

**FEDERAL HIGHWAY ADMINISTRATION (FHWA)
&
CALIFORNIA DEPARTMENT OF TRANSPORTATION
(CALTRANS)**



**LOCAL OVERSIGHT
ACTION PLAN (FFY2009)**

This plan provides guidelines to local agencies and Caltrans for all Federal-aid projects off the State Highway System (SHS)

APPROVED BY:

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Introduction

The purpose of the Local Oversight Action Plan (LOAP) is to specifically identify Caltrans oversight, verification and assurance for local agency Federal-aid projects off the state highway system and to ensure that the Federal-aid highway program is being carried out in substantial compliance with Federal regulations. The LOAP will provide an oversight framework that is comprehensive, ensures accountability, and yet is flexible to respond to changing risk and types of projects.

The development of the LOAP was accomplished by team members from California local agencies (cities, counties), Caltrans, and FHWA Local Programs. The team was guided by a Steering Committee (two members) consisting of the Caltrans Chief, Division of Local Assistance; and the FHWA Local Programs Director, California Division. The development included documenting the Caltrans Division of Local Assistance current oversight process and then identifying where modifications of the oversight process would lead to improved oversight.

The format of the LOAP is by both program and project-level activities. Project-level oversight activities were reviewed by project development phases (i.e. the current Local Assistance Procedures Manual (LAPM) chapters). The current oversight process was reviewed by summarizing the significant activities for the given project phase and consolidating those activities generally by bullets for later inclusion in each chapter of the LAPM. This review helped not only to evaluate the current process, but it also adds a consistent format to the LAPM chapters and a place for local agencies to quickly review roles and responsibilities as well as processes and procedures for a given project phase.

The development of the LOAP is a two-year effort. The Federal Fiscal Year 2009 (FFY2009) efforts have resulted in this Local Oversight Action Plan (FFY2009). The focus was initially on construction oversight as detailed in Chapter 16 – Administer Construction Contracts, but also has now included Chapter 9 - Civil Rights and Disadvantaged Business Enterprises, Chapter 10 - Consultant Selection, Chapter 11 – Design Standards, Chapter 12 – Plans, Specifications and Estimates, and Chapter 15 – Advertise and Award Project. Regarding Chapter 4 – Agreements, only the portions of the chapter pertaining to construction oversight have been addressed to date. Also, a number of program-level activities have been included. The remaining oversight activities will be identified and reviewed in FFY2010. The FFY2010 Local Oversight Action Plan is scheduled to be completed by September 30, 2010.

RESPONSIBILITIES

Outlined in this Local Oversight Action Plan are the Local Agency's, the District Local Area Engineer's (DLAE), and Division of Local Assistance's (DLA) responsibilities to ensure that the Local Agency Federal-aid Program is being implemented in substantial compliance with federal regulations.

1. Program-Level Oversight

A. Construction Performance Measures; Caltrans DLA will provide quarterly reports to FHWA on the following data (from LP2000):

- Total Cost at Authorization and Date
- Award Amount and Date
- Original and final number of working days for project completion
- Total Final Cost and Invoice Date

B. Construction Outreach Information Notice (COIN) will provide periodic outreach bulletins to DLAEs and Local Agencies –

- Bulletins will serve as reminders and highlight aspects of contract administration that need improvement.
- **Attachment #1** is an example of the COIN that will be used as a periodic outreach bulletin.
- The COIN will be posted on the DLA website, sent to FHWA and the DLAEs for distribution to our Local Agency partners, and sent to the DLA list server subscribers.

C. DLA and FHWA will collaborate to provide local agencies information through web conferencing.

2. Project-Level Oversight

A. New and existing responsibilities and oversight procedures for Local Agencies and Caltrans, respectively, per the Local Assistance Procedure Manual (LAPM).

B. All exhibits referred to herein are from the LAPM.

LOCAL OVERSIGHT ACTION PLAN (FFY2009)

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* To be added in FFY2010

Only areas related to construction oversight have been included, remaining areas will be included in FFY2010.

Chapter 2 – Roles and Responsibilities

Revised Exhibit 2-B FEDERAL-AID PROJECT RESPONSIBILITIES FOR DELEGATED PROJECTS OFF THE STATE HIGHWAY SYSTEM¹ (Pursuant to 2007 FHWA & Caltrans *Joint Stewardship and Oversight Agreement*)

| Project Action/Activity | Local Agency | Caltrans District | Caltrans HQ | FHWA |
|---|--------------|----------------------------|----------------------|----------------------|
| Project Authorization (Chapter 3) | | | | |
| Project Agreement and Modification [23 CFR 630.110] | Prepare | Recommend | Approve ² | Approve ³ |
| Obligate Funds | - | - | - | Approve ⁴ |
| Funding Eligibility Determinations | Prepare | Recommend | Approve | Verify ⁵ |
| Reimbursement Vouchers (interim and final) | - | - | Prepare | Approve |
| Section 1.9 Approvals of Incurred Costs. [23 CFR 1.9] | Prepare | Recommend | Recommend | Approve |
| Agreements (Chapter 4) | | | | |
| Master Agreement | Sign | File Copy | Prepare/Approve | - |
| Program Supplemental Agreement | Sign | File Copy | Initiate | - |
| Accounting/Invoices (Chapter 5) | | | | |
| Invoice | Prepare | <i>Review</i> ⁶ | Approve ⁷ | - |
| Project Eligibility | Prepare | Approve | Review | - |
| Environmental Procedures (Chapter 6) | | | | |
| 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 | - | - |
| Field Review (Chapter 7) | | | | |
| Field Review | Perform | Verify ⁸ | - | - |

¹ Delegations in the table are generally consistent with the 2007 Joint Stewardship & Oversight Agreement; omissions and current interpretations have been incorporated. Changes in delegations need to be included in subsequent Stewardship & Oversight Agreements. For High Profile Projects, delegations will be defined in those project agreements.

² Approval and signatures are needed by both Caltrans and FHWA

³ Subject to FHWA's random sample verification process

⁴ Obligation of funds is the final step by FHWA in the project authorization process

⁵ Subject to FHWA's random sample verification process. Verification is defined as routine, independent confirmation of sampled projects.

⁶ Actions in italics and highlighted such as "*Review*" indicate a change in procedures

⁷ Local Programs Accounting approve for payment, possible review by FHWA (CCPR)

⁸ DLAE participates in field review of critical, high risk, and controversial projects

| Project Action/Activity | Local Agency | Caltrans District | Caltrans HQ- | FHWA- |
|--|--------------|---------------------|--------------|---------|
| Minor ITS Project development [23 CFR 940.11] (SERF) | Prepare | Approve | - | - |
| Public Hearings (Chapter 8) | | | | |
| Public Hearing | Perform | - | - | - |
| Civil Rights & Disadvantaged Business Enterprises (Chapter 9) | | | | |
| 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 | - | - |
| Consultant Selection (Chapter 10) | | | | |
| Consultant Selection [23 CFR 172.7-172.9] | Perform | Review ¹ | - | - |
| Consultant Agreements | Approve | Review ² | - | - |
| 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 | Review ³ | - | - |
| Consultants in Management Role [23 CFR 172.9(d)] | Prepare | Review ⁴ | - | - |
| Design Standards (Chapter 11) | | | | |
| Preliminary Plans for Major and Unusual Structures | Prepare | Approve | - | - |
| Design Standards | Approve | - | - | - |
| Design Exceptions, non-Interstate [23 CFR625.3] | Approve | - | - | - |
| Experimental Features | Prepare | Recommend | Recommend | Approve |
| Value Engineering [23 CFR 627, SAFETEA-LU 1904] | Approve | Review ⁵ | - | - |
| Financial Plans for Projects from \$100 Million to \$499 Million [SAFETEA-LU 1904] | Prepare | Review | - | - |

¹ DLAE receives DBE information and may participate in consultant selection process upon request contingent upon available resources.

² DLAE coordinates review of proposed consultant contract costs, etc. with Audits & Investigations.

³ DLAE coordinates review of proposed consultant contract indirect cost rates, etc. with Audits & Investigations.

⁴ DLAE reviews completed “Conflict of Interest for Consultants in management positions” form and the procedure used to hire consultant.

