



# Local Programs Procedures

## LPP 16-03 Manual Update

Original Signed By

Effective Date: July 1, 2016

Approved: \_\_\_\_\_  
 Ray Zhang, Chief  
 Division of Local Assistance

The following Division of Local Assistance Office Bulletins (DLA-OB) have been incorporated into the *Local Assistance Procedures Manual (LAPM)* and expire upon issuance of this LPP:

DLA-OB	TITLE
13-01	Establishment of Pro Rata or Lump Sum
13-03	Construction Oversight Program
13-05	Transparency Act-DUNS Number
13-08	Final Invoicing When Funds Lapse
16-01	Implementation of Cargo Preference Act Requirements
16-02	Period of Performance
16-03	Capital Subvention Reimbursement Allocation and De-Allocation

Below is a summary of the significant revisions:

### Chapter 2, Roles and Responsibilities

Exhibit 2-B	Added Caltrans Public Interest Finding and certification reporting responsibility for proprietary items and processes
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### Chapter 3, Project Authorization

3.4 Administrative Procedures	Incorporated policy and procedures from OB 16-03, Capital Subvention Reimbursement Allocation and De-Allocation, and OB 13-05, Transparency Act - DUNS Number.
3-B	Deleted requirement to attach Cost-Effectiveness Determination (12-F) when work is performed by the local agency.
3-C	Revised reasoning for 0% DBE goal option in DBE Contract Goal Methodology Form section to lack of subcontracting opportunities (previously subconsulting).

3-B, 3-C, 3-D	Revised environmental section to distinguish requirements of revalidation.
3-I, 3-J	Added field for Federal Project Number.
3-O	Revised Right of Way fields from "Purchase Costs" to "Capital/Acquisition" and "Relocation Assistance /Utility" to "Support/Engineering."

### **Chapter 5, Invoicing**

5.3 Reimbursable Project Costs	Incorporated policy and procedures from OB 13-05, Establishment of Pro Rata or Lump Method at Time of Federal Authorization and OB 16-02, Period of Performance.  Added tables from Exhibit 5-M into Section 5.3.
5.6 Final Report Of Expenditures	Incorporated OB 13-08, Final Invoicing When Funds Lapse. Specified required to submit Final Report of Expenditures by April 1 if submittal deadline occurs in the year funds will lapse.
5-J	Revised procedures for first consultant invoice (item #8) for clarity.
5-M	Deleted exhibit.

### **Chapter 10, Consultant Selection**

10.9 Miscellaneous Considerations	Updated reference for "Use of non-competitive negotiated consultant contracts" to 23 CFR 172.7(a)(3).
10-U	Revised reference to conflict of interest requirements (23 CFR 172.7(b)(4)).

### **Chapter 12, Plans, Specifications, and Estimate**

12.3 Environmental Procedures	Revised section on preliminary design for consistency with 23 CFR 636.103 and FHWA Order 6640.1A.
12.8 Federal Contract Requirements	Incorporated policy and procedures from OB 16-03, Implementation of Cargo Preference Act Requirements.
12.11 Materials and Equipment	Clarified policy and procedures for the use and certification of proprietary items and processes.
12-D	Updated procedures for proprietary items and processes.
12-F	Updated reference for "Use of non-competitive negotiated consultant contracts" to 23 CFR 172.7(a)(3).  Clarified requirements for the use of proprietary items and processes.
12-G	Revised Section 4, Contract Award, to reflect that award is made both to the lowest responsible and responsive bidder.

## Chapter 15, Advertise and Award Project

15.7 Award Package	Specified that award package must be submitted within 60 days of contract award.  Deleted "Complete and accurate documents will be forwarded to the DLA".  Deleted "That ratio may be increased in the final Detail Estimate and Final invoice up to the full pro-rata share to utilize the full amount of federal funds authorized."
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## Chapter 16, Administer Construction Contracts

16-B	Revised form for use on locally administered projects.
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## Chapter 17, Project Completion

17.5 Final Report Of Expenditures	Incorporated OB 13-08, Final Invoicing When Funds Lapse. Specified required to submit Final Report of Expenditures by April 1 if submittal deadline occurs in the year funds will lapse.  Revised references to "Report of Expenditures" to "Final Report of Expenditures" for LAPM consistency.
17-H	Created cover letter and checklist for Final Report of Expenditures of projects with preliminary engineering phase only.

## Chapter 19, Oversight and Process Reviews

19.6 Construction Oversight Program	Incorporated policy and procedures from OB 13-03, Construction Oversight Program.
19-A, 19-B, 19-C	Incorporated Construction Review Checklists (Preliminary, Mid-Project, and Post) provided in OB 13-03 into LAPM.

The LAPM and can be found on the Division of Local Assistance website at <http://www.dot.ca.gov/hq/LocalPrograms/lam/lapm.htm>.

To receive notifications of updates, please subscribe to the DLA email list at <http://www.dot.ca.gov/hq/LocalPrograms/sub.htm>.

Comments and suggestions for improvement to publication updates may be submitted to Odell Frazier at [odell.frazier@dot.ca.gov](mailto:odell.frazier@dot.ca.gov).

**EXHIBIT 2-B FEDERAL-AID PROJECT RESPONSIBILITIES LIST****FOR DELEGATED PROJECTS OFF THE STATE HIGHWAY SYSTEM  
(Pursuant to 2010 FHWA & Caltrans Joint Stewardship and Oversight Agreement)**

Project Action/Activity	Local Agency	Caltrans District	Caltrans HQ	FHWA
<b>Project Authorization (Chapter 3)</b>				
Construction Engineering > 15% Total Contract Item Costs	Verify <sup>1</sup>	Approve <sup>1</sup>	-	-
Project Agreement and Modification [23 CFR 630.110]	Prepare	Recommend	Approve <sup>2</sup>	Approve <sup>2</sup> / Verify <sup>3</sup>
/Obligate Funds	-	-	-	Approve <sup>4</sup>
Funding Eligibility Determinations	Prepare	Recommend	Approve	Verify <sup>3</sup>
Reimbursement Vouchers (interim and final)	-	-	Prepare	Approve
Section 1.9 Approvals of Incurred Costs. [23 CFR 1.9]	Prepare	Recommend	Recommend	Approve
<b>Agreements (Chapter 4)</b>				
Master Agreement	Sign	File Copy	Prepare/ Approve	-
Program Supplement Agreement	Sign	File Copy	Initiate/ Approve	-
<b>Invoicing (Chapter 5)</b>				
Invoice	Prepare	Approve <sup>5</sup>	Approve <sup>5</sup>	-
Project Eligibility	Prepare	Approve	Review	-
<b>Environmental Procedures (Chapter 6)</b>				
Project-Level Transportation Conformity Determination for CE pursuant to SAFETEA-LU 6005 MOU	Prepare	Request	-	Approve
NEPA Approval Consistent with SAFETEA-LU 6004 & 6005 MOUs (for detailed NEPA actions and approvals refer to LAPM Chapter 6 and the SER)	Prepare	Approve	-	-
<b>Field Review (Chapter 7)</b>				
Field Review	Perform	Participate <sup>6</sup>	-	-

<sup>1</sup> Applies only to projects selected and programmed directly by Caltrans.

<sup>2</sup> Approval and signatures are needed by both Caltrans and FHWA.

<sup>3</sup> Subject to FHWA's random sample verification process. Verification is defined here as routine, independent confirmation of sampled projects.

<sup>4</sup> Obligation of funds by FHWA is the final step in the project authorization process

<sup>5</sup> DLAE performs initial review and approval. Headquarters Local Programs Accounting performs final review of invoice prior to payment by the State which is subsequently reimbursed by FHWA.

<sup>6</sup> DLAE participates in field reviews unless otherwise documented in project files.

Project Action/Activity	Local Agency	Caltrans District	Caltrans HQ	FHWA
Minor ITS Project development [23 CFR 940.11] (SERF)	Prepare	Approve	-	-
<b>Public Hearings (Chapter 8)</b>				
Public Hearing [23 CFR 771.111(h)]	Perform/ Certify	-	-	-
<b>Civil Rights &amp; Disadvantaged Business Enterprises (Chapter 9)</b>				
DBE Implementation Agreement [LAPM]	Prepare	Approve	-	-
DBE Annual Goals [LAPM]	-	-	Prepare	Approve
ADA Coordinator [49 CFR 27.13(a)]	Certify	Accept	-	-
ADA Complaint Procedure [49 CFR 27.13(b)]	Certify	Accept	-	-
ADA Agency Self-Evaluation [28 CFR 35.105]	Certify	Accept	-	-
ADA Transition Plan [28 CFR 35.150]	Certify	Accept	-	-
<b>Consultant Selection (Chapter 10)</b>				
Consultant Selection [23 CFR 172.7-172.9]	Perform	Review <sup>7</sup>	-	-
Consultant Agreements	Approve	Review <sup>8</sup>	-	-
PIF – Use of Non-Competitive Negotiated Consultant Contracts [23 CFR 172.5(3)]	Prepare	Approve	-	-
Cognizant Agency Audit [23 CFR 172.7-172.9]	Prepare	Copied	Review <sup>9</sup>	-
Consultants in Management Role [23 CFR 172.9(d)]	Approve	Review <sup>10</sup>	-	-
<b>Design Standards (Chapter 11)</b>				
Preliminary Plans for Major and Unusual Structures	Prepare	Approve	-	-
Design Standards	Approve	-	-	-
Design Exceptions, non-Interstate [23 CFR 625.3]	Approve	-	-	-
Experimental Features	Prepare	Recommend	Recommend	Approve
Value Engineering [23 CFR 627, SAFETEA-LU 1904]	Approve	Review <sup>11</sup>	-	-
Financial Plans for Projects from \$100 Million to \$499 Million [SAFETEA-LU 1904]	Prepare	Review & Approve	-	-
High Risk ITS Project Development [23 CFR 940.11]	Prepare	Recommend	Recommend	Approve

<sup>7</sup> DLAE receives consultant contract DBE information and may participate in consultant selection process upon request and contingent on available resources.

<sup>8</sup> DLAE receives and reviews executed consultant contract before payment is made.

<sup>9</sup> Local agency coordinates review of proposed consultant contract indirect cost rates, etc. with Caltrans Audits & Investigations, DLAE to be copied on correspondence.

<sup>10</sup> DLAE reviews completed “Conflict of Interest for Consultants in Management Positions” form and the procedure used to hire consultant.

<sup>11</sup> For all Federal-aid projects exceeding \$50 million on the National Highway System (NHS) and bridge projects exceeding \$40 million on the NHS. DLAE to coordinate review of local agency Value Analysis Study with District Value Analysis Coordinator.

Project Action/Activity	Local Agency	Caltrans District	Caltrans HQ	FHWA
Major Projects and TIFIA Loan Projects – Project Management Plan and Financial Plan [SAFETEA-LU 1904]	Prepare	Review <sup>12</sup>	Review	Approve
Low Risk ITS Project development [23 CFR 940.11]	Prepare	Approve	-	-
<b>Plans, Specifications &amp; Estimates (Chapter 12)</b>				
PS&E [23 CFR 630.205, 23 USC 106]	Approve & Certify	Verify	-	-
Public Interest Finding (PIF) – Statewide Application	-	Recommend	Prepare	Approve
Environmental Commitments are incorporated	Prepare	Verify	-	-
PIF – Use of non competitively bid publicly furnished materials [23 CFR 635.407]	Approve	-	-	-
PIF – Use of proprietary products and processes [23 CFR 635.411]	Approve	-	Report <sup>13</sup>	-
PIF – Use of contracting method other than competitive Bidding [23 CFR 635.104/204]	Prepare	Approve	-	-
Utility or Railroad Force Account Work [23 CFR 645.113 & 646.216]	Approve	Verify	-	-
PIF – Advertising Period less than 3 Weeks [23 CFR 635.112]	Prepare	Approve	-	-
PIF – Use of Force Account [23 CFR 635.204,205]	Prepare	Approve <sup>14</sup>	-	-
PIF – Use of Mandatory Borrow/Disposal Sites [23 CFR 635.407]	Approve	-	-	-
PIF – Use of Publicly-Owned Equipment [23 CFR 635.106]	Approve	-	-	-
Buy America Waiver [23 CFR 635.410]	Prepare	Recommend	Recommend	Approve
Innovative Contracting Requirements [SEP 14 & 15]	Prepare	Recommend	Recommend	Approve
<b>Right-Of-Way (Chapter 13)</b>				
Qualify Local Agencies	-	Approve	-	-
Qualify/Select Consultants	Perform/ Select	Verify	-	-
R/W certificate 3 – Conceptually concur as a condition of PS&E approval [23 CFR 635.309(r)(3)]	Prepare	Recommend	Recommend	Approve
Accept ROW certificate 1 and 2 as a condition of PS&E approval [23 CFR 635.309(c)(1)&(2)]	Prepare	Approve	-	-
Functional Replacement [23 CFR 710.509]	Prepare	Recommend	Recommend	Approve
Protective Buying and Hardship Acquisition [23 CFR 710.503]	Prepare	Recommend	Recommend	Approve

<sup>12</sup> DLAE to coordinate with Division of Project Management.

<sup>13</sup> DLA HQ will compile Propriety PIFs and Certifications and report to FHWA

<sup>14</sup> Copy of approved force account PIFs to be forwarded to FHWA. For ARRA projects, force account PIFs are to be submitted to FHWA for approval.

Project Action/Activity	Local Agency	Caltrans District	Caltrans HQ	FHWA
Public Interest Finding (PIF) – Concur on declaring Federally funded R/W as excess for disposal [23 CFR 710.403, 409]	Prepare	Recommend	Recommend	Approve
Railroad Agreement [23 CFR 646.216 (3)(d)]	Prepare	Approve		
Request for Credits for Early Acquisition of ROW [23 CFR 710.501]	Prepare	Recommend	Recommend	Approve
Request for Direct Federal Acquisition [23 CFR 710.603]	Prepare	Recommend	Recommend	Approve
Request for Federal Land Transfer [23 CFR 710.601]	Prepare	Recommend	Recommend	Approve
Request for Waivers of comparable replacement dwelling requirements [49 CFR 24.204(b)]	Prepare	Recommend	Recommend	Approve
Withholding of Federal Payments upon failure to perform [23 CFR 710.203(c), 23 CFR 1.36]	Prepare	Recommend	Recommend	Approve
<b>Utilities Relocation (Chapter 14)</b>				
Utility Agreement [23 CFR 645.113, 119]	Prepare	Approve	-	-
Utility Relocation [23 CFR 645 subparts A and B]	Prepare	Approve	-	-
<b>Advertise &amp; Award Project (Chapter 15)</b>				
Advertise Project	Prepare	Recommend	Recommend	Approve <sup>15</sup>
Bid Analysis [23 CFR 635.114]	Prepare & Approve	Review	-	-
Consultant Agreements [23 CFR 172.7-172.9]	Approve	Review	-	-
Public Interest Finding (PIF) - Advertising Less than 3 Weeks [23 CFR 635.112]	Prepare	Approve	-	-
PIF - Use of Contracting Method other than Competitive Bidding [23 CFR 635.104 & 204]	Prepare	Approve	-	-
Advertisement Addendum [23 CFR 635.1129(c)]	Approve	-	-	-
Award of Project [23 CFR 635.114]	Approve	-	-	-
Rejection of All Bids [23 CFR 635.114]	Approve	-	-	-
Award Package – Including DBE Reporting	Prepare	Review	Report <sup>16</sup>	-
<b>Administer Construction Contract(Chapter 16)</b>				
Construction engineering by local agency [23 CFR 635.105]	Certify	Approve	-	-
Contract Administration and Inspection	Certify	Review <sup>17</sup>	Verify <sup>18</sup>	Verify <sup>19</sup>
Subcontracting Requirements [23 CFR 635.114]	Certify	-	-	-
Quality Assurance Program [LAPM Chapter 16.14]	Approve	Accept	-	-

<sup>15</sup> Approval for advertising is included with receipt of construction authorization for the project.

<sup>16</sup> DBE data is reported to Caltrans Office of Economic and Business Opportunity.

<sup>17</sup> DLAE may select areas for review.

<sup>18</sup> DLA Construction Oversight Engineers perform periodic reviews of contract administration of construction projects.

<sup>19</sup> FHWA can verify any aspect of the project as part of a construction field review.

Project Action/Activity	Local Agency	Caltrans District	Caltrans HQ	FHWA
Contract Change Orders (CCO) w/ no increase in Federal funds	Approve <sup>20</sup>	-	-	-
E-76 Modification for CCO with increase in Federal funds	Prepare	Recommend	Approve	Approve <sup>21</sup>
Environmental Commitments (permit conditions and required mitigation) [23 CFR 771.109(b)]	Implement	-	-	-
Contract Time Extensions [23 CFR 635.120&121]	Approve	-	-	-
Termination of Construction Contract [23 CFR 635.125]	Approve <sup>22</sup>	-	-	-
Settlement of Construction Contract Claims [23 CFR 635.124]	Approve <sup>23</sup>	-	-	-
Incentive/Disincentive Amount Justification [23 CFR 635.127]	Approve	-	-	-
Liquidated Damages [23 CFR 635.127]	Approve	Review	-	-
Reimbursement Invoice	Prepare	Approve <sup>24</sup>	Approve	-
<b>Project Completion (Chapter 17)</b>				
Final Inspection/Contract Acceptance [23 USC 114(a)]	Approve	-	-	-
Materials Certification [LAPM Exhibit 17-G]	Certify	Review	Review <sup>25</sup>	
Project Verification	Recommend	Verify	-	-
Final Report of Expenditures	Prepare	Approve	-	Verify
Post-Project Audits	-	-	Perform <sup>26</sup>	-
<b>Maintenance (Chapter 18)</b>				
Maintenance of completed Federal-aid Projects	Perform	Review	-	-

<sup>20</sup> Local agencies are financially responsible for change orders executed without additional e-76 funds.

<sup>21</sup> Local agencies must receive e-76 modification approval prior to executing the CCO.

<sup>22</sup> Local agencies are financially responsible for termination agreements executed without necessary e-76 funds. Anticipated profits for work not performed is not eligible for Federal reimbursement.

<sup>23</sup> Local agencies are financially responsible for settlement of contract claims without necessary e-76 funds. Any contract adjustment shall be fully supported.

<sup>24</sup> DLAE performs initial review and approval. Headquarters Local Programs Accounting performs final review of invoice prior to payment by the State which is subsequently reimbursed by FHWA.

<sup>25</sup> DLA Oversight Engineers perform periodic reviews.

<sup>26</sup> Performed by Caltrans Audits & Investigations with assistance from the DLAE.



testing materials incorporated into construction, checking shop drawing, and measurements needed for the preparation of pay estimates.

**Delegated Project** – A lower risk project not selected as High Profile project, for which Caltrans has authority for all aspects of a Federal-aid project except those activities which may not be delegated by federal law (requiring FHWA approval). Prior to September 2007 these projects were referred to as “State-Authorized” projects defined by set criteria (rather than risk) such as non-Interstate 3R projects, Interstate construction projects under \$1 million, non-NHS projects, etc. Over 99% of Local Assistance projects are delegated in which Caltrans or the local agency has approval authority for most project level activities.

**Disadvantaged Business Enterprise (DBE)** – A for-profit “small business concern” that is at least 51 percent owned and controlled by one or more socially and economically disadvantaged individuals. One or more such individuals must also control the management and daily business operations. These individuals must be citizens lawfully admitted permanent residents of the United States and (1) any individual who a recipient finds to be a socially and economically disadvantaged individual on a case-by-case basis, or (2) who are either African Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, Subcontinent Asian Americans, (persons whose origin are from India, Pakistan, Bangladesh, Bhutan, Maldives Islands, Nepal or Sri Lanka), Women, or any other group found to be socially and economically disadvantaged by the Small Business Administration (see CFR, Part 26).

**Data Universal Numbering System (DUNS) Number** – A unique, non-indicative 9-digit identifier required for all federal grant applicants by the U.S. Office of Management and Budget.

**E-76** – Federal-aid Program Document titled: “Authorization to Proceed” Form. It provides federal authorization to begin reimbursable work for a specific phase of work.

**Federal Fiscal Year** – The accounting period for the federal budget. The Federal Fiscal Year (FFY) is from October 1 until September 30. The FFY is designated by the calendar year in which it ends. For example, FFY 06 runs from October 1, 2005, until September 30, 2006.

**Finance Letter** – Project funding summary document required by Local Programs Accounting. It is prepared by the administering agency and submitted to Caltrans as backup information for the federal-aid/state project agreement.

**FSTIP** – Federal Statewide Transportation Improvement Program, a four-year list of all state and local transportation projects proposed for federal surface transportation funding and/or are considered regionally significant. This is developed by Caltrans in cooperation with MPOs/RTPAs and in consultation with local and other rural entities. The FSTIP, including FTIPs, requires FHWA/FTA approval.

**FTIP** – Federal Transportation Improvement Program, a four-year list of all transportation projects proposed for federal surface transportation funding within the planning area of one of the eighteen Metropolitan Planning Organizations (MPOs) in the state. These are only valid for reference when incorporated into the FSTIP and approved by FHWA/FTA (see Chapter 4 of the Caltrans Project Development Procedures Manual for more discussion).

### 3.4 ADMINISTRATIVE PROCEDURES

The Caltrans Federal-Aid Data System (FADS) and the FHWA Fiscal Management Information System (FMIS) are the databases used in the federal authorization/obligation process.

Upon receipt of a complete and acceptable Local Agency “Request for Authorization to Proceed” package, Caltrans District Local Assistance Office creates an electronic project file (E-76) and inputs the required project information into the FADS database. The Caltrans District Local Assistance Office then transmits the E-76 project file and required backup information to Caltrans Headquarters Division of Local Assistance (DLA). The DLA Area Engineer reviews the submittal package for completeness and accuracy, focusing on project eligibility, federal and state requirements, availability of federal funds and obligation authority, and required support documentation (see Exhibit 3-G “Federal Project Log Sheet” of this chapter). The DLA Area Engineer recommends FHWA approval of “Delegated” or “High Profile” projects and then transmits the E-76 to FHWA (California Division). FHWA authorizes all projects and transmits all federally funded project records to FMIS. FHWA then accesses FMIS and electronically signs each federally funded project to obligate the federal funds (place under agreement with Caltrans).

Upon the federal obligation of funds, the Caltrans DLAE notifies the project sponsor and issues an “Authorization to Proceed” (see Exhibit 3-P Sample “Delegated Project Authorization”) and a federal project summary, and then documents the federal authorization and obligation dates. Costs incurred prior to federal authorization are not eligible for reimbursement. Projects advertised prior to federal authorization are not eligible for federal reimbursement.

For significant changes in Scope of Work and cost increases or reductions, the local agency must submit a modified “Request for Authorization to Proceed” package. The District, DLA and FHWA will process this E-76 request in the same manner as above.

The authorized amount for all phases of the project obligated but not fully expended will be adjusted based on the Finance Letter (Exhibit 3-O of this chapter), which is attached to the Request for Authorization.

#### **Data Universal Numbering System (DUNS) Number**

In compliance with the Transparency Act reporting requirements and 2 CFR Part 25.100, local agencies must provide a DUNS Number as part of their authorization requests on LAPM Exhibit 3-E, “Request for Authorization to Proceed Data Sheet.” DUNS Number assignment is required for all federal-aid recipients and can be requested at no charge at <http://fedgov.dnb.com/webform>.

