utility and/or railroads relocations? (how was the determination made on who would pay for the relocation and is the audit report available) (pg 14-1 & 2)

39 During construction were any time delays or cost increases related to right-of-way/utilities? (land, utilities, railroad, etc.)

VI. Advertise, Bid, and Award (Supply award package)

40 What is the date of the e76 approval vs the date of approved PS&E?

41 What was the date of award, and what was the first day of work?

VII. Construction

42 Were LPA staff or consultants used as Resident Engineers? Was the Design Engineer retained to provide construction support?

43 How was the project resourced (numbers of LPA staff and/or experienced consultants for construction management)? (pg 16-5)

44 Are State/Local procedures for project supervision complied with? (Ref 23 CFR 635.105; Caltrans LAPM)

45 Do you have your own procedures or do you follow the construction project records filing system outlined in the LAPM? (i.e. recordkeeping index) (pg 16-10)

46 Are project field records adequately maintained to support quantities submitted for payment? (i.e. certified payroll) 23 CFR 635.118, 23 CRF 635.122 and 49 CFR 18

47 Did you adopt your own Quality Assurance Program (QAP) or do you follow Caltrans procedures? (pg 16-26) How did you assure materials, testers, and labs were certified on this project? Were the materials sampling and testing being conducted according to the latest required frequency shown in the LAPM? Provide the material and testing summary log. (pg 16-31)

48 Were any disputes resulting from failing tests? If yes, how were the failed tests and disputes resolved?

49 How many CCOs were issued? What were the total dollars and time extensions for all of the CCOs on the project? Were CCOs reviewed for Federal-aid eligibility? Are you using a tracking system to track CCOs? Are you actively monitoring the cost growth? Please supply the CCO summary (pg 17-5, exhibit 17E)

50 How is the contingency balance on the project being tracked?

51 Were there any changes in scope or major features from the original NEPA document? If so, please explain.

52 Were there any Cost Reduction Proposals (CRPs)? If yes, were any accepted and what were the associated cost?

53 Do project diaries adequately support all time charges, work progress, time extensions, etc.?

54 Are procedures for accepting/approving and maintaining material certifications complied with? (complies w/ approved QAP) Ref. 23 CFR 637.207, 209

55 Does documentation exist to support materials received by inspectors? Ref. 23 CFR 637.207, 209

56 How do you verify that subcontractors' progress payments <u>and</u> withheld funds are paid promptly?

57 How do you verify that DBEs are executing and carrying out its responsibilities of actually managing, supervising, and performing the work committed to them by the prime contractor?

58 How soon after paying the contractor do you ask for reimbursement?
Are employee interviews being conducted? Findings? Frequency?

59 Is there a Traffic Control Plan? Was it furnished by: 1) the LPA; or 2) the LPA and modified by the contractor? (pg 16-45) Were there any substantial changes made to the Traffic Control Plan during construction phase of the project (CCOs)? Would these changes result in additional cost and/or delays or savings?

60 Was there an environmental liaison on the project? If so, supply a copy of position description.

61 Was there specialty work required for this project? If so, how was the specialty contractor selected and contracted?

62
Who made the determination of eligibility of the work and how is proper billing for federal funding assured?

63 Was there a final inspection by LPA? (date of approval, who attended, trends noticed from their punch list) (pg 17-3, exhibit 17C)

64 Did the final inspection verify that the completed project was ADA compliant?

65 What was the final cost and time compared to the original awarded contract?

66 Were liquidated damages assessed? (pg 17-5, exhibit 17A)

67 Were there any claims or other payments allowed to contractor not discussed above?

VIII. Maintenance

IX. Finance

68 What internal controls are in place? (Separation of duties - initiator and approver) How does the reviewer check the estimate for accuracy prior to its being approved for payment?

69 Have audits/reviews been completed? (>$500K of Federal funds from any source requires an audit conducted by a third party.)

70 Were funds obligated prior to the work being performed? (finance letter and e-76)

71 Have indirect costs been included? (Not all agencies bill for indirect costs) If not, why not? Does this impact your ability invoice or final voucher?