⁵ For projects exceeding \$25 million on the Federal-aid system and bridge projects exceeding \$20 million, DLAE to coordinate review of local agency Value Engineering Study with District Value Analysis representative

| Project Action/Activity | Local Agency | Caltrans District | Caltrans HQ- | FHWA- |
|---|--------------------|----------------------|--------------|---------|
| Major ITS Project Development [23 CFR 940.11] | Prepare | Recommend | Recommend | Approve |
| Major Projects and TIFIA Loan Projects – Project Management Plan and Financial Plan [SAFETEA-LU 1904] | Prepare | Review ¹ | Review | Approve |
| Minor ITS Project development [23 CFR 940.11] | Prepare | Approve | - | - |
| Plans, Specifications and Estimate (Chapter 12) | | | | |
| PS&E [23 CFR 630.205, 23 USC 106] | Certify | Verify | - | - |
| Public Interest Finding (PIF) – Statewide Application | - | Recommend | Prepare | Approve |
| Environmental Commitments are incorporated | Prepare | Verify | - | - |
| PIF – Use of publicly furnished materials [23 CFR 635.407] | Approve | - | - | - |
| PIF –Use of proprietary products and processes [23 CFR 635.411] | Approve | - | - | - |
| 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 ² | - | - |
| PIF – Use of Mandatory Borrow/Disposal Sites [23 CFR 635.407] | Approve | - | - | - |
| PIF – Use of Publicly-Owned Equipment [23 CFR 635.106] | Approve | - | - | - |
| Right-Of-Way (Chapter 13) | | | | |
| 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 |
| 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 |

¹ DLAE to coordinate review with Division of Project Management

² Copy of the approved “Force Account” PIFs to be forwarded to FHWA. For ARRA projects, “force account” PIFs to be submitted to FHWA for approval

| Project Action/Activity | Local Agency | Caltrans District | Caltrans HQ- | FHWA- |
|---|----------------------|--------------------------|---------------------|----------------------|
| 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 |
| Utilities Relocation (Chapter 14) | | | | |
| Utility Agreement [23 CFR 645.113, 119] | Prepare | Approve | - | - |
| Utility Relocation [23 CFR 645 subparts A and B] | Prepare | Approve | - | - |
| Advertise & Award Project (Chapter 15) | | | | |
| Advertise Project | Prepare | Recommend | Recommend | Approve ¹ |
| 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 | - | - |
| Buy America Waiver [23 CFR 635.410] | Prepare | Recommend | Recommend | Approve |
| Innovative Contracting Requirements [SEP 14 & 15] | Prepare | Recommend | Recommend | 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 ² | - |
| Administer Construction Contract (Chapter 16) | | | | |
| Construction engineering by local agency [23 CFR 635.105] | Certify | Approve | - | - |
| Contract Administration and Inspection | Certify | Review ³ | Verify ⁴ | Verify ⁵ |
| Subcontracting Requirements [23 CFR 635.114] | Certify | - | - | - |
| Quality Assurance Program | Approve | Accept | - | - |
| Contract Change Orders (CCO) w/no increase in Federal funds | Approve ⁶ | - | - | - |
| E-76 Modification for CCO with increase in Federal funds | Prepare | Recommend | Approve | Approve ⁷ |
| Environmental Commitments (permit conditions and required mitigation) [23 CFR 771.109(b)] | Implement | - | - | - |
| Contract Time Extensions [23 CFR 635.120&121] | Approve | - | - | - |

¹ Approval for advertising is included with receipt of construction authorization for the project

² DBE date is reported to Caltrans Civil Rights

³ DLAE may randomly select areas for review.

⁴ DLA Oversight Engineers perform periodic reviews including any aspect of contract administration.

⁵ FHWA can verify any aspect of the project as part of construction field reviews.

⁶ Local agencies are financially responsible for change orders executed without additional E-76 funds

⁷ Local agencies are financially responsible for change orders executed without necessary E-76 funds

| Project Action/Activity | Local Agency | Caltrans District | Caltrans HQ- | FHWA- |
|--|----------------------|--------------------------|-----------------------|--------------|
| Termination of Construction Contract [23 CFR 635.125] | Approve ¹ | - | - | - |
| Settlement of Construction Contract Claims | Approve ² | - | - | - |
| Incentive/Disincentive Amount Justification [23 CFR 635.127] | Approve | - | - | - |
| Liquidated Damages [23 CFR 635.127] | Approve | Review | - | - |
| Materials Certification [23 CFR 637.207] | Accept | Review | Review ³ - | - |
| Reimbursement Invoice | Prepare | Review | Approve ⁴ | - |
| Project Completion (Chapter 17) | | | | |
| Final Inspection/Contract Acceptance [23 USC 114(a)] | Approve | - | - | - |
| Project Verification | Recommend | Verify | - | - |
| Final Report of Expenditures | Prepare | Approve | - | Verify |
| Post-Project Audits | - | - | Perform ⁵ | - |
| Maintenance (Chapter 18) | | | | |
| Maintenance of completed Federal-aid Projects | Perform | Review | - | - |

¹ Local agencies are financially responsible for termination agreements executed without necessary E-76 funds.

² Local agencies are financially responsible for settlement of claims without necessary E-76 funds.

³ DLA Oversight Engineers perform periodic reviews.

⁴ Headquarters Local Program Accounting performs final review of invoice prior to payment by the State which is subsequently reimbursed by FHWA.

⁵ Performed by Caltrans Audits and Investigations with assistance from DLAE.

Chapter 4 – Agreements

Outlined in this section are project roles and responsibilities for the agreements regarding the Federal-aid project.

Local Agency Responsibilities –

1. Prepare “Local Agency Agreement Checklist” (Exhibit 4-A) and the “Field Review Form” (Exhibit 7-B), if not previously submitted, for project and send to DLAE.
2. Receive Program Supplement Agreement from DLA. If there is no Master Agreement with Local Agency, send concurrently with Program Supplement Agreement.
3. Agreement(s) is signed by designated signatory or passed by resolution. Agreement(s) is sent back to DLA.
4. Receives a copy of executed agreement from DLA.

Caltrans DLAE Responsibilities –

1. DLAE is the local agency point of contact and the liaison between DLA and Local Agency.
2. Input date of local agency QAP into LP2000 with, or prior to the request for authorization of construction.

Caltrans DLA Responsibilities –

1. Prepare the Program Supplement Agreement after receiving Exhibits 4-A and 7-B from Local Agency and funds for project have been obligated and/or vote allocated by CTC. If there is no Master Agreement with Local Agency, prepare concurrently with Program Supplement Agreement.
2. Send Program Supplement Agreement to Local Agency, after funds are encumbered by Local Program Accounting.
3. Review and sign the returned Program Supplement Agreement signed by the Local Agency.
4. Copies of the executed Program Supplement Agreement are sent back to Local Agency and Local Program Accounting.
5. DLA will not allow an Authorization for Construction to go forward without an approved QAP.

Chapter 9- Civil Rights and Disadvantaged Business Enterprise (DBE)

Outlined in this section are project roles and responsibilities for the implementation of the Civil Rights and DBE requirements of the Federal-aid project.

Local Agency Responsibilities –

Title VI

- Commits to Title VI Assurances through a Master Agreement with Caltrans.
- Considers Environmental Justice during the preliminary environmental investigation process and completes the Preliminary Environmental Study (PES) form.
- Follows the guidance set forth in the Standard Environmental Reference (SER) if a project requires that a Relocation Impact Study and/or Community Impact Assessment be conducted.
- Conducts Right of Way activities in accordance with the Caltrans Right of Way Manual or approved equivalent.
- Provides the public with Title VI information and complaint procedures within each of the following Right of Way functions: Appraisals, Acquisition, Relocation Assistance Program and Property Management.
- Conducts public hearings in compliance with Title VI requirements including but not limited to accessibility and limited English proficiency.
- Provides public hearing announcements.
- Physically places the FHWA Form 1273 in all Federal-aid construction contracts.

Accessibility

- Commits to nondiscrimination assurances through Master Agreement with Caltrans.
- Completes the ADA Annual Submittal Form for Local Agencies (LAPM Exhibit 9C) and submits to DLAE by June 1st.
- Ensures that all newly constructed or altered transportation facilities are ADA compliant.
- Ensures that areas under construction provide an accessible path of travel (alternate route or otherwise).
- Develops and periodically updates self-evaluation of current agency policies and practices to ensure nondiscrimination on the basis of disability.
- Takes immediate action to resolve ADA complaints.
- Develops transition plan and tracks implementation.

- Designates an ADA coordinator.
- Adopts grievance procedures at agencies with 15 or more employees.
- Maintains accessibility of transportation facilities.

EEO Contractor Compliance

- Ensures that the appropriate contractors and subcontractors accurately and timely complete the FHWA Federal-aid Highway Construction Contractors Annual EEO Reports and forward them to the DLAEs.

Disadvantaged Business Enterprise

- Adopts the “California Department of Transportation Disadvantaged Business Enterprise Program Implementation Agreement for Local Agencies” (Exhibit 9-A) and submits to the DLAE.
- Develops an Annual Anticipated DBE Participation Level (AADPL) and submits it to the DLAE for review on the “Local Agency DBE Annual Submittal Form” (Exhibit 9-B).
- Designates a DBE Liaison Officer, who is accountable to the Chief Executive Officer of the local agency.
- Verifies DBE certification prior to award.
- Ensures the prime contractor pays all subcontractors in compliance with the prompt payment clauses of the contract.
- Submits, within 15 days of contract execution, to the DLAE, the “Local Agency Proposer DBE Information (Consultant Contracts)” form Exhibit 10-O2, and “Local Agency Bidder DBE Information (Construction Contracts)” form Exhibit 15-G2, of the LAPM.
- Submits to the DLAE upon completion of the contract the “Final Report-Utilization of Disadvantaged Business Enterprise (DBE), First-Tier Subcontractors” form (LAPM Exhibit 17-F).
- Confirms that DBE is performing a commercially useful function.
- Ensures that bidder has met the contract goal, or has made adequate good faith efforts to meet the contract goal.