#### **Budget Authority for Projects on the State Highway System (SHS)**

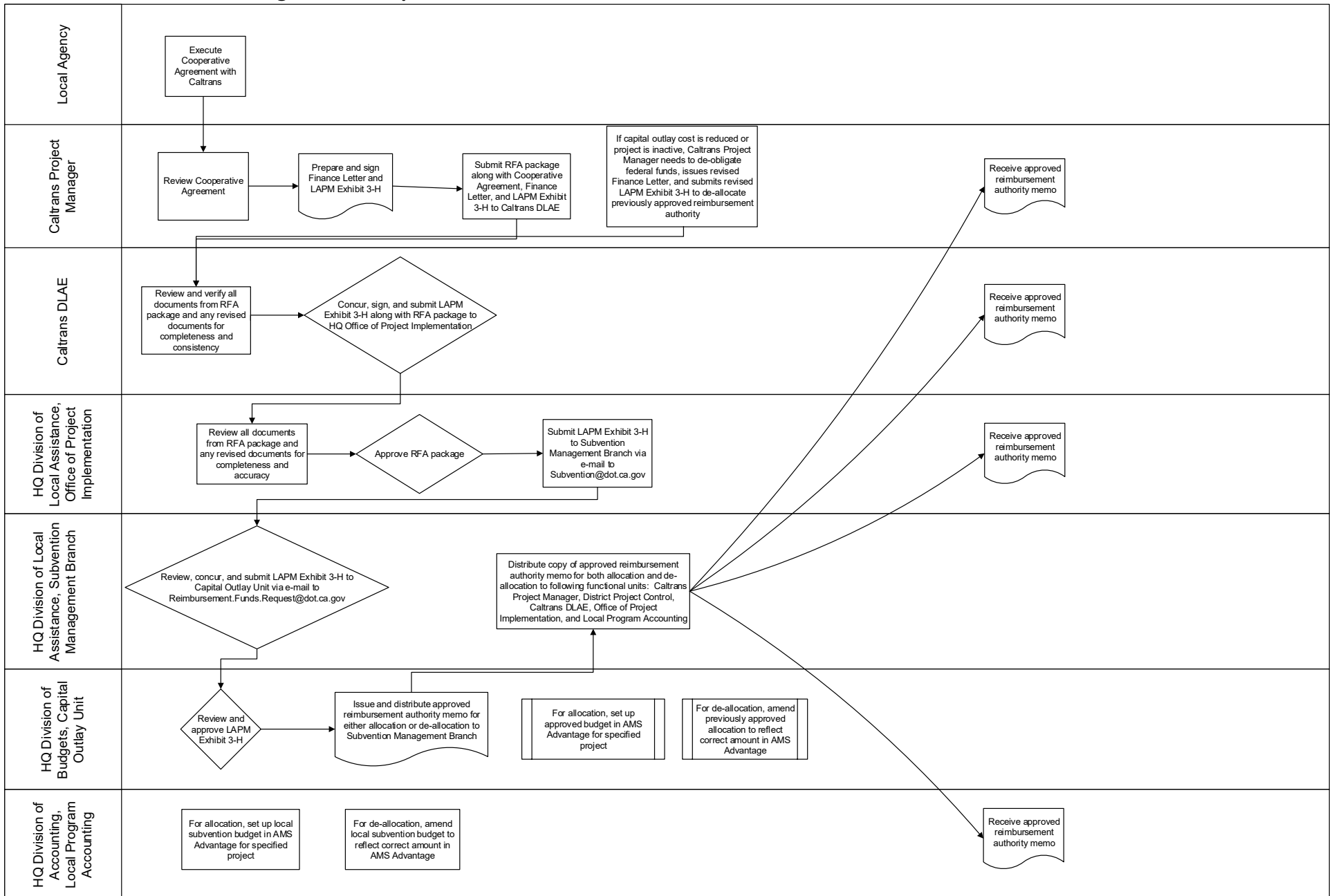
For Caltrans administered projects located on the SHS financed with local assistance funds, the Caltrans Project Manager assigned to the project must submit Exhibit 3-H, “Request for Capital Subvention Reimbursement Allocation,” to the DLAE when requesting federal authorization. Once the request is approved, the Division of Budgets will provide an approved reimbursement

authority memo to expend the funds for capital outlay costs (utility relocation, right of way acquisition, and construction capital).

If the estimated federal share of project costs has decreased by \$250,000 or more, the Caltrans Project Manager must submit Exhibit 3-H to their DLAE to de-allocate the reimbursement authority to comply with 23 CFR 630.106(a)(4).

The capital subvention reimbursement allocation and de-allocation process is detailed in Figure 3.3, "Capital Subvention Reimbursement Allocation and De-Allocation Process."

Figure 3-3. Capital Subvention Reimbursement Allocation and DE-Allocation Process



**EXHIBIT 3-B REQUEST FOR AUTHORIZATION TO PROCEED WITH RIGHT OF WAY**

*[Place this form on Local Agency Letterhead]*

To: (DLAE Name)  
District Local Assistance Engineer  
Caltrans, Office of Local Assistance  
(District Address)

Date: \_\_\_\_\_  
FTIP/FSTIP ID: \_\_\_\_\_  
Federal Project No: \_\_\_\_\_  
Project ID/Advantage ID: \_\_\_\_\_  
PPNO (For STIP Projects): \_\_\_\_\_  
Project Description: \_\_\_\_\_  
\_\_\_\_\_

Dear (DLAE Name):

In order to proceed with the Right of Way phase of work for the above-referenced project, we request that you secure Federal “*Authorization to Proceed*” (E-76) and Obligation of funds. The federal funds requested will not exceed those provided to this agency in the federally approved Federal Transportation Improvement Program (FTIP)/Federal Statewide Transportation Improvement Program (FSTIP).

Attached are the following documents required to authorize this phase of work:

Request for Authorization Package

- Completed Exhibit 3-E *Request for Authorization to Proceed Data Sheet(s)*
- Copy of FTIP/FSTIP Reference Sheet
- Completed Exhibit 3-O *Sample Local Federal-aid Project Finance Letter*
- Copy of Executed Cooperative Agreement, if not previously submitted (only for projects on the State Highway System)
- Completed Exhibit 3-H *Request for Capital Subvention Reimbursement Allocation* (only for projects on the State Highway System with “Capital-Outlay” costs funded with local assistance subvention funds and administered by the State)

Period of Performance End Date (PPED)

The project PPED must be identified on Exhibit 3-O *Sample Local Federal-aid Project Finance Letter*. Check which of the following applies:

- The PPED will be established with this submittal. Date: \_\_\_\_\_
- No revision to the PPED is requested with this submittal.
- A revised PPED is requested with this submittal. Date: \_\_\_\_\_

Toll Credit Usage

- This project will use Toll Credit. It is fully funded.
- This project will NOT use Toll Credit.

Field Review Form (Exhibit 7-B)

- Completed Exhibit 7-B *Field Review Form*, or
- Exhibit 7-B was submitted previously on \_\_\_\_\_

Environmental Requirements

- Type of NEPA Document. Approval Date: \_\_\_\_\_
- Categorical Exclusion (CE) Form
- Findings of No Significant Impact (FONSI)
- Record of Decision (ROD)

- Revalidation. Approval Date: \_\_\_\_\_

Disadvantaged Business Enterprise Contract Goal Methodology Form (Exhibit 9-D)

- Anticipated (or actual) Executed Consultant Contract Date \_\_\_\_\_
- Completed Exhibit 9-D *DBE Contract Goal Methodology* and the DBE goal is \_\_\_\_\_
- Exhibit 9-D *DBE Contract Goal Methodology* is not required as the contract was executed prior to October 1, 2014, and the contract has a DBE contract goal, which is a percentage of the entire contract.
- The DBE goal is 0% because there are no subconsulting opportunities for DBE participation. Documentation verifying this determination is attached to this exhibit, on file with the local agency and has been approved by the DLAE.
- There is no goal because work is to be performed by the local agency.

California Transportation Commission (CTC) Allocation

Check which of the following applies:

- A CTC allocation is not required, or
- A CTC allocation of funds for the right of way component of work was made at the \_\_\_\_\_ meeting of the CTC, or
- A CTC allocation of funds has been scheduled for the \_\_\_\_\_ meeting of the CTC. It is understood that the authorization/obligation of any federal STIP funds will not be made until after the CTC allocation.

Project Agreement and Liquidation of Funds

Upon Federal Highway Administration (FHWA) issuance of the federal "Authorization to Proceed" (E-76) (and agency submittal of Exhibit 7-B if not previously submitted), a "Program Supplement Agreement" (PSA) and/or a state approved "Finance Letter" will be prepared to encumber the federal and/or state funds for the project. This Agency understands that any federal and/or state funds encumbered for the project are available for disbursement for limited period(s) of time. For each fund encumbrance the limited period is from the start of the fiscal year that the specific fund was appropriated within the State Budget Act, to the applicable Fund Reversion date shown on the State approved project finance letter (unless an extension is granted by the Department of Finance). It is anticipated that this phase of work will be completed by  (Month/Year) .

Invoice Submittal

This Agency understands that only work performed after federal "Authorization to Proceed" (E-76) is eligible for reimbursement. Invoices for reimbursement will not be submitted until after the federal and state (if applicable) funds are encumbered via an executed PSA and/or state approved Finance Letter. In addition, it is also understood that an invoice must be submitted at least once every six (6) months for each project phase until all funds are expended.

CERTIFICATION

I certify that the facts and statements in this Request for Authorization Package are accurate and correct. This Agency agrees to comply with the applicable terms and conditions set forth in Title 23, U.S. Code, Highways, and the policies and procedures promulgated by the Federal Highway Administration (FHWA) and California Department of Transportation (Caltrans) relative to the above-designated project.

I understand that this Agency is responsible for all costs in excess of the federal and/or state funds obligated/encumbered as well as for all costs it incurred prior to receiving the FHWA issued federal “*Authorization to Proceed*” (E-76).

Please advise us as soon as the “*Authorization to Proceed*” has been issued. You may direct any questions to: \_\_\_\_\_  
(Name of Local Agency Contact) at \_\_\_\_\_  
(Phone Number and E-mail Address)

\_\_\_\_\_  
*Signature of Full-time Local Agency Employee in Responsible Charge*

\_\_\_\_\_  
*Print Name*

\_\_\_\_\_  
*Title*

\_\_\_\_\_  
*Agency*

**Distribution:** DLAE

**EXHIBIT 3-C REQUEST FOR AUTHORIZATION TO PROCEED WITH UTILITY RELOCATION**

*[Place this form on Local Agency Letterhead]*

To: (DLAE Name)	Date: _____
District Local Assistance Engineer	FTIP/FSTIP ID: _____
Caltrans, Office of Local Assistance	Federal Project No: _____
(District Address)	Project ID/Advantage ID: _____
	PPNO (For STIP Projects): _____
	Project Description: _____
	_____

Dear (DLAE Name):

In order to proceed with the Utility Relocation phase of work for the above-referenced project, we request that you secure Federal "Authorization to Proceed" (E-76) and Obligation of funds. The federal funds requested will not exceed those provided to this agency in the federally approved Federal Transportation Improvement Program (FTIP)/Federal Statewide Transportation Improvement Program (FSTIP).

Attached are the following documents required to authorize this phase of work:

Request for Authorization Package

- Completed Exhibit 3-B *Request for Authorization to Proceed with Right of Way of*
- Completed Exhibit 3-E *Request for Authorization to Proceed Data Sheet(s)*
- Copy of FTIP/FSTIP Reference Sheet
- Completed Exhibit 3-O *Sample Local Federal-aid Project Finance Letter*
- Copy of Executed Cooperative Agreement, if not previously submitted (only for projects on State Highway System)
- Exhibit 3-H *Request for Capital Subvention Reimbursement Allocation* (only for projects on State Highway System) with "Capital-Outlay" cost funded with local assistance subvention funds and administered by the state)

Period of Performance End Date (PPED)

The project PPED must be identified on Exhibit 3-O *Sample Local Federal-aid Project Finance Letter*. Check which of the following applies:

- The PPED will be established with submittal. Date: \_\_\_\_\_
- No revision to the PPED is requested with this Submittal.
- A revised PPED is requested with this submittal. Date: \_\_\_\_\_

Toll Credit Usage

- This project will use Toll Credit. It is fully funded.
- This project will NOT use Toll Credit.

Field Review Form (Exhibit 7-B)

- Completed Exhibit 7-B *Field Review Form*, or
- The Exhibit 7-B was submitted previously on \_\_\_\_\_



Environmental Requirements

- Type of NEPA Document. Approval Date: \_\_\_\_\_
- Categorical Exclusion (CE) Form
- Findings of No Significant Impact (FONSI)
- Record of Decision (ROD)

- Revalidation. Approval Date: \_\_\_\_\_

Disadvantaged Business Enterprise (DBE) Contract Goal Methodology Form (Exhibit 9-D)

- Anticipated (or actual) Consultant Contract Executed Date: \_\_\_\_\_
- Completed Exhibit 9-D *DBE Contract Goal Methodology* and the DBE goal is \_\_\_\_\_
- Exhibit 9-D *DBE Contract Goal Methodology* is not required as the contract was executed prior to October 1, 2014, and the contract has a DBE contract goal, which is a percentage of the entire contract.
- The DBE goal is 0% because there are no subcontracting opportunities for DBE participation. Documentation verifying this determination is attached to this exhibit, on file with the local agency and has been approved by the DLAE.
- There is no goal because work is to be performed by the local agency. A Cost-Effectiveness Determination (Exhibit 12-F) is attached.

Utility Relocation

- This Agency agrees to comply with 23 CFR 645.119 "Alternate Procedure" (as explained in Chapter 13 *Right of Way*, and Chapter 14 *Utility Relocations*, of the LAPM). This alternate procedure is provided to simplify the processing of utility relocations or adjustments under the provisions of 23 CFR 645. Under this procedure, the Federal Highway Administration (FHWA) authorized the California Department of Transportation (Caltrans) to act in relative position of the FHWA for review and approval of the arrangements, fees, estimates, plans, utility agreements, and other related matters required by such regulation as prerequisites for authorizing the utility owner to proceed with and complete the work.

It is understood that the scope of the Department's approval authority under the Alternate Procedure includes all actions necessary to advance and complete all types of utility work under the provisions of such regulation, except Section 645.119 (B)(1) and 645.119 (b)(2). Two of such documents that need the Department's approval are FHWA Specific Authorization and FHWA Approval of the Utility Agreement(s). See Chapter 14 "*Utility Relocations*", of the LAPM for more information on the activities necessary for federal participation in utility relocations. The approval authority has been delegated to the Right of Way District Utility Coordinators.

California Transportation Commission (CTC) Allocation

Check which of the following applies:

- A CTC allocation is not required, or
- A CTC allocation of funds for the right of way component of work was made at the \_\_\_\_\_ meeting of the CTC, or
- A CTC allocation of funds has been scheduled for the \_\_\_\_\_ meeting of the CTC. It is understood that the authorization/obligation of any federal STIP funds will not be made until after the CTC allocation.

Project Agreement and Liquidation of Funds

Upon FHWA issuance of the “*Authorization to Proceed*” (E-76) (and agency submittal of Exhibit 7-B *Field Review Form* if not previously submitted), a “*Program Supplement Agreement*” and/or state approved “*Finance Letter*” will be prepared to encumber the federal and/or state funds for the project. This Agency understands that any federal and/or state funds encumbered for the project are available for disbursement for limited period(s) of time. For each fund encumbrance the limited period is from the start of the fiscal year that the specific fund was appropriated within the State Budget Act, to the applicable Fund Reversion date shown on the state approved project finance letter (unless an extension is granted by the Department of Finance). It is anticipated that this phase of work will be completed by (Month/Year).

Invoice Submittal

This Agency understands that only relocation work performed after federal “*Authorization to Proceed*” (E-76), approval of the Specific Authorization, and appropriate Utility Agreement is eligible for reimbursement. Invoices for reimbursement will not be submitted until after the federal and state (if applicable) funds are encumbered via an executed “*Program Supplement Agreement*” and/or state approved Finance Letter. In addition, it is also understood that an invoice must be submitted at least once every six (6) months for each project phase until all funds are expended.

CERTIFICATION

I certify that the facts and statements in this Request for Authorization Package are accurate and correct. This Agency agrees to comply with the applicable terms and conditions set forth in Title 23, U.S. Code, Highways, and policies and procedures promulgated by the FHWA and Caltrans relative to the above-designated project. I understand that this Agency is responsible for all costs in excess of the federal and/or state funds obligated/encumbered, as well as, for all costs it incurred prior to receiving the FHWA issued “*Authorization to Proceed*” (E-76).

Please advise us as soon as the “*Authorization to Proceed*” has been issued. You may direct any questions to: (Name of Local Agency Contact) at (Phone Number and E-mail Address).

\_\_\_\_\_  
*Signature of Full-time Local Agency Employee in Responsible Charge*

\_\_\_\_\_  
*Print Name*

\_\_\_\_\_  
*Title*

\_\_\_\_\_  
*Agency*

**Distribution:** DLAE

**EXHIBIT 3-I REQUEST FOR LOCAL ADVANCE CONSTRUCTION  
AUTHORIZATION**  
*(On Local Agency  
Letterhead)*

To: (DLAE Name)  
District Local Assistance Engineer  
(District Address)

Date: \_\_\_\_\_  
FTIP/FSTIP ID: \_\_\_\_\_  
Federal Project Number: \_\_\_\_\_  
EA: \_\_\_\_\_  
Project Description: \_\_\_\_\_  
\_\_\_\_\_

Re: Request for Advance Construction Authorization for (Project Phase) for (Project Title) at (Project Location)

Dear: (DLAE Name)

The *(Name of Local Agency)* requests federal Advance Construction authorization for the *(Preliminary Engineering, Right of Way, Construction and/or Construction Engineering)* phase(s) of work for the above referenced project.

*(Indicate local agency reasons/justification for requesting Advance Construction Authorization)*

The *(Name of Local Agency)* understands that currently there are insufficient federal transportation funds (and/or Obligational Authority (OA)) to obligate the appropriate funds for the proposed work. The *(Name of Local Agency)* agrees to use local funds in lieu of federal funds to finance the cost of work until such time that federal funds (and/or OA) become available for obligation and subsequent reimbursement of the federal share of work. It is understood that an FTIP amendment may be required when the Advance Construction Authorization is converted to a real obligation of federal funds. It also is understood that federal reimbursement is **not** guaranteed.

The *(Name of Local Agency)* understands that work performed prior to federal authorization is ineligible for federal reimbursement and that advertising the construction contract prior to federal authorization will deem the construction and construction phases of work ineligible for federal funds

For questions regarding this request you may contact *(Local Agency contact name and phone number)*.

\_\_\_\_\_  
Local Agency Representative Authorized to Commit Local Funds

\_\_\_\_\_  
Title

**Distribution:** 1) DLAE 2 ) DLA 3 ) MPO

**EXHIBIT 3-J REQUEST FOR TRANSFER OF FEDERAL FUNDS TO THE FEDERAL TRANSIT ADMINISTRATION (FTA)**

*[Place this form on Local Agency Letterhead]*

To: (DLAE Name) District Local Assistance Engineer CALTRANS, Office of Local Assistance (District Address)	Date: _____ FTIP/FSTIP ID(s): _____ Federal Project Number: _____ Project Description(s): _____
---	--

Dear (DLAE Name):

We have received notification of pending grant application approval for this public transit project and request that you transfer these federal funds to the Federal Transit Administration for project administration. The amount(s) requested do not exceed the funds provided to this agency in the current approved Federal Statewide Transportation Improvement Program (FSTIP).

Request for FTA Transfer Documentation

Attached is information/documentation in support of this request to transfer federal funds to the FTA:

Pending FTA Grant Number: \_\_\_\_\_ Copy of Approved FSTIP pages  
 Copy of Grant Application (Section 5307 projects only)  
 Copy of Caltrans Notification Letter (Section 5311 & 5310 projects only) Please transfer the following federal funds to the FTA:

<u>Fund Type</u>	<u>Programmed FSTIP Funds</u>	<u>Fiscal Year Programmed</u>	<u>Federal Funds To be transferred</u>
_____	_____	_____	_____
_____	_____	_____	_____
		<b>Total</b>	_____

I understand that the invoices for payment of federal funds will be processed by FTA (Section 5307), or Caltrans (Sections 5311 and 5310 – refer to *Division of Mass Transportation*, Section 5311 “Handbook and Guide,” for invoicing procedures and format)

Prior to payment of State Transportation Improvement Program (STIP) match funds: 1) California Transportation Commission (CTC) must allocate the funds, 2) Master Administering Agency– State Agreement for State Funded Projects and project specific Program Supplement Agreement (PSA) must be executed, 3) Applicant Agency must prepare and sign a project specific Finance Letter, and 4) Applicant Agency must submit evidence that payment of federal funds has been invoiced/received. Invoice procedures and format must adhere to Chapter 5, “Accounting/Invoices,” of *Local Assistance Procedures Manual (LAPM)* (available at <http://www.dot.ca.gov/hq/LocalPrograms/>). \* **Please note that STIP match funds may ONLY be used for purposes eligible under Article XIX of the California State Constitution.**

Check which of following applies:

- This project does not qualify for STIP match funds.
- This project is programmed to receive STIP match funds. I have attached the completed:
  - 1) Request for STIP Fund Allocation
  - 2) Funding Allocation Checklist, and
  - 3) Finance Letter
- A request for allocation of STIP match funds will be made at a future date as permitted by Government Code Section 14529.17

Toll Credit Usage

- This project will use Toll Credit. It is fully funded.
- This project will NOT use Toll Credit.

CERTIFICATION

I certify that the facts and statements in this “Request for Transfer of Federal to the Federal Transit Administration” are accurate and correct. Following the transfer of funds to the FTA, this agency agrees to comply with the applicable terms and conditions set forth in Title 49, USC, Chapter 53 “Mass Transportation” and the policies and procedures promulgated the FTA relative to the above-designated project.

\_\_\_\_\_  
*Signature of Local Agency Representative*

\_\_\_\_\_  
*Print Name*

\_\_\_\_\_  
*Title*

\_\_\_\_\_  
*Agency*

**Distribution:** Local Agency

**EXHIBIT 3-O SAMPLE LOCAL FEDERAL-AID PROJECT FINANCE LETTER**

DEPARTMENT OF TRANSPORTATION  
 DIVISION OF ACCOUNTING  
 LOCAL PROGRAM ACCOUNTING BRANCH

Period of Performance End Date: \_\_\_\_\_  
 Anticipated Award Date (CON only): \_\_\_\_\_  
 Anticipated Contract Acceptance Date (CON only): \_\_\_\_\_

Date: \_\_\_\_\_  
 Agency: \_\_\_\_\_  
 Fed Project No.: \_\_\_\_\_  
 Project ID.: \_\_\_\_\_  
 PPNO.: \_\_\_\_\_  
 Bridge No.: \_\_\_\_\_

ATTN: \_\_\_\_\_

Work on State Highway (Y or N): \_\_\_\_\_ If yes, provide following:  
 Administered by State or Local? \_\_\_\_\_  
 Project Manager Name: \_\_\_\_\_  
 Accounting Program Code(s): \_\_\_\_\_  
 Coop or Contribution Agrmnt No.: \_\_\_\_\_

	"P" or "L"*	TOTAL COST OF WORK	FEDERAL PARTICIPAT. COST	FEDERAL FUND TYPE (1)	FEDERAL FUND TYPE (2)	STATE MATCH FUNDS	LOCAL MATCH FUNDS	OTHER FUNDS
<b>PRELIMINARY ENGINEERING</b>								
Agency Preliminary Engineering								
State Furnished Preliminary Engineering								
Overhead at _____ %								
<b>RIGHT OF WAY (R/W)</b>								
Engineering & Administration Costs								
Purchase Costs								
Relocation Assistance								
Utility Relocation								
<b>CONSTRUCTION</b>								
Contract Items _____								
Utilities _____								
Supplemental Work _____								
Contingencies _____								
Trainees _____								
Agency/State Furn. Mat. _____								
Contract Total: _____								
<b>CONSTRUCTION ENGINEERING</b>								
Agency Construction Engineering								
State Furnished Materials Testing								
Overhead at _____ %, Subjob _____								
Force Account Work by Agency								
<b>TOTALS:</b>								

Federal Participation: \_\_\_\_\_  
 Federal Appn. Code(s): \_\_\_\_\_  
 Federal Reimbursement Rate(s) for Progress Invoice:

PHASE	FED (1)	FED (2)
PE		
R/W		
CON		
CE		

Certification

\* "P" = Pro Rata, "L" = Lump Sum

I certify that this Finance Letter accurately reflects the current cost estimate for all phases of the project obligated but not fully expended.