72 How do you prevent double payments of contract items?

73

Was there a soft match? (how was it processed and approved; obtain copy of FHWA Finance approval letter)

74 Has the final voucher been submitted?

FY2008 LOCAL PUBLIC AGENCY CONSTRUCTION CONTRACTOR PAYMENT, AND BRIDGE PROJECT PROCESS REVIEW

1. **All Project Records are to be available at the time of Process Review**

2. **Key Documents** (To be provided by Local Agency and/or DLAE, as applicable)

Documents available to review

Quality Assurance Program (QAP) Manual
Environmental Documents

Utility As-Builts
Utility Agreements
Consultant Contracts
Invoices
Contractor Payment & Invoices
Environmental Commitments (RE Tracking Record)
Project Daily Resident Engineer/Inspector/Diaries
Certifications (Materials, Payrolls, etc.)

Documentation to support the review/approval of:
LAPM Exhibit 16-A (Latest Statement of Working Days)
Change Orders
Design Exceptions

Public Interest Findings (PIFs)

Copies for Review Team

Organization Charts (DLAE and Local Agencies)
Program Supplemental Agreement

PES Form
RTP listing for project
All documents required by LAPM Exhibit 3-G
Log of CCO's
Final Inspection & Verification
Local Agency ADA Standard Plans (if available)

Appendix C
FHWA – CA Division
DLAE Questions

I. General

1 How does your staff review and process the documentation and requests from the local agencies? Does your process change based on Local Agency and/or their number of on-going projects?

2 How many and on what subjects has your staff performed mini-process reviews? If so, what were the findings and were any corrective actions taken? How are these reviews documented? Please provide a copy of the findings. (Page 19-3)

3 Identify the level of involvement of Caltrans in each stage of the project delivery process? (Rating level 1-5 -- 5 high involvement)

4 How are these policies and procedures enforced?

5 How are updates to the LAPM communicated to staff and local agencies?

6 Does the DLAE communicate changes to the LAPM directly to the local agency? If yes, how is this accomplished?

7 Please rate your staffs' knowledge of Federal-aid project laws, regulations, processes and procedures? (Rating level 1-5 -- 5 most experienced)

8 What types of training have staff attended and when? (Caltrans LA, LTAP, etc.) If staff attended, what disciplines attended? How often is the training offered (monthly, quarterly, annually)?

9 Has the State conducted an oversight review of the delegated LPA administered projects for your District? If so, what were the findings and were any corrective actions taken? How did you receive and implement recommendations? Please provide a copy of the findings.

II. Planning

III. Environment

IV. Design

10 Is Caltrans reviewing the PS&E packages per the guidance? (1/yr/agency) (what issues were found during the review) (pg 12-39)

V. Right-of-Way

VI. Advertise, Bid, and Award (Supply award package)

VII. Construction

11 Who made the determination of eligibility of the work and how is proper billing for federal funding assured?

12 Was there a final inspection by LPA? (date of approval, who attended, trends noticed from their punch list) (pg 17-3, exhibit 17C)

