

DIVISION OF LOCAL ASSISTANCE



CONSTRUCTION OVERSIGHT INFORMATION NOTICE



DLA COIN Issue #09-04

Release date: November 4, 2009

Welcome to the COIN!

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

Our Fourth Topic: DO NOT USE LOCAL HIRING PREFERENCES

FHWA has requested Caltrans to remind local agencies that local hiring preferences are not to be included in local agency contracts using federal-aid funds. Such preferences are contrary to FHWA laws and regulations. Chapter 12 "Plans, Specifications & Estimates" of the "Local Assistance Procedures Manual" states in Section 12.10 RESTRICTED CONTRACT PROVISIONS that "Generally, local agencies may not use local hiring practices on federal-aid construction projects." Currently there are no exceptions in California that would allow the use of local hiring practices or preferences on federal-aid contracts.

The primary basis behind the prohibition of local hiring preferences is that they are inconsistent with the principles of free and open competition, which is required in the federal-aid program at 23 United States Code (USC) 112, "Letting of Contracts". Had Congress intended to allow local hiring preferences in federal-aid transportation contracts, they would have made it permissible as they did under 23 USC 140(d), "Native American Employment and Contracting and Tribal Employment Rights Ordinance."

If a local agency uses local hiring preferences in its local agency funded contracts, be certain that the local hiring preferences provision is not included in the contracts using federal-aid funds as this will make the contract ineligible for federal-aid funds. Should you have any further questions regarding the use of local hiring preferences, please contact your District Local Assistance Engineer (DLAE).