For questions regarding finance letter, contact:

Printed Name: \_\_\_\_\_  
 Telephone No.: \_\_\_\_\_

Signature : \_\_\_\_\_  
 Title : \_\_\_\_\_  
 Project location : \_\_\_\_\_  
 Remarks : \_\_\_\_\_

Distribution: (1) Original + 4 copies-Caltrans DLAE  
 (2) Copy-Local Agency Project File

**Table 5.1. Pro Rata vs Lump Sum – Fully Funded Scenario**

	<b>Pro Rata Agreement (Maximum Reimbursement Rate: 88.53%)</b>	<b>Regulation/Policy Basis</b>
<b>Initial authorization</b>	<p><b>Project A: Construction Phase ; Fully funded at maximum</b></p> <p>Total project cost: \$1,000,000<sup>1</sup> Federal funds: \$885,300 Pro rata Federal share: <b>88.53%</b></p>	23CFR 630.106(f)(1)
<b>Adjustment at contract award</b>	<p><u><b>Scenario 1 – Reduced Cost:</b></u> Revised total project cost: \$900,000<sup>1</sup> Adjusted federal funds: \$796,770 Pro rata Federal share: <b>88.53%</b></p>	23 CFR 630.106(f)(2)
<b>Post-award Adjustments prior to final invoice (for CCOs. Etc)</b>	<p><u><b>Scenario 1 – Reduced Cost:</b></u> Revised total project cost: \$800,000<sup>1</sup> Adjusted federal funds: \$708,240 Pro Rata Federal share: <b>88.53%</b></p> <p><u><b>Scenario 1 – Increased Cost:</b></u> Revised total project cost: \$1,050,000<sup>1</sup> Adjusted federal funds: \$929,565 Pro Rata Federal share: <b>88.53%</b></p>	23CFR 630.110(b)
<b>Adjustment at contract award (interpreted as within 90-days)</b>	<p><u><b>Scenario 2 – Increased Cost:</b></u> Revised total project cost: \$1,200,000<sup>1</sup> Adjusted federal funds: \$985,300<sup>2</sup> Pro Rata Federal share: <b>82.11%<sup>2</sup> (After award adjustment, reimbursement not to exceed this percentage)</b></p>	23 CFR 630.106(f)(2)
<b>Post-award adjustments prior to final invoice (for CCOs. Etc)</b>	<p><u><b>Scenario 2 – Reduced Cost:</b></u> Revised total project cost: \$1,100,000<sup>1</sup> Adjusted federal funds: \$903,191 Pro Rata Federal share: <b>82.11%</b></p> <p><u><b>Scenario 2 – Increased Cost:</b></u> Revised total project cost: \$1,250,000<sup>1</sup> Adjusted federal funds: \$1,026,354 Pro Rata Federal share: <b>82.11%</b></p>	23CFR 630.110(b)
<b>Final Invoice/Voucher</b>	<i>No upward adjustment of federal funds will be allowed</i>	

**Notes**

1. Dollar figure chosen arbitrarily, solely for the purpose of illustrating sample adjustments that could be allowable.
2. Dollar figure chosen arbitrarily for illustration purposes. In this example, MPO/RTPA has allowed obligation of an additional 100,000 of Federal Funds as a result of high bids. An amount up to the maximum Pro Rata may be added provided that MPO/RTPA adds adequate funding to the project (in which case, post-award adjustments would be similar to those shown under Scenario 1). A Local Agency may also choose to utilize Advance Construction (AC) if Federal funds are not currently available for the increased cost but are anticipated to become available in the future (potentially allowing the project to be fully funded).

**Table 5.2. Pro Rata vs Lump Sum – Underfunded Scenario**

	<b>Lump Sum Agreement (Maximum reimbursement rate: 88.53%)</b>	<b>Regulation/Policy Basis</b>
<b>Initial authorization</b>	<p><b>Project B: Construction Phase; Underfunded</b></p> <p>Total project cost: \$1,000,000<sup>3</sup>                      Federal funds: \$750,000<sup>3</sup>                      Lump Sum Federal share: <b>\$750,000</b>                      Effective reimbursement: 75% (&lt;88.53%)</p>	23CFR 630.106(f)(1)
<b>Adjustment at contract award</b>	<p><b><u>Scenario 1 – Reduced Cost:</u></b></p> <p>Revised total project cost: \$900,000<sup>3</sup>                      Adjusted federal funds: \$750,000                      Lump Sum Federal share: <b>\$750,000</b>                      Effective Reimbursement: 83.33% (&lt; 88.53%)</p>	23 CFR 630.106(f)(2)
<b>Post-award Adjustments prior to final invoice (for CCOs. Etc)</b>	<p><b><u>Scenario 1A – Reduced Cost:</u></b></p> <p>Revised total project cost: \$800,000<sup>3</sup>                      Adjusted federal funds: \$708,240 (vs \$750,000)                      Lump Sum Federal share: <b>\$708,240</b>                      Effective Reimbursement: 88.53% (= 88.53%)</p> <p><b><u>Scenario 1B – Increased Cost:</u></b></p> <p>Revised total project cost: \$1,050,000<sup>3</sup> (additional \$150,000 of approved CCOs)                      Adjusted federal funds: \$882,795 (\$750,000 plus \$150,000x88.53%)                      Lump Sum Federal share: <b>\$882,795</b>                      Effective Reimbursement: 84.07% (&lt; 88.53%)</p>	23CFR 630.110(b),  FHWA Memo HCFM-10(HCF-2-12-002) This memorandum allows adjustment of lump-sum projects to cover additional costs associated with approved change orders, not to exceed maximum legal share.
<b>Adjustment at contract award (interpreted as within 90-days)</b>	<p><b><u>Scenario 2 – Increased Cost:</u></b></p> <p>Revised total project cost: \$1,200,000<sup>3</sup>                      Adjusted Federal funds: \$950,000<sup>4</sup>                      Lump sum federal share: <b>\$950,000</b>                      Effective reimbursement: 79.17% (&lt;88.53%)</p>	23 CFR 630.106(f)(2)
<b>Post-award Adjustments prior to final invoice (for CCOs. Etc)</b>	<p><b><u>Scenario 2A – Reduced Cost:</u></b></p> <p>Revised total project cost: \$1,100,000<sup>3</sup>                      Adjusted federal funds: \$950,000                      Lump sum federal share: <b>\$950,000</b>                      Effective Reimbursement: 86.36% (&lt; 88.53%)</p> <p><b><u>Scenario 2B – Increased Cost:</u></b></p> <p>Revised total project cost: \$1,250,000<sup>3</sup> (additional \$50,000 of approved CCOs)                      Revised Federal funds: \$994,265 (\$950,000 plus \$50,000x88.53%)                      Lump sum federal share: <b>\$994,265</b>                      Effective reimbursement: 79.54% (&lt;88.53%)</p>	23CFR 630.110(b),  FHWA Memo HCFM-10(HCF-2-12-002) This memorandum allows adjustment of lump-sum projects to cover additional costs associated with approved change orders, not to exceed maximum legal share.
<b>Final Invoice/Voucher</b>	<i>No upward adjustment of federal funds will be allowed</i>	

**Notes**

3. Dollar figure chosen arbitrarily, solely for the purpose of illustrating sample adjustments that could be allowable.

4. Dollar figure chosen arbitrarily for illustration purposes. In this example, MPO/RTPA has allowed obligation of an additional \$200,000 of Federal Funds as a result of high bids. The Lump Sum share may be increased such that the resulting effective reimbursement rate is up to the maximum Pro Rata, provided that MPO/RTPA adds adequate funding to the project. A Local Agency may also choose to utilize Advance Construction (AC) if Federal funds are not currently available but are anticipated to become available in the future (potentially allowing the project to be fully funded).



**Period of Performance**

In accordance with FHWA 2 CFR 200 Implementation Guidance, the Period of Performance (dates when federally reimbursable costs can be incurred) must be established for each federal-aid project. To comply with reporting requirements, local agencies must identify the Period of Performance End Date and Agreement End Date for each project when federal authorization is requested.

**Period of Performance End Date (PPED)**

The PPED is defined as the date after which no additional costs may be incurred for an authorized phase of work. Any costs incurred after this date will not be eligible for federal reimbursement. The PPED is established by adding twelve (12) months to the local agency's estimated date of completing the authorized phase of work. The completion of the Preliminary Engineering and Right of Way phases of work is estimated as the anticipated advertising date for construction. For the Construction phase of work, completion is estimated as board/council acceptance of construction contract completion. Upon adding a future phase of work, the local agency must also revise the PPED. Revisions to the PPED require Caltrans concurrence and FHWA approval. If the PPED is revised after the authorized PPED has passed, any costs incurred between the expiration of the authorized PPED and the revised PPED are ineligible for reimbursement.

Local agencies are required to estimate the PPED and establish it at the time of their authorization request. The PPED is required to be shown on the Local Federal-Aid Project Finance Letter (LAPM Exhibit 3-O) and submitted with every authorization request package for the project. After Caltrans concurrence and FHWA approval, Caltrans will notify the local agency of the established PPED along with the project authorization.

To request a revision to the PPED, the local agency must submit an updated Local Federal-Aid Project Finance Letter and adequate justification to the District Local Assistance Engineer (DLAE). Examples of situations which may justify a revision to the PPED include, but are not limited to: litigation, major changes in design, environmental or permit issues, construction claims, differing site conditions, significant additional work, area-wide material shortages, labor strikes, unusually severe weather, or other events which are outside the control of the local agency. This documentation must be included with authorization requests of subsequent phases of work. If occurring at other stages of the project's development, this documentation must be submitted as a separate request to the DLAE.

**Agreement End Date (AED)**

The AED is defined as the date when the project will be final vouchered by Local Programs Accounting and closed in FMIS by FHWA. It is calculated as twenty-one (21) months from the PPED (i.e.  $AED = PPED + 21$  months).

When preparing the E-76, the DLAE will calculate the AED by adding twenty-one (21) months to the local agency's PPED and enter this date into the Agreement End Date field in the Caltrans Federal Aid Data System. After FHWA approval, Caltrans will notify the local agency of the established AED along with the project authorization.

The DLAE will ensure that the checklist and appropriate documentation are included, will concur with Sections 1 & 2, and complete and sign Sections 3 & 4.

Provided Local Agencies adhere to the format described in this chapter, invoices are typically paid by warrant within 60 days after being received by the DLAE, or 50 days if the agency is signed up for EFT. Please refer to and use the "Local Agency Invoice Review Checklist" (Exhibit 5-J) prior to sending invoices to the district for reimbursement. Invoices with significant errors will be returned to the local agencies for correction.

## 5.6 FINAL REPORT OF EXPENDITURES & FINAL INVOICE

The local agency must submit the Final Report of Expenditures, which includes the final invoice, to the DLAE within six months of project completion. If the submittal deadline occurs in the year funds will lapse, the Final Report of Expenditures must be submitted to the DLAE by April 1 of that year. The Final Report of Expenditures is to be signed by the person in responsible charge of the project for the local agency. After the DLAE approves the Final Report of Expenditures, including the final invoice, he/she will forward them to Local Programs Accounting for processing of the final invoice. Refer to Chapter 17, "Project Completion," for detailed instructions on completing the Final Report of Expenditures.

**NOTE:** For EEM projects, the final report (including the final invoice) must be submitted to the DLAE, 60 days prior to the expiration of the Budget Authority. This report provides key information required to initiate timely closure and payment.

If the final invoice is returned to the local agency for error correction, it must be re-dated with a current date and number before being resubmitted to the DLAE.

When preparing the Final Expenditure Report, follow the instructions in Chapter 17. At a minimum, ensure that:

- The following are shown, for each phase of work:
  - Total Costs
  - Participating Costs
  - Nonparticipating Costs
  - Federal Funds
  - Other Funds (local, state, etc.)
- The costs shown, by phase of work, are the same on the:
  - Final Invoice
  - Final Detail Estimate (federal-funded projects), Exhibit 15-M
  - Final Detail Estimate Summary (federal-funded projects), Exhibit 15-M
  - Final Report of Expenditures – report (state-funded projects)
- If there are Liquidated Damages, they are shown on both the Final Invoice and the Final Detail Estimate. If there were none, write "None."
- A Change Order Summary is provided, whether there were change orders or not. If there were none, write "None."
- Contractor Claims are listed. If there were no claims, write "None."

EXHIBIT 5-J LOCAL AGENCY INVOICE REVIEW CHECKLIST

District / Local Agency: \_\_\_\_\_ Invoice No. \_\_\_\_\_

Federal / State Project Number: \_\_\_\_\_ NI Project: YES  NO

Local Project Number: \_\_\_\_\_

Project Description: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**SECTION 1 – CHECKLIST ITEMS TO BE COMPLETED BY LOCAL AGENCY WITH / CONCURRENCE BY CALTRANS**

	Check applicable box for each item	Frequency	Local Agency		Caltrans
			Confirm	N/A	Concur
1	Verify project funding agreement (e.g., program supplement agreement) has been executed by Caltrans, <u>and</u> Local Agency has received copy of executed agreement.	First Invoice for Phase of Work	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2	Local Agency Invoice Package format, content and support documentation are consistent with Chapter 5 "Invoicing" of Local Assistance Procedures Manual (LAPM) or with program-specific guidelines (e.g. BTA,EEM, Exchange/Match, FSP, and PPM)	All Invoices	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3	CTC Allocation (or SB184/LONP letter) and/or Federal Authorization to Proceed (E-76) date prior to beginning reimbursable work and advertising construction contract.	First Invoice for Phase of Work	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4	Work performed and costs invoiced are consistent with approved project scope/limits of CTC Allocation and/or E-76.	All Invoices	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5	Phase(s) of work/fund types and amounts/reimbursement rates are consistent with state approved project Finance Letter.	All Invoices	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6	Cost incurred prior to authorized Period of Performance End Date (PPED)	All Invoices	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7	Work performed in accordance with STIP or ATP Timely Use of Funds deadlines, Invoice Package submitted to Caltrans in time (April 1 of fund reversion year) to comply with Department of Finance fund reversion/Cooperative Work Agreement deadlines.	All Invoices	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8	All consultant agreements/amendments follow the procurement and Caltrans oversight processes as outlined in LAPM Chapter 10.				
	<ul style="list-style-type: none"> <li>Submit Exhibits 10-C, 10-O1 and 10-O2 to DLAE.</li> <li>Submit Exhibit 10-K (for contracts &gt; \$150,000) to Caltrans A&amp;I</li> <li>Submit copy of executed contract to the DLAE within 30 days of contract award or concurrently with first invoice, whichever is earlier.</li> <li>For on-call contracts, submit copy of issued task order and Exhibit 10-O2 for the task order.</li> </ul>	First Federally Funded Consultant Invoice	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

	Frequency	Local Agency		Caltrans
		Confirm	N/A	Concur
9 Construction Contract Award Package (see LAPM Chapter 15 or program-specific guidelines) forwarded to DLAE within 60 days of award or concurrent with first construction invoice, whichever is earlier.	First Construction Invoice	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10 Construction Contract Change Orders (federal/state/ program eligible, DLAE reviewed and concurred)	Construction Invoices	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
11 Level of work completed consistent with total federal/state funds invoiced. <sup>2</sup>	Construction Invoices	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
12 Invoiced amount shall be greater than two percent (2%) of the total federal and/or state funds or \$1,000, whichever amount is greater, unless authorized by DLAE (e.g., to prevent loss of federal funds).	All Invoices	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
13 Total invoiced funds do not exceed amounts allocated/authorized by the CTC and/or E-76 (less retention amount <sup>3</sup> )	All Invoices	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
14 Submittal of Local Agency Invoice, signed Local Agency Invoice Review Checklist, and Billing Summary <sup>4</sup> with appropriate documentation	All Invoices	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**SECTION 2 – LOCAL AGENCY INVOICE CERTIFICATION / COMMENTS**

**By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursement, and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal/State award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729-3730 and 3801-3812). I certify that the costs claimed follow pertinent program guidelines, and all Federal/State regulations. All consultant and contractor agreements have been reviewed and approved in accordance with the LAPM Chapter 10 “Consultant Selection” and Chapter 16 “Administer Construction Contracts”. I understand that Caltrans may review this invoice and support documentation for reasonableness at this time and that all invoice related documentation is subject to future detailed review by the Federal Highway Administration (FHWA) and/or Caltrans.**

\_\_\_\_\_  
**Signature of Full-time Local Agency Employee in Responsible Charge** \_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Printed Name and Title**

**For questions regarding this invoice, please contact:**

\_\_\_\_\_  
**Local Agency Contact Name** \_\_\_\_\_  
**E-mail Address** \_\_\_\_\_  
**Phone No.**

**Local Agency Comments:**

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**Distribution:** 2 signed copies to DLAE

**SECTION 3 – CHECKLIST ITEMS TO BE COMPLETED BY CALTRANS**

**DATE THAT CALTRANS RECEIVED LOCAL AGENCY INVOICE:** \_\_\_\_\_

		Caltrans	
		Confirm	N/A
15	Consultant Contract DBE Information entered into LP2000. <sup>5</sup>	Frequency First Federally Funded Consultant Invoice	<input type="checkbox"/> <input type="checkbox"/>
16	Construction Contract Award Package: 1) Make adjustments as required through FADS (see LAPM Exhibit 3-G) 2) Copy of LAPM Exhibit 15-L "Local Agency Contract Award Checklist" or copy of Exhibit 22-A/ 23-A: Award Information for ATP/STIP Projects to LPA.	First Construction Invoice	<input type="checkbox"/> <input type="checkbox"/>
17	Construction Contract Award DBE information entered into LP2000 prior to submittal of Invoice Package documentation to LPA <sup>5</sup>  <b>Distribution:</b> District – 1 signed copy to LPA	First Federally Funded Construction Invoice	<input type="checkbox"/> <input type="checkbox"/>
18	Invoice Package received and date-stamped by District and Invoice Package Receipt Date logged into LP2000.	All Invoices	<input type="checkbox"/> <input type="checkbox"/>

**SECTION 4 – CALTRANS CONCURRENCE TO PAY INVOICE**

**I have reviewed this Invoice Package in accordance with Chapter 5, I agree that based on the information received, the Invoice Package is complete and accurate, and I concur with payment of this invoice.**

\_\_\_\_\_  
**Signature of Caltrans District Representative** \_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Printed Name and Title** \_\_\_\_\_  
**Phone No.**

1. This Local Agency Invoice Review Checklist acts as the Caltrans "receiving record" for this invoice.  
 2. Local Agency must demonstrate that completed construction work is consistent with the level of federal and/or state funds invoiced (see Exhibit 5-K).  
 3. For Construction phases, the state shall withhold the greater of two (2) percent of the total federal/state funds encumbered for each funding agreement, or a minimum of \$40,000 (unless otherwise authorized by the DLAE), until after the Local Agency submits the Final Report of Expenditures (FROE).  
 4. A "Billing Summary" (Exhibit 5-K) must be submitted with each Local Agency invoice unless an acceptable alternative is authorized by the DLAE.  
 5. Prior to submitting local agency invoice to LPA for payment of federal funded contracts, DLAE is to confirm that DBE information has been entered into LP2000. First new invoice of Task Orders requires submittal of Exhibit 10-02, and a copy of the Task Order.  
 Note: Incomplete or disputed invoice packages must be returned promptly to the local agency to avoid incurring interest penalties. A Dispute Notification Letter shall accompany all Invoices returned to the Local Agency. Update LP2000 accordingly.

**District Comments:**

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**Distribution:** DLAE

**Summary of Required/Non-Required Activities for Small Purchase Procedure**

<b>REQUIRED</b>	<b>NOT REQUIRED</b>
<ul style="list-style-type: none"> <li>• Competitive process (collect three bids)</li> <li>• Conflict of interest determination</li> <li>• Assigned Contract Administrator</li> <li>• Defined scope of work/schedule of deliverables/start and end dates for contract</li> <li>• Defined deliverables/Prime and Subconsultant responsibilities</li> <li>• DBE goal for contract; Exhibits 10-O1, 10-O2</li> <li>• Cost estimate prior to receiving bids</li> <li>• Best method of payment determination</li> <li>• Contract provisions/clauses</li> <li>• Evaluation of consultant, justification of selection</li> <li>• Contract management responsibilities</li> </ul>	<ul style="list-style-type: none"> <li>• No RFP/RFQ</li> <li>• No Selection/Evaluation Panel</li> <li>• No Evaluation criteria disclosure requirements</li> <li>• No record of costs/profit negotiations</li> <li>• No audit and review requirement of contract (no Exhibit 10-K)</li> </ul>

Price or rate quotation may be considered in the selection of A&E consultants on contracts below \$150,000 and must be documented in the project files. Qualified small business firms shall be considered for selection on federal-aid and state reimbursed contracts. Additionally, on federal-aid contracts, qualified DBE firms shall be considered for selection, and the appropriate federal contract language shall be included.

The full amount of any contract modification or amendment that would cause the total contract amount to exceed the Federal simplified acquisition threshold (currently established at \$150,000) would be ineligible for federal funding. Also, FHWA reserves the right to withdraw all federal-aid funding from a contract if it is modified or amended above the applicable established simplified acquisition threshold.

**Noncompetitive Negotiated Contracts (Sole-Source)**

Procurement by noncompetitive proposals may be used only when the award of a contract is infeasible under small purchase procedures, sealed bids or competitive proposals (49 CFR Part 18.36).

FHWA considers these types of contracts as “Sole Source” contracts and should be used only in very limited circumstances. A Public Interest Finding prepared by the local agency and approved by Caltrans is required before establishing these services (23 CFR 172.7(a)(3); also see Exhibit 12-F Request for Approval of Cost-Effectiveness/Public Interest Finding).

Conditions under which noncompetitive negotiated contracts may be acceptable include:

- Only one organization is qualified to do the work;
- An emergency exists of such magnitude that cannot permit delay;

**EXHIBIT 10-U CONSULTANT IN MANAGEMENT POSITION CONFLICT OF INTEREST AND  
CONFIDENTIALITY STATEMENT**

RFP/RFQ PROCUREMENT NUMBERS: \_\_\_\_\_

PROJECT NAME:  
\_\_\_\_\_

APPLICABILITY: Applicable to local agency consultants in management positions.

- I am an employee of a consultant under contract to the local agency that is responsible for the procuring and administering of one or more consultant contracts containing either Federal or State funds.
- I am in a management position with the local agency, my title is listed below and I have attached my duty statement.
- The procedures followed to procure and execute the contract, between the local agency and the consulting firm of which I am employed, comply with all Federal and State requirements. Also this contract has a specific beginning and ending date.
- I hereby certify as follows:
1. I will not directly or indirectly participate in, manage, or oversee any consultant selection procurement process in which the consulting firm of which I am employed is competing as a consultant or subconsultant.
  2. I will not directly or indirectly influence any employee, staff member, or other individual participating in any consultant selection procurement process in which the consulting firm of which I am employed is as a consultant or subconsultant.
  3. I will not directly or indirectly participate in, manage, or oversee any local agency contract that is with the consulting firm of which I am employed, regardless of whether the involvement of my employer in the contract is as a consultant or subconsultant. Among other things, this includes my not being involved in managing the work; and not approving changes in the schedule, scope, deliverables or invoices.
  4. I understand that if I am involved in any local agency contract that is with the consulting firm of which I am employed, in violation of 1. or 2. above, that local agency contract will no longer be eligible for Federal or State reimbursement because of my involvement.
- I certify that I have read **23 CFR 172.7(b)(4)(i)** below and I agree not to participate in selection, or in the award or administration of a contract supported by Federal or State funds if a conflict of interest, real or apparent, would be involved. **Note:** Caltrans is the Grantee and the local agency is the sub-grantee.

**23 CFR 172.7(b)(4)(i)**

(4) *Conflicts of interest.* (i) A contracting agency shall maintain a written code of standards of conduct governing the performance of their employees engaged in the award and administration of engineering and design related services contracts under this part and governing the conduct and roles of consultants in the performance of services under such contracts to prevent, identify, and mitigate conflicts of interest in accordance with 2 CFR 200.112, 23 CFR 1.33 and the provisions of this paragraph (b)(4).

- I fully understand that it is unlawful for a person to utilize any organization name (i.e. local agency) or auxiliary organization information, which is not a matter of public record, for personal gain.
- I fully understand that any violation of the above could be a basis for ineligibility of reimbursement of State or Federal project funds.

Date: \_\_\_\_\_

Signed: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Dept./Local Agency: \_\_\_\_\_

Employer: \_\_\_\_\_

**REVIEW BY SUPERVISOR OF CONSULTANT IN MANAGEMENT POSITION**

I have reviewed the foregoing "Conflict of Interest and Confidentiality Statement" and will ensure:

- that the foregoing named local agency consultant who is under contract and in a management position with our local agency, abides by the foregoing terms and conditions;
- that should the foregoing named local agency consultant, who is under contract and in a management position with our local agency, violate any of the foregoing terms and conditions, the Caltrans DLAE will be notified and such violation will be considered a breach of ethics and could be a basis for ineligibility of State or Federal project funds.

Date: \_\_\_\_\_

Signed: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Dept./Local Agency: \_\_\_\_\_

Employer: \_\_\_\_\_



**REVIEWED/CONCURRENCE BY DISTRICT LOCAL ASSISTANCE ENGINEER**

I have reviewed the foregoing "Conflict of Interest and Confidentiality Statement" and Supervisor's statement.

- Based upon the foregoing, I concur that the consultant, who is under contract and in a management position with the local agency, does not appear to present a conflict of interest. The local agency and the consultant should be considered eligible for Federal and State reimbursement.
  