13 Was there a project verification for the final inspection by Caltrans? How was it verified? (pg 17-3, exhibit 17C)

14 What was the final cost and time compared to the original awarded contract?

VIII. Maintenance

IX. Finance

15 Has the accounting/payment system (invoices/bills) been reviewed? Were any problems identified?

16 Have audits/reviews been completed?

APPENDIX D
MARTIX OF REVIEW RESULTS BY PROJECT PHASE AND REVIEW QUESTION

Project	Design Questions			Right-of-Way Questions			Construction Questions								Finance Questions			
	24	26	32	33	38	39	46	47	47a	53	54	55	58	Other	68	69	70	71
1	-	-	-	-	-	-	-	-	f	-	f	f	f	-	-	-	-	-
2	-	-	-	-	F	-	F	-	-	-	-	f	f	-	-	-	-	-
3	-	-	O	-	F	-	-	-	f	-	-	-	f	F	-	-	-	-
4	-	f	O	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
5	-	-	-	-	-	-	-	-	f	-	f	f	-	-	-	-	-	O
6	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
7	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
8	-	-	O	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
9	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	O
10	-	-	-	-	-	-	F	-	f	F	-	-	-	-	-	-	-	-
11	-	-	-	-	-	-	F	-	-	-	-	-	f	-	-	-	-	-
12	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
13	-	f	-	-	-	-	-	f	f	-	-	-	-	-	O	-	F	-
14	-	-	-	-	-	-	O	f	f	O	f	f	-	-	-	-	-	-
15	-	-	-	-	-	-	O	-	-	O	f	-	-	-	-	-	-	-
16	-	-	F	-	-	-	O		f	O	-	f	-	f	O	-	F	-
17	-	-	-	-	F	-	-	f	f	-	-	-	-	-	O	-	-	-
18	-	-	-	-	-	-	O	-	f	O	-	-	-	-	O	-	-	-
20	-	-	-	-	-	-	-	-	-	-	-	-	-	-	O	-	-	O
21	-	-	O	-	-	-	-	-	f	-	-	-	-	-	-	-	-	-
22	-	-	-	-	-	-	-	-	f	-	-	-	-	-	-	-	-	-
23	-	-	-	-	-	o	O	-	-	-	-	-	-	-	O	-	-	-
24	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
25	-	-	-	-	F	-	F	-	-	-	-	-	-	-	-	-	-	O
26	-	-	-	-	-	-	O	-	-	-	-	-	-	-	O	-	-	O
27	-	f	-	-	F	-	O	-	-	-	f	f	-	-	O	-	-	O
28	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
29	-	-	-	-	-	-	F	f	-	F	f	f	-	-	-	-	-	-
30	-	f	-	-	-	-	O	-	-	-	-	-	-	-	-	-	-	-
31	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
33	-	-	-	F	-	-	F	f	f	F	f	f	f	-	O	-	-	-
34	-	f	-	-	-	-	F	f	f	O	-	f	-	-	-	-	-	-
35	-	-	O	-	-	-	F	-	f	F	-	-	-	-	O	-	-	-
36	-	-	O	-	-	-	-	-	f	-	-	-	-	-	-	-	-	-
37	-	-	-	-	-	-	-	-	f	-	-	-	-	-	-	-	-	-
38	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
39	-	-	-	F	F	-	-	f	-	-	-	-	-	-	-	-	-	-
40	-	-	-	-	-	-	-	f	-	-	-	-	-	-	-	-	-	-
41	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Summary	0 Fdgs	5 Fdgs	1 Fdgs	2 Fdgs	6 Fdgs	0 Fdgs	8 Fdgs	8 Fdgs	16 Fdgs	5 Fdgs	7 Fdgs	9 Fdgs	5 Fdgs	2 Fdg	-	-	2 Fdgs	-
		-	6 Obs	-	-	1 Obs	7 Obs	-	-	4 Obs	-	-	-	-	10 Obs	-	-	6 Obs

F = CFR Finding
f = LAPM Finding
O = Observation
= Addressed in CCPR Review

Q26 The PSE was not available or not complete.
Q32 Projects did not have appropriate PIFs.
Q33 The Uniform Relocation Act was not followed.
Q38 Projects did not have appropriate utility agreements.
Q39 Project in litigation regarding easement rights.
Q40 Date of PS&E approval was after E-76 authorization.
Q46 Project field records did not adequately support quantities submitted for payment.
Q47 Local agencies did not have a QAP.
Q47A Issue with frequency of testing and/or certifications were not consistent with Caltrans guidelines.

Q53 Project diaries did not adequately support all time charges, work progress, time extensions.
Q54 Procedures for accepting/approving and maintaining material cerificaitons were not complied with.
Q55 Documentation to support materials received by inspectors was not available.
Q58 LPAs were not performing the required amount of employee Interviews listed in the LAPM and LAPG.
Other #3 - contract award without a competitive bidding process. #16 - Federal-aid project constructed by another public agency.
Q68 The local agency did not have written internal control documentation.
Q70 Construction was advertised prior to E-76 approval by FHWA.
Q71 The local agency did not have indirect cost rate to invoice the project.

Proposals, Request for Qualifications and responses thereto relating to this Agreement are incorporated by reference as though fully set forth.

6. **STARTING WORK**. CONSULTANT shall not begin work until authorized to do so in writing by CITY. No work will be authorized until the contract has been fully executed by CONSULTANT and CITY.

7. **TITLE TO DOCUMENTS**. All documents, plans and drawings, maps, photographs and other papers, or copies thereof prepared by CONSULTANT pursuant to the terms of this Agreement shall, upon preparation, become the property of CITY.

