

Exhibit 2.16: External Distribution and Publication of Reports and Public Presentations

Table of Contents

EXHIBIT 2.16: EXTERNAL DISTRIBUTION AND PUBLICATION OF REPORTS AND PUBLIC PRESENTATIONS	I
Introduction.....	1
Caltrans and FHWA Policy.....	1
Distribution of unpublished technical reports.....	1
Procedures for Evaluating Proposed Publications	2
Publication and Distribution	2
Mandatory Clauses	3
ALL CALTRANS REPORTS – CREDIT AND DISCLAIMER STATEMENTS	3
CONSULTANT-PREPARED REPORTS.....	3
Mandatory Distribution List for Published Reports	5
Procedures for Evaluating Proposed Presentations.....	5

Exhibit 2.16: External Distribution and Publication of Reports and Public Presentations

Introduction

When there is demonstrable public benefit in doing so, Caltrans may copy and distribute, unedited or with minor editing to preserve confidentiality, technical reports prepared in the ordinary course of work. Additionally, Caltrans may authorize publication of reports, edited as needed, for wider distribution, or make public presentations based on Caltrans work in accordance with Caltrans and FHWA written policies.

Caltrans and FHWA Policy

It is Caltrans' policy to “inform and educate its work force, partners and customers about plans, activities and accomplishments. The Department distributes publications in an efficient, cost-effective manner that is appropriate for the audience. Publications should be professional in quality and consistent with the Administration's objectives.” (Deputy Directive [DD-27-R1](#) [revised 01-02-01], Caltrans Publications). Therefore, only cultural resource reports, papers, or findings of substantial interest and high quality may be considered for publication or presentation to the public.

FHWA's policy regarding the publication and distribution of cultural resources reports is addressed in [FHWA's Guidance](#) on the Consideration of Historic and Archaeological Resources in the Highway Development Process (1988), responses to questions No. 18 and 25. Under question No. 18, it is stated “if widespread public interest is expected, a short, edited version focused at the non-academic public may be prepared. . . .” Regarding archaeological reports specifically, it states that a “limited number of copies of reports may be made available to the archeological community if it is determined by the Division Administrator to be in the public benefit and without financial gain to any party.” Under question No. 25, FHWA approves of the use of Federal-Aid Highway Program funds to pay for “reasonable, justified efforts; such as . . . limited non-profit publication; performed as a part of an approved research design . . .”

Distribution of unpublished technical reports

Under certain circumstances, copies of Caltrans technical reports may be provided to the Caltrans Transportation Library, appropriate local or statewide repositories, or organizations

or individuals who had expressed interest, particularly those parties who had contributed to the study. Distribution of reports may occur only after satisfying all of the following requirements:

- The applicable steps of the Section 106 or PRC 5024 compliance process is complete; the report is final, with SHPO concurrence or Cultural Studies Office (CSO) approval.
- Distribution conforms to Caltrans and FHWA written policies.
- Confidentiality or privacy concerns have been satisfied; any confidential information has been removed.
- Public ownership of the reports has been established (for Caltrans distribution of consultant-prepared reports).
- The public benefit of distributing specific reports to specific recipients has been identified and approved by the District Environmental Branch Chief (DEBC).

Procedures for Evaluating Proposed Publications

Reports are evaluated for potential publication on a case-by-case basis. The Caltrans Professionally Qualified Staff (PQS) who authored the report, or who approved a consultant-prepared report, submits an abstract of the proposed publication to the DEBC along with a memo recommending number of copies, price, and proposed distribution. The DEBC evaluates the request, and if it meets with approval, submits a recommendation to the District Director. If the District Director concurs, the request for approval is submitted to the Chief, Division of Environmental Analysis (DEA), who makes the final decision on publication and authorizes the use of Caltrans support services. It is anticipated that the DEA Chief will consult with the CSO Chief on publication of cultural resources reports.

If CSO PQS authored or approved the report, a similar request is submitted through the appropriate CSO branch chief to the CSO Chief. The DEA Chief delegated to the CSO Chief approval of such requests from Headquarters staff. The CSO Chief will also consult on this decision with the DEBC responsible for the project.

Publication and Distribution

The sales price of the report, if sold by Caltrans, is determined by the total cost of the report's preparation and reproduction. Reports are sold exactly at cost in accordance with FHWA's non-profit policy for publications as well as California state law that prohibits making a gift of public funds (i.e., selling publications below cost).

Reports are sold through the Central Publications Distribution Unit. The use of other agents to print and distribute documents may be considered on a case-by-case basis, pending approval by Caltrans Legal Division.