- Based upon the foregoing, I do not concur as I believe that the consultant, who is under contract and in a management position with the local agency, does appear to present a conflict of interest.
  
- The consultant's time is not considered eligible for either Federal or State reimbursement.
  
- The local agency is not considered eligible for either Federal or State reimbursement.

Date: \_\_\_\_\_

(DLAE) Signed: \_\_\_\_\_

Name: \_\_\_\_\_

**Distribution:** 1) Copy to: DLAE for each Federal/State funded project  
2) Copy to be returned to Local Agency by DLAE with signature

- Highway design standards (and any other technical standards as appropriate)
- Consultant selection procedures
- Project DBE participation procedures
- Review and approval procedures
- Oversight procedures if a State highway is involved
- Maintenance of records and access

The DLAE should consult with headquarters Division of Local Assistance for assistance with the review of the local agency procedures.

## 12.3 ENVIRONMENTAL PROCEDURES

The Code of Federal Regulations, Title 23 (Highways), Part 771.113 (23 CFR 771.113) prohibits starting work on the final design phase of a federally funded project until after approval of the final environmental document (see Chapter 6 *Environmental Procedures* of this manual). Failure to comply with this requirement will make a project ineligible for federal reimbursement.

### Compliance with Environmental Laws

The local agency is responsible for ensuring that mitigation measures presented as commitments in environmental documents, and that conditions and restrictions associated with regulatory permits, are incorporated into appropriate contract documents, plans, specifications and estimates prior to proceeding with major construction activities such as land acquisition or construction. Environmental documents referred to here may be a Categorical Exclusion (CE), Environmental Assessment (EA), or Environmental Impact Statement (EIS).

**Failure to meet mitigation commitments may render the project ineligible for federal reimbursement.**

Omission or modification of a mitigation commitment, thereby creating new significant environmental effects, will result in the need to prepare a re-evaluation to assess any changes that have occurred and their effect on the validity of the environmental document. Changes in project design, applicable laws or regulations, or environmental impacts may also require environmental re-evaluation, including additional studies, consultation and public involvement. If the document is an EIS, a Supplemental EIS may be required.

### Preliminary Design

23 CFR 636.103 defines preliminary design as the general project location and design concepts. It includes, but is not limited to, preliminary engineering and other activities and analyses, such as environmental assessments, topographic surveys, metes and bounds surveys, geotechnical investigations, hydrologic analysis, hydraulic analysis, utility engineering, traffic studies, financial plans, revenue estimates, hazardous materials assessments, general estimates of the types and quantities of materials, and other work needed to establish parameters for the final design. In addition to the activities specified in the definition, [Appendix A of FHWA Order 6640.1A](#) provides examples considered to be preliminary design. Prior to completion of the

NEPA review process, any such preliminary engineering and other activities and analyses must not materially affect the objective consideration of alternatives in the NEPA review process.

### **Final Design**

Local agencies may not proceed with final design activities until Caltrans District Senior Environmental Planner and the DLAE have signed the CE Form, Caltrans Deputy District Director has signed the Finding of No Significant Impact (FONSI), or Caltrans District Director has signed the Record of Decision (ROD). Granting approval to proceed with final design prior to final environmental approval would be a premature commitment to one alternative at a time when other alternatives, including the alternative of taking no action, are still being actively considered in the environmental process. Upon final environmental approval, it is incumbent upon the DLAE to immediately provide notification to the local agency and a copy of the approved environmental determination or documents.

Local agencies are required to provide a list of mitigation commitments to the DLAE (for projects processed with a CE), provide a list of mitigation commitments in the FONSI (for projects processed with an EA), and provide a list of mitigation commitments in the ROD (for projects processed with an EIS).

Unique mitigation commitments including but not limited to preservation of historic sites, protection of public-owned parklands, removal and disposal of hazardous materials, and the establishment of sensitive plant communities or wetland mitigation sites are often complex and require technical expertise in the translation and transfer into final design. Any plant establishment and monitoring periods must also be addressed during final design.

For complex projects, Caltrans staff is available to assist in the translation and proper transfer of mitigation commitments into the final design. Caltrans assures that mitigation commitments and any required ongoing maintenance of mitigation are implemented by conducting periodic process reviews.

### **Permits**

The local agency is also responsible for translating permit conditions and restrictions into the final design. Permits include, but are not limited to: Army Corps of Engineers Section 404 Nationwide Permit; Section 404 Individual Permit; NEPA/404 Integration MOU, Section 10 Permit; United States Coast Guard Bridge Permit; Regional Water Quality Control Board Section 401 Water Quality Certification and National Pollution Discharge Permit; California Department of Fish and Wildlife Streambed Alteration Agreement; California Coastal Commission Coastal Development Permit, and Bay Conservation and Development Commission Permit. Typical mitigation includes hay bales, silt fencing, dust control, riprap, soil stabilization matting, slope drain, turbidity barrier, etc.

Local agencies should work closely with the permitting agency to ensure accurate translation and proper transfer of permit conditions and restrictions (as appropriate) into final design. Conversations with regulatory agencies regarding translation of permit conditions and restrictions should be well documented.

## Design Guidance

Guidance for the design of federal-aid highway projects is contained in Chapter 11 *Design Guidance* of this manual.

## Design Decisions

The Public Works Director, or the person to whom approval authority has been delegated, shall sign approval for design decisions. The person with approval authority must be a registered Civil Engineer in the State of California. Additional information is provided in Chapter 11 *Design Guidance* of this manual.

## Plan Sheet and Specification Signatures

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

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

## Standard Plans

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

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

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

In addition to the above, standard plans that are developed locally for non-federally funded projects may be used on local federal aid projects. The local standard plans shall be signed (with registration number) by the local agency's responsible person in charge who must be registered in California in the professional field for the type of standard plan being signed. Details included in local standard plans used for projects on the NHS shall meet statewide geometric standards.

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

**Modifications of Form FHWA 1273 by Special Provision.** Sections IV (Davis-Bacon and Related Act Provisions) and Section VI (Subletting or Assigning the Contract) of Form FHWA 1273 may not be applicable to some projects. If the project is exempted from either of these two provisions, it must be specified elsewhere in the contract by special provision that it does not apply.

**Use of Local Hiring Preference.** The local agency shall not include contract provisions that require preferences to hire locally on any federal-aid contract. The contract provisions included in Form FHWA 1273 also require that the contractor not discriminate against labor from any other State.

**Any contract that includes provisions that require a contractor to give any preference in hiring (with the exception of Native Americans living on or near a reservation on eligible projects) shall make the contract ineligible for federal reimbursement (see Chapter 20, "Deficiencies and Sanctions," of this manual).**

### **Cargo Preference Act Requirements**

Local agencies must insert a contract clause referencing and requiring compliance with the requirements of the Cargo Preference Act of 1954 and the implementing regulations in 46 CFR 381 into all federally funded construction contracts. Until relevant provisions are added to Form FHWA 1273, the "Use of United States - flag vessels" clause provided in Exhibit 12-G must be included (either directly or by reference) in federally funded construction contracts.

### **Federal Trainee Program**

On federal-aid highway construction contracts and subcontracts over \$10,000, "Federal Trainee" or "On-the-Job Training (OJT)" special provisions must be included in the contract provisions to establish the number of trainees for the construction contract.

The main objectives of the Federal Trainee/OJT Program are to:

- Provide training for women and minorities which will upgrade their job skills, thereby increasing their access to higher paying trade jobs and journeyman-level positions and
- Ensure that a diverse work force will meet future labor needs in the construction industry.

Filling training positions on each project must focus on hiring women and minorities, but not exclude anyone. If a contractor cannot meet the OJT objectives, direct recruitment efforts must be documented to show an effort at OJT compliance.

The major components of an OJT program include:

- The local agency must include the required federal training special provisions in the PS&E package if the project size and duration warrant an OJT program.
- The local agency should select contracts that contribute to the "Contract Training Goals." These contracts must show the number of trainees, the number of trainees upgraded to journeyman and the level of skills.

## Proprietary Items

The use of proprietary products and processes on federal-aid projects is restricted. When less than three proprietary (brand name) products or processes are called out in the project plans or special provisions, a Public Interest Finding (including Certification as applicable) must be completed and emailed to Caltrans Division of Local Assistance at [Proprietary.PIF@dot.ca.gov](mailto:Proprietary.PIF@dot.ca.gov).

It is the policy of the FHWA not to participate, directly or indirectly, in payment for any premium or royalty on any patented or proprietary material, specification, or process specifically set forth in the plans and specifications for a federal-aid project unless:

- The item is purchased or obtained through competitive bidding with equally suitable unpatented items using a minimum of three bids.
- The local agency certifies in a Public Interest Finding (PIF) that the proprietary or patented item is essential for synchronization with the existing highway facilities or that no equally suitable alternative exists, or
- The item is used for research or for a special type of construction on relatively short sections of road for experimental purposes.

This FHWA policy is applicable to local agency projects both on and off the NHS.

The primary purpose of this policy is to estimate competition in the selection of materials and development of new materials and products, and to ensure FHWA participation in the costs of such proprietary items as specified in the project documents and special provisions. As such, specifications should be written to allow bidders the maximum flexibility to select materials and products to meet construction specifications and result in the lowest bid prices.

The policy further permits:

- Materials and products that are judged equal may be bid under generic specifications. If only patented or proprietary products are acceptable, they shall be bid as alternatives with all, or at least a reasonable number, of acceptable materials or products listed.
- The local agency may approve a single source if it can be found that its utilization is in the public interest. The approved PIF, including certification as applicable shall be fully documented and retained in the project files.

Trade names (3M, Corten, etc.) are generally the key to identifying patented or proprietary materials. Generally, products should not be identified by their brand or trade name unless a reasonable number of these materials or products are listed. The FHWA considers three to be a reasonable number. The licensing of several suppliers to produce a product does not change the fact that it is a single product and should not be specified to the exclusion of other equally suitable products.

Proprietary items must be clearly identified on the PS&E Checklist (Exhibit 12-D). Failure to do so may render the purchasing, furnishing, and installation of such items as non-participating.

## Public Interest Finding

For any instance when less than three proprietary (brand name) products or processes are called out in the project plans or special provisions, the local agency must prepare a PIF to adequately document and justify the specification of such products.

PIFs are specific to each federal-aid project in order to properly assess changes in market conditions and re-examine the need to specify a proprietary product. This will encourage re-evaluation of the continued need for a specific product in light of changes in the agency's performance objectives, product availability, technological improvements, product lifecycle, and market conditions.

The terms "or equal" or the term "or approved equal," do not relieve the agency from preparing a PIF for each such proprietary product as specified in the project. The PIF must define objective and testable criteria for determining what will be considered "equal." These criteria must be based upon documented needs. Vendor-created descriptions or specifications are not acceptable and are likely to be protested by competitors.

**The local agency must email the approved PIF to Caltrans' Headquarters at [Proprietary.PIF@dot.ca.gov](mailto:Proprietary.PIF@dot.ca.gov), and retain the originals in the project files. If the project is on the State Highway System, a copy of the approved PIF must also be provided to the Caltrans Project Manager.**

## Certification

The Certification portion of the PIF (Exhibit 12-F) is required for each product specified in the project if no such equally suitable alternate exists or if such a patented or proprietary item is essential for synchronization with existing highway facilities.

**The local agency must email the completed Certification along with the approved PIF to Caltrans' Headquarters at [Proprietary.PIF@dot.ca.gov](mailto:Proprietary.PIF@dot.ca.gov), and retain the originals in the project files. If the project is on the State Highway System, a copy of the Certification along with the approved PIF must also be provided to the Caltrans Project Manager.**

Functions and specifications of electronic devices change frequently, and new or revised equipment appears very often. As a result, certifications for electronic components must be based on testing the compatibility of new products with existing infrastructure.

Synchronization is defined by FHWA as providing a product that matches specific current or desired characteristics of a project. Synchronization may be based on:

- Function (the proprietary product is necessary for the satisfactory operation of the existing facility),
- Aesthetics (the proprietary product is necessary to match the visual appearance of existing facilities), or
- Logistics (the proprietary product is interchangeable with products in an agency's maintenance inventory), or any combination thereof.

Additional considerations for synchronization could be:

- Lifecycle (the relative age of existing systems that will be expanded and the remaining projected life of the proposed proprietary element in relation to the remaining life of the existing elements).
- Size/extent of products and systems to be synchronized to/with, and the relative cost of the proprietary elements compared with replacing the elements requiring synchronization. As guidance, if the project expands the existing inventory by less than 30% in the number of units, this would be deemed approvable in terms of the size and extent. An increase of greater than 100% (a doubling of the existing inventory) would typically not be deemed approvable. An increase between 30% and 100% of the existing inventory may be approvable only if supported by a cost analysis comparing the “expansion of the existing inventory” vs. the “replace inventory” scenarios.

### Other Proprietary Item Considerations

- The existence of a proprietary product/process on an FHWA or Caltrans “qualified” or “approved” product list does not grant sole source approval.
- This policy is also applicable to non-physical products (software, mobile apps, etc.).
- The PIF Certification must specify a “sunset date” whereby the continued use of the proprietary product is based on appropriate testing and evaluation of the current and ongoing marketplace of available products.
- The use of the terms “or equal” and “or approved equal” clause in the project plans and specifications is discouraged, as it can often result in misunderstandings and subsequent contractor claims in construction, and does not meet FHWA requirements. If product substitution requests are considered, the specifications must be very clear regarding the specific functional, operational, and maintenance characteristics of the product.
- In the absence of specifying a particular product or brand name, a product should not be so narrowly specified that the effective result is to essentially limit the use to that particular product or brand name.
- This FHWA policy is applicable to local agency projects both on and off the NHS.
- Regulations on the use of patented or proprietary products on federal-aid projects are included in the Code of Federal Regulations ([23 CFR 635.411 Material or Product Selection](#)) and FHWA policy found at: [www.fhwa.dot.gov/programadmin/contracts/011106qa.cfm#\\_Hlk307506586](http://www.fhwa.dot.gov/programadmin/contracts/011106qa.cfm#_Hlk307506586) and <https://www.fhwa.dot.gov/construction/cqit/propriet.cfm> .

### Equipment Rental Rates

Federal policy requires that actual costs be used to determine extra work payments; however, actual equipment costs are not readily available. Therefore, the FHWA permits the local agencies to specify in their construction contract specifications the use of predetermined rate guides as well as equipment rate schedules developed by the local agency which are in



**EXHIBIT 12-D PS&E CHECKLIST**

Agency \_\_\_\_\_ Federal Project No. \_\_\_\_\_

This form is to be completed by the local agency and attached to the PS&E Certification. See Exhibit 12-E for instructions and the referenced attachments.

**I. HIGHWAY SYSTEM AND FUNCTIONAL CLASSIFICATION** (Check applicable box)**A. National Highway System**

On the National Highway System (NHS)       Off the NHS

**B. Functional Classification** (Check as many as appropriate)On the Federal-aid SystemOff the Federal-aid System Principal Arterial - Fwy or Exprwy Rural Minor Collector Other Principal Arterial Local Minor Arterial Major Collector Urban Minor Collector**II. PROJECT SCOPE OF WORK** (Check applicable box)

- PS&E is consistent with the scope of work identified in a scoping document or application.
- PS&E is consistent with the scope of work that was revised during a later phase of development and appropriate approvals were obtained.

**III. TYPE OF CONSTRUCTION** (Check applicable box)

- New or Reconstruction
- Resurfacing, Restoration and Rehabilitation (3R)
- Preventive Maintenance

**IV. METHOD OF CONSTRUCTION****A. Contracting Method** (Check appropriate box)

- Competitive bidding
- Other than competitive bidding. (If the contracting method is other than competitive bidding, check the appropriate box below).
- The project is "Delegated" (subject to minimal FHWA oversight). A Public Interest Finding has been submitted to the DLAE for approval and filed in the contract records justifying the method.
- The project is "High Profile" (subject to a higher degree of FHWA oversight). A Public Interest Finding justifying the method has been submitted and approved by Caltrans and FHWA.

**B. Force Account (Day Labor)** (Check appropriate box)

- The entire work will be constructed by contract as indicated above.
- Some work (incidental to the main purpose of the project) will be constructed by Force Account.

- A Public Interest Finding approved by the DLAE is on file in the contract records justifying the work.
- The entire project will be constructed by Force Account (Day Labor). (If the entire project will be constructed by Force Account check the appropriate box below).
- The project is "Delegated" (subject to minimal FHWA oversight). A Public Interest Finding has been submitted to the DLAE for approval and filed in the contract records justifying the method.
- The project is "High Profile" (subject to a higher degree of FHWA oversight). A Public Interest Finding justifying the method has been submitted and approved by Caltrans and FHWA.

**V. ENVIRONMENTAL ANALYSIS** (Check box if requirement is met)

- The PS&E is fully responsive to the necessary actions called for by the environmental document, permit conditions, and other agreements.

**VI. VALUE ENGINEERING ANALYSIS (VA) (NHS projects only - Check appropriate box )**

- VA has been performed on this project and a copy of the analysis has been submitted to the DLAE for forwarding to the Caltrans District Value Analysis Coordinator.
- The project is not a bridge project. VA has not been performed as the estimated total project cost is <\$50 million.
- The project is a bridge project. VA has not been performed as the total project cost is <\$40 million.

**VII. GEOMETRIC DESIGN STANDARDS** (Complete this section only if project changes existing geometrics)

- Current Caltrans Design Standards (on State Highway System)
- FHWA-adopted AASHTO Standards (Green Book)
- 3R Projects – Exhibit 11-A Geometric Design Standards for Local 3R Projects
- Local Agency Design Standards (non NHS only) approved      Date:

**VIII. BRIDGE DESIGN PROCEDURES**

- All bridges have been designed in accordance with the current edition of the Caltrans Bridge Design Specifications Manual and the latest California Amendments to the AASHTO LRFD Bridge Design Specifications
- Not applicable (Bridge construction not included in the project).

**IX. STANDARD PLANS**

- Current Caltrans *Standard Plans*
- Standard Plans for Public Works Construction*
- Local Approved Standard Plans:

\_\_\_\_\_ Date signed (on behalf of the local agency) by a person in responsible charge and who is a registered professional engineer licensed to practice in the State of California.

**X. PROJECT PLANS AND SPECIFICATIONS**

- Cover sheet of plans and specifications signed and stamped on behalf of the local agency by the person in responsible charge, and who is a registered professional engineer licensed to practice in the State of California.
- Traffic Control Plans or reference to Standard Plan and Signs/Striping Plans included. (Note: Additionally, Traffic Management Plans are required to be on file for all reconstruction, rehabilitation, and other projects [including projects on the State Highway System not funded by the State], if significant traffic delays are anticipated and as a result from project activities).
- Erosion Control Plan.
- Americans with Disabilities Act (ADA) is being fully complied with including *Federal ADA Standards for Accessible Guidelines for Buildings and Facilities* (ADAAG), Title 24 of the California Code of Regulations and local codes.

**XI. STANDARD SPECIFICATIONS USED**

- Current Caltrans *Standard Specifications and Standard Special Provisions*
- Standard Specifications for Public Works Construction (Green Book)*
- Locally Approved Standard Specifications

**XII. FEDERAL REQUIREMENTS**

PAGE NO.\*

**A. Required Federal Contract Provisions** (refer to Exhibit 12-G *Required Federal-aid Contract Language*).  
*\*Note – Provide Contract page number. If Current Caltrans Standard Specifications are used, indicate “Caltrans Specs” in space provided.*

- 1. Disadvantaged Business Enterprise** or equivalent provisions are included..... \_\_\_\_\_
- 2. Bid Opening** or equivalent provisions are included..... \_\_\_\_\_
- 3. Bid Rigging** or equivalent procedures are included..... \_\_\_\_\_
- 4. Contract Award** or equivalent procedures are included..... \_\_\_\_\_
- 5. Contract License** or equivalent provisions are included..... \_\_\_\_\_
- 6. Changed Conditions** or equivalent provisions are included..... \_\_\_\_\_
- 7. Beginning of Work, Time of Completion and Liquidated Damages** or equivalent provisions are included..... \_\_\_\_\_
- 8. Buy America**
  - “Buy America” or equivalent provisions are included..... \_\_\_\_\_
  - A Buy America Waiver was approved by FHWA on \_\_\_\_\_, 2013.
- 9. Quality Assurance or equivalent provisions are included** ..... \_\_\_\_\_
- 10. Prompt Payment of Funds Withheld from Subcontractors or equivalent provisions are included** ..... \_\_\_\_\_
- 11. FHWA Form 1273 - An unmodified copy of FHWA Form 1273 *Required Contract Provisions Federal-aid Construction Contracts* (1273 Revised May 1, 2012) has been physically incorporated into the executed contract..... \_\_\_\_\_**
  - All sections of the FHWA Form 1273 apply to this project

- Section IV. Davis-Bacon and related Act Provisions** does not apply because the project is not on the Federal-aid System (roads classified as local roads or rural minor collectors) which are exempted, as specified in the special provision on page.....
- Section VI. Subletting or Assigning the Contract** does not apply since this project is off the NHS, as specified in the special provision on page.....
- 12. Female and Minority Goals or equivalent provisions are included...** .....
- 13. Federal Trainee Program**
  - Federal Trainee Program or equivalent provisions are included.....  
The Trainee goal is \_\_\_\_\_
  - Federal Trainee goal and special provisions do not apply since the engineer’s estimate is under \$400,000 in each of the work categories specified in LAPM Chapter 12 “Federal Trainee Program” or the project has less than 100 working days.....
- 14. Title VI assurances are included.....** .....
- 15. Use of United States-Flag Vessels.....** .....

**B. DBE Goal** (Refer to Exhibit 12-E *PS&E Instruction Checklist*)

- Local Agency non-zero DBE goal percentage for this contract is: \_\_\_\_\_
- The DBE goal for this contract is zero percent because there are no subcontracting opportunities for DBE participation. Documentation verifying this determination is attached to this PS&E Checklist and is also on file with the local agency. (Refer to Exhibit 12-E, PS&E Checklist Instructions).
- This contract has no DBE goal because:
  - This is an emergency relief project
  - This contract is “nonprofit”
  - This contract uses Force Account
  - Other, specify: \_\_\_\_\_

Documentation verifying the above “no DBE goal” determination is attached to the PS&E Checklist and is also on file with the local agency. Refer to Exhibit 12-E *PS&E Checklist Instructions*.

**C. Certifications/Disclosures** (Refer to Exhibit 12-H *Sample Bid*)

- Equal Employment Opportunity Certification or equivalent .....
- Noncollusion Affidavit or equivalent.....
- Debarment and Suspension Certification or equivalent .....
- Nonlobbying Certification for Federal-aid Contracts.....
- Disclosure of Lobbying Activities .....

**D. Other Required Forms** (The following forms are applicable with the above required federal requirements (see Exhibit H *Sample Bid*):

- Exhibit 15-G *Local Agency Bidder DBE Commitment (Construction Contracts)* or Equivalent.....
- Exhibit 15-H *DBE Information - Good Faith Efforts* (if DBE Goal not met).....

Exhibit 12-B Bidder's List of Subcontractors (DBE and Non-DBE) include data for all subcontractors listed by the prime contractor.....

**E. Federal Wage Rates**

Federal wage rates are physically incorporated into this contract advertising package .....

**Note: By checking the above box, the local agency is indicating that they are aware of the Federal-aid "10-day rule" requirement.**

Federal Wage Rates are not physically incorporated in the contract advertising package but are referenced to an Internet web site address on page number \_\_\_\_\_ of the Special Provisions where the applicable Federal Wage Rates can be found. Revisions to the applicable Federal Wage Rates, up to 10 days before bid opening, shall be identified by the issuance of an addendum with the corresponding Internet web site address of where the revisions can be found. The final contract documents signed by the local agency and the contractor, will physically include the Federal Wage Rates, or Federal Wage Rates as revised by addendums, if any such addendums have been issued.

Federal Wage Rates are not required since this project is not located on a Federal-aid route.

**F. Relations with Railroad**

The required provisions are included .....

This project does not involve the use of railroad properties or adjustments to railroad facilities.

**XIII. RESTRICTED CONTRACT PROVISIONS (CHECK APPROPRIATE BOX)**

**A. Indian Preferences**

Not included

Included. The project is on or near the \_\_\_\_\_ Indian Reservation.

**B. Bonding and Prequalification**

Bonding or prequalification, if required, will not be used to restrict competition, prevent submission of a bid by, or prohibit consideration of a bid submitted by any responsible contractor, whether a resident or nonresident of the State of California.