8. **LICENSES**. CONSULTANT shall, at its sole cost and expense, keep in effect or obtain at all times during the term of this Agreement any licenses, permits and approvals which are legally required for CONSULTANT to practice its profession.

9. **CONFIDENTIALITY**. During the term of this Agreement, CONSULTANT will be dealing with information of a legal and confidential nature, and such information could severely damage CITY if disclosed to outside parties. CONSULTANT will not disclose to any person, directly or indirectly, either during the term of this Agreement or at any time thereafter, any such information or use such information other than as necessary in the course of this Agreement. All documents CONSULTANT prepares and confidential information given to CONSULTANT under this Agreement are the exclusive property of the CITY. Under no circumstances shall any such information or documents be removed from the CITY without the CITY's prior written consent.

10. **NEWS RELEASES/INTERVIEWS**. All news releases, media interviews, testimony at hearings and public comments relating to this Agreement by CONSULTANT shall be prohibited unless authorized by CITY.

11. **NO WAIVER OF DEFAULT**. The failure of any party to enforce against another party any provision of this Agreement shall not constitute a waiver of that party's right to enforce such a provision at a later time, and shall not serve to vary the terms of this Agreement.

12. **GOVERNING LAW**. The laws of the State of California will govern the validity of this Agreement, its interpretation and performance. Any litigation arising in any way from this Agreement shall be brought in Kern County, California.

13. **FURTHER ASSURANCES**. Each party shall execute and deliver such papers, documents and instruments, and perform such acts as are necessary or appropriate, to implement the terms of this Agreement and the intent of the parties to this Agreement.

14. **NOTICES**. All notices relative to this Agreement shall be given in writing and shall be personally served or sent by certified or registered mail and be effective

Appendix F
LOCAL AGENCY PROGRAM REVIEW, PHASE II
REVIEW TEAM

NAME	TITLE	AGENCY
Gary Sweeten	North Team Leader	FHWA
David Tedrick	South Team Leader	FHWA
Jeff Holm	Senior Transportation Engineer	FHWA
Scott McHenry	Senior Transportation Engineer	FHWA
Jason Dietz	Transportation Engineer	FHWA
Jacob Waclaw	Transportation Engineer	FHWA
Sarah Skeen	Structures/Geotech Engineer	FHWA
Lynn Whitford	ROW Officer	FHWA
Veneshia Smith	Finance Specialist	FHWA
Jean Mazur	Senior Transportation Engineer	FHWA
Eugene Shy	Local Assistance Engineer	Caltrans DLA
Donald Roberts	Local Assistance Engineer	Caltrans DLA

Appendix G
PAST PROCESS REVIEWS

Year - Review	Title	Comment
00-01	Consultant Selection	
00-02	Disadvantaged Business Enterprise Process Review in District 7	
00-03	Disadvantaged Business Enterprise Process Review in District 8	
01-01	Highway Bridge Replacement and Rehabilitation Program	
01-02	American with Disabilities Act	Survey
02-01	PS&E	
03-01	Environment Process Review	Review not completed
03-02	Construction Contract Administration	
03-03	Labor Compliance	
03-04	Equal Employment Opportunity	
03-05	Subcontracting – Contract Compliance	
03-06	Bidders List	Survey
2004	Contract Administration Process Evaluation	Division of Construction
05-01	Force Account Construction	
05-03	American with Disabilities Act & California Accessibility Standards – Local Agency Implementation Review	Dated April 2008 – FHWA Initiated
06-01	Wetland Mitigation Process Review	FHWA Initiated
December 2006	The Administration of Federal-aid Projects by Local Public Agencies	FHWA Initiated – National Review
May 2007	Construction Contractor Payment Process Review	FHWA Initiated
July 2007	Quality Assurance Program	FHWA Initiated
July 2007	Consultant Selection and Consultant Contract Administration – Phase 1	FHWA Initiated
August 2007	Categorical Exclusion/Programmatic Categorical Exclusion Process Review	FHWA Initiated
August 2007	Environmental Commitment Compliance Process Review	FHWA Initiated
August 2007	Local Agency Process Review – Phase 1	FHWA Initiated
November 2007	Local Agency Roadway & Safety Projects	FHWA Initiated