District Local Assistance Engineer Responsibilities –

Title VI

- Attends significant local agency public hearings and public involvement meetings to ensure that the hearings are accessible for persons with disabilities; interpreters are present for individuals who have limited English proficiency; and the concerns of the minority and low income populations are represented
- Reviews PS&E packages to ensure inclusion Form 1273 in accordance with the LAPM, Chapter 12.

Accessibility

- Ensures that local agencies complete the LAPM Exhibit 9-C before Federal funding is authorized.
- Participates in Field Reviews at project initiation to ensure planned facilities will be ADA compliant.
- Reviews the PS&E checklist and package for ADA compliance in accordance with the LAPM, Chapter 12.
- Reviews the job site and verifies completion and that all Federal and State accessibility requirements have been met.

EEO Contractor Compliance

- Collects FHWA Federal-aid highway construction contractors' annual EEO reports and forwards them to the DLA.
- Reviews the PS&E checklist for EEO compliance (Form 1273) in accordance with the LAPM, Chapter 12.

Disadvantaged Business Enterprise

- Monitors local agency compliance with DBE program requirements by conducting informal process reviews.
- Ensures that before Federal funding is authorized that local agencies submit the local agency's "California Department of Transportation Disadvantaged Business Enterprise Program Implementation Agreement for Local Agencies" (Exhibit 9-A). Input execution date into LP2000
- Reviews and approves the "Local Agency DBE Annual Submittal Form" (Exhibit 9-B) before project authorization. Input approval date into LP2000.
- Reviews and approves the "zero" contract goal methodology.
- Upon receipt of the "Local Agency Proposer DBE Information (Consultant Contracts)" form Exhibit 10-O2, and "Local Agency Bidder DBE Information (Construction Contracts)" form Exhibit 15-G2 are reported to the DLA for inclusion in the Federal Semi-Annual Uniform Report of DBE Commitments/Awards and Payments the DLAE reviews and forwards these documents to DLA within 5 working days.
- Upon receipt of the "Final Report-Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subcontractors" (for consultant and contractors) (Exhibit 17-F)) is reported to the DLA for inclusion in the Federal Semi-Annual Uniform Report of DBE Commitments/Awards and Payments to FHWA, the DLAE reviews and forwards these documents to DLA within 5 working days.
- Reviews the PS&E checklist and package for DBE compliance in accordance with the LAPM, Chapter 12.

- Maintains a file with an index of all local agency's DBE Implementation Agreements and DBE Annual Submittal Forms. Enters information from forms into LP2000.

District Environmental Planner Responsibilities –

Title VI

- Processes the Preliminary Environmental Studies in accordance with State and Federal Environmental laws.

Division of Local Assistance Responsibilities –

Title VI

- Provides policy and procedures in the LAPM regarding Title VI of the Civil Rights Act of 1964, Limited English Proficiency and Environmental Justice.
- Provides Title VI resource information on the DLA website.
- Conducts local agency Title VI Compliance Reviews annually.

Accessibility

- Provides policy and procedures in the LAPM regarding State and Federal accessibility laws and regulations.
- Provides local agency ADA reference information on the Division of Local Assistance website. Notifies the local agency when FHWA and/or Caltrans receive ADA complaints against it.
- Ensures that Exhibit 9-C approval date is contained in LP2000 prior to processing project authorizations.

EEO Contractor Compliance.

- Notifies local agencies annually to complete the FHWA Federal-aid Highway Construction Contractors Annual EEO Report.
- Coordinates reporting and forwards reports to Civil Rights Program.

Disadvantaged Business Enterprise

- Provides assistance to DLAE and district staff with questions/issues relative to DBE matters.
- Monitors local agency compliance with DBE program requirements by conducting process reviews. The FHWA is invited to participate in these process reviews.
- Compiles statewide local agency DBE final utilization information and other information for reports to FHWA.
- Coordinates and provides training courses for district and local agency staff
- Ensures that Exhibit 9-A and 9-B approval dates are contained in LP2000 prior to processing project authorizations.

Chapter 10 – Consultant Selection

Outlined in this section are project roles and responsibilities for procuring and administering consultant contracts for a Federal-aid project.

Local Agency Responsibilities –

A. General

1. The local agency is responsible for selecting and initiating a Federal-aid and/or state funded transportation project. The local agency must identify the project’s objectives including the general level of improvement or service, operating standards, and the target date for project completion.
2. The local agency identifies if a consultant is needed. The local agency is responsible for notifying the DLAE if Federal-aid or state funds are to be requested for the project segment to be contracted out for consultant services.
3. Local agencies must receive from FHWA (Federal funded projects) an “Authorization to Proceed” with the work prior to the performance of any work for which Federal reimbursement is requested. Copies of the “Authorization to Proceed”, consultant contract, and other records must be retained for 3 years after final reimbursement in local agency project files.
4. Disadvantaged Business Enterprise (DBE) responsibilities (applicable to Federally funded contracts only):
 - a. The local agency shall assure that certified DBE firms have the opportunity to participate in the performance of Federal funded contracts and shall take all necessary and reasonable steps for such assurance including the reporting of DBE participation.
 - b. The local agency shall ensure the following Required Contract Provisions (including exhibits) are in the contract:
 - (1) Disadvantaged Business Enterprise
 - *Notice to Bidders/Proposers Disadvantaged Business Enterprise Information* (Exhibit 10-I)
 - *Standard Agreement for Subcontractor/DBE Participation* (Exhibit 10-J)
 - *Local Agency Proposer-UDBE/DBE (Consultant Contract)-Information* (Exhibits 10-O1 & 10-O2)
 - *Final Report-Utilization of DBE, First-Tier Subcontractors* (Chapter 17, Exhibit 17-F)
 - (2) Federal Lobbying Restrictions, Title 31 U.S.C. Section 1352
 - *Nonlobbying Certification for Federal-aid Contracts* (Exhibit 10-Q)
 - *Disclosure of Lobbying Activities, Standard Form – LLL and Instructions* (Exhibit 10-R)
 - c. For Federally funded contracts, local agencies shall ensure all consultant firms submitting proposals for consultant contracts with race-conscious goals have either met the specified DBE goal or have made good faith efforts to meet the goal.
 - d. The local agency is responsible for the timely submittal to the DLAE of completed Exhibit 10-O2 “Local Agency Proposer/Bidder DBE (Consultant Contract) Information” at time of award.
 - e. The local agency sends one copy of the completed “Final Report-Utilization of Disadvantaged Business Enterprises (DBE) First-Tier Subcontractors” with the final

invoice to the DLAE within 30 days after completion of the contract for purposes of reporting DBE utilization.

5. In those instances where a local agency elects to use consultants for construction engineering services, the local agency shall provide a full-time employee of the agency to be in responsible charge of the project.

6. The local agency is responsible for appointing the Contract Administrator. The Contract Administrator is responsible for ensuring the quality of consultant contract products or services. The Contract Administrator is appointed as soon as the need for consultant services is identified.

7. The local agency is responsible to ensure the scope of work is clear, concise, complete, and describes the deliverables and deadline.

8. The local agency is responsible for developing a schedule for performance of work and timely completion of the project including consultant contract work.

9. The local agency shall ensure the consultant's organization and all associated consultants and subcontractors are identified to the local agency at the time of the proposal. The local agency shall ensure subcontracts exceeding \$25,000 for work, or services contain all required provisions of the prime contract.

10. When applicable, the local agency shall include the California State Prevailing Wages Section 1720 of the *State Labor Code* and, if Federally funded, Federal Davis-Bacon wages applicable to laborers and mechanics employed directly on the site of the work.

11. The local agency is responsible for determining and specifying the type of contract from the four types permitted:

- Actual Cost-Plus-Fixed Fee
- Cost per Unit of Work
- Specific Rates of Compensation
- Lump Sum

12. The local agency is responsible to prepare an independent cost estimate for consultant contracts (required for contracts over \$100,000) to ensure that consultant services are obtained at a fair and reasonable price.

13. The local agency is responsible for ensuring a pre-award audit is performed for consultant contracts with state or Federal-aid highway funds in contracts exceeding \$250,000 and for contracts of lesser amounts if identified as a "high risk" contract.

14. The local agency is responsible to ensure the consultant performs the work required under the agreement in an acceptable manner per the contract.

15. For projects on the Federal-aid system with a total project cost of \$25 million or more, and bridge projects with a total project cost of \$20 million or more, the local agency is responsible to ensure a "value engineering analysis" is performed on these projects.

16. A Public Interest Finding is required to be prepared by the local agency and be approved by Caltrans for a noncompetitive (sole source) negotiated contract. The local agency must carefully document details of the special conditions and approval, and retain them in the files.

17. Local agencies are responsible to ensure all contract amendments (sometimes called Supplemental Agreements) are in writing and fully executed by the consultant and local agency before reimbursable work begins on the amendment.

18. Local agencies are responsible for timely close out of consultant contracts. If the contract was for preparation of PS&E, environmental, preliminary material testing and/or material reports, or preliminary surveys, such closeouts should be delayed within the requirements of the "Timely Use of Fund" policy until after physical construction of the project is completed, and all construction claims are settled.

19. Local agencies should prepare a detailed evaluation of the consultant's performance at completion which will be helpful to other local agencies considering the use of the same consultant.

20. Local agencies (subgrantee) shall be responsible to comply with the following:

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

B. Architectural and Engineering (A&E) Consultant Contracts

1. The local agency is responsible for identifying, defining the need, and the selection of Architectural and Engineering (A&E) Consultants and segmenting the consultant work appropriately.

2. Local agencies are responsible to follow the provisions of the Brooks Act (40 USC 544) to award Federally funded engineering and design contracts on the basis of fair and open competitive negotiations, demonstrated competence, and professional qualifications (23 CFR, Section 172). Cost may not be included as criteria for rating competing consultants.

3. Local agency responsibilities according to California State laws pertaining to A&E Consultants - Those private consulting firms providing architectural, landscape architectural, engineering, environmental, land surveying, or construction project management services are termed "Architectural and Engineering (A&E) Consultants." California law requires selection of A&E contract services on the basis of demonstrated competence and professional qualifications. Cost may not be included as criteria for rating such consultants.

4. The local agency shall normally choose and follow one of three methods used in

selecting a consultant. They are:

- One-Step Request for Proposals (RFP)
- One-Step Request for Qualifications (RFQ)
- Two-Step Request for Qualifications/Proposals (RFQ/RFP)

5. The local agency shall initiate negotiations with the most qualified consultant. Should negotiations not result in a price the local agency considers to be fair and reasonable, negotiations shall be formally terminated and the local agency shall then undertake negotiations with the second most qualified consultant; etc.

6. The local agency should consult with the DLAE before making major changes to the suggested approach, criteria and relative weights to be included in the RFP. Exhibit 10-B, "Suggested Evaluation Sheet" is a recommended evaluation sheet with criteria and rating points for A&E consultants, where cost is not used as a rating factor. This format is not mandatory, but it is recommended in the interest of developing consistency among the hundreds of agencies and consultants operating in the state.

C. Non-Architectural and Engineering (A&E) Consultants

1. The local agency is responsible for identifying, defining the need, and the selection of the Consultants and segmenting the consultant work appropriately.

2. Local agencies may select consultants, other than A&E consultants, by using cost as one of, or the sole selection criteria.

3. The local agency should consult with the DLAE before making major changes to the suggested approach, criteria and relative weights to be included in the RFP. Exhibit 10-B, "Suggested Evaluation Sheet" is a recommended evaluation sheet with criteria and rating points for A&E consultants, where cost can be included as a rating factor. This format is not mandatory, but it is recommended in the interest of developing consistency among the hundreds of agencies and consultants operating in the state.

D. Contracts under \$100,000 using Small Purchase Procedures

1. Local agencies are responsible for the use of "Small Purchase Procedures" for consultant services, or personal engineering services costing in aggregate no more than \$100,000 per contract in which price or rate quotation may be considered in the selection.

2. Competition is required and at least 3 bids or quotes should be received and documented in writing. The contract may be awarded to the firm that provides the "best value" to the local agency and not necessarily to the low bidder.

E. Consultant Contracts providing consultants in local agency management positions

1. A personal services contract is characterized by the employer-employee relationship created between the local agency and the contract personnel

2. When personal engineering services less than \$100,000 are needed and Federal and/or state reimbursement will be sought; these services may be obtained through Small Purchase

Procedures up to a limit of \$100,000 each. The \$100,000 is a cumulative limit for services provided by any individual consultant or consulting firm.

3. For personal engineering services greater than \$100,000 Local agencies are responsible to follow the provisions of the Brooks Act (40 USC 544) to award Federally funded engineering and design contracts on the basis of fair and open competitive negotiations, demonstrated competence, and professional qualifications (23 CFR, Section 172). Cost may not be included as criteria for rating competing consultants.

4. Personal services must be under the direction and control of a full-time employee of the local agency in responsible charge.

5. Compensation for construction engineering services should be based on actual costs incurred, plus-a-fixed fee, or in the case of individual compensation on an agreed-upon hourly or daily rate. Lump sum payments should not be used for construction engineering services.

6. For personal service contracts, the following information must be documented by the local agency and retained in the project files:

- Explanation of the services needed, and why they cannot be provided by the local agency.
- Name and qualification of the consultant, who provided the services.
- Documentation of the fees showing how the fee was calculated, and that it is reasonable by comparative standards.

7. For State funded personal engineering services greater than \$100,000 Local agency responsibilities according to California State laws pertaining to A&E Consultants are - Those private consulting firms providing architectural, landscape architectural, engineering, environmental, land surveying, or construction project management services are termed "Architectural and Engineering (A&E) Consultants." California law requires selection of A&E contract services on the basis of demonstrated competence and professional qualifications. Cost may not be included as criteria for rating such consultants.

Caltrans Responsibilities –

A. DLAE is responsible for the following project objectives:

1. Assisting local agencies with Federal funded projects and ensuring all requirements have been met by local agencies so they can obtain an "Authorization to Proceed" with the "preliminary engineering" and/or "right of way" phases of their projects prior to the performance of any work for which Federal reimbursement is requested.

B. DLAE is responsible for the following consultant contract objectives:

1. Assisting local agencies once they notify the DLAE there is a need to solicit assistance from another local agency, or to use a consultant, and if Federal-aid or state funds are to be requested for the project segment to be contracted out.
2. Ensuring pre-award audits are performed on local agency consultant contracts prior to the contracts being consummated.

3. DLAE to receive and review a signed copy of “Exhibit 10-K Audit Disposition” to ensure that if a pre-award audit is required, that it is either performed by Caltrans Audits and Investigations or by a local agency hired CPA.
4. DLAE to receive and review a signed copy of “Exhibit 10-L Pre-Award Audit Notification Letter” stating that the local agency is executing a pre-award audit agreement and contracting with a CPA firm (name to be stated) to perform the pre-award audit following “Generally Accepted Government Auditing Standards” as designated in “Standard Audit Program Procedures, Exhibit 10-M”.
5. DLAE to receive and review a copy of the “Pre-award Audit” final report prepared by local agency’s CPA or Caltrans Audits and Investigations.
6. Ensuring local agencies submit completed “Local Agency Proposer/Bidder DBE (Consultant Contract) Information” immediately after award. DLAE is responsible for entering the data into LP2000.
7. Ensuring the local agency submits the “Audit Disposition” signed by the local agency financial officer at completion of the pre-award audit.
8. Ensuring local agencies send one copy of the completed “Final Report-Utilization of Disadvantaged Business Enterprises (DBE) First-Tier Subcontractors” with the final invoice to the DLAE within 30 days after completion of the contract. DLAE is responsible for entering the data into LP2000 to report DBE utilization.
9. At the option of the local agency and subject to availability of the DLAE staff, participation by a Caltrans district representative may participate in the local agency’s Consultant Selection Committee.
10. After being consulted by a local agency regarding the criteria and relative weights included in Exhibit 10-B “Suggested Evaluation Sheet,” the DLAE is responsible to advise the local agency regarding local agency major changes to this suggested approach.
11. DLAE to receive and review a copy of Exhibit 10-C “Consultant Agreement Reviewers Checklist” after it has been signed by the local agency’s Contract Administrator and sent to the DLAE for review within 30 days after award of the contract.
12. DLAE to receive and review a signed copy of “Exhibit 10-G Certification of Local Agency” stating there was no express or implied condition in connection with obtaining or carrying out this Agreement to:
 - (a) employ, retain, agree to employ or retain, any firm or person, or
 - (b) pay or agree to pay, to any firm, person or organization, any fee, contribution, donation, or consideration of any kind.
13. Review and approve/disapprove Public Interest Finding submitted by the local agency to enter into a noncompetitive (sole source) negotiated contract. Retain documents in the files.
14. For local agencies with consultants in management positions, DLAE to review and approve the local agency’s consultant selection process and procedures including the members of the selection committee (alternative is to have local agency submit certifications and proof of no conflict of interest occurring in the selection process).

C. Audits & Investigation's (A&I's) Role

1. To audit or examine the local agency Federal-aid Consultant contracts to determine whether the Consultant's financial management system and contract costs are in compliance with the 48 Code of Federal Regulations, Chapter 1, Part 31.
2. A&I evaluates the financial risk of Consultant contracts using a risk based assessment approach to determine the nature and extent of work to perform (i.e. incurred cost audit, pre-award audit, review the CPA's overhead audit, or other analytical procedures) to minimize the risk of non-compliance to the Department.

Proposed Revision to Section 10.8

10.8 MISCELLANEOUS CONSIDERATIONS

RETAINING A CONSULTANT AS AN AGENCY ENGINEER

A local agency may retain qualified consultants on its staff in professional capacities such as i) agency consultant engineers or architects, or ii) public agency officials such as City Engineer (or equivalent). The agency consultants can be an individual or a firm providing professional and/or management services.

Eligibility for Federal and/or state reimbursement for local agency engineering (or equivalent) services require the following:

- Compliance with the selection procedures specified in this chapter.
- Existence of a contract between the local agency and the consultant specifying the local agency engineering services to be performed.
- Written designation by the local agency of the responsibilities and authority of the consultant as an agency engineer.
- Completion by the consultant designated as an agency engineer of the conflict of interest for public agency officials “Form 700” as required by State law.
- For a State funded or Federal-aid project, completion of a “Conflict of Interest (Exhibit 10-xx” form by all members (both consultants and employees) participating in the Architect & Engineering (A&E) Selection Panel pertaining to the specific selection process and the firms being considered.
- For a State funded or Federal-aid project, a local agency consultant in a management role shall not:
 - (1) Participate in, or exercise authority over the A&E selection process if that consultant’s firm is one of the proposing firms, or a sub-consultant to a proposing firm.
 - (2) Participate in, or exercise authority over management of work performed by the consultant’s firm, or to a consultant’s firm of which the local agency consultant firm is a sub-consultant. This would include, but not limited to, managing or directing the work, approving changes in the schedule, scope, or deliverables; and approving invoices.
 - (3) Apply for or receive reimbursement of Federal-aid funds for the local agency’s Federal-aid project if (1) or (2) has occurred. However reimbursement for the construction contract of the project will still be allowed provided all Federal-aid requirements had been met.
- For a State funded or Federal-aid project, completion of a “Conflict of Interest (Exhibit 10xx1” form by all engineering staff in management positions (both consultants and employees) that exercise authority over the Architect & Engineering (A&E) Selection Panel pertaining to the specific selection process and the firms being considered
- Selection of consultants shall be by the use of qualification based selection procedures on an open and competitive basis resulting in a contract with defined beginning and ending dates and awarded within the last five (5) years and if extended, only annually by contract amendments approved by local agency Board of Supervisors, City Council etc.

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

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

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

Proposed Exhibit 10-XX “Conflict of Interest for Selection Panel”

Conflict of Interest
And
Confidentiality Statement
RFP/RFQ {Insert procurement number}
{Insert Project Name}

APPLICABILITY: Applicable to local agency consultant procurements which will contain Federal or State funds in the consultant contract.

- I am an employee of the local agency that is responsible for this procurement.
- I am an employee of a consultant under contract to the local agency that is responsible for this procurement but I am not in a management position with the local agency.
- I have a personal, financial, or business interest in past employment activity or a personal relationship regarding the firms (including sub-consultants) that are the subject of this evaluation. A brief description is provided on the back of this form.
- I certify that I have no current contractual relationship with any of the firms (including sub-consultants) that are the subject of this evaluation.
- I certify that I have no personal or financial interest and no present or past employment activity or personal relationship or prior contractual relationship which would be incompatible with my participation in this solicitation process and I am fully able to give full, fair and impartial consideration to all proposals/bids as an appointee to the related evaluation.
- I certify that I have read the attached **49 CFR 18.36(b)(3)** and I agree not to participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved.

Note: Caltrans is the Grantee and the local agency is the sub-grantee.

I fully understand and agree to immediately disqualify myself as soon as I am aware of a conflict of interest that may compromise my fair and impartial consideration of the proposals/bids.

I certify that I will hold in the strictest confidence all bids, proposals, correspondence, memoranda, working papers, or any other media which has any bearing on, or disclose any aspect of, any respondent or potential respondent to the RFP/RFQ above. I will not discuss the evaluation process with anyone no involved in the evaluation process until its completion.

I fully understand that it is unlawful for a person to utilize any organization name or auxiliary organization information, which is not a matter of public record, for personal gain.

I fully understand that any violation of the above is a basis for disciplinary action, up to and including termination and/or referral to the appropriate authorities for further investigation.

I am aware that the following firms and sub-consultants/sub-contractors have submitted proposals in response to the above referenced solicitation:

{List firms including sub-consultants/sub-contractors}

- 1.
- 2.
- 3.
- etc.

Date_____

Signed:_____

Name:_____

Title:_____

Dept./Organization:_____

Employer: _____

CONTRACT ADMINISTRATOR'S REVIEW

I have reviewed the foregoing "Conflict of Interest and Confidentiality Statement" and have determined, according to the information provided, that this individual:

- does not have a conflict of interest and can participate in the "Selection Panel"
- does have a conflict of interest and cannot participate in the "Selection Panel"

Date_____

Signed: _____

Name: _____

Title: _____

Dept. /Organization:_____

Employer: _____

Original: Local Agency Consultant File

ATTACHMENT

49CFR 18.36(b)(3) Grantees and subgrantees will maintain a written code of standards of conduct governing the performance of their employees engaged in the award and administration of contracts. No employee, officer or agent of the grantee or subgrantee shall participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

- (i) The employee, officer or agent,
- (ii) Any member of his immediate family,
- (iii) His or her partner, or
- (iv) An organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award. The grantee's or subgrantee's officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to subagreements. Grantee and subgrantees may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value. To the extent permitted by State or local law or regulations, such standards or conduct will provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the grantee's and subgrantee's officers, employees, or agents, or by contractors or their agents. The awarding agency may in regulation provide additional prohibitions relative to real, apparent, or potential conflicts of interest.

Proposed Exhibit 10-XX1 “Conflict of Interest for Consultants in Management positions”

Conflict of Interest
And
Confidentiality Statement
(Consultant in Management Position)
RFP/RFQ {Insert procurement numbers}
{Insert Project Names}

APPLICABILITY: Applicable to local agency consultants in management positions in which the local agency has or plans to have one or more consultant contracts containing Federal or State funds.

- 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 sub-consultant.
 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 competing as a consultant or sub-consultant
 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 sub-consultant. 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 the attached **49 CFR 18.36(b)(3)** 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.
- 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 and/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 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 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 and/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: _____

Copy to: DLAE for each Federal/State funded project and returned by DLAE with signature.

ATTACHMENT

49CFR 18.36(b)(3) Grantees and subgrantees will maintain a written code of standards of conduct governing the performance of their employees engaged in the award and administration of contracts. No employee, officer or agent of the grantee or subgrantee shall participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

- (i) The employee, officer or agent,
- (ii) Any member of his immediate family,
- (iii) His or her partner, or
- (iv) An organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award. The grantee's or subgrantee's officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to subagreements. Grantee and subgrantees may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value. To the extent permitted by State or local law or regulations, such standards or conduct will provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the grantee's and subgrantee's officers, employees, or agents, or by contractors or their agents. The awarding agency may in regulation provide additional prohibitions relative to real, apparent, or potential conflicts of interest.

Chapter 11 – Design Standards

Outlined in this section are project roles and responsibilities for the development of the design standards of the Federal-aid project.

Local Agency –

1. Identifies appropriate design standards:
 - a. If the project is on the SHS → Caltrans design standards.
 - b. If the project is 3R and off the NHS → minimum design standards included in LAPM Exhibit 11-A.
 - c. If the project is new construction or a reconstruction project → AASHTO Green Book design standards.
 - d. If the project is off the NHS → local design standards may be used if they have been: 1) approved by the County Board of Supervisors or the City Council; 2) signed & stamped by the City/County Public Work Director who is a California (CA) registered Civil engineer (or delegated to the highest-level CA registered Civil Engineer); and 3) the design standards are reviewed for possible updating whenever the applicable AASHTO standards are updated.
 - e. If the project is a bridge project → Caltrans bridge design specifications.
2. Ensures that all facilities are designed in full compliance with 49 CFR “Part 27 – Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance” or Title 24 of CA Code of Regulations, whichever is more stringent.
3. If state funds are used on the project, ensures that all facilities are in compliance with Title 24 of CA Code of Regulations by obtaining Department of General Services written approval of plans.
4. If the project is a bridge project:
 - a. Documents all deviations from accepted bridge design railing standards. Procedures should be justified and documented in project files.
 - b. Performs a foundation investigation and report unless waived by a CA registered Civil Engineer. Retain waiver in project files.
 - c. Has technical engineering reports prepared by a CA registered Civil Engineer.
 - d. Conducts scour evaluations for bridges over water.
 - e. Performs hydraulic studies if a waterway is involved.
5. Prepares design exceptions for the following design criteria: design speed; cross slope; land and shoulder width; super-elevation; horizontal and vertical alignment; horizontal and vertical clearance; stopping sight distance; bridge width; and grade.
 - a. For projects on SHS, submit the design exception to Caltrans for approval.
 - b. For projects off the SHS, prepare and approve design exceptions for the following design criteria: design speed; cross slope; land and shoulder width; super-elevation; horizontal and vertical alignment; horizontal and vertical clearance; stopping sight distance; bridge width; and grade.

- c. Approval of the design exceptions shall be signed & stamped by the Public Works Director who is a CA registered Civil Engineer (or delegated to the highest-level CA registered Civil Engineer).
6. Maintains a design exception tracking system.
7. For high-risk ITS projects, ensures that the SERF is completed and PE2 is approved prior to proceeding to detailed component design.

Caltrans DLAE –

1. Receives, coordinates within Caltrans and obtains approval/disapproval of design exceptions for projects on the SHS.

Chapter 12 – Plans, Specifications and Estimates

Outlined in this section are project roles and responsibilities for the development of the plans, specifications, and estimates.

Local Agency –

1. Proceeds with final design only after the final environmental decision is made (i.e. CE, finding of no significant impact or record of decision).
2. Prepares plans, specifications and estimate (PS&E) for Federal-aid projects off the SHS and certifies the project PS&E complies with all applicable Federal and state regulations and procedures including but not limited to:
 - Deciding on appropriate standard plans:
 - For projects off the SHS → Caltrans Standard Plans or *Standard Plans for Public Works Construction*.
 - For projects on the SHS → Caltrans Standard Plans.
 - Deciding on appropriate standard specifications:
 - For projects off the SHS, → Caltrans Standard Specifications or *Standard Specifications for Public Works Construction*.
 - For projects on the NHS → local standard specifications may be used if they have been reviewed and approved by Caltrans.
 - translating permit conditions and restrictions into the final design;
 - environmental commitments, as appropriate;
 - erosion control;
 - traffic control plan;
 - transportation management plan, as appropriate; and
 - Americans with Disabilities Act requirements in design, as appropriate.
3. Prepares financial plan for projects of \$100 million or more. Submits the financial plan to DLAE no later than ninety days prior to authorization of funds for construction.
4. When a bridge or major structure is involved, the local agency may request a cursory review of the structural designs by Caltrans Division of Structures, Local Assistance.
5. When applicable, prepares public interest finding (PIF) for the following: 1) to reduce the advertising period to less than 3 weeks, 2) for the use of force account work, or 3) to use a non-competitive contracting method (sole source); and submits to the DLAE for approval. Each PIF and approval should be retained in the project files.
6. Prepares and approves PIFs for the following: 1) the use of publicly owned equipment, 2) the use of proprietary items, 3) the use of local agency furnished material, or 4) the use of a mandatory borrow/disposal site. Each PIF and approval should be retained in the project files.
7. Develops notice to bidders, special provisions, and bid and contract documents. Ensures that the completed contract includes FHWA Form 1273, and DBE goals when applicable.
8. Prepares preliminary cost estimates.

9. Performs value engineering (VE) analysis as appropriate (any project on the NHS >\$25 million and bridge projects > \$20 million). Submits a copy of the VE analysis to the DLAE.
10. Prepares PS&E Checklist and Certification letter (LAPM Exhibits 12-C and 12-D).
11. Submits the following documents to the DLAE: 1) plans (two copies for bridge projects); 2) special provisions (two copies for bridge projects); 3) preliminary cost estimate; 4) PS&E Certification letter and Checklist; 5) Field Review form (if not previously submitted); 5) Finance Letter; 6) approved NEPA document (if not previously submitted); and 7) Request for Construction Authorization.

Caltrans DLAE –

1. For complex projects, Caltrans staff may assist in the translation and proper transfer of environmental commitments into the final design package.
2. Forwards the local agency VE analysis to the District Value Analysis Coordinator (DVAC) that is responsible for the project. Indicate in LP2000 that a VE analysis was completed for the project.
3. Reviews and approves PIFs for the following: 1) reducing the advertising period to less than 3 weeks; 2) for the use of force account work; or 3) for the use of non-competitive contracting method (sole source).
4. Reviews and accepts each PS&E Checklist to ensure that the local agency has completed the form in accordance with the instructions in the LAPM
5. Reviews one PS&E submittal (plans, special provisions and estimate) per year for each local agency for conformance with Local Assistance Procedures Manual. If deficiencies are identified in the PS&E submittal, the DLAE works with the local agency to correct deficiencies, and reviews subsequent submittals of the PS&E until deficiencies have been corrected. Record review of the PS&E package in LP2000.

Caltrans District Value Analysis Coordinator (DVAC) –

Reports annually to FHWA on the number of VE analyses completed during the fiscal year.

Proposed Revision to:

“LOCAL ASSISTANCE PROCEDURES MANUAL, PS&E CHECKLIST, EXHIBIT 12-D”

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 *and the plans* portion of the subject project PS&E package. I am aware of the scope of the project. I have reviewed this “PS&E CHECKLIST” *with the specifications and the plans*, and agree the “PS&E CHECKLIST” 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: _____



Using the Internet for Federal Wage Rates

I. BACKGROUND

The mandatory payment of predetermined minimum wage rates on federal-aid contracts is derived from the Davis-Bacon Act of 1931 as prescribed by 23 USC 113. The applicable “federal wage rates” must be physically inserted in the special provisions of the final contract package on all Federal-aid highway construction contracts and all related subcontracts exceeding \$2,000, except for projects not located on Federal-aid routes (Note: Federal wage rates are applicable to all Recovery Act (ARRA) funded projects even if they are located on local roads or rural minor collectors). Presently the federal wage rates may consist of numerous pages and add considerable bulk to the contract package that is advertised and made available for bidders to review and use for preparing their bids. Also presently during the advertising period, any updates or revisions to the federal wage rates that occur up to 10 days before bid opening require an addendum be issued to all bidders and plan holders which physically include the revised federal wage rates.

Caltrans recently performed a test study of the advertising of federal-aid construction contracts by listing the Internet Website address where the applicable federal wage rates can be found instead of physically including the applicable federal wage rates in the contract package during advertising. As a result of the test study, the determination was made to continue using the Internet Website address during advertising rather than physically including the applicable federal wage rates.

II. POLICY

During the advertising period, the applicable federal wage rates no longer need to be physically included in the advertising package for local agency Federal-aid contracts. However if not physically included in the advertising package, the applicable federal wage rates must be referenced with an Internet Website address where they can be found. Any 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 Website address of where the revisions can be found.

However, the final contract documents signed by the local agency and the contractor, including subcontracts, must still physically contain the applicable federal wage rates as revised by addendums, if any such addendums were issued.

III. PROCEDURE

- A. Section 12.9 of the LAPM is revised as shown in Attachment 1 to this Office Bulletin.
- B. Exhibit 12-D of the LAPM is revised as shown in Attachment 1 to this Office Bulletin.
- C. Exhibit 12-E of the LAPM is revised as shown in Attachment 1 to this Office Bulletin.



IV. APPLICABILITY/IMPACTS

Applicable to all local agency Federal-aid construction projects over \$2000 except those located on roadways classified as local roads or rural minor collectors (Note: Federal wage rates are applicable to all Recovery Act (ARRA) funded projects even if they are located on local roads or rural minor collectors). Impacts to Chapter 12 of the LAPM are as noted in Attachment 1 of this Office Bulletin.

Recommended: Eugene Shy 7/13/09
Eugene Shy, Committee Chair Date

Approved: Mohsen Sultan 7/13/09
Mohsen Sultan, Office Chief Date

Attachments:

Attachment 1 – Revisions to Chapter 12 of the Local Assistance Procedures Manual (LAPM)



Expires – When LPP is issued

Revisions (in italics) to Chapter 12 of the Local Assistance Procedures Manual (LAPM)

A. SECTION 12.9 OF THE LAPM IS REVISED TO READ:

FEDERAL WAGE RATES

The payment of predetermined minimum wages on federal-aid contracts is derived from the Davis-Bacon Act of 1931 and is prescribed by 23 USC 113. The applicable wage rates must be *physically* inserted in the special provisions of the final contract on all federal-aid highway construction projects exceeding \$2,000 and all related subcontracts, except for projects located on roadways classified as local roads or rural minor collectors, which are exempted. *Notes: Federal wage rates are applicable to all Recovery Act (ARRA) funded projects even if they are located on local roads or rural minor collectors.*

The federal minimum wage rates are available directly from Department of Labor Home Page under www.gpo.gov/davisbacon. Click on "Browse All Determinations By State" then click on "California". For local agencies in California to be in conformance with the federal "10-day rule," local agencies are to access the "Federal Wage Rates" ten days prior to bid opening to see if updated federal wage rates have been posted. If updated wage rates have been posted, local agencies are required to issue an addendum and to insert the updated wage rates in their final contract package.

Federal wages rates are not required to be physically included in the contract advertising package provided they are referenced to an Internet Website address where they can be found. However, it must be emphasized that if a Internet website address is used in the advertising package, the final contract package signed by the local agency and the contractor must physically contain the federal wage rates as revised by addendums, if any addendums were issued.

Local agencies that do not have Internet access, please contact your District Local Assistance Engineer to receive federal wage rates.

B. EXHIBIT 12-D, PS&E CHECKLIST SUBPARAGRAPH "H." UNDER "XII REQUIRED FEDERAL CONTRACT PROVISIONS" IS REVISED TO READ:

H. Federal Wage Rates (Check appropriate box and indicate page number if Federal Wages Rates are included)

- | | | |
|--------------------------|---|----------------|
| <input type="checkbox"/> | Federal Wages Rates are physically incorporated into this contract advertising package. | Page No. _____ |
|--------------------------|---|----------------|

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

- | | |
|--------------------------|--|
| <input type="checkbox"/> | <i>Federal Wages Rates are not physically incorporated in the contract advertising package but are referenced to an Internet Website 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 Website 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 the Federal Wage Rates as revised by addendums, if any such addendums have been issued.</i> |
|--------------------------|--|



- This project is not located on a Federal-aid Route. Federal Wage Rates are not required. *(Note: Federal wage rates are applicable to all Recovery Act (ARRA) funded projects even if they are located on local roads or rural minor collectors.)*

C. EXHIBIT 12-E, PS&E CHECKLIST INSTRUCTIONS (PARAGRAPH “H. FEDERAL WAGE RATES” UNDER SECTION “XII. REQUIRED FEDERAL CONTRACT PROVISIONS”) IS AMENDED TO READ:

H. FEDERAL WAGE RATES

If payment of federal predetermined wages are required per instructions in *Subparagraph B.2.a. “Section IV. Payment of Predetermined Wages,”* they shall be physically incorporated into the *final contract documents* and in all related subcontracts *signed by the local agency and the contractor.*

Check appropriate box (i.e. Federal Wages Rates are included in the *contract advertising package, referenced by Internet Website address,* or not required) and indicate page number if *applicable.*

It must be emphasized that if the Internet Website address is used in the advertising package, the final contract package upon being signed by the local agency and the contractor, must physically contain the Federal Wage Rates or the Federal Wage Rates as revised by addendums, if any addendums were issued.

By checking the box, the local agency is indicating that they are aware of the federal-aid “10-day rule” for federal wage rates. See section 12.9 Required Federal Contract Provisions – Federal Wage Rates for local agency requirements under the “10-day rule.”

Chapter 15 – Advertise and Award Project

Outlined in this section are project roles and responsibilities for advertising and awarding the Federal –aid construction project.

Local Agency

1. Receives Caltrans approval of its construction administration procedures, prior to advertising a major NHS project.
2. Prepares the “Local Agency Construction Contract Administration Checklist” (Exhibit 15-A), prior to advertising a construction project, and submits to DLAE.
3. Take all reasonable steps to ensure that DBEs are able to compete for and perform contracts.
4. Fills out the “PS&E Certification” (Exhibit 12-C) and certifies that the project’s PS&E package meets all federal and state regulations.
5. Prepares a “Request for Authorization” and, along with other documents (see Section 3.3, “Request for Authorization,” of LAPM) send to Caltrans for approval.
6. Advertises a project only after FHWA issues an “Authorization for Construction.”
7. Provide the DLAE with one set (two sets for a bridge project) of “as advertised” plans and special provisions, as soon as project is advertised.
8. Advertises the project a minimum period of three weeks. Prepare a PIF and submit to the DLAE for approval, if the Local Agency proposes a shorter advertisement period.
9. Will follow its own established bid opening procedures, provided requirements described in Section 15.5, “Contract Bid Opening” are included.
10. After bid opening, complete the “Bid Tabulation Summary Sheet” (Exhibit 15-D) and the “Local Agency Bid Opening Checklist” (Exhibit 15-I) and place in project records. Also, place in the project records the “Local Agency Bidder – DBE (Construction Contracts) – Information” (Exhibit 15-G) and the “Noncollusion Affidavit (Exhibit 12-E, Attachment D), completed by the successful bidder. If the project is located on the NHS, complete the “Submission of Bid Tabulation” (Exhibit 15-E), and the “Bid Price Data” (Exhibit 15-F), if the project costs is \$500,000 or more, and forward both to the DLAE immediately following bid opening.
11. Assure that all bid proposals submitted include a completed addenda certification statement.
12. Must ensure with the DLAE and the RTPA/MPO that there are enough funds available to award the contract, if the bid amount exceeds the Engineer’s Estimate.
13. Should perform a bid analysis to justify the award or rejection of the bids for the project in accordance with Subsection “Bid Analysis Process.” For a project on the NHS the Local Agency is required to perform a bid analysis.
14. Shall award the project to the lowest responsive and responsible bidder following its normal procedures. If the contract is awarded to other than the lowest bidder, written justification needs to be included in the project records. Also, retain in the project records the executed contract, document the award date and preconstruction meeting minutes. [15-13] (Exceptions to the competitive bid process are described Section 12-4, “Method of Construction,” specifically force account.)
15. Conduct approximately every 2 years a post-award review of projects to see if any abnormal bid patterns exist.

16. Shall terminate and complete defaulted federal-aid contracts in accordance with Subsection “Termination of Contracts.”
17. Will submit within 60 days of award and with the first invoice the following documents to the DLAE:
 - “Local Agency Contract Award Checklist” (Exhibit 15-L)
 - “Detail Estimate” (Exhibit 15-M)
 - “Finance Letter” (Exhibit 15-N)
 - “Resident Engineer’s Construction Contract Administration Checklist” (Exhibit 15-B)
 - “Local Agency Bidder – DBE (Construction Contracts) Information” (Exhibit 15-G (2))

Caltrans DLAE

1. Approves PIF for contract advertisement period of less than 3 weeks.
2. Approves the construction administration procedures for major NHS projects.
3. Reviews and concurs with the Local Agency on terminating a contract for a FHWA High Profile project. Forwards the recommendation to DLA to FHWA for approval.
4. Review the “Local Agency Contract Award Checklist” (Exhibit 15-L) to determine if project is eligible for federal funds.
5. Reviews all documents sent from the Local Agency for format and reasonableness. Required documents are sent to DLA. If the documents include the first invoice also send to Local Program Accounting, after review and approval.
6. Will prepare a revised E-76 after receiving the “Detail Estimate” (Exhibit 15-M) from the Local Agency.

Caltrans DLA

1. Will review the award package supplied with the first invoice, and will track forms included or missing from the award package and ensure that the DBE information provided is entered into LP2000. If the DBE information supplied is not entered into LP2000, will enter it. A copy of the “Local Agency Bidder – DBE (Construction Contracts) Information” (Exhibit 15-G (2)) will be kept on file.

Chapter 16 – Administer Construction Contract

Outlined in this section are project roles and responsibilities for administering the Federal-aid construction contract.

Local Agency

1. Ensures that force account work is in compliance with Section 12.4, “Contracting Method,” of the LAPM.
2. Will provide adequate field staff and equipment to administer the construction project, including a qualified engineer, and fulfill all requirements of the contract. Names and titles of the staff members shall be kept in the project records.
3. Will employ field staff that are knowledgeable of safety rules and regulations, i.e., FHWA Form 1273 Section VIII, “Safety – Accident Prevention,” and the California Division of Industrial Safety “Construction Safety Orders.”
4. If using a consultant for construction engineering, will provide a full-time employee that is in responsible charge of the project. However, this requirement is waived if a consultant is being retained as the City Engineer.
5. Will ensure that the contractor designates, in writing, a person authorized to supervise the work and to act for the contractor.
6. Ensures that material samples are taken and testing performed in accordance with the Local Agency’s Quality Assurance Program and contract special provisions.
7. Ensures that daily reports are kept by the engineer and inspectors of their and the Contractor’s activities. Daily reports will follow the guidelines in Section 16.7, “Engineer’s Daily Reports.”
8. Resident Engineer may ask for help from the DLAE, if a construction problem arises.
9. Is encouraged to partner with the Contractor to maintain open communication and to mutually resolve field problems to the benefit of all parties.
10. Should schedule a preconstruction meeting with the Contractor, major subcontractors, DLAE and other affected agencies; local, state or federal authorities and utility companies.
11. Shall maintain a record of the contractor’s progress and keep track of the number of working days.
12. Shall follow the subcontracting procedures outlined in Section 16.6, “Subcontracting,” for federal-aid projects on the NHS. Specifically, minimum percentage of work that a Contractor must do with their work force and the substitution of first tier subcontractors.
13. Ensures job records are complete, in one location, and organized in accordance with subsection “Organization of Files.”
14. Will prepare a progress invoice and submit to the DLAE and Local Program Accounting Branch for reimbursement. The progress invoice will be supported with documentation outlined in Section 16.9, “Construction Records and Accounting Procedures.”
15. Will designate a labor compliance officer who will ensure that labor compliance regulations are met in accordance with the contract special provisions and Section 16.11, “Labor Compliance.”
16. For labor compliance violations the Local Agency will notify DLAE and the US Department of Labor.

17. Will document the Contractor's compliance with EEO requirements in accordance with FHWA Form 1273. Will collect and submit to the DLAE FHWA form PR-1391 by August 25 of each year.
18. Shall prepare change orders for changes to the contract work. Change orders shall be executed by the Local Agency prior to the start of the change order work. Will not execute change orders that require authorization of additional federal funds, until receiving written confirmation from the DLAE and RTPA/MPO that funds are available. However, if the change order is for emergency work, verbal approval from the DLAE and RTPA/MPO is acceptable, to be followed up in writing. For additional information on change orders, see Section 16.13, "Contract Change Order," and Chapter 5, "Change Orders," of the Caltrans Construction Manual.
19. Will use the Dataquest Rental Rate Blue Book or Caltrans' Labor Surcharge & Equipment Rental Rate to determine change order costs for the Contractor's equipment.
20. Will determine if the change order work is participating or not, in regards to using federal funds. Questions regarding this matter may be directed to the DLAE.
21. Will have an updated Quality Assurance Program, for testing materials, that is in accordance with the Caltrans "Quality Assurance Program (QAP) Manual For Use by Local Agencies" Manual, as posted on the Local Assistance web site.
22. Will notify the DLAE and METS when independent assurance assistance is needed and will have METS review the local agency's QAP.
23. Will provide as needed source inspections for manufactured and prefabricated materials at locations other than the construction site. If the Local Agency is unable to perform source inspection and qualified consultants are unavailable, contact the DLAE and request that Caltrans perform the source inspection in accordance with subsection "Source Inspection."
24. Will incorporate into the job records all material records of samples and tests, material releases, certificate of compliance, weight slips/tags, and initial test reports.
25. Shall provide the DLAE a "Materials Certificate" after the project has been completed.
26. Will avoid claims by preparing contract documents that are accurate, current, and complete. However, if claims do occur the Local Agency will follow the administrative claims procedure in the contract special provisions. Complex claims should be brought to the attention of the DLAE.
27. Will provide the Contractor with all required posters to be posted on the job site.
28. Shall have a traffic control plan (TCP) for handling traffic through the construction work zone and a responsible person to assure that the TCP is followed.

Caltrans DLAE

1. DLAE will participate in and document pre-construction meetings on a periodic basis.
2. DLAE provides assistance to Local Agency Resident Engineers if staff is available.
3. Review all local agency invoices (progress/final) and support documentation and approve before sending to Local Program Accounting. See Chapter 5, "Accounting/Invoices" for detailed progress/final invoice format, support documentation and processing requirements.
4. DLAE will keep track of labor compliance violations on projects.

5. DLAE and District Labor Compliance will monitor Local Agency labor compliance through a process review or mini process review.
6. DLAE will collect the FHWA form PR-1391 and forward to the Division of Local Assistance Civil Rights Coordinator no later than August 30 of each year.
7. Will help Local Agencies determine if change order work is participating or not, in regards to using federal funds.
8. Will conduct process reviews to monitor change orders annually.
9. Will assist the Local Agency in obtaining independent assurance (IA) services and source inspection from METS.
10. Will provide limited guidance to the Local Agency on contractor claims, depending on the complexity and size of the claim, and the availability of the DLAE's staff.

Caltrans DLA

1. Delegates responsibility of contract administration and construction inspection to Local Agencies by way of master agreements and program supplements.

Caltrans METS

1. Will perform independent assurance (IA) services, in accordance with the QAP Manual, for Local Agencies with Federal-aid projects on and off the NHS. Will certify Local Agency and consultant material labs, samplers and testers in the use of the California Test Methods. Will review the Local Agency's or consultant's submitted QAP and provide feedback to the Local Agency, consultant and DLAE.
2. While performing IA services, will interview R.E. with a set of questions, see **Attachment #2**, to test R.E.'s knowledge of the QAP and maintaining material records. Responses to question will be kept in a database and will help identify for METS changes needed to enhance future IA service to local agencies.
3. Will perform source inspections for Local Agencies, if resources are available.

Caltrans DLA - Construction Oversight Engineers

The construction oversight engineers will be located throughout California and will be responsible for monitoring local agency federal-aid construction projects off the state highway system taking place in a region or district.

Oversight engineers will be responsible for the following:

1. Visit 5 to 10 project sites per month.
2. Visit project site 3 times:
 - a) Start of construction, preferably at the pre-construction meeting or before the work has started. Will go over "Review Form," see **Attachment #3**, with R.E. and answer any questions he or she may have.
 - b) Mid-point of project or during active construction season. Will perform review in accordance with the "Review Form."
 - c) After job acceptance, perform another review.

3. "Review Form" will be graded on % of yes responses. Overall goal is 100%. The oversight engineer will also comment in writing on outstanding issues both good and bad.
4. "Review Form" will go to HQ and DLAE
5. DLAE will send to Local Agency and work with Local Agency on any shortcomings
6. Conflict between DLAE, Oversight Engineer and Local Agency will be decided by DLA.

Caltrans DLA - Construction Oversight Program Coordinator

A Senior Level Engineer will act as the Statewide Construction Oversight Program Coordinator in Division of Local Assistance Headquarters, and will be responsible for the following:

1. Will determine projects to be reviewed. This will be done using LP2000 and choosing projects at random.
2. Will work with oversight engineers to ensure consistency in evaluating local agencies. This may include traveling with oversight engineers and observing site reviews.
3. Will act as a liaison with FHWA and oversight engineers.
4. Prepare quarterly reports to FHWA:
 - a) List number and type of negative responses
 - b) Scores – Goal is 100%
 - c) Number of projects reviewed
 - d) Stage of construction, i.e., first or last inspection
 - e) Actions to correct problems – COIN, training or withholds
5. Ensure data from reviews is input into database.
6. Will input data from "Review Form" into LP2000.
7. Help resolve conflicts between parties, i.e., local agency, DLAE and oversight engineer and if conflicts can not be resolved to the satisfaction of all the parties, will make the final decision.
8. Work with other divisions within Caltrans/FHWA to keep up with construction practices.
9. Modify "Review Form" to keep current and proactive.
10. Prepare Construction Outreach Information Notice (COIN), a periodic outreach bulletin to DLAEs and Local Agencies that will serve as a reminder and highlight areas and aspects of contract administration needing improvement. The COIN will be posted on the DLA website, sent to FHWA and the DLAEs for distribution to our Local Agency Partners, and also sent to the DLA list server subscribers.

Division of Occupational Safety and Health

Will inspect construction site for worker safety and take action if unsafe or unsanitary conditions exist.

FHWA

Review job records in field.

Chapter 17 – Project Completion

Outlined in this section are project roles and responsibilities for closing a Federal-aid construction contract.

Local Agency

1. Shall document environmental mitigation commitments for the final inspection Report of Expenditures in accordance with Section 17.3, “Final Inspection Procedures for Federal-aid Projects.”
2. Will create punch list of work to be completed prior to contract acceptance. After all work has been finished and the construction contract has been accepted, will complete Item 1-10 of the “Local Agency Final Inspection Form” (Exhibit 17-C) and forward to the DLAE.
3. Shall provide “As-Built” plans of the structure work to the DLAE.
4. Will prepare the “Report of Expenditures” within 6 months after project completion and submit to the DLAE. It shall include the following:
 - a) Cover Letter and Report of Expenditures Checklist (Exhibit 17-A)
 - b) Local Agency Final Inspection Form (Exhibit 17-C)
 - c) Final Invoice (Exhibit 17-D)
 - d) Final Detail Estimate – see Section 15.7 “Award Package”
 - e) Change Order Summary (Exhibit 17-E)
 - f) Final Report, Utilization of Disadvantaged Business (DBE) and Woman-Owned Business Enterprise (Exhibit 17-F)
 - g) Disadvantaged Business Enterprises (DBE) Certification Status Change (Exhibit 17-O)
 - h) Materials Certificate (Exhibit 17-G)
 - i) Cover Letter and Report of Completion of Structures on Local Streets and Roads (Exhibit 17-I and 17-J)
 - j) Report of Completion of Right of Way Expenditures (Exhibit 17-K)
 - k) Report of Expenditures for Force Account Projects (Exhibit 17-L)
6. Ensure the Final Invoice and the Final Detail Estimate match.
7. Maintain project documentation for three years from the date of the final invoice.

Caltrans DLAE

1. Will review the job site, after receiving the “Local Agency Final Inspection Form” (Exhibit 17-C) from the Local Agency, and verify that the project was completed within scope of the work contemplated and in accordance with the contract plans. If the work is satisfactory, will complete Item 11-13 of the “Local Agency Final Inspection Form” (Exhibit 17-C), sending a copy to the Local Agency.
2. Will forward structure “As-Built” plans on to the Division of Construction, along with a copy of the “Report of Completion of Structures” (Exhibit 17-J).
3. DLAE will review the Report of Expenditures for correct format and obvious error and/or admissions. After the DLAE verifies the report shall forward to Local Program Accounting.
4. Will input final cost and final invoice date into LP2000.
5. Will receive the Cover Letter and Report of Completion of Structures on Local Streets and Roads (Exhibit 17-I and 17-J) from the Local Agency

Caltrans Oversight Engineer

1. Will review FHWA Full Oversight (New or Reconstruction > \$1 Million) project site, after receiving the “Local Agency Final Inspection Form” (Exhibit 17-C) from the Local Agency, to ensure that the project has been completed in accordance with the plans and specifications. If all work is satisfactory, will forward the information to FHWA.
2. Coordinate final inspection with FHWA in accordance with Caltrans “Oversight Field Engineer Guidelines.”

Caltrans DLA

Receive copy of the Final Report of Expenditure and close out project after Local Program Accounting submits final invoice to Local Agency.

FHWA

For “High Profile” Projects (for criteria see California Stewardship & Oversight Agreement signed September 4, 2007), inspect to ensure that the project has been completed in accordance with the plans and specifications.

-----END-----