**C. Price Adjustment Clauses**

Price adjustment clauses are not included.

Price adjustment clauses are included. The federal conditions restricting the use of these clauses have been met and are documented in the project files.

**D. Warranty Clauses (Complete this section if project is on the NHS)**

Warranty Clauses are not included

Warranty Clauses are included. Documentation of the required conditions on the use of these clauses is in the project files.

**E. Proprietary Items**

Proprietary Items are not included

Proprietary Items are included. A Public Interest Finding (certification if applicable) justifying the use has been approved and emailed to [Proprietary.PIF@dot.ca.gov](mailto:Proprietary.PIF@dot.ca.gov).

**XIV. MATERIALS & EQUIPMENT****A. Publicly Owned Equipment (for use by Contractor).**

- Not included.
- Included. A Public Interest Finding justifying this use is in project files and the project specifications meet the requirements for federal participation listed in Chapter 12.

**B. Equipment Purchases for Local Ownership**

- Not included.
- Included. Amount charged to construction engineering will be limited to amortized equipment cost (over its useful life) attributable to the time the equipment is used on the project.

**C. Convict Produced Materials**

- Not included.
- Included. The conditions placed on the use of these materials by the contractor meet federal requirements and are included in the contract specifications.

**D. Local Agency Furnished Materials (Check appropriate box)**

- Local Agency Furnished Materials are not included.
- Local Agency Furnished Materials have been acquired on the basis of competitive bidding.
- A Public Interest Finding is on file in the contract records justifying another method of acquisition.

**XV. PRELIMINARY ESTIMATE**

- Exhibit 12-A or equivalent has been completed and is attached.
- The estimate is broken down into items sufficient in detail to provide an initial prediction of the financial obligation to be incurred by the local agency, State and FHWA and to permit an effective review and comparison of the bids received.
- Non-participating items of work have been identified and segregated from the estimated cost of work eligible for Federal-aid.
- The estimate has been segregated by fund types for use in preparing the "Request for Authorization for Construction" (Detail Record) and the Finance Letter.

**XVI. Major Projects with Total Cost of \$100 Million to \$500 Million or more**

- The total cost of this project is Expected to be less than \$100 million. No financial or project management plans are required.
- This project is expected to be \$100 million or more. A Financial Plan is required and has been prepared and submitted to the DLAE. Approval Date: \_\_\_\_\_.
- This project is expected to be \$500 million or more and:
- A Project Management Plan has been prepared and submitted to the DLAE.  
Approval Date: \_\_\_\_\_
- An Annual Financial Plan has been prepared and submitted to the DLAE Approval Date \_\_\_\_\_

**XVII. Local Agency Signature**

This Federal Contract Provisions checklist has been prepared in accordance with Chapter 12 *Plans, Specifications & Estimate* of the Local Assistance Procedures Manual.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Title: \_\_\_\_\_

**XVIII. CALTRANS ACCEPTANCE**

Check appropriate acceptance statement:

- I have not personally inspected the subject project PS&E package, but I am aware of the scope of the project. I have reviewed this "PS&E CHECKLIST" and agree it is complete and appears to have been prepared in accordance Chapter 12 "Plans, Specifications & Estimate," of the *Local Assistance Procedures Manual*.
- I have inspected the specifications portion of the subject project PS&E package and I am aware of the scope of the project. I have reviewed this "PS&E CHECKLIST" and agree it is complete and appears to have been prepared in accordance with Chapter 12 "Plans, Specifications & Estimate," of the *Local Assistance Procedures Manual*. I have also verified that the indicated Required Federal Contract Provisions are included in the specifications.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Title: \_\_\_\_\_

**Distribution:** 1) Original with PS&E Certification - DLAE  
2) Original "Accepted" copy with PS&E Certification - DLAE file  
3) One "Accepted" copy to be returned to Local Agency

**EXHIBIT 12-F COST-EFFECTIVENESS/PUBLIC INTEREST FINDING**

U.S. DEPARTMENT OF TRANSPORTATION		FEDERAL HIGHWAY ADMINISTRATION		CALIFORNIA DEPARTMENT OF TRANSPORTATION	
<b>COST-EFFECTIVENESS/PUBLIC INTEREST FINDING</b>					
<b>COST-EFFECTIVENESS DETERMINATION REQUIRED</b>			<b>PUBLIC INTEREST DETERMINATION REQUIRED</b>		
<input type="checkbox"/> Use of force account (23 CFR 635.204, 205)* <input type="checkbox"/> Use of publicly owned equipment (23 CFR 635.106) <input type="checkbox"/> Other*: _____  * Requires Caltrans District approval ** Requires FHWA approval *** Must be emailed to <a href="mailto:Proprietary.PIF@dot.ca.gov">Proprietary.PIF@dot.ca.gov</a> . Certification below must accompany PIF if no suitable alternative exists or if proprietary item is essential for synchronization with existing highway facility.			<input type="checkbox"/> Use of non-competitive negotiated consultant contracts (23 CFR 172.7) (a) (3)* <input type="checkbox"/> Use of publicly furnished materials (23 CFR 635.407) <input type="checkbox"/> Use of proprietary products and processes (23 CFR 635.411)** <input type="checkbox"/> Use of contracting method other than competitive bidding (23 CFR 635.104/204)* <input type="checkbox"/> Use of mandatory borrow/disposal sites (23 CFR 635.407) <input type="checkbox"/> Advertising period less than 3 weeks (23 CFR 635.112)* <input type="checkbox"/> Waiver of Buy America Requirements (23 CFR 635.410)** <input type="checkbox"/> Other*: _____		
FEDERAL-AID PROJECT		CLASS OF FEDERAL FUNDS: <input type="checkbox"/> IM <input type="checkbox"/> NH <input type="checkbox"/> STP <input type="checkbox"/> OTHER:			
		STEWARDSHIP: <input type="checkbox"/> DELEGATED <input type="checkbox"/> HIGH PROFILE			
EA	DIST-CO-RTE- PM	ESTIMATED COST		FEDERAL FUNDS	
GENERAL LOCATION			GENERAL DESCRIPTION OF WORK:		
REASONS THAT REQUESTED APPROVAL IS CONSIDERED TO BE COST-EFFECTIVE OR IN THE PUBLIC'S BEST INTEREST (STATE):					
REMARKS (STATE) :					
PREPARED/APPROVED BY LOCAL AGENCY'S REPRESENTATIVE			REPRESENTATIVE NAME AND TITLE:		Date:
*APPROVED BY DISTRICT LOCAL ASSISTANCE ENGINEER (DLAE)			DLAE NAME:		Date:
**APPROVED BY FHWA (Buy America Waiver only)			FHWA REPRESENTATIVE NAME:		Date:

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



**EXHIBIT 12-F COST-EFFECTIVENESS/PUBLIC INTEREST FINDING**

**CERTIFICATION**

(Applicable to Proprietary Products and Processes if no suitable alternative exists or if proprietary item is essential for synchronization with existing highway facility. This Certification and accompanying Proprietary Item PIF must be emailed to Proprietary.PIF@dot.ca.gov)

Trade Name of Proprietary Product or Process:

\_\_\_\_\_

Describe the Specific Product:

\_\_\_\_\_

[As Applicable, either:]

*"I (name of certifying official), (position title), of the (Name of contracting agency), do hereby certify that in accordance with the requirements of 23 CFR 635.411(a)(2), that this patented or proprietary item is essential for synchronization with existing highway facilities,*

or

*"I (name of certifying official), (position title), of the (Name of contracting agency), do hereby certify that in accordance with the requirements of 23 CFR 635.411(a)(2), that that no equally suitable alternative exists for this patented or proprietary item.*

**SUPPORTING INFORMATION**

The extent of this Certification is:

\_\_\_\_ Project-Specific    \_\_\_\_ For Multiple Projects    \_\_\_\_ Region/Districtwide    \_\_\_\_ Statewide  
\_\_\_\_ Programmatic

If beyond Project-Specific, what is the Sunset Date for this Certification? \_\_\_\_\_

What are the unique properties, synchronization aspects and/or operational features that this product provides such that no equally suitable alternative exists?

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

What Level of Evaluation and Testing of Potential Products has been done?

\_\_\_\_\_  
\_\_\_\_\_

(ATTACH ADDITIONAL SHEETS AS NECESSARY)

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**EXHIBIT 12-F COST-EFFECTIVENESS/PUBLIC INTEREST FINDING****INSTRUCTIONS**

1. Check appropriate box under “Cost-Effective Determination Required” or “Public Interest Determination Required.”
2. Check “Class of Funds” as follows: IM-Interstate Maintenance, NH-National Highway, STP—State Transportation Program, Other (all other classes).
3. Provide the Federal-aid Project EA number in first column.
4. Identify Caltrans District-County-State Route-Post Mile, or City and street in second column.
5. List Estimated Cost of the portion of the project subject to this PIF.
6. List the amount of the Federal Funds in the portion of the project subject to this PIF.
7. Describe “General Location” applicable to this PIF.
8. Provide “General Description of Work” affected by this PIF.
9. Explain and give “Reasons that requested approval is considered to be cost-effective, or in the public’s best interest.” Provide cost analysis or comparison as evidence of cost-effectiveness.
10. “Remarks” is for the Local Agency Representative preparing the Finding.
11. Signature, Name, and Title of Local Agency Representative preparing or approving PIF, as appropriate, and Date.
12. Signature and Name of District Local Assistance Engineer approving the PIF, as required, and Date.
13. Signature and Name of FHWA representative approving the PIF for Buy America waivers, and Date.
14. If the PIF is for a proprietary item with no suitable alternatives or is essential for synchronization with an existing highway facility, complete the certification and email the PIF and certification to [Proprietary.PIF@dot.ca.gov](mailto:Proprietary.PIF@dot.ca.gov).

**EXHIBIT 12-G REQUIRED FEDERAL-AID CONTRACT LANGUAGE**  
(For Local Assistance Construction Projects)

The following language must be incorporated into all Local Assistance Federal-aid construction contracts. The following language, with minor edits, was taken from the Code of Federal Regulations.

**1. DISADVANTAGED BUSINESS ENTERPRISES (DBE)..... 2**

**A. DBE COMMITMENT SUBMITTAL.....2**

**B. GOOD FAITH EFFORTS SUBMITTAL.....3**

**C. EXHIBIT 15-G - CONSTRUCTION CONTRACT DBE COMMITMENT.....4**

**D. SUBCONTRACTOR AND DISADVANTAGED BUSINESS ENTERPRISE RECORDS.....4**

**E. PERFORMANCE OF DISADVANTAGED BUSINESS ENTERPRISES.....4**

**2. BID OPENING..... 5**

**3. BID RIGGING ..... 5**

**4. CONTRACT AWARD ..... 5**

**5. CONTRACTOR LICENSE ..... 5**

**6. CHANGED CONDITIONS ..... 6**

**A. DIFFERING SITE CONDITION.....6**

**B. SUSPENSIONS OF WORK ORDERED BY THE ENGINEER.....6**

**C. SIGNIFICANT CHANGES IN THE CHARACTER OF WORK.....6**

**7. BEGINNING OF WORK, TIME OF COMPLETION AND LIQUIDATED DAMAGES.....7**

**8. BUY AMERICA ..... 7**

**FURNISH STEEL AND IRON MATERIALS TO BE INCORPORATED INTO THE WORK WITH CERTIFICATES OF COMPLIANCE. STEEL AND IRON MATERIALS MUST BE PRODUCED IN THE U.S. EXCEPT: ..... 7**

**9. QUALITY ASSURANCE ..... 8**

**10. PROMPT PAYMENT OF FUNDS WITHHELD TO SUBCONTRACTORS..... 8**

**11. FORM FHWA-1273 REQUIRED CONTRACT PROVISIONS FEDERAL-AID CONTRACTS..... 9**

**12. FEMALE AND MINORITY GOALS.....18**

**13. FEDERAL TRAINEE PROGRAM.....19**

**14. TITLE VI ASSURANCE.....21**

**15. USE OF UNITED STATES-FLAG VESSELS.....22**

**1. DISADVANTAGED BUSINESS ENTERPRISES (DBE)**

Under 49 CFR 26.13(b):

The contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.

Take necessary and reasonable steps to ensure that DBEs have opportunity to participate in the contract (49 CFR 26).

To ensure equal participation of DBEs provided in 49 CFR 26.5, the Agency shows a goal for DBEs.

Make work available to DBEs and select work parts consistent with available DBE subcontractors and suppliers.

Meet the DBE goal shown elsewhere in these special provisions or demonstrate that you made adequate good faith efforts to meet this goal.

It is your responsibility to verify that the DBE firm is certified as DBE at date of bid opening. For a list of DBEs certified by the California Unified Certification Program, go to:

[http://www.dot.ca.gov/hq/bep/find\\_certified.htm](http://www.dot.ca.gov/hq/bep/find_certified.htm).

All DBE participation will count toward the California Department of Transportation's federally mandated statewide overall DBE goal.

Credit for materials or supplies you purchase from DBEs counts towards the goal in the following manner:

- 100 percent counts if the materials or supplies are obtained from a DBE manufacturer.
- 60 percent counts if the materials or supplies are obtained from a DBE regular dealer.
- Only fees, commissions, and charges for assistance in the procurement and delivery of materials or supplies count if obtained from a DBE that is neither a manufacturer nor regular dealer. 49 CFR 26.55 defines "manufacturer" and "regular dealer."

You receive credit towards the goal if you employ a DBE trucking company that performs a commercially useful function as defined in 49 CFR 26.55(d)(1) through (4) and (6).

**a. DBE Commitment Submittal**

Submit the Exhibit 15-G *Construction Contract DBE Commitment* form, included in the Bid book. If the form is not submitted with the bid, remove the form from the Bid book before submitting your bid.

If the DBE Commitment form is not submitted with the bid, the apparent low bidder, the 2nd low bidder, and the 3rd low bidder must complete and submit the DBE Commitment form to the Agency. DBE Commitment form must be received by the Agency no later than 4:00 p.m. on the 4th business day after bid opening.

Other bidders do not need to submit the DBE Commitment form unless the Agency requests it. If the Agency requests you to submit a DBE Commitment form, submit the completed form within 4 business days of the request.

Submit written confirmation from each DBE stating that it is participating in the contract. Include confirmation with the DBE Commitment form. A copy of a DBE's quote will serve as written confirmation that the DBE is participating in the contract.

If you do not submit the DBE Commitment form within the specified time, the Agency will find your bid nonresponsive.

***b. Good Faith Efforts Submittal***

If you have not met the DBE goal, complete and submit the DBE Information - Good Faith Efforts, Exhibit 15-H, form with the bid showing that you made adequate good faith efforts to meet the goal. Only good faith efforts directed towards obtaining participation by DBEs will be considered. If good faith efforts documentation is not submitted with the bid, it must be received by the Agency no later than 4:00 p.m. on the 4th business day after bid opening.

If your DBE Commitment form shows that you have met the DBE goal or if you are required to submit the DBE Commitment form, you must also submit good faith efforts documentation within the specified time to protect your eligibility for award of the contract in the event the Agency finds that the DBE goal has not been met.

Good faith efforts documentation must include the following information and supporting documents, as necessary:

1. Items of work you have made available to DBE firms. Identify those items of work you might otherwise perform with your own forces and those items that have been broken down into economically feasible units to facilitate DBE participation. For each item listed, show the dollar value and percentage of the total contract. It is your responsibility to demonstrate that sufficient work to meet the goal was made available to DBE firms.
2. Names of certified DBEs and dates on which they were solicited to bid on the project. Include the items of work offered. Describe the methods used for following up initial solicitations to determine with certainty if the DBEs were interested, and the dates of the follow-up. Attach supporting documents such as copies of letters, memos, facsimiles sent, telephone logs, telephone billing statements, and other evidence of solicitation. You are reminded to solicit certified DBEs through all reasonable and available means and provide sufficient time to allow DBEs to respond.
3. Name of selected firm and its status as a DBE for each item of work made available. Include name, address, and telephone number of each DBE that provided a quote and their price quote. If the firm selected for the item is not a DBE, provide the reasons for the selection.
4. Name and date of each publication in which you requested DBE participation for the project. Attach copies of the published advertisements.
5. Names of agencies and dates on which they were contacted to provide assistance in contacting, recruiting, and using DBE firms. If the agencies were contacted in writing, provide copies of supporting documents.
6. List of efforts made to provide interested DBEs with adequate information about the plans, specifications, and requirements of the contract to assist them in responding to a solicitation. If you have provided information, identify the name of the DBE assisted, the nature of the information provided, and date of contact. Provide copies of supporting documents, as appropriate.
7. List of efforts made to assist interested DBEs in obtaining bonding, lines of credit, insurance, necessary equipment, supplies, and materials, excluding supplies and equipment that the DBE subcontractor purchases or leases from the prime contractor or its affiliate. If such assistance is provided by you, identify the name of the DBE assisted, nature of the assistance offered, and date assistance was provided. Provide copies of supporting documents, as appropriate.
8. Any additional data to support demonstration of good faith efforts.

The Agency may consider DBE commitments of the 2nd and 3rd bidders when determining whether the low bidder made good faith efforts to meet the DBE goal.

**c. Exhibit 15-G - Construction Contract DBE Commitment**

Complete and sign Exhibit 15-G *Construction Contract DBE Commitment* included in the contract documents regardless of whether DBE participation is reported.

Provide written confirmation from each DBE that the DBE is participating in the Contract. A copy of a DBE's quote serves as written confirmation. If a DBE is participating as a joint venture partner, the Agency encourages you to submit a copy of the joint venture agreement.)

**d. Subcontractor and Disadvantaged Business Enterprise Records**

Use each DBE subcontractor as listed on Exhibit 12-B *Bidder's List of Subcontractors (DBE and Non-DBE)* and Exhibit 15-G *Construction Contract DBE Commitment* form unless you receive authorization for a substitution.

The Agency requests the Contractor to:

1. Notify the Engineer of any changes to its anticipated DBE participation
2. Provide this notification before starting the affected work
3. Maintain records including:
  - Name and business address of each 1<sup>st</sup>-tier subcontractor
  - Name and business address of each DBE subcontractor, DBE vendor, and DBE trucking company, regardless of tier
  - Date of payment and total amount paid to each business

If you are a DBE contractor, include the date of work performed by your own forces and the corresponding value of the work.

Before the 15th of each month, submit a Monthly DBE Trucking Verification form.

If a DBE is decertified before completing its work, the DBE must notify you in writing of the decertification date. If a business becomes a certified DBE before completing its work, the business must notify you in writing of the certification date. Submit the notifications. On work completion, complete a Disadvantaged Business Enterprises (DBE) Certification Status Change, Exhibit 17-O, form. Submit the form within 30 days of contract acceptance.

Upon work completion, complete Exhibit 17-F *Final Report – Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subcontractors*. Submit it within 90 days of contract acceptance. The Agency will withhold \$10,000 until the form is submitted. The Agency releases the withhold upon submission of the completed form.

**e. Performance of Disadvantaged Business Enterprises**

DBEs must perform work or supply materials as listed in the Exhibit 15-G *Construction Contract DBE Commitment* form, included in the Bid.

Do not terminate or substitute a listed DBE for convenience and perform the work with your own forces or obtain materials from other sources without authorization from the Agency.

The Agency authorizes a request to use other forces or sources of materials if it shows any of the following justifications:

1. Listed DBE fails or refuses to execute a written contract based on plans and specifications for the project.
2. You stipulated that a bond is a condition of executing the subcontract and the listed DBE fails to meet your bond requirements.

3. Work requires a contractor's license and listed DBE does not have a valid license under Contractors License Law.
4. Listed DBE fails or refuses to perform the work or furnish the listed materials.
5. Listed DBE's work is unsatisfactory and not in compliance with the contract.
6. Listed DBE is ineligible to work on the project because of suspension or debarment.
7. Listed DBE becomes bankrupt or insolvent.
8. Listed DBE voluntarily withdraws with written notice from the Contract
9. Listed DBE is ineligible to receive credit for the type of work required.
10. Listed DBE owner dies or becomes disabled resulting in the inability to perform the work on the Contract.
11. Agency determines other documented good cause.

Notify the original DBE of your intent to use other forces or material sources and provide the reasons. Provide the DBE with 5 days to respond to your notice and advise you and the Agency of the reasons why the use of other forces or sources of materials should not occur. Your request to use other forces or material sources must include:

1. One or more of the reasons listed in the preceding paragraph.
2. Notices from you to the DBE regarding the request.
3. Notices from the DBEs to you regarding the request.

If a listed DBE is terminated or substituted, you must make good faith efforts to find another DBE to substitute for the original DBE. The substitute DBE must perform at least the same amount of work as the original DBE under the contract to the extent needed to meet the DBE goal.

The substitute DBE must be certified as a DBE at the time of request for substitution.

Unless the Agency authorizes (1) a request to use other forces or sources of materials or (2) a good faith effort for a substitution of a terminated DBE, the Agency does not pay for work listed on the Exhibit 15-G *Construction Contract DBE Commitment* form unless it is performed or supplied by the listed DBE or an authorized substitute.

2. **BID OPENING** The Agency publicly opens and reads bids at the time and place shown on the *Notice to Bidders*.
3. **BID RIGGING** The U.S. Department of Transportation (DOT) provides a toll-free hotline to report bid rigging activities. Use the hotline to report bid rigging, bidder collusion, and other fraudulent activities. The hotline number is (800) 424-9071. The service is available 24 hours 7 days a week and is confidential and anonymous.. The hotline is part of the DOT's effort to identify and investigate highway construction contract fraud and abuse and is operated under the direction of the DOT Inspector General.
4. **CONTRACT AWARD** If the Agency awards the contract, the award is made to the lowest responsible and responsive bidder.
5. **CONTRACTOR LICENSE**

The Contractor must be properly licensed as a contractor from contract award through Contract acceptance (Public Contract Code § 10164).

**6. CHANGED CONDITIONS****a. Differing Site Conditions**

1. During the progress of the work, if subsurface or latent physical conditions are encountered at the site differing materially from those indicated in the contract or if unknown physical conditions of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in the work provided for in the contract, are encountered at the site, the party discovering such conditions shall promptly notify the other party in writing of the specific differing conditions before the site is disturbed and before the affected work is performed.
2. Upon written notification, the engineer will investigate the conditions, and if it is determined that the conditions materially differ and cause an increase or decrease in the cost or time required for the performance of any work under the contract, an adjustment, excluding anticipated profits, will be made and the contract modified in writing accordingly. The engineer will notify the contractor of the determination whether or not an adjustment of the contract is warranted.
3. No contract adjustment which results in a benefit to the contractor will be allowed unless the contractor has provided the required written notice.
4. No contract adjustment will be allowed under this clause for any effects caused on unchanged work. (This provision may be omitted by the Local Agency, at their option.)

**b. Suspensions of Work Ordered by the Engineer**

1. If the performance of all or any portion of the work is suspended or delayed by the engineer in writing for an unreasonable period of time (not originally anticipated, customary, or inherent to the construction industry) and the contractor believes that additional compensation and/or contract time is due as a result of such suspension or delay, the contractor shall submit to the engineer in writing a request for adjustment within 7 calendar days of receipt of the notice to resume work. The request shall set forth the reasons and support for such adjustment.
2. Upon receipt, the engineer will evaluate the contractor's request. If the engineer agrees that the cost and/or time required for the performance of the contract has increased as a result of such suspension and the suspension was caused by conditions beyond the control of and not the fault of the contractor, its suppliers, or subcontractors at any approved tier, and not caused by weather, the engineer will make an adjustment (excluding profit) and modify the contract in writing accordingly. The contractor will be notified of the engineer's determination whether or not an adjustment of the contract is warranted.
3. No contract adjustment will be allowed unless the contractor has submitted the request for adjustment within the time prescribed.
4. No contract adjustment will be allowed under this clause to the extent that performance would have been suspended or delayed by any other cause, or for which an adjustment is provided or excluded under any other term or condition of this contract.

**c. Significant Changes in the Character of Work**

1. The engineer reserves the right to make, in writing, at any time during the work, such changes in quantities and such alterations in the work as are necessary to satisfactorily complete the project. Such changes in quantities and alterations shall not invalidate the contract nor release the surety, and the contractor agrees to perform the work as altered.
2. If the alterations or changes in quantities significantly change the character of the work under the contract, whether such alterations or changes are in themselves significant changes to the character of the work or by affecting other work cause such other work to become significantly different in character, an adjustment, excluding anticipated profit, will be made to the contract. The basis for the adjustment shall be agreed upon prior to the performance of the work. If a basis



cannot be agreed upon, then an adjustment will be made either for or against the contractor in such amount as the engineer may determine to be fair and equitable.