Mandatory Clauses

All Caltrans reports – Credit and Disclaimer Statements

Whether published by Caltrans or consultants, all reports must include the following:

- The contract cost and contract number on the title page
- For federal undertakings, the credit reference: "Prepared in cooperation with the State of California, Transportation Agency, and the U.S. Department of Transportation, Federal Highway Administration"
- For state-only projects, the credit reference: "Prepared in cooperation with the State of California, Transportation Agency"
- This disclaimer statement: "The contents of this report reflect the views of the author who is responsible for the facts and the accuracy of the data presented herein. The contents do not necessarily reflect the official views or policies of the State of California [add 'or the Federal Highway Administration' when applicable]. This report does not constitute a standard, specification, or regulation."
- Must have the Caltrans copyright information included on the front of the document. The date the material was created is the date of the copyright.
- All photos must have permissions or identified as Caltrans-owned.

Consultant-prepared reports

A consultant may publish a PQS-approved final report. In addition to the above items, the consultant-prepared report may be published under the following conditions:

- Any material contained in the final report which has received final acceptance by the State and FHWA may be published in any form and through any media the consultant may desire without further written permission by Caltrans, subject only to the inclusion of credit and disclaimer statements (listed above), and with the exception of confidential Native American records (listed below) for which written permission is required.
- If Caltrans disagrees with a consultant's findings or conclusions, this information must be included in the published report along with any Caltrans comments in a clearly

identified section, such as “Sponsor's Comments.” The consultant may publish the material contained in the report 70 days after it has been resubmitted in final form to Caltrans subject to the inclusion of

- a statement that Caltrans does not concur with the findings and conclusions of the research; and the credit and disclaimer statements are included (listed above). The DEBC is responsible for ensuring that the information is included.
- Consultants may publish the results of the study or any of its particulars in separate reports or by submission of technical papers to professional organizations subject to the publication provisions outlined in their contracts. Both written and oral releases are considered to be within the context of publication. However, there is no intention to limit discussions of the study with small technical groups or lectures to employees or students. Lectures to other groups that describe the plans, but disclose neither data nor results are permissible without advance Caltrans review.
- In unusual cases when the scheduled time for the preparation of a technical paper, containing previously undisclosed findings, for presentation at professional meetings or submission to professional organizations does not permit time for formal review and acceptance, an abstract and notification of intent to present the paper shall be submitted to the appropriate DEBC or CSO Chief for concurrence. Such concurrence will normally be given unless there is indication of new and controversial findings and conclusions based on data that Caltrans has not reviewed. To protect the interest of the sponsoring agencies, such presentations shall contain: 1) a statement that the paper has not been reviewed by the sponsoring agencies; and, 2) the credit and disclaimer statements (listed above).
- The confidential records of Native American graves, cemeteries, and sacred places, and records that relate to archaeological site information are exempt from public disclosure in reference to California Government Code 6254 and 6254.10 and shall not be published in any form and through any media without express written permission by the State.

Under state and federal law, a consultant is free to copyright material developed under a Caltrans contract, with the condition that the State and FHWA reserve a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, the report for government purposes. Such a clause should be included in any Caltrans contract involving cultural resources reports.

Mandatory Distribution List for Published Reports

When cultural resources reports are published for sale or for distribution to the public, Caltrans must follow the distribution policy outlined in “Distribution of Caltrans Publications,” available in-house on the Caltrans Library and History Center Intranet site. Additionally Caltrans must distribute courtesy copies to:

- SHPO
- Advisory Council on Historic Preservation (ACHP), if the publication is a stipulation of Memorandum of Agreement to which ACHP is a party
- California Native American Heritage Commission (if applicable)
- Appropriate CHRIS Information Center

Caltrans may forward a copy to appropriate National Park Service (NPS) Programs (e.g., Archaeological Assistance, Heritage Documentation Programs, Heritage Preservation Services) at the Department of the Interior in Washington, DC, or to the NPS Regional Office, as appropriate. For California, it is the NPS Pacific West Regional Office in San Francisco, California.

Procedures for Evaluating Proposed Presentations

When Caltrans staff plans to make public presentations, the following procedure is used. Papers and other presentations are evaluated on a case-by-case basis. The PQS who proposes to make a public presentation or give a paper based on work done on behalf of Caltrans submits an abstract of the paper or presentation to the DEBC along with a memo explaining the benefit of making the presentation to the public. If the DEBC approves the presentation or paper, the DEBC provides notice of the presentation or paper to the District Director and the CSO Chief.

If CSO PQS propose to give a paper or make a presentation, a similar request is submitted to the CSO Chief for approval. The CSO Chief will also consult on this decision with the DEBC responsible for the project, if the content of the presentation or paper involves a district project. If the CSO Chief approves the proposed presentation or paper, the CSO Chief provides notice of the presentation or paper to the DEA Chief and District Director, if applicable.

Consultants who propose presentations or papers based on work done on behalf of Caltrans will follow the specifications of the contract under which the work was presented.