3. If the alterations or changes in quantities do not significantly change the character of the work to be performed under the contract, the altered work will be paid for as provided elsewhere in the contract.
4. The term "significant change" shall be construed to apply only to the following circumstances:
  - When the character of the work as altered differs materially in kind or nature from that involved or included in the original proposed construction; or
  - When a major item of work, as defined elsewhere in the contract, is increased in excess of 125 percent or decreased below 75 percent of the original contract quantity. Any allowance for an increase in quantity shall apply only to that portion in excess of 125 percent of original contract item quantity, or in case of a decrease below 75 percent, to the actual amount of work performed.

#### 7. BEGINNING OF WORK, TIME OF COMPLETION AND LIQUIDATED DAMAGES

The Contractor shall begin work within 15 calendar days after the contract has been approved by the attorney appointed and authorized to represent the City/County of \_\_\_\_\_.

This work shall be diligently prosecuted to completion before the expiration of \_WORKING DAYS beginning on the fifteenth calendar day after approval of the contract.

(Insert amount of Liquidated Damages)

The Contractor shall pay to the City/County of \_\_\_\_\_ the sum of \$ \_\_\_\_\_ per day, for each and every calendar day's delay in finishing the work in excess of the number of working days prescribed above.

#### 8. BUY AMERICA

**Furnish steel and iron materials to be incorporated into the work with certificates of compliance. Steel and iron materials must be produced in the U.S. except:**

1. Foreign pig iron and processed, pelletized, and reduced iron ore may be used in the domestic production of the steel and iron materials [60 Fed Reg 15478 (03/24/1995)];
2. If the total combined cost of the materials does not exceed the greater of 0.1 percent of the total bid or \$2,500, materials produced outside the U.S. may be used.

Production includes:

1. Processing steel and iron materials, including smelting or other processes that alter the physical form or shape (such as rolling, extruding, machining, bending, grinding, and drilling) or chemical composition;
2. Coating application, including epoxy coating, galvanizing, and painting, that protects or enhances the value of steel and iron materials.

**9. QUALITY ASSURANCE**

The Agency uses a Quality Assurance Program (QAP) to ensure a material is produced to comply with the Contract.

You may examine the records and reports of tests the Agency performs if they are available at the job site.

Schedule work to allow time for QAP.

**10. PROMPT PAYMENT OF FUNDS WITHHELD TO SUBCONTRACTORS**

(The local agency must include one of the following three provisions to ensure prompt and full payment of any retainage from the prime contractor, or subcontractor, to a subcontractor. Remove or strike out the methods not used.)

(EITHER)

No retainage will be withheld by the agency from progress payments due the prime contractor. Retainage by the prime contractor or subcontractors is prohibited and no retainage will be held by the prime contractor from progress due subcontractors. Any violation of this provision shall subject the violating prime contractor or subcontractor to the penalties, sanctions and other remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies otherwise available to the prime Contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the prime contractor or deficient subcontract performance, or noncompliance by a subcontractor.

(OR)

No retainage will be held by the agency from progress payments due the prime contractor. Any retainage held by the prime contractors or subcontractors from progress payments due subcontractors shall be promptly paid in full to subcontractors within 30 days after the subcontractor's work is satisfactorily completed. Federal law (49CFR26.29) requires that any delay or postponement of payment over the 30 days may take place only for good cause and with the agency's prior written approval. Any violation of this provision shall subject the violating prime contractor or subcontractor to the penalties, sanctions and other remedies specified in Section 7108.5 of the Business and Professions Code. These requirements shall not be construed to limit or impair any contractual, administrative, or judicial remedies otherwise available to the prime Contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the prime contractor, deficient subcontract performance, or noncompliance by a subcontractor.

(OR)

The agency shall hold retainage from the prime contractor and shall make prompt and regular incremental acceptances of portions, as determined by the agency, of the contract work, and pay retainage to the prime contractor based on these acceptances. The prime contractor, or subcontractor, shall return all monies withheld in retention from a subcontractor within 30 days after receiving payment for work satisfactorily completed and accepted including incremental acceptances of portions of the contract work by the agency. Federal law (49CFR26.29) requires that any delay or postponement of payment over 30 days may take place only for good cause and with the agency's prior written approval. Any violation of this provision shall subject the violating prime contractor or subcontractor to the penalties, sanctions and other remedies specified in Section 7108.5 of the Business and Professions Code. These requirements shall not be construed to limit or impair any contractual, administrative, or judicial remedies otherwise available to the prime contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the prime contractor, deficient subcontract performance, or noncompliance by a subcontractor.

**11. FORM FHWA-1273 REQUIRED CONTRACT PROVISIONS FEDERAL-AID CONTRACTS**

(Excluding ATTACHMENT A - EMPLOYMENT AND MATERIALS PREFERENCE FOR APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS ROAD CONTRACTS)

[The following 10 pages must be physically inserted into the contract without modification.]

FHWA-1273 -- Revised May 1, 2012

**REQUIRED CONTRACT PROVISIONS  
FEDERAL-AID CONSTRUCTION CONTRACTS**

- I. General
- II. Nondiscrimination
- III. Nons segregated Facilities
- IV. Davis-Bacon and Related Act Provisions
- V. Contract Work Hours and Safety Standards Act Provisions
- VI. Subletting or Assigning the Contract
- VII. Safety: Accident Prevention
- VIII. False Statements Concerning Highway Projects
- IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
- X. Compliance with Governmentwide Suspension and Debarment Requirements
- XI. Certification Regarding Use of Contract Funds for Lobbying

The provisions of this section related to 23 CFR Part 230 are applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts.

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR 60, 29 CFR 1625-1627, Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The contractor and all subcontractors must comply with: the requirements of the Equal Opportunity Clause in 41 CFR 60-1.4(b) and, for all construction contracts exceeding \$10,000, the Standard Federal Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60-4.3.

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR 60, and 29 CFR 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), and Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The following provision is adopted from 23 CFR 230, Appendix A, with appropriate revisions to conform to the U.S. Department of Labor (US DOL) and FHWA requirements.

**1. Equal Employment Opportunity:** Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630, 29 CFR 1625-1627, 41 CFR 60 and 49 CFR 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the contractor's project activities under this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract.

b. The contractor will accept as its operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training."

**2. EEO Officer:** The contractor will designate and make known to the contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active EEO program and who must be assigned adequate authority and responsibility to do so

**ATTACHMENTS**

A. Employment and Materials Preference for Appalachian Development Highway System or Appalachian Local Access Road Contracts (included in Appalachian contracts only)

**I. GENERAL**

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under Title 23 (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Form FHWA-1273 must be included in all Federal-aid design-build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services). The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in bid proposal or request for proposal documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract.

3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA.

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors.

**II. NONDISCRIMINATION**

**3. Dissemination of Policy:** All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer.

b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.

c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minorities and women.

d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

**4. Recruitment:** When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.

a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minorities and women. To meet this requirement, the contractor will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority and women applicants may be referred to the contractor for employment consideration.

b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.

c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.

**5. Personnel Actions:** Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

#### **6. Training and Promotion:**

a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).

c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

d. The contractor will periodically review the training and promotion potential of employees who are minorities and women and will encourage eligible employees to apply for such training and promotion.

**7. Unions:** If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

a. The contractor will use good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher paying employment.

b. The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, national origin, age or disability.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the contracting agency

and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

**8. Reasonable Accommodation for Applicants / Employees with Disabilities:** The contractor must be familiar with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established there under. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

**9. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment:** The contractor shall not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.

a. The contractor shall notify all potential subcontractors and suppliers and lessors of their EEO obligations under this contract.

b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.

**10. Assurance Required by 49 CFR 26.13(b):**

a. The requirements of 49 CFR Part 26 and the State DOT's U.S. DOT-approved DBE program are incorporated by reference.

b. The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the contracting agency deems appropriate.

**11. Records and Reports:** The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.

a. The records kept by the contractor shall document the following:

(1) The number and work hours of minority and non-minority group members and women employed in each work classification on the project;

(2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women;

b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on [Form FHWA-1391](#). The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

**III. NONSEGREGATED FACILITIES**

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more.

The contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location, under the contractor's control, where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

**IV. DAVIS-BACON AND RELATED ACT PROVISIONS**

This section is applicable to all Federal-aid construction projects exceeding \$2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size). The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. Contracting agencies may elect to apply these requirements to other projects.

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 "Contract provisions and related matters" with minor revisions to conform to the FHWA-1273 format and FHWA program requirements.

**1. Minimum wages**

a. All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.d. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph 1.b. of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

b. (1) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(ii) The classification is utilized in the area by the construction industry; and

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(2) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(3) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Wage and Hour Administrator for determination. The Wage and Hour Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(4) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs 1.b.(2) or 1.b.(3) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

c. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

d. If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

## 2. Withholding

The contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract, or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the contracting agency may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

## 3. Payrolls and basic records

a. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

b. (1) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the contracting agency. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee ( e.g. , the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the contracting agency for transmission to the State DOT, the FHWA or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the contracting agency..

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

(i) That the payroll for the payroll period contains the information required to be provided under §5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under §5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

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

(iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 3.b.(2) of this section.

(4) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

c. The contractor or subcontractor shall make the records required under paragraph 3.a. of this section available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the FHWA may, after written notice to the contractor, the

contracting agency or the State DOT, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

#### 4. Apprentices and trainees

##### a. Apprentices (programs of the USDOL).

Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed.

Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

##### b. Trainees (programs of the USDOL).

Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in



a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration.

The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration.

Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

c. Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

d. Apprentices and Trainees (programs of the U.S. DOT).

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the particular program.

**5. Compliance with Copeland Act requirements.** The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

**6. Subcontracts.** The contractor or subcontractor shall insert Form FHWA-1273 in any subcontracts and also require the subcontractors to include Form FHWA-1273 in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

**7. Contract termination: debarment.** A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

**8. Compliance with Davis-Bacon and Related Act requirements.** All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

**9. Disputes concerning labor standards.** Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

**10. Certification of eligibility.**

a. By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

c. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

**V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT**

The following clauses apply to any Federal-aid construction contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

**1. Overtime requirements.** No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

**2. Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in paragraph (1.) of this section, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1.) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1.) of this section.

**3. Withholding for unpaid wages and liquidated damages.** The FHWA or the contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2.) of this section.

**4. Subcontracts.** The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1.) through (4.) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1.) through (4.) of this section.

## VI. SUBLETTING OR ASSIGNING THE CONTRACT

This provision is applicable to all Federal-aid construction contracts on the National Highway System.

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635.116).

a. The term "perform work with its own organization" refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions:

- (1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;
- (2) the prime contractor remains responsible for the quality of the work of the leased employees;
- (3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and
- (4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

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

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

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

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

5. The 30% self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements.

## VII. SAFETY: ACCIDENT PREVENTION

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

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

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C.3704).

## VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these

and similar acts, Form FHWA-1022 shall be posted on each Federal-aid highway project (23 CFR 635) in one or more places where it is readily available to all persons concerned with the project:

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

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

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

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

Shall be fined under this title or imprisoned not more than 5 years or both."

#### **IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT**

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

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

1. That any person who is or will be utilized in the performance of this contract is not prohibited from receiving an award due to a violation of Section 508 of the Clean Water Act or Section 306 of the Clean Air Act.
2. That the contractor agrees to include or cause to be included the requirements of paragraph (1) of this Section X in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements.

#### **X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION**

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost \$25,000 or more – as defined in 2 CFR Parts 180 and 1200.

##### **1. Instructions for Certification – First Tier Participants:**

a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default.

d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good

faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

\* \* \* \* \*

## 2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:

a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;

(2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification; and

(4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

### 2. Instructions for Certification - Lower Tier Participants:

(Applicable to all subcontracts, purchase orders and other lower tier transactions requiring prior FHWA approval or estimated to cost \$25,000 or more - 2 CFR Parts 180 and 1200)

a. By signing and submitting this proposal, the prospective lower tier is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily

excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

\* \* \* \* \*

## Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Participants:

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

\* \* \* \* \*

#### **XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING**

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed \$100,000 (49 CFR 20).

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

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

3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such recipients shall certify and disclose accordingly.

**12. FEMALE AND MINORITY GOALS**

To comply with Section II, "Nondiscrimination," of "Required Contract Provisions Federal-Aid Construction Contracts," the following are for female and minority utilization goals for Federal-aid construction contracts and subcontracts that exceed \$10,000:

The nationwide goal for female utilization is 6.9 percent.

The goals for minority utilization [45 Fed Reg 65984 (10/3/1980)] are as follows:

**MINORITY UTILIZATION GOALS**

	Economic Area	Goal (Percent)
174	Redding CA: Non-SMSA (Standard Metropolitan Statistical Area) Counties: CA Lassen; CA Modoc; CA Plumas; CA Shasta; CA Siskiyou; CA Tehama	6.8
175	Eureka, CA Non-SMSA Counties: CA Del Norte; CA Humboldt; CA Trinity	6.6
176	San Francisco-Oakland-San Jose, CA: SMSA Counties: 7120 Salinas-Seaside-Monterey, CA CA Monterey	28.9
	7360 San Francisco-Oakland CA Alameda; CA Contra Costa; CA Marin; CA San Francisco; CA San Mateo	25.6
	7400 San Jose, CA CA Santa Clara, CA	19.6
	7485 Santa Cruz, CA CA Santa Cruz	14.9
	7500 Santa Rosa CA Sonoma	9.1
	8720 Vallejo-Fairfield-Napa, CA CA Napa; CA Solano	17.1
	Non-SMSA Counties: CA Lake; CA Mendocino; CA San Benito	23.2
177	Sacramento, CA: SMSA Counties: 6920 Sacramento, CA CA Placer; CA Sacramento; CA Yolo	16.1
	Non-SMSA Counties CA Butte; CA Colusa; CA El Dorado; CA Glenn; CA Nevada; CA Sierra; CA Sutter; CA Yuba	14.3
178	Stockton-Modesto, CA: SMSA Counties: 5170 Modesto, CA CA Stanislaus	12.3
	8120 Stockton, CA CA San Joaquin	24.3
	Non-SMSA Counties	19.8
	CA Alpine; CA Amador; CA Calaveras; CA Mariposa; CA Merced; CA Tuolumne	

179	Fresno-Bakersfield, CA	19.1	
	SMSA Counties:		
	0680 Bakersfield, CA		
	CA Kern		
180	2840 Fresno, CA	26.1	
	CA Fresno	23.6	
	Non-SMSA Counties:		
	CA Kings; CA Madera; CA Tulare		
	181	Los Angeles, CA:	11.9
		SMSA Counties:	
		0360 Anaheim-Santa Ana-Garden Grove, CA	28.3
CA Orange			
4480 Los Angeles-Long Beach, CA		21.5	
CA Los Angeles			
6000 Oxnard-Simi Valley-Ventura, CA		19.0	
CA Ventura			
6780 Riverside-San Bernardino-Ontario, CA		19.7	
CA Riverside; CA San Bernardino			
7480 Santa Barbara-Santa Maria-Lompoc, CA	24.6		
CA Santa Barbara			
181	Non-SMSA Counties	16.9	
	CA Inyo; CA Mono; CA San Luis Obispo		
	San Diego, CA:		18.2
	SMSA Counties		
	7320 San Diego, CA		
CA San Diego			
181	Non-SMSA Counties	18.2	
	CA Imperial		

For the last full week July during which work is performed under the contract, you and each non material-supplier subcontractor with a subcontract of \$10,000 or more must complete Form FHWA PR-1391 (Appendix C to 23 CFR 230). Submit the forms by August 15.

**13. FEDERAL TRAINEE PROGRAM**

For the Federal training program, the number of trainees or apprentices is \_\_\_\_\_.

This section applies if a number of trainees or apprentices is specified in the special provisions.

As part of your equal opportunity affirmative action program, provide on-the-job training to develop full journeymen in the types of trades or job classifications involved.

You have primary responsibility for meeting this training requirement.

If you subcontract a contract part, determine how many trainees or apprentices are to be trained by the subcontractor.

Include these training requirements in your subcontract.

Where feasible, 25 percent of apprentices or trainees in each occupation must be in their 1st year of apprenticeship or training.

Distribute the number of apprentices or trainees among the work classifications on the basis of your needs and the availability of journeymen in the various classifications within a reasonable recruitment area.

Before starting work, submit to the City/County of \_\_\_\_\_:

1. Number of apprentices or trainees to be trained for each classification
2. Training program to be used
3. Training starting date for each classification

Obtain the City/County's of \_\_\_\_\_ approval for this submitted information before you start work. The City/County of \_\_\_\_\_ credits you for each apprentice or trainee you employ on the work who is currently enrolled or becomes enrolled in an approved program.

The primary objective of this section is to train and upgrade minorities and women toward journeymen status. Make every effort to enroll minority and women apprentices or trainees, such as conducting systematic and direct recruitment through public and private sources likely to yield minority and women apprentices or trainees, to the extent they are available within a reasonable recruitment area. Show that you have made the efforts. In making these efforts, do not discriminate against any applicant for training.

Do not employ as an apprentice or trainee an employee:

1. In any classification in which the employee has successfully completed a training course leading to journeyman status or in which the employee has been employed as a journeyman
2. Who is not registered in a program approved by the US Department of Labor, Bureau of Apprenticeship and Training

Ask the employee if the employee has successfully completed a training course leading to journeyman status or has been employed as a journeyman. Your records must show the employee's answers to the questions.

In your training program, establish the minimum length and training type for each classification. The City/County of \_\_\_\_\_ and FHWA approves a program if one of the following is met:

1. It is calculated to:
  - Meet the your equal employment opportunity responsibilities
  - Qualify the average apprentice or trainee for journeyman status in the classification involved by the end of the training period
2. It is registered with the U.S. Department of Labor, Bureau of Apprenticeship and Training, and it is administered in a way consistent with the equal employment responsibilities of Federal-aid highway construction contracts

Obtain the State's approval for your training program before you start work involving the classification covered by the program.

Provide training in the construction crafts, not in clerk-typist or secretarial-type positions. Training is allowed in lower level management positions such as office engineers, estimators, and timekeepers if the training is oriented toward construction applications. Training is allowed in the laborer classification if significant and meaningful training is provided and approved by the division office. Off-site training is allowed if the training is an integral part of an approved training program and does not make up a significant part of the overall training.

The City/County of \_\_\_\_\_ reimburses you 80 cents per hour of training given an employee on this contract under an approved training program:

1. For on-site training
2. For off-site training if the apprentice or trainee is currently employed on a Federal-aid project and you do at least one of the following:
  - Contribute to the cost of the training
  - Provide the instruction to the apprentice or trainee
  - Pay the apprentice's or trainee's wages during the off-site training period



3. If you comply this section.

Each apprentice or trainee must:

1. Begin training on the project as soon as feasible after the start of work involving the apprentice's or trainee's skill
2. Remain on the project as long as training opportunities exist in the apprentice's or trainee's work classification or until the apprentice or trainee has completed the training program

Furnish the apprentice or trainee:

1. Copy of the program you will comply with in providing the training
2. Certification showing the type and length of training satisfactorily completed

#### 14. TITLE VI ASSURANCES

During the performance of this Agreement, the contractor, for itself, its assignees and successors in interest (hereinafter collectively referred to as CONTRACTOR) agrees as follows:

- (1) Compliance with Regulations: CONTRACTOR shall comply with the regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the REGULATIONS), which are herein incorporated by reference and made a part of this agreement.
- (2) Nondiscrimination: CONTRACTOR, with regard to the work performed by it during the AGREEMENT, shall not discriminate on the grounds of race, color, sex, national origin, religion, age, or disability in the selection and retention of sub-applicants, including procurements of materials and leases of equipment. CONTRACTOR shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the agreement covers a program set forth in Appendix B of the Regulations.
- (3) Solicitations for Sub-agreements, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by CONTRACTOR for work to be performed under a Sub-agreement, including procurements of materials or leases of equipment, each potential sub-applicant or supplier shall be notified by CONTRACTOR of the CONTRACTOR'S obligations under this Agreement and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.
- (4) Information and Reports: CONTRACTOR shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the California Department of Transportation or FHWA to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of CONTRACTOR is in the exclusive possession of another who fails or refuses to furnish this information, CONTRACTOR shall so certify to the California Department of Transportation or the FHWA as appropriate, and shall set forth what efforts CONTRACTOR has made to obtain the information.
- (5) Sanctions for Noncompliance: In the event of CONTRACTOR'S noncompliance with the nondiscrimination provisions of this agreement, the California Department of Transportation shall impose such agreement sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
  - (a) withholding of payments to CONTRACTOR under the Agreement within a reasonable period of time, not to exceed 90 days; and/or
  - (b) cancellation, termination or suspension of the Agreement, in whole or in part.

- (6) Incorporation of Provisions: CONTRACTOR shall include the provisions of paragraphs (1) through (6) in every sub-agreement, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

CONTRACTOR shall take such action with respect to any sub-agreement or procurement as the California Department of Transportation or FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance, provided, however, that, in the event CONTRACTOR becomes involved in, or is threatened with, litigation with a sub-applicant or supplier as a result of such direction, CONTRACTOR may request the California Department of Transportation enter into such litigation to protect the interests of the State, and, in addition, CONTRACTOR may request the United States to enter into such litigation to protect the interests of the United States.

#### **15. USE OF UNITED STATES-FLAG VESSELS**

The CONTRACTOR agrees-

1. To utilize privately owned United States-flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carries, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to this contract, to the extent such vessels are available at fair and reasonable rates for United States-flag commercial vessels.
2. To Furnish within 20 days following the date of loading for shipments originating within the United State or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated "on-board" commercial ocean bill-of-lading in English for each shipment of cargo described in paragraph (1) of this section to both the Contracting Officer (through the prime contractor in the case of subcontractor bills-of-lading) and to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590.
3. To insert the substance of the provisions of this clause in all subcontracts issued pursuant to this contract.

**MAINTAIN RECORDS AND SUBMIT REPORTS DOCUMENTING YOUR PERFORMANCE UNDER THIS SECTION**

## 15.7 AWARD PACKAGE

The administering agency must forward the following information as one package to the DLAE within sixty (60) days of contract award and prior to submitting the first invoice of the construction phase:

- The Local Agency Contract Award Checklist (Exhibit 15-L)
- Detail Estimate (Exhibit 15-M)
- Finance Letter (Exhibit 3-O)
- Resident Engineer's Construction Contract Administration Checklist (Exhibit 15-B)
- Copy of the Local Agency Bidder DBE Information (Construction Contracts) (Exhibit 15-G)

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

A "Detail Estimate" (Exhibit 15-M) and "Finance Letter" (Exhibit 3-O) must be prepared outlining all project costs by Improvement Type Code. From the information contained in the Detail Estimate, Division of Local Assistance will prepare a revised Authorization to Proceed (E-76), which automatically updates the funding agreement between Caltrans and FHWA. If the award amount is more, or significantly less than the amount estimated at the time of authorization, the administering agency should submit a revised E-76 and revised Finance Letter to the DLAE along with the Award Package.

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

The local agency and State personnel involved shall ensure timely processing of the Master Agreement, Program Supplement, Detail Estimate, and Finance Letter. The local agency is responsible for ensuring that the various forms are complete and accurate.

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

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

The Resident Engineer assigned to the project shall complete and sign the Resident Engineer's Construction Contract Administration Checklist. The purpose of this checklist is to assure that the resident engineer is familiar with the federal requirements before the project starts.

Deficiencies in contract administration procedures discovered by process reviews are difficult to correct “after the fact.” If the project has proceeded to the point that a deficiency cannot be corrected, federal and/or state funds may be withdrawn.

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

**EXHIBIT 16-B SUBCONTRACTING REQUEST**

CONTRACTOR NAME				PROJECT LOCATION			
BUSINESS ADDRESS				CONTRACT NUMBER			
CITY AND STATE			ZIP CODE		FEDERAL-AID PROJECT NUMBER		
SUBCONTRACTOR (NAME, BUSINESS ADDRESS, PHONE)	BID ITEM NUMBER (S)	PERCENTAGE OF BID ITEM SUBCONTRACTOR	CHECK IF (SEE CATEGORY BELOW)			DESCRIBE WORK WHEN LESS THAN 100% OF WORK IS SUBCONTRACTED	DOLLAR AMOUNT BASED ON THE BID AMOUNT
			1	2	3		

**Categories:**                    **1. Specialty**                                    **2. Listed Under Fair Practice Act**                                    **3. Certified DBE**

**I certify that:**

- The provisions for labor set forth in the contract apply to the subcontracted work.
- If applicable, special provisions for federal requirements have been inserted into the subcontracts and should be incorporated in any lower-tier subcontract. Written contracts have been executed for the above noted subcontracted work.

CONTRACTOR'S SIGNATURE	DATE
------------------------	------

This section is to be completed by the resident engineer.

1. Total of bid items	\$	
2. Specialty items previously approved (if applicable, see note in the instructions)	\$	
3. Specialty items this request (if applicable, see note in the instructions)	\$	
4. Total (lines 2 + 3)	\$	
5. Contractor must preform with own forces (lines 1 minus 4) x _____ %	\$	
6. Bid item previously subcontracted	\$	
7. Bid item subcontractor (this request)	\$	
8. Total (lines 6 + 7)	\$	
9. Balance of work contractor to preform (lines 1 minus 6)	\$	

<b>APPROVED</b>	
RESIDENT ENGINEER'S SIGNATURE	DATE

DISTRIBUTION: Original – Contractor, Copy – Resident Engineer

**INSTRUCTIONS**

*All first-tier subcontractors must be included on a subcontracting request.*

Before subcontracting work starts, the contractor will submit an original subcontracting request (Exhibit 16-B) in accordance with contract specifications. After approval, the RE returns the original to the contractor and completes the remaining distribution as listed on the bottom of the form.

When an entire item is subcontracted, show the contractor's bid price.

When a portion of an item is subcontracted, describe the portion and show the percentage of the bid item and value.

**This form is not be used for substitutions of subcontractors and DBEs.**

### High-Profile Projects

Final inspection of significant NHS projects shall be in accordance with written construction administration procedures discussed in Section 15.3 of the LAPM. All High-Profile projects shall be in accordance with the following:

**Final Inspection by Local Agency** – High-Profile projects will require a final inspection by the FHWA. To initiate this inspection, the local agency will make the final inspection as described above for Delegated projects, accept the construction contract and submit the signed Final Inspection Form FIF-6/05 and reduced plan cover sheet and typical cross sections to the Caltrans Oversight Engineer (OSE) immediately upon completion of all work in the project authorization.

**Project Verification by OSE** – Upon receipt of the Local Agency Final Inspection Form, the OSE shall verify that the project has been completed as described in the plans and specifications. The OSE shall then transmit the necessary documents to the FHWA Transportation Engineer.

**Final Inspection by FHWA** – The final inspection by FHWA will be coordinated by the OSE in accordance with Caltrans *“Oversight Field Engineer Guidelines.”*

The DLAE shall receive from the OSE the *“Report of Expenditures”* prior to the DLAE processing the local agency’s final project invoice.

### 17.4 “AS BUILT” PLANS

On locally administered contracts the resident engineer shall provide the DLAE a set of original record drawings of all structure work with *“As Built”* corrections, or a clear, readable, black-line copy of the original tracings with *“As Built”* corrections. The *“As Built”* corrections shall be made by the engineer responsible for structure work. Each sheet of the As-Built plans must be clearly identified with an As-Built stamp. All plan sheets, whether they contain changes or not, must have (at a minimum) the name of the Resident Engineer (R.E.), the Construction Contract Acceptance date, and the Contract Number. These shall be forwarded by the DLAE to the Division of Structures with a copy of the Report of Completion of Structures (Exhibit 17-J). These shall be returned to the local agency after microfilming, if requested.

*“As Built”* corrections for the roadwork portion of the plans should be recorded in accordance with local agency requirements.

### 17.5 FINAL REPORT OF EXPENDITURES

The local agency is responsible for preparing and submitting to the DLAE the final report documents which collectively constitute the Final Report of Expenditures. This report provides key information required to initiate timely project closure and payment. The Report of Expenditures must be submitted within six (6) months of project completion. If the submittal deadline occurs in the year funds will lapse, the Final Report of Expenditures must be submitted to the DLAE by April 1 of that year. If timely submittals are not received, Caltrans may initiate actions discussed under Section 17.6, *“Consequences for Non-Compliance.”* The

Final Report of Expenditures must be signed by the public employee in responsible charge of the project.

### Federal-aid Projects

For federal-aid projects, the Final Report of Expenditures includes, as a minimum, the following documents:

- **A Cover Letter and Federal Report of Expenditures Checklist** (Exhibit 17-A) – Identifies all mandatory documents to be included in the Final Report of Expenditures. This checklist shall be submitted by the local agency with the report of completion. Copies of all documents included in the report of expenditures shall be maintained on file at the local agency for any future audits as specified in the Master Agreement and Program Supplement, and to serve as verification that contractor labor requirements were met.
- **Final Inspection Form**
  1. **Final Inspection Form FIF-6/05 (Exhibit 17-C)** – This form when completed by both the local agency and the DLAE or OSE (SHS projects) shall be included as part of the Final Report of Expenditures for all projects.
- **Final Invoice** – Final Invoice should conform to the format in Exhibit 17-D. Submit one original. The Final Invoice **must** agree with the Final Detail Estimate.

**Note:** Even if all funding has been disbursed a final zero dollar amount invoice must be submitted

- **Final Detail Estimate** – The format of the final detail estimate is the same as presented in Chapter 15, Section 15.7, “Award Package,” except that it must be labeled “Final” and show the total of previous progress payments plus the final invoice. The local agency shall prepare the final detail estimate. If claims are still pending, the final detail estimate should not be prepared until the claims are resolved. The final detail estimate must agree with the final invoice. State costs (Example: state material testing) should not be included in the final detail estimate prepared by the local agency. Once claims are settled, the final invoice and a final detail estimate shall be submitted to the DLAE as part of the Final Report of Expenditures.
- **Change Order Summary** – The Change Order Summary should conform to sample form in Exhibit 17-E. This is required regardless of whether or not change orders were made during the course of the contract. If there were none, please note “none.” Additionally, the following mandatory items of information must also be included on this form:
  1. **Liquidated Damages** – Indicate the liquidated damage days charged (calendar days) if any, the amount per day, and the total amount charged. Refer to Chapter 16, “Administer Construction Contracts,” Section 16.15, “Claims,” for contractor’s claims procedures. If there were no liquidated damages, please note “none.” Liquidated damages shall also be shown on the Final Invoice and Final Detail Estimate.



2. **Contractors Claims** – Refer to Chapter 16, “Administer Construction Contracts,” Section 16.15, “Contract Claims,” for contractor’s claims procedures. If there were no contractor’s claims, please note “none.”

3. **Date of Acceptance**

- **Final Report-Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subcontractors** (Exhibit 17-F) – This form shall be completed and signed, and it shall be in conformance with the requirements in Chapter 9, “Civil Rights and Disadvantaged Business Enterprises.” The completed form shall be submitted to the DLAE or OSE (SHS projects) with the final report of expenditures for construction contracts (or as specified in the provisions for consultant contracts).
- **Disadvantaged Business Enterprises (DBE) Certification Status Change** (Exhibit 17-O) – This form shall be completed, signed, and submitted to the DLAE or OSE (SHS projects) with the final report of expenditures for construction contracts (or as specified in the provisions for consultant contracts). If no change, state so.
- **Materials Certificate** (Exhibit 17-G) – This certificate is to be included in the project files upon completion of the project. Exceptions to the certification should be documented in project records in summary form along with explanations and attached to the certificate, including change orders to accept nonconforming materials.
- **Cover Letter and Final Report of Expenditures Checklist (PE only)** (Exhibit 17-H) – This form shall be submitted (in place of Exhibit 17-A) by the local agency to the DLAE for projects authorized for Preliminary Engineering (PE) only and not required to advance to right of way acquisition or construction award.
- **Cover Letter for the Report of Completion of Structures and Report of Completion of Structures on Local Streets and Roads** (Exhibits 17-I and 17-J) – This report is to be forwarded by the DLAE to the Engineering Service Center Division of Structures, Office of Structures Maintenance and Investigations Local Assistance Branch, for projects which include a bridge or other major structure. This information is necessary to incorporate all bridges into the statewide inventory and maintenance management system. (Include two (2) copies in the Report of Expenditures).
- **Report of Completion of Right of Way Expenditures** – Projects with Right of Way expenditures require additional information in the Report of Expenditures. When the project is complete, a summary of the progress payment requests is submitted on a Report of Completion of Right of Way Expenditures, Form FM 1592A (see Exhibit 17-K). This claim should be submitted when final right of way costs are known in order to expedite audit of the claim and reimbursement. The report shall also include the following:
  1. A parcel list.
  2. Final maps (those that come with Right of Way Certification if not previously sent).

**Exhibit 17-H Cover Letter and Final Report of Expenditures Checklist (PE Only)**

Name of District Director  
District Director of Transportation  
Caltrans- Local Assistance  
District Address  
City, CA ZIP Code

Project No.: \_\_\_\_\_

Attention: (Name of DLAE)  
District Local Assistance Engineer

Dear (Name of District Director)

Submitted for your consideration is:

FINAL REPORT OF EXPENDITURES CHECKLIST (PE ONLY)

LOCAL AGENCY AWARDED

CONTRACT (COUNTRY OF SOMEWHERE)

PROJECT: (PROJECT LOCATION)

CONTRACTOR: (CONTRACTOR NAME)

RESIDENT ENGINEER: (RESIDENT ENGINEER NAME)

Sincerely,

\_\_\_\_\_  
Local Agency Representative

Reviewed By

(Name of DLAE)

\_\_\_\_\_  
District Local Assistance Engineer

**Final Report of Expenditure Checklist**

Federal-Aid Project Number: \_\_\_\_\_

Project Name: \_\_\_\_\_

Project Location: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_**1. Category**

- Planning Study
  - Final Study/Report
  - Finance Letter (Exhibit 3-O)
- Subsequent Phases Funded Under Separate Federal Project(s)
  - FPN for Subsequent Phase: \_\_\_\_\_
  - FPN for Subsequent Phase: \_\_\_\_\_
  - FPN for Subsequent Phase: \_\_\_\_\_
  - Finance Letter (Exhibit 3-O)
- Subsequent Phases Funded With Non-Federal Funds:
  - Date of RW Acquisition or Construction Award: \_\_\_\_\_
  - Funding Source(s): \_\_\_\_\_
  - Finance Letter (Exhibit 3-O)
- Environmental Determination – No Build:
  - Date of FHWA Approved No Repayment: \_\_\_\_\_
  - Finance Letter (Exhibit 3-O)

**2. Consultant Utilization**

- Consultant Contract(s) (Include Final Report-Utilization of Disadvantaged Business Enterprises, (Exhibit 17-F)
- Disadvantaged Business Enterprise (DBE) Certification Status Change, LAPM (Exhibit 17-O)
- Force Account

**3. Final Invoice**

- Federal Aid Final Invoice (Exhibit 17-D)
- Local Agency Invoice Review Checklist (Exhibit 5-J)
- Billing Summary (Exhibit 5-K)

**Distribution:** (All projects): (1) Final Report of Expenditures  
(2) Local Agency project files

needed technical knowledge. All project deficiencies must be brought to the attention of the local agency during the oversight/process review. The local agency will be expected to take appropriate action immediately to correct the deficiencies. For unrecoverable project deficiencies which make portions or all of the project ineligible, the corrective action will include the recovery of the appropriate federal or State funds through the issuance of a revised E-76.

## 19.6 CONSTRUCTION OVERSIGHT PROGRAM

For locally administered federal-aid highway projects off the State Highway System, construction oversight reviews will be performed by Caltrans Local Assistance Construction Oversight Engineers (COEs). District Local Assistance Engineer (DLAE) staff may participate in the reviews, if available.

### Types of Reviews

The purpose of construction oversight reviews is to verify local agency compliance with federal-aid construction contract administration requirements. These reviews may be conducted prior to the start of the construction contract, during construction, and/or after the completion of the construction contract as described below. The objective is to perform at least one review on all projects.

#### Preliminary Construction Review

The purpose of the preliminary construction review is to provide supplementary oversight and guidance regarding construction contract administration to a local agency on a federal-aid construction project prior to the start of contract work. Preliminary reviews will be performed on selected federal-aid projects requiring a greater degree of oversight. The following factors may be used when selecting projects for preliminary review:

- High cost and/or complex projects
- Projects administered by agencies with previous sanctions/findings
- Lack of experienced/trained local agency personnel
- Per request by the local agency or DLAE for additional assistance

During preliminary construction reviews, the COE will meet with the local agency's construction contract administration team and discuss project record documentation requirements using Exhibit 19-A, "Construction Review Checklist (Preliminary)." The COE will also explain new policies or procedures, discuss available training, and highlight common problem areas and the means to avoid them. The timing of this type of review is targeted for after bid opening, but prior to beginning construction.

#### Mid-Project Review

Mid-project reviews will be performed on most federal-aid construction projects. Factors to be considered in determining which projects to review include:

- High cost and/or complex projects
- Projects administered by agencies with previous sanctions/findings
- Projects that did not have a preliminary construction review
- Duration of the project
- Project location

During these reviews, the COE will meet with the local agency's resident engineer and review the project records. Exhibit 19-B, "Construction Review Checklist (Mid-Project)," will serve as the basis for this review. Any major deficiencies will be identified and the local agency will be notified of the deficiencies (see "Review Findings" below). The timing of this type of review is targeted for 40% to 60% of construction completion, but should not take place until the local agency has processed at least one progress payment to the contractor.

### **Post Construction Review**

Post construction reviews will be performed on a case-by-case basis. Projects that did not receive a preliminary or mid-project review, or had major deficiencies identified during a mid-project review, are candidates for a post construction review. The purpose of the post construction review is to verify that federal and state requirements for construction contract administration have been met, and to ensure that major deficiencies noted during mid-project reviews have been fully resolved in conformance with an accepted corrective action plan. Exhibit 19-B, "Construction Review Checklist (Post)," form will serve as the basis for this review. Accepted corrective action plans will also be utilized in the review. Any further major deficiencies will be identified and the local agency will be notified of the deficiencies (see "Review Findings" below).

### **Review Findings**

Results of the construction oversight reviews will be forwarded to the local agency and the DLAE within two weeks. Any major deficiency identified during a review will require submittal of a corrective action plan by the local agency to Caltrans within 30 days of receipt of the major deficiency notification, unless the agency disagrees with the major deficiencies identified and appeals the decision as discussed below. As defined in Chapter 20 of the Local Assistance Procedures Manual (LAPM), major deficiencies are those errors of commission or omission, which violate federal or state law or regulation, and if uncorrected, would prevent federal or state participation in all or a portion of the project.

Corrective action plans will identify actions the local agency will take to address each major deficiency noted. Corrective actions may include modifications of local agency policies and procedures, and participation in training to address systemic related deficiencies, while project specific issues may require additional measures to remedy deficiencies to ensure compliance with federal and state requirements and ensure reimbursement eligibility. Corrective action plans must also include timelines for each action to be implemented. Failure to provide and implement corrective actions may result in sanctions or federal ineligibility notices against the project or local agency.

Certain deficiencies may be unrecoverable as described in Chapter 20, “Deficiencies and Sanctions,” of the LAPM.

In the event the local agency disagrees with the major deficiencies identified, the local agency will have 30 days from receipt of the major deficiency notification to submit their written request for appeal in accordance with Chapter 20, Section 20.4, Local Assistance Dispute Resolution Process, of the LAPM. If the appeal is denied, the local agency will have 15 days from receipt of the decision to submit their corrective action plan.

### **Roles and Responsibilities**

The following procedures, including roles and responsibilities, will be used to perform construction oversight on federal-aid projects being administered by local agencies off the SHS.

#### **Construction Oversight Engineers**

- Coordinate construction oversight reviews with local agencies.
- Provide construction oversight review forms to the local agency prior to reviews to expedite the review process.
- Identify projects subject to preliminary, mid-project and/or post construction reviews utilizing the above guidelines.
- Consult with the construction oversight program coordinator on selecting projects for preliminary and mid-project reviews.
- Perform construction oversight reviews through review of project records and discussions with local agency’s contract administration staff.
- Keep DLAE apprised of oversight reviews so they may participate, if available.
- Provide review findings to the local agency, construction oversight coordinator, and DLAE. Review findings are to be sent to the local agency within two weeks.
- Identify any major deficiencies that will require a local agency corrective action plan. Issue a letter to the local agency notifying them of the major deficiencies requiring corrective action with copies sent to the construction oversight coordinator and DLAE.
- Consult with the DLAE regarding major deficiencies and corrective action plans.
- Monitor local agency corrective action plan development and implementation. Ensure the Construction Oversight Database is populated and kept up-to-date with major deficiency information and related corrective action plan information.
- Assist the DLAE with quantification of any sanctions related to unresolved major deficiencies.
- Participate in construction phase reviews and audits by others (e.g. Office of Inspector General, FHWA, State Controller's Office, Audits and Investigations, etc.). Assist in

formal response to project specific findings from these reviews and audits on Caltrans behalf.

- Assist local agencies and DLAE staff with questions that may arise concerning construction related issues.
- Provide guidance and training to local agencies and DLAE staff concerning construction contract administration, including federal and state requirements.
- Assist DLAE and DLAE staff with review and approval of complex change orders and review of complex dispute issues.
- Provide weekly update to the construction oversight program coordinator that identifies the major work performed (e.g. local agency project reviewed, type of review, other project reviews, major deficiency notification letters, training delivered, analysis of complex change orders or dispute issues etc.).
- Attend monthly construction oversight meetings to discuss programmatic issues concerning construction oversight, sharing experiences, and concerns.

#### **Construction Oversight Program Coordinator**

- Maintain Construction Oversight Database, monitoring for consistency and accuracy utilizing weekly newsletters and major deficiency notification letters.
- Issue quarterly report for construction oversight (programmatic findings) to FHWA Division Administrator, DLA division chief, DLAEs and COEs. Report to include review metrics, common problem areas, recommendations for improvements, programmatic actions/improvements taken (e.g. policy, procedures and training), performance measure trend analysis to establish first year baseline and subsequent performance, and sanctions taken.
- Issue quarterly report for construction oversight (project specific findings) to FHWA Division Administrator, Division of Local Assistance (DLA) division chief, DLAEs, and COEs. Report to include district, project number, local agency, review type, review date, reviewer, major deficiencies identified, notification letter date, local assistance dispute resolution referral date, corrective action plan submittal date(s), approval date of corrective action plan, status of major deficiency resolution, sanction description, and sanction amount.
- Provide input to the construction oversight engineers on projects subject to preliminary and mid-project reviews.
- Analyze project review findings to identify common problem areas where modifications to policies, procedures, or training related to construction oversight may be needed.
- Assist in development and delivery of new or revised policies, procedures, and training related to construction oversight.
- Participate in construction phase reviews and audits by others (e.g. Office of Inspector General, FHWA, State Controller's Office, Audits and Investigations, etc.). Assist in

formal response to project specific and programmatic findings from these reviews and audits on Caltrans behalf.

- Hold monthly meetings with construction oversight engineers to discuss programmatic issues with construction oversight as a means to maintain statewide consistency and identify common concerns.
- Perform construction oversight engineer duties as the need arises or in the absence of a COE.
- Assist DLA division chief with issues referred to the Local Assistance Dispute Resolution Process.

#### **District Local Assistance Engineer**

- Provide representation at construction oversight reviews, as available.
- Discuss major deficiency notification letter and corrective action plan requirements with the COE.
- Perform DLAE role in Local Assistance Dispute Resolution Process.
- Issue sanctions on projects resulting from unresolved major deficiencies.

### **19.7 REFERENCE**

- Caltrans/FHWA Joint Stewardship Agreement



**Exhibit 19-A Construction Review Checklist (Preliminary)**  
(Non-applicable items are to use N/A)

**Review Type: Preliminary Construction Oversight Review**

Local Agency:  Review Date:

Federal Aid Project No:  Contract No:

Project Description:

Project Location (county, city, street):

Project Type:

Funding Source:

Caltrans Reviewer(s):

Caltrans Construction Oversight Engineer:

Caltrans DLAE:

FHWA Participant(s) (if applicable):

Local Agency Participant(s):

Resident Engineer (RE) (circle one):  Local Agency  or  Consultant

If RE is a Consultant, Name of the Company:

If RE is a Consultant, Name of Local Agency Employee of Record:

**Contract Information**

FHWA Construction Authorization Date:  Engineer's Estimated Amount (Bid item only):

Design Approval Date:  Design Approved By:  PS&E Approval Date:

PS&E Approved By:  Alternative Contracting Method? Yes  No

If yes, list the method of contact:

Advertising Date:  Bid Opening Date:  Award Date:

Approval Date:  Low Bid Amount:  High Bid Amount:

Contract Bid Amount:  Percentage over/under Engineer's Estimate:

No. of Bids:  No. of competitive bids (No. of bids w/in 20% of low bid):

Contract Award Amount:  Construction Engineering Amount (if applicable):

Contract Time (circle one):  Standard Working Days  or  Calendar Days

Notice to Proceed Date:  Estimated Date of First Working Day:

Estimated Completion Date:

1. Is the RE aware of which prompt payment option the local agency has selected and do the contract provisions align with this selection? (Y/N)	
2. Is the RE aware of environmental commitments contained in the environmental document and have these commitments been addressed prior to construction, or are they addressed in the PS&E? (Y/N)	

3. Does the program supplement agreement contain any special covenants that the RE need be aware of during contract administration? (Y/N)	
4. Are liquidated damage provisions included in the contract? (Y/N)	
5. If yes, what is the dollar amount of liquidated damages per day?	
6. Does the project contain incentive/disincentive provisions? (Y/N)	
7. Are there any local agency furnished materials for this contract? (Y/N)	
8. If yes, has the local agency included a public interest finding (PIF) in the project records covering each local agency furnished material? (Y/N)	
9. Where local agency furnished materials are used, has the local agency provided documentation showing a competitive process was used for procuring those materials? (Y/N)	
10. Does the contract contain any sole source items? (Y/N)	
11. If yes, has the local agency included a PIF in the project records covering each sole source item? (Y/N)	
12. Will the local agency be using consultant contract for contract administration, materials testing, surveying, environmental monitoring or other facets in support of the contract? (Y/N)	
13. If yes, has the local agency provided documentation showing a competitive process was used for procuring those contracts? (Y/N)	

14. Where consultant contracts will be utilized for the construction phase, identify the following information:

Consultant Services	Consultant Company	Contract Type	Consultant Selection Process & Agreement Documentation on File (Y/N)

15. Comments

**Work Status:**

Review taking place prior to first working day? (Y/N)	
If not, Percentage (%) of work completed & Percentage (%) of time completed	
Pre-bid meeting held (Y/N). If so, was the meeting Mandatory or Optional	
Preconstruction conference held or to be held (Y/N)	
Estimated or actual date of preconstruction conference	
Review of applicable detailed mid-project and after-acceptance project survey questions with RE? (Y/N)	
Mid-project review scheduled date:	

**Follow Up items for major deficiencies:**

Deficiency description	Course of action	Action dates

Local Agency Contact:

**Exhibit 19-B Construction Review Checklist (Mid-Project)**  
(Non-applicable items are to use N/A)

**Review Type: Preliminary Construction Oversight Review**

Local Agency:  Review Date:

Federal Aid project No:  Contract No:

Project Description:

Project Location (county, city, street):

Project Type:

Funding Source:

Caltrans Reviewer(s):

Caltrans Construction Oversight Engineer:

Caltrans DLAE:

FHWA Participant(s) (if applicable):

Local Agency Participant(s):

Resident Engineer (RE) (circle one):  Local Agency  or  Consultant

If RE is a Consultant, Name of the Company:

If RE is a Consultant, Name of Local Agency Employee of Record:

**Work Status**

Percent Dollar Completed (%):  Percent Time Completed (%):

Original Number of Contract Days (circle one):  Standard Working Days  or  Calendar Days

First Working Day Charged:  Total Time Extension Days to Date:

Contract Change Order (CCO) Days Approved to Date:  Estimated Completion Date:

Contract award amount:  Field Visit Performed? (Y/N)

**Detailed Questions**

**Personnel Information:**

1. What is the RE's name?	<input type="text"/>	
2. What is the RE's license number? (if applicable)	<input type="text"/>	
3. Is the RE in responsible charge of the contract? (Y/N)	<input type="text"/>	
4. Is there a listing of all names of staff on file? (Y/N) [includes consultant personnel]	<input type="text"/>	
5. If the RE is not registered, who is the RE who has delegated professional engineering to RE? (Name and License #)	Name	License #

6. Comments:

**Safety Information**

1. Is the emergency contact information sheet on file containing names and contact information for local agency/consultants/contractor? This is typically a contact list of key personnel to be contacted in the event of an emergency on the project (e.g. traffic accident). This form is typically shared with fire, police and other emergency groups at the beginning of the project. (Y/N)	
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2. Comments:

**General Project Records:**

1. Are project records being kept in an organized manner with an index that describes each file category? (Y/N)	
2. Does the local agency use a single method of project record keeping (e.g. index of categories) for both contracts with federal funds and contracts without federal funds? (Y/N)	
3. Is there a copy of the detailed estimate in the project records? (Y/N)	
4. Is there a copy of the finance letter in the project records? (Y/N)	
5. Can the RE point to the amount of federal-aid funds encumbered for this project (Y/N)	

6. Comments:

**Resident Engineer (RE) and Inspector's Daily Diaries:**

1. Are daily diaries up-to-date? (Y/N) [i.e. no more than a week gap]	
2. Do daily diaries contain names of labor, equipment identification and employer identification? (Y/N)	
3. Do daily diaries contain labor classification (e.g. laborer, carpenter, operator, etc.) and equipment classification (e.g. make and model) necessary for proper documentation? (Y/N)	
4. Do daily diaries segregate the work hours for labor and equipment by each item, extra work (CCO #) and dispute (NOPC#)? (Y/N)	
5. Where contractor's labor and equipment were down or idle, has the local agency noted the reason for down or idle time and segregated the work hours to quantify the impact? (Y/N)	
6. Do daily diaries adequately capture daily occurrences in the field (e.g. conversations with the contractor, weather conditions, etc.)? (Y/N)	
7. Do the daily reports include the signature and printed name of the person who authored the report and the date the report was written? (Y/N)	

8. Comments:

**Quality Assurance Program (QAP):**

1. Does the local agency have a copy of their QAP in the project records? (Y/N)	
2. Is the approval date on the QAP less than 5 years old? (Y/N)	
3. What entity is performing acceptance testing for this project?	
4. Are copies of the acceptance testers and laboratory certifications up-to-date and appropriate for the acceptance testing for this contract? (Y/N)	
5. What entity is performing independent assurance on the acceptance testing (e.g. samplers, testers, laboratory and equipment)?	
6. Has the independent assurance entity/personnel been certified by Caltrans? (Y/N)	
7. If no, explain why?	
8. Are copies of acceptance testing certifications (certification by IA) up-to-date and appropriate for the acceptance testing on this contract? (Y/N)	
9. Does the QAP for this contract contain acceptance testing frequency tables? (Y/N)	

10. If so, have the frequency tables been modified from those in the Local Assistance sample QAP? (Y/N)	
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11 Comments:

**Material Test Review:**

1. Are there acceptance sampling and acceptance tests in the project files? (Y/N)	
2. Are acceptance sampling and acceptance testing conforming to the frequency requirements in the QAP? (Y/N) [Randomly check sampling and test results of at least two significant items containing materials identified in the frequency tables and compare against quantities placed to date.]	
3. Is the frequency of acceptance sampling and acceptance testing being monitored? (Y/N)	
4. Are the sampling and testing being performed by individuals certified for those items (i.e. spot-check persons performing sampling and testing vs. certifications on file)? (Y/N)	
5. Does the RE see copies of the test results in a timely manner? (Y/N)	
6. Are records of testing equipment calibrations being maintained? (Y/N)	
7. Is there a summary log of acceptance testing results? (Y/N)	
8. If there is a record of a failing material acceptance test, is there a corresponding passing material test or resolution explanation tied to the failing test? (Y/N)	
9. Do project records contain copies of approved mix designs and approval letters? (Y/N)	
10. Do delivery tickets/load slips contain a product identification number that corresponds to an approved mix design on file in the project records? (Y/N)	
11. Do material certificates of compliance contain the necessary information? (Y/N)	
12. Are required "Buy America" statements included on invoices and certifications for iron and steel products? (Y/N)	

13. Comments:

**Contract Change Order (CCO) Review:**

1. If any of the CCO contain lump sum or unit prices outside of the original bid items, are there records on file supporting the establishment of those lump sum or unit prices (e.g. force account analysis)? (Y/N)	
2. If any of the CCO provide a contract time adjustment, are there records on file supporting the time adjustment (e.g. time impact analysis)? (Y/N)	
3. If any of the CCO were written with deferred time, has the time adjustment been made in a timely manner (e.g. within 30 days of completion of the affected work)? (Y/N)	
4. If any of the CCO contain revised or new engineering drawings or specifications, have the CCO drawings or specifications been stamped by a professional engineer with a valid California PE license? (Y/N)	
5. Were CCO orders approved or proper prior authorization obtained prior to beginning work on the contract change orders? (Y/N)	
6. If a prior authorization process was used, is there documentation in the project records supporting the prior authorization approval and notice to proceed with the work? (Y/N)	
7. If a prior authorization process was utilized, was a timely CCO approved? (e.g. less than one month from authorization) (Y/N)	
8. If any of the CCO contain a time and material method of payment (e.g. force account), do daily diaries provide sufficient support for payment of time and materials on the related change order work? (Y/N)	
9. Is the local agency monitoring authorized CCO amounts versus reserve balances (e.g. contingency amounts)? (Y/N)	
10. Is the local agency monitoring individual contract CCO amounts versus amounts expended on the change to date? (Y/N)	
11. Are all approved CCO orders within the project limits and the project's environmental document? (Y/N)	

12. Comments:

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**Payment Review:**

1. Has the local agency processed a progress payment to the contractor on this contract? (Y/N)	
2. If yes, does the progress payment provide a suitable accounting trail to support documentation for contract work (e.g. items, CCOs, etc.) back to a source document (e.g. Q sheet)? (Y/N) [Spot check only]	
3. Are weighmaster certificates being validated by the administering agency at point of delivery? (Y/N)	
4. Are there separate quantity pay sheets for each item being paid on each progress payment? (Y/N)	
5. Are quantity pay sheets signed and dated? (Y/N)	
6. Are quantity pay sheet calculations being checked by a separate individual? (Y/N)	
7. Are quantities paid to date being monitored and checked against estimated quantities? (Y/N)	
8. How many of the contract items have been completed as of the last progress payment?	
9. Has retainage been released on the completed contract items? (Y/N)	
10. Is the local agency conforming to their selection (Option 1, 2 or 3) for prompt payment? (Y/N)	
11. Does the local agency have an established method to ensure subcontractors receive prompt payment or resolve related complaints? (Y/N)	

12. Comments:

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**Labor Compliance & Equal Employment Opportunity:**

1. Are wage rates determined by the US Department of Labor included in the contract? (Y/N)	
2. Are payrolls certified by the contractor? (Y/N)	
3. Are payrolls checked and initialed by the local agency? (Y/N)	
4. Are diaries and payrolls being spot-checked and compared by the local agency? (Y/N)	
5. Are required federal posters ( <a href="http://www.fhwa.dot.ca.gov/programadmin/contracts/poster.cfm">http://www.fhwa.dot.ca.gov/programadmin/contracts/poster.cfm</a> ) in good shape and posted in plain view of workers? (Y/N)	
6. Are interviews being conducted at a regular acceptable frequency? (Y/N)	
7. Do the interviews include the appropriate signatures and dates? (Y/N)	

8. Comments:

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**DBE**

1. What is the DBE goal for this contract? (%)	
2. What is the DBE commitment for this contract? (%)	
3. If the contractor did not meet the goal for this contract, was a Good Faith Effort (GFE) Analysis performed and is a copy filed in the project records? (Y/N)	
4. Is DBE commitment compliance being checked by the local agency? (Y/N)	
5. Is DBE performance of a commercially useful function being checked? (Y/N)	
6. Have any CCO affected the DBE's work? (Y/N)	

7. Comments:

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**Training Requirements:**

1. Are on-the job training provisions a part of this contract? (Y/N)	
2. If yes, what is the goal for this contract?	
3. Do project records contain documentation to account for apprentices on the project? (Y/N)	

4. Comments:

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**Environmental:**

1. Is the environmental document for this project on file? (Y/N)	
2. Is the construction project adhering to mitigation requirements in the environmental documents? (Y/N)	

3. Comments:

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**Other:**

1. Does the agency have a means to track, monitor and report on contract time? (Y/N)	
2. Is the agency tracking, monitoring and reporting contract time in accordance with their procedure? (Y/N)	
3. Does the project have a procedure for submitting and filing a "Notice of Materials to be Used" type document? (Y/N)	
4. Has this procedure been followed? (Y/N)	
5. Does the project have a procedure for submitting and filing certificates of compliance for materials? (Y/N)	
6. Has this procedure been followed? (Y/N)	
7. Does the project have traffic control plan requirements? (Y/N)	
8. Are the traffic control plan requirements being followed? (Y/N)	

9. Comments:

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After-acceptance review scheduled date (estimated):	
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**Follow Up items for major deficiencies**

Deficiency description	Course of action	Action dates

**Additional Items for Bridge Projects:**

**Concrete Records:**

1. Are all approved concrete mixes on file? (Y/N)	
2. Are all letters of concrete mix approvals on file? (Y/N)	
3. Are samples and testing notations included on pour records or diaries? (Y/N)	

4. Comments:

**Bridge CCOs:**

1. For bridge design changes, has the bridge designer authorized the change? (Y/N)	
--	--

2. Comments:

**Approved Falsework Plans:**

1. Is there a falsework log on file showing falsework submittal history? (Y/N)	
2. Are the falsework plans properly stamped? (Y/N)	
3. Do the falsework plans include erection and stripping operations? (Y/N)	
4. Are the falsework calculations on file and complete? (Y/N)	
5. Are there records of camber and falsework deflection calculations performed by a registered engineer? (Y/N)	
6. Are there records of falsework soffit and deck grades supplied to the contractor by the Engineer, which accommodate falsework settlements and deflections and bridge camber requirements? (Y/N)	
7. Is there a letter from the contractor certifying that the erected falsework substantially meets approved falsework plans dated prior to concrete pours of bridge soffit and deck? (Y/N)	
8. Are there any records of observed falsework settlement during and after the concrete pour? (Y/N)	

9. Comments:

**Prestressing:**

1. Are the initial shop drawings for prestressing (submitted by the contractor) on file? (Y/N)	
2. Are the initial plans properly stamped? (Y/N)	
3. Is the final set of shop drawings for prestressing on file? (Y/N)	
4. Are the final plans properly stamped? (Y/N)	
5. Is there a record in the diaries to indicate that the prestressing ducts were checked for any obstruction after the soffit/deck pours and prior to placing the strand? (Y/N)	
6. Are there records of actual prestressing in the file? (Y/N)	
7. Are there records indicating the contractor's pressure gauges and jack(s) were certified and valid at time of stressing? (Y/N)	
8. Is there proper documentation of both i) actual strand elongation vs. theoretical elongation and ii) load cell readings vs. contractor gauge readings? (Y/N)	
9. Do the records show grouting was performed and include a copy of the certificate of compliance for the cement used? (Y/N)	

10. Comments:



**Profilographs (if there is a new bridge deck or if the existing bridge deck has been modified and finish surface requirements are included in the contract):**

1. Are there records showing profilographs were taken before and after deck grinding? (Y/N)	
2. Are all the profilograph records on file? (Y/N)	

3. Comments:

**Shoring Plans (if there is/was shoring on the project):**

1. Are the shoring plans properly stamped? (Y/N)	
2. Do the project records include complete shoring calculations? (Y/N)	

3. Comments:

**Welding (if there is welding in the contract):**

1. Does the contract require the contractor to have a Quality Control Plan for welding? (Y/N)	
2. If yes, is the contractor's welding Quality Control Plan on file? (Y/N)	

3. Comments:

**Exhibit 19-C Construction Review Checklist (Post)**  
(Non-applicable items are to use N/A)

**Review Type: Preliminary Construction Oversight Review**

Local Agency:  Review Date:

Federal Aid project No.  Contract No:

Project Description:

Project Location (county, city, street):

Project Type:

Funding Source:

Caltrans Reviewer(s):

Caltrans Construction Oversight Engineer:

Caltrans DLAE:

FHWA Participant(s) (if applicable):

Local Agency Participant(s):

Resident Engineer (RE) (circle one):  Local Agency  or  Consultant

If RE is a Consultant, Name the Company:

If RE is a Consultant, Name of Local Agency Employee of Record:

**Work Status**

Percent Dollar Completed (%):  Percent Time completed (%):

Original Number of Contract Days: (circle one):  Standard Days  or  Calendar days

First Working Day Charged:  Total Time Extension Days to Date:

Contract Change Order Days Approved to Date:  Estimated Completion Date:

Contract Award Amount:  Field Visit Performed? (Y/N)

**Detailed Questions**

**Personnel Information:**

1. What is the RE's name?	<input type="text"/>	
2. What is the RE's license number? (if applicable)	<input type="text"/>	
3. Is the RE in responsible charge of the contract? (Y/N)	<input type="text"/>	
4. Is there a listing of all names of staff on file? (Y/N) [includes consultant personnel]	<input type="text"/>	
5. If the RE is not registered, who is the RE who has delegated professional engineering to RE? (Name and License #)	Name	License #

6. Comments:

**Safety Information**

1. Is the emergency contact information sheet on file containing names and contact information for local agency/consultants/contractor? This is typically a contact list of key personnel to be contacted in the event of an emergency on the project (e.g. traffic accident). This form is typically shared with fire, police and other emergency groups at the beginning of the project. (Y/N)	
2. Comments:	

**General Project Records:**

1. Are project records being kept in an organized manner with an index that describes each file category? (Y/N)	
2. Does the local agency use a single method of project record keeping (e.g. index of categories) for both contracts with federal funds and those without? (Y/N)	
3. Is there a copy of the detailed estimate in the project records? (Y/N)	
4. Is there a copy of the finance letter in the project records? (Y/N)	
5. Can the RE point to the amount of federal-aid funds encumbered for this project (Y/N)	
6. Comments:	

**Resident Engineer (RE) and Inspector's Daily Diaries:**

1. Are daily diaries up-to-date? (Y/N) [i.e. no more than a week gap]	
2. Do daily diaries contain names of labor, equipment identification and employer identification? (Y/N)	
3. Do daily diaries contain labor classification (e.g. laborer, carpenter, operator, etc.) and equipment classification (e.g. make and model) necessary for proper documentation? (Y/N)	
4. Do daily diaries segregate the work hours for labor and equipment by each item, extra work (CCO #) and dispute (NOPC#)? (Y/N)	
5. Where contractor's labor and equipment were down or idle, has the local agency noted the reason for down or idle time and segregated the work hours to quantify the impact? (Y/N)	
6. Do daily diaries adequately capture daily occurrences in the field (e.g. conversations with the contractor, weather conditions, etc.)? (Y/N)	
7. Do the daily reports include the signature and printed name of the person who authored the report and the date the report was written? (Y/N)	
8. Comments:	

**Quality Assurance Program (QAP):**

1. Does the local agency have a copy of their QAP in the project records? (Y/N)	
2. Is the approval date on the QAP less than 5 years old? (Y/N)	
3. What entity is performing acceptance testing for this project?	
4. Are copies of the acceptance testers' and laboratory certifications up-to-date and appropriate for the acceptance testing for this contract? (Y/N)	
5. What entity is performing independent assurance on the acceptance testing (e.g. samplers, testers, laboratory and equipment)?	
6. Has the independent assurance entity/personnel been certified by Caltrans? (Y/N)	
7. If no, explain why?	
8. Are copies of acceptance testing certifications (certification by IA) up-to-date and appropriate for the acceptance testing on this contract? (Y/N)	

9. Does the QAP for this contract contain acceptance testing frequency tables? (Y/N)	
10. If so, have the frequency tables been modified from those in the Local Assistance sample QAP? (Y/N)	

11 Comments:

**Material Test Review:**

1. Are there acceptance sampling and acceptance tests in the project files? (Y/N)	
2. Are acceptance sampling and acceptance testing conforming to the frequency requirements in the QAP? (Y/N) [Randomly check sampling and test results of at least two significant items containing materials identified in the frequency tables and compare against quantities placed to date.]	
3. Is the frequency of acceptance sampling and acceptance testing being monitored? (Y/N)	
4. Are the sampling and testing being performed by individuals certified for those items (i.e. spot-check persons performing sampling and testing vs. certifications on file)? (Y/N)	
5. Does the RE see copies of the test results in a timely manner? (Y/N)	
6. Are records of testing equipment calibrations being maintained? (Y/N)	
7. Is there a summary log of acceptance testing results? (Y/N)	
8. If there is a record of a failing material acceptance test, is there a corresponding passing material test or resolution explanation tied to the failing test? (Y/N)	
9. Do project records contain copies of approved mix designs and approval letters? (Y/N)	
10. Do delivery tickets/load slips contain a product identification number that corresponds to an approved mix design on file in the project records? (Y/N)	
11. Do material certificates of compliance contain the necessary information? (Y/N)	
12. Are required "Buy America" statements included on invoices and certifications for iron and steel products? (Y/N)	

13. Comments:

**Contract Change Order (CCO) Review:**

1. If any of the CCO contain lump sum or unit prices outside of the original bid items, are there records on file supporting the establishment of those lump sum or unit prices (e.g. force account analysis)? (Y/N)	
2. If any of the CCO provide a contract time adjustment, are there records on file supporting the time adjustment (e.g. time impact analysis)? (Y/N)	
3. If any of the CCO were written with deferred time, has the time adjustment been made in a timely manner (e.g. within 30 days of completion of the affected work)? (Y/N)	
4. If any of the CCO contain revised or new engineering drawings or specifications, have the CCO drawings or specifications been stamped by a professional engineer with a valid California PE license? (Y/N)	
5. Were CCO approved or proper prior authorization obtained prior to beginning work on the CCO? (Y/N)	
6. If a prior authorization process was used, is there documentation in the project records supporting the prior authorization approval and notice to proceed with the work? (Y/N)	
7. If a prior authorization process was utilized, was a timely CCO approved? (e.g. less than one month from authorization) (Y/N)	
8. If any of the CCO contain a time and material method of payment (e.g. force account), do daily diaries provide sufficient support for payment of time and materials on the related change order work? (Y/N)	
9. Is the local agency monitoring authorized CCO amounts versus reserve balances (e.g. contingency amounts)? (Y/N)	
10. Is the local agency monitoring individual CCO amounts versus amounts expended on the change to date? (Y/N)	

11. Are all approved CCO within the project limits and the project's environmental document? (Y/N)	
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12. Comments:

**Payment Review:**

1. Has the local agency processed a progress payment to the contractor on this contract? (Y/N)	
2. If yes, does the progress payment provide a suitable accounting trail to support documentation for contract work (e.g. items, CCOs, etc.) back to a source document (e.g. Q sheet)? (Y/N) [Spot check only]	
3. Are weighmaster certificates being validated by the administering agency at point of delivery? (Y/N)	
4. Are there separate quantity pay sheets for each item being paid on each progress payment? (Y/N)	
5. Are quantity pay sheets signed and dated? (Y/N)	
6. Are quantity pay sheet calculations being checked by a separate individual? (Y/N)	
7. Are quantities paid to date being monitored and checked against estimated quantities? (Y/N)	
8. How many of the contract items have been completed as of the last progress payment?	
9. Has retainage been released on the completed contract items? (Y/N)	
10. Is the local agency conforming to their selection (Option 1, 2 or 3) for prompt payment? (Y/N)	
11. Does the local agency have an established method to ensure subcontractors receive prompt payment or resolve related complaints? (Y/N)	

12. Comments:

**Labor Compliance & Equal Employment Opportunity:**

1. Are wage rates determined by the US Department of Labor included in the contract? (Y/N)	
2. Are payrolls certified by the contractor? (Y/N)	
3. Are payrolls checked and initialed by the local agency? (Y/N)	
4. Are diaries and payrolls being spot-checked and compared by the local agency? (Y/N)	
5. Are required federal posters ( <a href="http://www.fhwa.dot.ca.gov/programadmin/contracts/poster.cfm">http://www.fhwa.dot.ca.gov/programadmin/contracts/poster.cfm</a> ) in good shape and posted in plain view of workers? (Y/N)	
6. Are interviews being conducted at a regular acceptable frequency? (Y/N)	
7. Do the interviews include the appropriate signatures and dates? (Y/N)	

8. Comments:

**DBE**

1. What is the DBE goal for this contract? (%)	
2. What is the DBE commitment for this contract? (%)	
3. If the contractor did not meet the goal for this contract, was a Good Faith Effort (GFE) Analysis performed and is a copy filed in the project records? (Y/N)	

4. Is DBE commitment compliance being checked by the local agency? (Y/N)	
5. Is DBE performance of a commercially useful function being checked? (Y/N)	
6. Have any CCO affected the DBE's work? (Y/N)	

7. Comments:

**Training**

**Requirements:**

1. Are on-the job training provisions a part of this contract? (Y/N)	
2. If yes, what is the goal for this contract?	
3. Do project records contain documentation to account for apprentices on the project? (Y/N)	

4. Comments:

**Environmental:**

1. Is the environmental document for this project on file? (Y/N)	
2. Is the construction project adhering to mitigation requirements in the environmental documents? (Y/N)	

3. Comments:

**Other:**

1. Does the agency have a means to track, monitor and report on contract time? (Y/N)	
2. Is the agency tracking, monitoring and reporting contract time in accordance with their procedure? (Y/N)	
3. Does the project have a procedure for submitting and filing a "Notice of Materials to be Used" type document? (Y/N)	
4. Has this procedure been followed? (Y/N)	
5. Does the project have a procedure for submitting and filing certificates of compliance for materials? (Y/N)	
6. Has this procedure been followed? (Y/N)	
7. Does the project have traffic control plan requirements? (Y/N)	
8. Are the traffic control plan requirements being followed? (Y/N)	
9. Has the project materials certificate been completed and properly filed? (Y/N)	

10. Comments:

**Follow Up items for major deficiencies**

Deficiency description	Course of action	Action dates
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**Additional Items for Bridge Projects:**

**Concrete Records:**

1. Are all approved concrete mixes on file? (Y/N)	
2. Are all letters of concrete mix approvals on file? (Y/N)	
3. Are samples and testing notations included on pour records or diaries? (Y/N)	

4. Comments:

**Bridge CCOs:**

1. For bridge design changes, has the bridge designer authorized the change? (Y/N)	
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2. Comments:

**Approved Falsework Plans:**

1. Is there a falsework log on file showing falsework submittal history? (Y/N)	
2. Are the falsework plans properly stamped? (Y/N)	
3. Do the falsework plans include erection and stripping operations? (Y/N)	
4. Are the falsework calculations on file and complete? (Y/N)	
5. Are there records of camber and falsework deflection calculations performed by a registered engineer? (Y/N)	
6. Are there records of falsework soffit and deck grades supplied to the contractor by the Engineer, which accommodate falsework settlements and deflections and bridge camber requirements? (Y/N)	
7. Is there a letter from the contractor certifying that the erected falsework substantially meets approved falsework plans dated prior to concrete pours of bridge soffit and deck? (Y/N)	
8. Are there any records of observed falsework settlement during and after the concrete pour? (Y/N)	

9. Comments:

**Prestressing:**

1. Are the initial shop drawings for prestressing (submitted by the contractor) on file? (Y/N)	
2. Are the initial plans properly stamped? (Y/N)	
3. Is the final set of shop drawings for prestressing on file? (Y/N)	
4. Are the final plans properly stamped? (Y/N)	
5. Is there a record in the diaries to indicate that the prestressing ducts were checked for any obstruction after the soffit/deck pours and prior to placing the strand? (Y/N)	
6. Are there records of actual prestressing in the file? (Y/N)	

7. Are there records indicating the contractor's pressure gauges and jack(s) were certified and valid at time of stressing? (Y/N)	
8. Is there proper documentation of both i) actual strand elongation vs. theoretical elongation and ii) load cell readings vs. contractor gauge readings? (Y/N)	
9. Do the records show grouting was performed and include a copy of the certificate of compliance for the cement used? (Y/N)	

11. Comments:

**Profilographs (if there is a new bridge deck or if the existing bridge deck has been modified and finish surface requirements are included in the contract):**

1. Are there records showing profilographs were taken before and after deck grinding? (Y/N)	
2. Are all the profilograph records on file? (Y/N)	

3. Comments:

**Shoring Plans (if there is/was shoring on the project):**

1. Are the shoring plans properly stamped? (Y/N)	
2. Do the project records include complete shoring calculations? (Y/N)	

3. Comments:

**Welding (if there is welding in the contract):**

1. Does the contract require the contractor to have a Quality Control Plan for welding? (Y/N)	
2. If yes, is the contractor's welding Quality Control Plan on file? (Y/N)	

3. Comments: