
**Sample
Participant
Workbook**

Truncated Version



U.S. Department of Transportation
Federal Highway Administration



**Publication No. FHWA-NHI-
FHWA-NHI-**

How to Use this Workbook

This workbook serves as a companion to the *Contract Administration Core Curriculum Manual*. This workbook contains the following items.

- Slides
- Page references to the manual
- Key content and resources
- Activity directions and workspace
- Case study documentation
- List of acronyms, Web resources, and Federal-aid Video Essentials

As the course proceeds, use this workbook to record responses to questions, notes during lectures, and any other information you deem important to have when you return to work.

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National Highway Institute (NHI) has been accredited as an Authorized Provider by the International Association for Continuing Education and Training (IACET).

NHI is authorized by IACET to offer **1.3 CEUs** for this program (NHI 134077 Contract Administration Core Curriculum).

Course Description

This is a 2-day course designed to explore contract provisions, administrative procedures, and applicable policies related to administering Federal-aid construction contracts. The class focuses on each stage of project development and the relevant contract procedures, policies, and requirements. Participants are provided with the *Contract Administration Core Curriculum Manual* and taught to utilize its contents to navigate the many requirements associated with Federal-aid contract administration.

Participants engage in a series of activities that help them explore their roles and responsibilities and allow them to apply the guidance provided during the course. In addition, the content is supplemented with examples and resources to support participants' successful application of the course content during future contract administration assignments.

It is recommended that participants new to administering Federal-aid contracts take one of the National Highway Institute's (NHI) introductory courses to the Federal-aid Highway Program (NHI 310110, 310115, or 310109) prior to attending this course. A basic understanding of the background and structure of the Federal-aid Highway Program is expected for participants attending this course.

Target Audience Description

The target audience for this class is as follows.

- Federal Highway Administration (FHWA) Division Office personnel who must read, interpret, and apply Federal regulations and guidance that affects administration of Federal-aid contracts
- State and local government agency personnel who must interpret and apply Federal regulations and guidance that affects administration of Federal-aid contracts

Course Goal

The goal of this course is to make participants aware of their roles and responsibilities when administering Federal-aid contracts in order to promote the effective and efficient use of Federal funds.

Course Learning Outcomes

- Use the *Contract Administration Core Curriculum Manual* and other FHWA resources in order to answer questions regarding program-level and project-level requirements on Federal-aid projects
- Describe the impact program-level contract requirements have on a Federal-aid project
- Identify the contract requirements associated with administering Federal-aid projects for Federal and State oversight entities at the pre-award, advertising and award, and post-award and construction stages

Course Organization

This course is organized by module. Within each module there may be multiple lessons. The modules in this course are as follows.

- Module 1 Course Overview
 - Lesson 1.1 Introductions and Course Administration
 - Lesson 1.2 Federal-aid Highway Program (FAHP) Basics Review
- Module 2 Contract Administration: Pre-award Phase
 - Lesson 2.1 Preparing the PS&E for Approval
 - Lesson 2.2 Preparing a Bid Package
- Module 3 Contract Administration: Advertising and Award Phase
 - Lesson 3.1 Project Advertisement, Bid Review, and Award
- Module 4 Contract Administration: Post-award and Construction Phase
 - Lesson 4.1 Supervising Agency Requirements
 - Lesson 4.2 Labor and Employment-related Post-award Requirements
 - Lesson 4.3 Other Post-award Requirements
 - Lesson 4.4 Contract Changes and Other Post-award Issues
 - Lesson 4.5 Project Closeout
- Conclusion
 - Review
 - Exam

Course Agenda

Scheduled Time	Lesson	Duration
Day 1		
8:00 – 8:35	Lesson 1.1	35
8:35 – 9:15	Lesson 1.2 (up to Stewardship & Oversight presentation)	40 (out of 105)
9:15 – 9:35	S & O Presentation	20 (out of 105)
9:35 – 9:50	<i>Break</i>	15
9:50 – 10:35	Lesson 1.2 continued	45 (out of 105)
10:35 – 11:30	Lesson 2.1	55 (out of 160)
11:30 – 12:30	<i>Lunch</i>	60
12:30 – 2:15	Lesson 2.1 continued	105 (out of 160)
2:15 – 2:30	<i>Break</i>	15
2:30 – 3:30	Lesson 2.2	60
3:30 – 4:25	Lesson 3.1	55 (out of 90)
4:25 – 4:30	Wrap-up and Homework	5
Day 2		
8:00 – 8:15	Review	15
8:15 – 8:50	Lesson 3.1 continued	35 (out of 90)
8:50 – 9:15	Lesson 4.1	25
9:15 – 11:10	Lesson 4.2 (<i>break as necessary during activity</i>)	115
11:10 – 11:30	Lesson 4.3	20
11:30 – 12:30	<i>Lunch</i>	60
12:30 – 1:45	Lesson 4.4	75
1:45 – 2:20	Lesson 4.5	35
2:20 – 2:35	<i>Break</i>	15
2:35 – 3:15	Conclusion: Review; Parking Lot; Administrative Matters	40
3:15 – 4:00	Exam	45

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Module 1 Course Overview

Lesson 1.1 Introductions and Course Administration

Slides 1-3



NHI 134077
Contract Administration Core
Curriculum

FHWA Resource Center



Module 1
Course Overview



Lesson 1.1
Introductions and Course
Administration

Slides 4 and 5



Introductions



- Name
- Agency
- Job title
- Experience administering Federal-aid (FA) contracts



Why Are You Here?

- So you are
 - Fully aware of your roles and responsibilities when administering FA contracts
 - Aware of the rules that support effective and efficient decisions regarding the use of Federal funds

Directions

- Identify at least one outcome you would like to achieve by the end of the course.

Write your personal outcome for the course here.

Slides 6 and 7

Course Materials



CACC Manual



Workbook

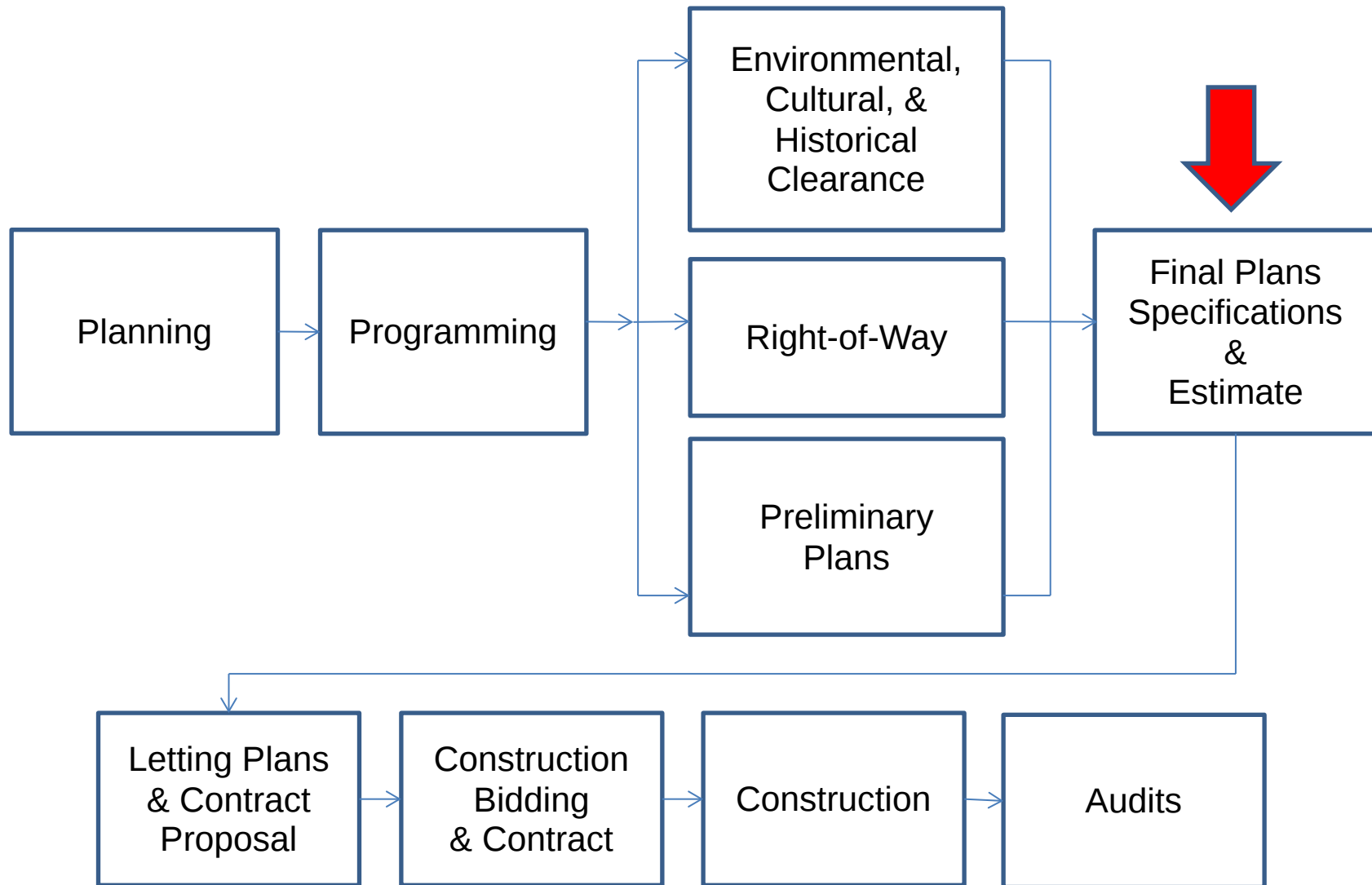
You Will Be Able to...

- Use the CACC Manual and other FHWA resources in order to answer questions regarding program-level and project-level requirements on FA projects
- Describe the impact program-level contract requirements have on individual FA projects
- Identify the contract requirements associated with administering FA projects for Federal and State entities at the pre-award, advertising and award, and post-award and construction stages

Directions

- Open your 2014 Contract Administration Core Curriculum Manual and review the table of contents. In the following lessons there are page references to the manual that correspond to the content being shown on the slide.
- Turn to pages 5 and 6 of this workbook to view the course goal and learning outcomes.

Slide 8

Federal-aid Project Flowchart

Slides 9 and 10

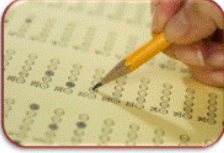


Agenda

Day 1	Day 2
Module 1 Course Overview	Module 3 (continued as necessary)
Module 2 Pre-award Phase	Module 4 Post-award and Construction Phase
Module 3 Advertising and Award Phase	Conclusion Review and Exam



As a Participant You Need to...



- Follow ground rules
- Utilize the participant workbook and CACC Manual
- Complete NHI forms
- Participate in all activities

Directions

- Turn to pages 6 and 7 to view the course organization and agenda.
- Complete the NHI Participant Registration form.
- Record your name on the NHI Session Roster. Initial each morning and afternoon to indicate your attendance.

Slides 11 and 12



Ground Rules

- Participate
- Be on time
- Stay on task
- Share responsibility for training
- Respect the opinions and attitudes of others
- Use flip chart "Parking Lot"
- Turn off cell phones
- Listen when others talk



Any Questions?

**Directions**

- Review the ground rules.

Lesson 1.2 Federal-aid Highway Program (FAHP) Basics Review

Slides 13 and 14



The slide features a collage of four images at the top: a close-up of a road surface, a white semi-truck, the NHI logo, and an aerial view of a highway interchange. Below the images, the text reads:

Lesson 1.2
Federal-aid Highway Program (FAHP)
Basics Review



Lesson Topics

- FAHP's purpose and key characteristics
- Roles and responsibilities associated with implementation of the FAHP
- Assigning and documenting roles and responsibilities for FA projects in the S&O Agreements
- Classifying and determining application of FA requirements on a project

Slides 15 and 16

You Will Be Able to...

- Explain the purpose of a Stewardship and Oversight Agreement and the type of content it contains
- Identify the ways in which roles and responsibilities can be assigned under a Stewardship and Oversight Agreement
- Classify a project in order to determine which Federal-aid administration requirements are applicable to the project
- Distinguish between a public interest finding, cost effectiveness finding, and certification

Purpose of the FAHP

- Support Federal-aid system by providing financial assistance for



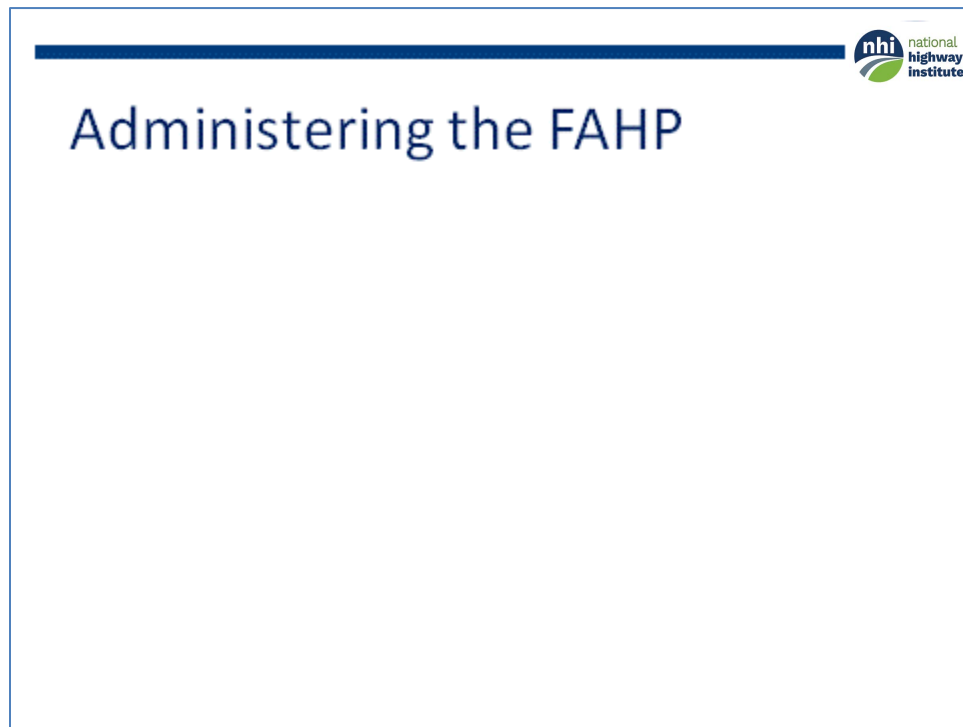
Planning and Design Construction Asset Management

CACC Manual Page: 1-2, 5

Directions

- Review the learning outcomes for this lesson.

Slide 17

**CACC Manual Page: 12****Directions**

- Read the background section below.
- Record an answer to the first *Stewardship and Oversight* video question. (Reviewing the Stewardship & Oversight video was a prerequisite to attending this session.)

Question

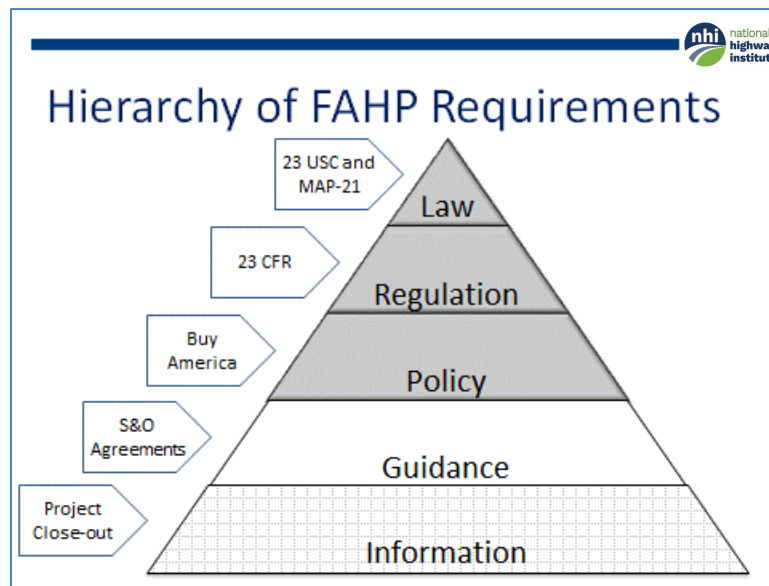
- i. Who administers the FAHP?

Background: “Section 106 of Title 23, United States Code (Section 106), provides the statutory requirements for project approval and oversight of the FAHP. Section 106(c)(3) requires FHWA and State departments of transportation (State DOTs) to enter into an agreement relating to the extent to which the State DOT assumes project responsibilities. These agreements, called Stewardship and Oversight Agreements (S&O Agreements), include information on specific project responsibilities and provide the requirements for oversight of the FAHP (Oversight Program), as required by 23 U.S.C. 106(g). This guidance summarizes the requirements of both the S&O Agreement and Oversight Program.” (FHWA *Federal-Aid Highway Program Stewardship and Oversight Agreement Guidance*, 03/28/2014)

Resources

- FHWA Federal-Aid Highway Program Stewardship and Oversight Agreement Guidance
<http://www.fhwa.dot.gov/federalaid/stewardship/140328.cfm>

Slide 18



CACC Manual Page: 6-10

Note: The **shaded areas** indicate the requirement is binding, the **white area** indicates the requirement is binding for Division offices only, and the **checkerboard pattern** indicates the requirement is non-binding.

Background: The role of highways in the United States is outlined by Title 23 of the U.S. Code. Section 106 of the Code provides the statutory requirements for FAHP project approval and oversight. Other legislation, such as MAP-21, outlines FAHP requirements as well.

The following list contains the definitions for each term on the slide.

Law (Legislation): A law that has been enacted by a legislature or other governing body. The term may refer to a single law, or the collective body of enacted law, while "statute" is also used to refer to a single law. Example document types include 23 U.S.C, SAFETEA-LU, National Environmental Policy Act (NEPA), and Title VI.

Regulation (Rules): An agency statement of general applicability and future effect, having the force and effect of law. It is designed to implement, interpret, or prescribe law or policy or to describe the procedure or practice requirements of an agency.

Policy: An internal agency statement of general applicability and future effect that sets forth a course of action, plan, or procedure on a statutory, regulatory, or technical issue or an interpretation of a statutory or regulatory issue. It is not a regulatory action. Policy assists the agency with implementing a program, and is often cited with regulation to verify program compliance. **The agency expectation is that policies will be implemented and adhered to without exception.**

Guidance: An agency statement of general applicability and future effect, other than a regulatory or policy action, that provides advice and assistance on a statutory, regulatory, policy, or technical issue. Guidance is used to influence decisions and actions to achieve an expected program outcome. **The term implies agency expectations that the content will be considered in making specific decisions or actions that are within the user's discretion.**

Information Document: An interim document used to issue policy interpretations to the field offices. Valid until superseded by new policy. While most information is sent out on memoranda, most policy is also sent out as memoranda. Policy documents are interpretations or expansions of law and regulatory requirements that require, or otherwise impact, the flexibility, eligibility, etc., whereas information is just that—something that the STAs may choose to adopt.

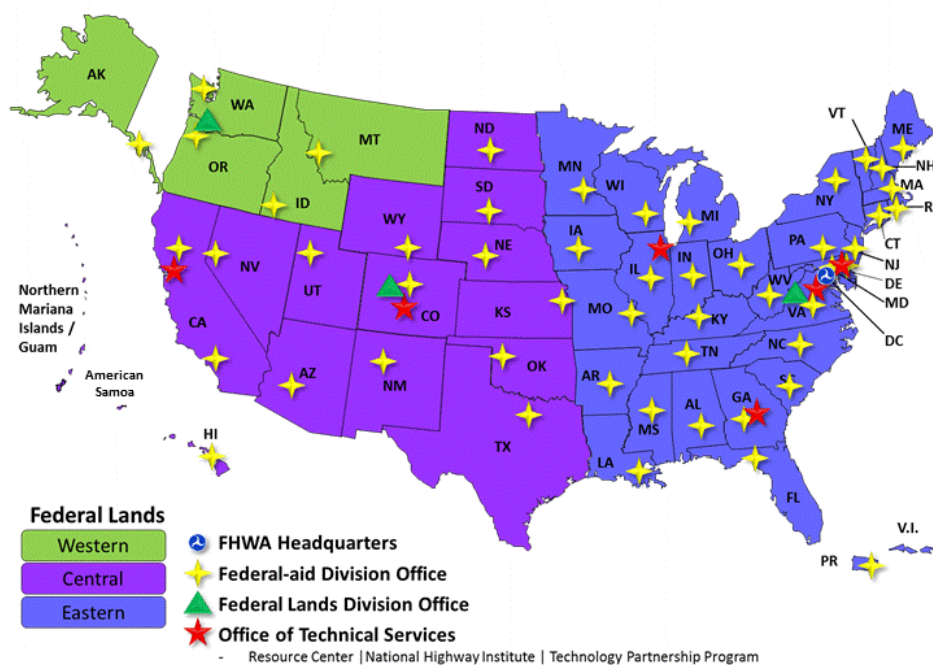
Resources

- FHWA's Program Policy and Guidance Center <http://www.fhwa.dot.gov/pgc/>
- NHI 310110, 310115, or 310109 *Federal-aid 101* <http://www.nhi.fhwa.dot.gov/default.aspx>

Slide 19



FHWA Roles and Responsibilities



CACC Manual Page: 4

Background: FHWA sites include the following.

- Headquarters in Washington, D.C.
- Office of Technical Services: Resource Center (5 offices), National Highway Institute, Technology Partnerships Program, and the Knowledge Application Team.
- Division Offices (1 in each State, Puerto Rico, and Washington, D.C.)
- Federal Lands Highway Divisions (3 offices)

Resources

- FHWA Resource Center <http://www.fhwa.dot.gov/resourcecenter/>
- Contract Administration Group <http://www.fhwa.dot.gov/programadmin/contracts/>

Slide 20



Sharing FAHP Responsibilities with the States

- Extent to which the State DOT assumes project and program responsibilities is documented in the S&O Agreement
- MAP-21 impacts to S&O Agreements include
 - Removes provision prohibiting State oversight of projects exceeding \$1M
 - Emphasizes a risk-based approach to oversight

CACC Manual Page: 12-13

Directions

- Read “Project Action Responsibility Matrix” from FHWA’s *Risk Based Stewardship and Oversight (Appendix A)* found on the next page.

Resources

- FHWA *Legal Review of S&O Agreements (Revised)* memorandum, 4/2/2014
- FHWA *Scope of USC 23 106(c)* memorandum, 4/2/2014
- FHWA *Risk Based Stewardship and Oversight* memorandum, 03/28/14, <http://www.fhwa.dot.gov/federalaid/stewardship/140328.cfm>

Excerpt from FHWA's *Stewardship and Oversight Agreement Implementation Guidance*, March 2014, Project Action Responsibility Matrix

The following matrix identifies Federal-aid highway program (FAHP) project approvals and related responsibilities. The matrix specifies which ones are subject to State assumption under the provisions of 23 U.S.C. 106(c) or other statutory or regulatory authority, as well as those which are reserved to FHWA.

In the column entitled "Projects on the NHS" if an item is marked "FHWA or State," it means the State may assume the specified approval and related responsibilities if the Division determines the assumption is appropriate. For projects on the NHS, the FHWA may retain any approval or related action in any box marked "FHWA or State" as deemed appropriate by the Division. If the FHWA retains any approval or related action in any box marked "FHWA or State," the project is a PoDI, and will require a PoDI plan.

For the column marked "Projects off the NHS," the State must assume all items marked "State" unless the State determines the assumption of a particular item by the State is not appropriate.

Except as expressly stated in notes to the matrix below, the State cannot assume any item marked only as "FHWA" in either column. Any item marked only "FHWA" is reserved to FHWA because it is outside the scope of 23 U.S.C. 106(c), or otherwise is reserved to FHWA by law. The State DOT is responsible for ensuring all individual elements of the project are eligible for FAHP funding, but all final eligibility and participation determinations are retained by FHWA. While FHWA may not delegate decision-making authority to a State unless authorized by law, FHWA may authorize a State DOT to perform work needed to reach the decision point, or to implement the decision.

This matrix is available at:

http://www.fhwa.dot.gov/federalaid/stewardship/140328_so_atta.xlsx

PROJECT ACTION RESPONSIBILITY MATRIX (as of March 28, 2014)		
ACTION	AGENCY RESPONSIBLE	
	PROJECTS ON THE NHS	PROJECTS OFF THE NHS
	Assumption of FHWA Responsibilities under 23 U.S.C. 106(c) or other statutory or regulatory authority	Assumption of FHWA Responsibilities under 23 U.S.C. 106(c) or other statutory or regulatory authority
PROGRAMMING (All phases)		
Ensure project in Statewide Transportation Improvement Program (STIP)/Transportation Improvement Program (TIP)	STATE	STATE
Identify proposed funding category	STATE(1)	STATE(1)

PROJECT ACTION RESPONSIBILITY MATRIX (as of March 28, 2014)		
ACTION	AGENCY RESPONSIBLE	
	PROJECTS ON THE NHS	PROJECTS OFF THE NHS
	Assumption of FHWA Responsibilities under 23 U.S.C. 106(c) or other statutory or regulatory authority	Assumption of FHWA Responsibilities under 23 U.S.C. 106(c) or other statutory or regulatory authority
FINANCIAL MANAGEMENT (All phases)		
Obligate funds/approve Federal-aid project agreement (project authorizations) (Note: this action cannot be assumed by State)	FHWA	FHWA
Authorize current bill (Note: this action cannot be assumed by State)	FHWA	FHWA
Review and Accept Financial Plan and Annual Updates for Federal Major Projects over \$500 million [23 U.S.C. 106(h)] (Note: this action cannot be assumed by State)	FHWA	FHWA
Review Cost Estimates for Federal Major Projects over \$500 million [23 U.S.C. 106(h)] (Note: this action cannot be assumed by State)	FHWA	FHWA
Develop Financial Plan for Federal Projects between \$100 million and \$500 million. [23 U.S.C. 106(i)]	STATE	STATE
ENVIRONMENT (All phases)		
All EA/FONSI, EIS/ROD, 4(f), 106, 6(f) and other approval actions required by Federal environmental laws and regulations. (Note: this action cannot be assumed by STATE except under 23 U.S.C. 327)	FHWA(2)	FHWA(2)
Categorical Exclusion approval actions (Note this action cannot be assumed by the State except through an assignment under 23 U.S.C. 326 or 327, or through a programmatic agreement pursuant to Section 1318(d) of MAP-21)	FHWA(2)	FHWA(2)
PRELIMINARY DESIGN (Design Phase)		
Consultant Contract Selection	FHWA or STATE (3)	STATE (3)
Sole source Consultant Contract Selection	FHWA or STATE (3)	STATE (3)
Approve hiring of consultant to serve in a "management" role (Note: this action cannot be assumed by State) [23 CFR 172.9]	FHWA	FHWA

PROJECT ACTION RESPONSIBILITY MATRIX (as of March 28, 2014)		
ACTION	AGENCY RESPONSIBLE	
	PROJECTS ON THE NHS	PROJECTS OFF THE NHS
	Assumption of FHWA Responsibilities under 23 U.S.C. 106(c) or other statutory or regulatory authority	Assumption of FHWA Responsibilities under 23 U.S.C. 106(c) or other statutory or regulatory authority
Approve consultant agreements and agreement revisions (Federal non-Major Projects) [23 CFR 172.9]	FHWA or STATE	STATE
Approve consultant agreements and agreement revisions on Federal Major Projects [23 CFR 172.9] (Note: this action cannot be assumed by State)	FHWA	FHWA
Approve exceptions to design standards [23 CFR 625.3(f)]	FHWA or STATE	STATE
Interstate System Access Change [23 USC 111] (Note: this action cannot be assumed by State)	FHWA	N/A
Interstate System Access Justification Report [23 USC 111] (Note: action may be assumed by State pursuant to 23 USC 111(e))	FHWA or STATE	N/A
Airport highway clearance coordination and respective public interest finding (if required) [23 CFR 620.104]	FHWA or STATE	STATE
Approve Project Management Plan for Federal Major Projects over \$500 million [23 USC 106(h)] (Note: this action cannot be assumed by State)	FHWA	FHWA
Approve innovative and Public-Private Partnership projects in accordance with SEP-14 and SEP-15 (Note: this action cannot be assumed by State)	FHWA	FHWA
Provide pre-approval for preventive maintenance project (until FHWA concurs with STATE procedures) (Note: this action cannot be assumed by State)	FHWA	FHWA
DETAILED / FINAL DESIGN (Design Phase)		
Provide approval for complex and other unusual bridges and other structures on the Interstate. [23 USC 109(a) and FHWA Policy]	FHWA	N/A

PROJECT ACTION RESPONSIBILITY MATRIX (as of March 28, 2014)		
ACTION	AGENCY RESPONSIBLE	
	PROJECTS ON THE NHS	PROJECTS OFF THE NHS
	Assumption of FHWA Responsibilities under 23 U.S.C. 106(c) or other statutory or regulatory authority	Assumption of FHWA Responsibilities under 23 U.S.C. 106(c) or other statutory or regulatory authority
Provide approval of preliminary plans for major bridges or other structures (non-Interstate). [23 USC 109(a) and FHWA Policy]	FHWA	STATE
Approve retaining right-of-way encroachments [23 CFR 1.23 (b) & (c)]	FHWA or STATE(4)	STATE
Approve use of local force account agreements [23 CFR 635.104 & 204]	FHWA or STATE	STATE
Approve use of publicly owned equipment [23 CFR 635.106]	FHWA or STATE	STATE
Approve the use of proprietary products, processes [23 CFR 635.411]	FHWA or STATE	STATE
Concur in use of publicly furnished materials [23 CFR 635.407]	FHWA or STATE	STATE
RIGHT-OF-WAY (Design and Operational Phases)		
Make feasibility/practicability determination for allowing authorization of construction prior to completion of ROW clearance, utility and railroad work [23 CFR 635.309(b)] (Note: 23 CFR 710.201 authorizes FHWA and STATE to agree to scope of property-related oversight and approvals for all actions except those on the Interstate System)	FHWA for Interstate FHWA or STATE for Non-Interstate	STATE
Make public interest finding on whether State may proceed with bid advertisement even though ROW acquisition/relocation activities are not complete for some parcels [23 CFR 635.309(c)]	FHWA for Interstate FHWA or STATE for Non-Interstate	STATE
Ensure ROW certificate is in place [23 CFR 635.309(c)]	FHWA or STATE	STATE

PROJECT ACTION RESPONSIBILITY MATRIX (as of March 28, 2014)		
ACTION	AGENCY RESPONSIBLE	
	PROJECTS ON THE NHS	PROJECTS OFF THE NHS
	Assumption of FHWA Responsibilities under 23 U.S.C. 106(c) or other statutory or regulatory authority	Assumption of FHWA Responsibilities under 23 U.S.C. 106(c) or other statutory or regulatory authority
Approve Hardship and Protective Buying [23 CFR 710.503] (If a Federal-aid project) (Note: this action cannot be assumed by State)	FHWA	FHWA
Approve Interstate Real Property Interest Use Agreements [23 CFR 710.405] (Note: this action cannot be assumed by State)	FHWA	N/A
Approve non-highway use and occupancy [23 CFR 1.23(c)]	FHWA for Interstate FHWA or STATE for Non-Interstate (3)	STATE (3)
Approve disposal at less than fair market value of federally funded right-of-way, including disposals of access control [23 U.S.C. 156] (Note: this action cannot be assumed by State)	FHWA	FHWA
Approve disposal at fair market value of federally funded right-of-way, including disposals of access control [23 CFR 710.409] (Note: 23 CFR 710.201 authorizes FHWA and STATE to agree to scope of property-related oversight and approvals for all actions except those on the Interstate System)	FHWA for Interstate FHWA or STATE for Non-Interstate (3)	STATE (3)
RIGHT-OF-WAY (Design and Operational Phases)		
Requests for credits toward the non-Federal share of construction costs for early acquisitions, donations or other contributions applied to a project (note: this action cannot be assumed by State)	FHWA	FHWA
Federal land transfers [23 CFR 710, Subpart F] (Note: this action cannot be assumed by State)	FHWA	FHWA
Functional replacement of property [23 CFR 710.509] (Note: this action cannot be assumed by State)	FHWA	FHWA
SAFETY (Design Phase)		
Eligibility determinations for safety hardware (Note: this action cannot be assumed by State)	FHWA	FHWA

PROJECT ACTION RESPONSIBILITY MATRIX (as of March 28, 2014)		
ACTION	AGENCY RESPONSIBLE	
	PROJECTS ON THE NHS	PROJECTS OFF THE NHS
	Assumption of FHWA Responsibilities under 23 U.S.C. 106(c) or other statutory or regulatory authority	Assumption of FHWA Responsibilities under 23 U.S.C. 106(c) or other statutory or regulatory authority
SYSTEM OPERATIONS AND PRESERVATION (Design Phase)		
Accept Transportation Management Plans (23 CFR 630.1012(b))	FHWA or STATE	STATE
Approval of System Engineering Analysis (for ITS) [23 CFR 940.11]	FHWA or STATE	STATE
PS&E AND ADVERTISING (Design Phase)		
Approve PS&E [23 CFR 630.201]	FHWA or STATE	STATE
Authorize advance construction and conversions [23 CFR 630.703 & 709] (Note: this action cannot be assumed by State)	FHWA	FHWA
Approve utility or railroad force account work [23 CFR 645.113 & 646.216]	FHWA or STATE	STATE
Approve utility and railroad agreements [23 CFR 645.113 & 646.216]	FHWA or STATE	STATE
Approve use of consultants by utility companies [23 CFR 645.109(b)]	FHWA or STATE	STATE
Approve exceptions to maximum railroad protective insurance limits [23 CFR 646.111]	FHWA or STATE	STATE
Authorize advertising for bids (FHWA authorization done via construction authorization) [23 CFR 635.112, 309]	FHWA or STATE	STATE
CONTRACT ADVERTISEMENT AND AWARD (Design Phase)		
All contracts to be done by competitive bidding unless otherwise authorized by law		
Approve cost-effectiveness determinations for construction work performed by force account or by contract awarded by other than competitive bidding [23 CFR 635.104 & .204]	FHWA(5) or STATE(5)	STATE(5)

PROJECT ACTION RESPONSIBILITY MATRIX (as of March 28, 2014)		
ACTION	AGENCY RESPONSIBLE	
	PROJECTS ON THE NHS	PROJECTS OFF THE NHS
	Assumption of FHWA Responsibilities under 23 U.S.C. 106(c) or other statutory or regulatory authority	Assumption of FHWA Responsibilities under 23 U.S.C. 106(c) or other statutory or regulatory authority
Approve emergency determinations for contracts awarded by other than competitive bidding [23 CFR 635.104 &.204]	FHWA or STATE	STATE
Approve construction engineering by local agency [23 CFR 635.105]	FHWA or STATE	STATE
Approve advertising period less than 3 weeks [23 CFR 635.112]	FHWA or STATE	STATE
Approve addenda during advertising period [23 CFR 635.112]	FHWA or STATE, whichever approved PS&E	STATE
Concur in award of contract [23 CFR 635.114]	FHWA or STATE	STATE
Concur in rejection of all bids [23 CFR 635.114]	FHWA or STATE	STATE
Approval of Design-Build Requests-for-Proposals and Addenda [23 CFR 635.112]	FHWA or STATE	STATE
CONSTRUCTION (Construction Phase)		
Approve changes and extra work [23 CFR 635.120]	FHWA or STATE	STATE
Approve contract time extensions [23 CFR 635.120]	FHWA or STATE	STATE
Concur in use of mandatory borrow/disposal sites [23 CFR 635.407]	FHWA or STATE	STATE
Accept materials certification [23 CFR 637.207]	FHWA or STATE	STATE
Concur in settlement of contract claims [23 CFR 635.124]	FHWA or STATE	STATE
Concur in termination of construction contracts [23 CFR 635.125]	FHWA or STATE	STATE
Waive Buy America provisions [23 CFR 635.410] (Note: this action cannot be assumed by State)	FHWA	FHWA

PROJECT ACTION RESPONSIBILITY MATRIX (as of March 28, 2014)		
ACTION	AGENCY RESPONSIBLE	
	PROJECTS ON THE NHS	PROJECTS OFF THE NHS
	Assumption of FHWA Responsibilities under 23 U.S.C. 106(c) or other statutory or regulatory authority	Assumption of FHWA Responsibilities under 23 U.S.C. 106(c) or other statutory or regulatory authority
Final inspection/acceptance of completed work [23 USC 114(a)]	FHWA or STATE	STATE
CIVIL RIGHTS (All phases)		
Approval of Disadvantaged Business Enterprise (DBE) Project Contract Goal set by the State DOT under 49 CFR 26.51(d). [49 CFR 26.51(e)(3)]	FHWA or STATE	STATE
Acceptance of Bidder's Good Faith Efforts to Meet Contract Goal [49 CFR 26.53] or of Prime Contractor's Good Faith Efforts to Find Another DBE Subcontractor When a DBE Subcontractor is Terminated or Fails to Complete Its Work [49 CFR 26.53(g)] (Note: this action cannot be performed by the FHWA)	STATE	STATE
Equal Employment Opportunity (EEO) Contract Compliance Review Approval [23 CFR Part 230, Subpart D]].	FHWA or STATE	STATE
Training Special Provision – Approval of Project Goal for training slots or hours [23 CFR Part 230, Subpart A]	FHWA or STATE	STATE
Training Special Provision – Approval of New Project Training Programs (Note: this action cannot be assumed by State) [23 CFR 230.111(d), (e)]	FHWA	FHWA

Footnotes

- (1) State is responsible for ensuring that all individual elements of the project are eligible. FHWA will check that the scope of the project as described in submitted project agreement is eligible for the category of funding sought. All final eligibility and participation determinations are retained by FHWA.
- (2) If there is a 23 U.S.C. 326 or 325 assignment or PCE agreement, decisions are handled in accordance with those assignments or agreements.
- (3) State's process and modifications to, or variation in process, require FHWA approval.
- (4) FHWA approval is required for revocable occupancy permits of non-conforming outdoor advertising signs.
- (5) A programmatic approval for projects with total costs below \$25,000 has been approved by FHWA.

Slide 21 and 22

 Stewardship and Oversight (S&O) ii. Who may be a direct recipient and who may be a sub-recipient of Federal-aid funds? iii. What does Congress require in order for the State to assume FHWA responsibilities on Federal-aid projects?	 S&O Video Questions, cont. iv. What does the term “stewardship” mean and what types of activities does it include? v. What does the term “oversight” mean? vi. What are some examples of approval and oversight responsibilities the State carries out on behalf of FHWA?
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CACC Manual Page: 11-13

Directions

- Record an answer to the *Stewardship and Oversight* video question assigned to your group.

Questions

- ii. Who may be a direct recipient and who may be a sub-recipient of Federal-aid funds?
- iii. What does Congress require in order for the State to assume FHWA responsibilities on Federal-aid projects?
- iv. What does the term “stewardship” mean and what types of activities does it include?
- v. What does the term “oversight” mean?
- vi. What are some examples of approval and oversight responsibilities the State carries out on behalf of FHWA?

Slides 23-25



{State} DOT & FHWA Stewardship and Oversight

Presented by

{Name}

{Job title}



{State} Division Staff

|| {Insert FHWA Division office org chart or listing of primary contacts}



Questions for Participants

- True or False: FHWA's approach to Stewardship and Oversight activities focuses on high-risk areas
- How often are PoDI selected?
- What types of projects are often selected to be PoDI?
- Why are certain projects designated as PoCI?
- What is the purpose of the CAP reviews?

Directions

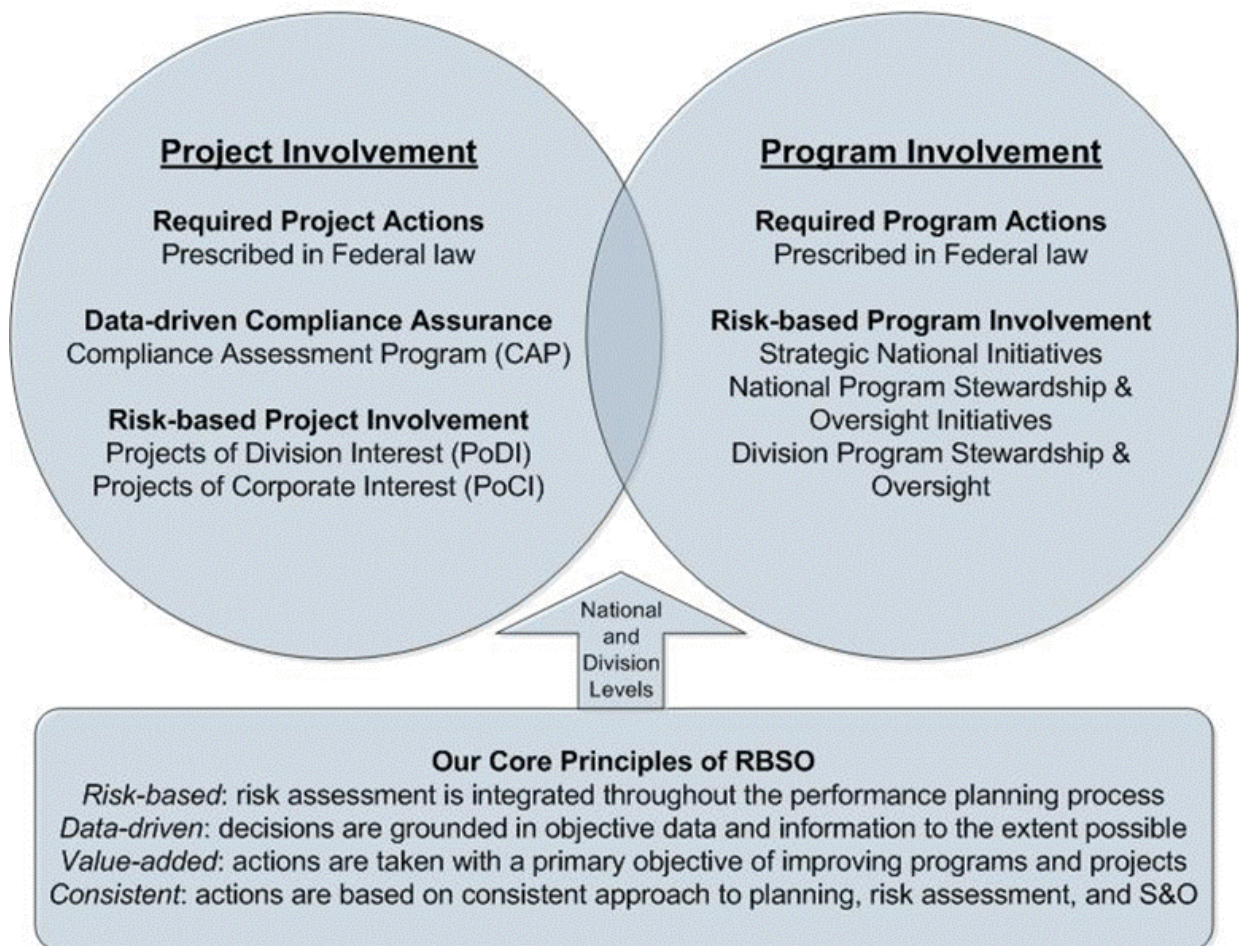
- As you listen to the presentation, answer the questions below.
- Record the name of the presenter and any contact information provided.

Questions

- True or False: FHWA's approach to Stewardship and Oversight activities focuses on high-risk areas.
- How often are Projects of Division Interest (PoDI) selected?
- What types of projects are often selected to be PoDI?
- Why are certain projects designated as Projects of Corporate Interest (PoCI)?
- What is the purpose of the Compliance Assessment Program (CAP) reviews?

Slide 26

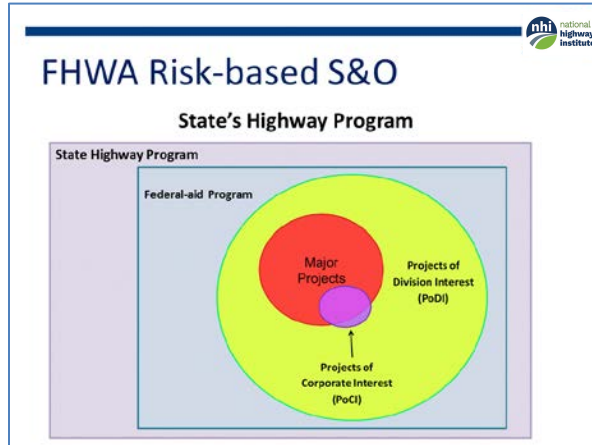
FHWA Risk Based Stewardship and Oversight



Resource

- FHWA Innovative Program Delivery Web site's Risk Management link
https://www.fhwa.dot.gov/ipd/project_delivery/resources/risk_management/

Slides 27-29

**Projects of Division Interest**

- FHWA selects projects annually
- FHWA involvement may be limited to key project phases (planning, design, construction)
- Projects selected can include
 - Complex Emergency Relief Projects
 - Complex Urban Reconstruction Projects
 - Major Structure Projects

Projects of Corporate Interest

- Identified by Program Offices or Division Offices
- Require additional resources at a corporate level
- Receive focused, strategic, agency-wide attention and an increased level of S&O

Slides 30 and 31

 national highway institute Compliance Assessment Program ▪ Uses a statistical approach to establish minimum compliance with requirements for FA construction projects at the • National level • Local level	 national highway institute Review Questions i. True or False: FHWA's approach to Stewardship and Oversight activities focuses on high-risk areas ii. How often are PoDI selected? iii. What types of projects are often selected to be PoDI? iv. Why are certain projects designated as PoCI? v. What is the purpose of the CAP reviews?
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Directions

- Write down any unanswered questions at the end of the presentation so you can ask them of the Division Office at a later time.
- Make sure you have the Division Office representative's contact information.

Slides 32 and 33

 Federal-aid Essentials Video <i>Funding Basics and Eligibility</i>	Video Questions - What is the source of Federal-aid funding? - How are these funds provided to, and administered by, the States and LPAs? - What are two important characteristics of the Federal-aid program? - What is the criterion for using the funds?
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CACC Manual Page: 28-34**Directions**

- Watch the Federal-aid Essentials video *Funding Basics and Eligibility*.
- Record answers to the questions below.

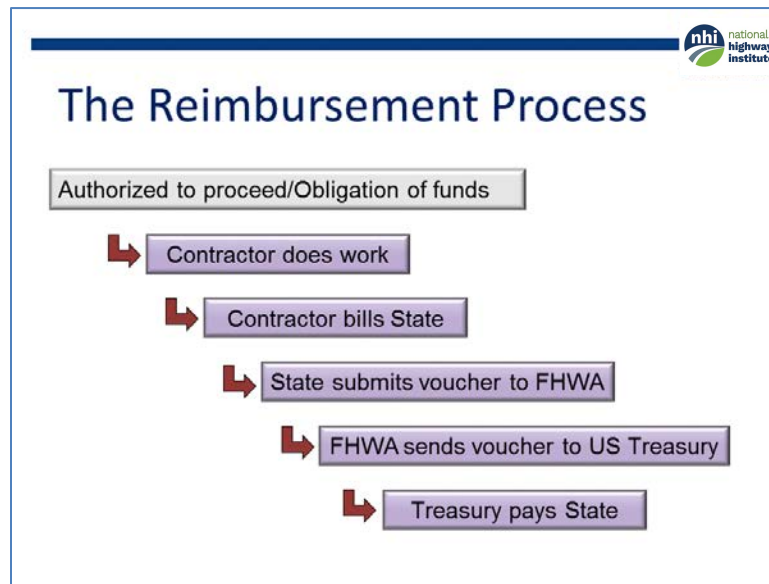
Questions

- What is the source of Federal-aid funding?
- How are these funds provided to, and administered by, the States and local public agencies (LPA)?
- What are two important characteristics of the Federal-aid program?
- What is the criterion for using the funds?

Resource

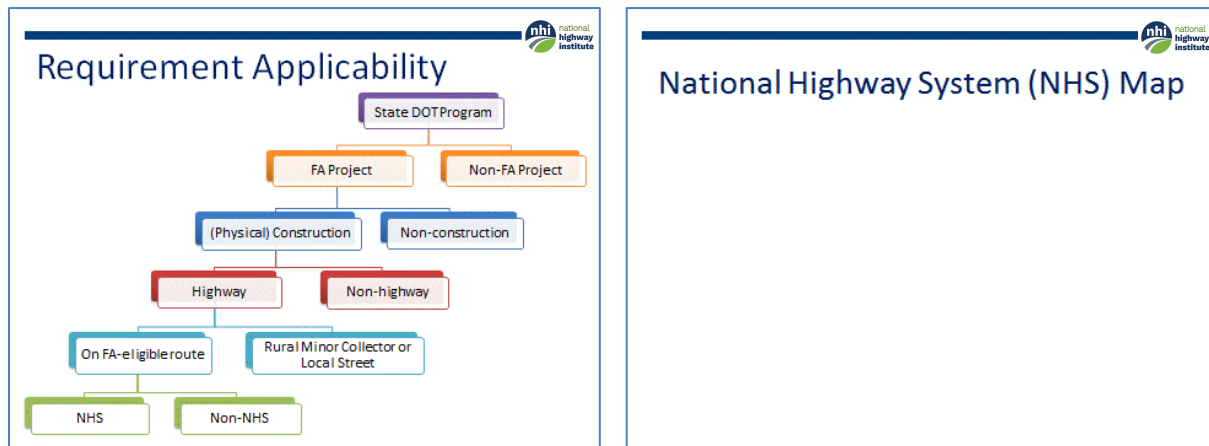
Federal-aid Essentials *Funding Basics and Eligibility* video <http://www.fhwa.dot.gov/federal-aidessentials/catmod.cfm?id=44>

Slide 34



CACC Manual Page: 28

Slides 35-36



CACC Manual Page: 107-108, 20

Directions

- Read the definitions below.
- Refer to pages 107-108 in the manual to read the “Applicability” statement for the project estimate.
- Refer to page 20 in the manual to read the “Applicability” statement on foreign contractors and supplier restriction.

Background

- **Applicable to all Federal-aid projects** means the requirement applies to any work funded with Federal-aid funds, including consultant agreements, planning studies, etc. Examples include nondiscrimination, suspension, and debarment requirements. It is important to note that some Federal requirements, such as Buy America and provisions under the Civil Rights Act, also apply to non-Federal-aid projects.
- **Applicable to all Federal-aid construction projects** means the requirement applies to any construction project funded under Title 23 U.S.C. These projects involve the physical construction of a highway, bridge, building, rail, parking lot, bicycle path, or any other constructed component that is eligible for Federal-aid funding. Examples of requirements falling into this category are Buy America, Disadvantaged Business Enterprises, and certain non-Title 23 requirements. This includes maintenance. Non-construction items include consultant agreements, right-of-way purchase, preliminary design, planning, ITS development, etc.
- **Applicable to all Federal-aid highway construction projects** means the requirement applies to any Federal-aid highway construction project. Projects that fall under this definition involve the work meeting the construction definition in 23 U.S.C 101 for a highway or bridge

component on any Federal-aid highway. In general, these requirements will not apply to work done outside of Federal-aid highway right-of-way. Examples of requirements falling under this category are the competitive bidding requirements of 23 U.S.C. 112 and the related implementing regulations of 23 CFR 635.

- **Applicable to all Federal-aid highway construction projects located on Federal-aid highways** means the requirement applies to any Federal-aid construction project located on a roadway functionally classified as a Federal-aid highway. This excludes routes functionally classified as rural minor collectors or local roads. Examples of requirements falling under this category include the Davis-Bacon and Copeland Acts (prevailing wage rate), convict labor, and material prohibitions.
- **Applicable to all Federal-aid construction projects on the NHS** means the requirement applies only to work done on NHS routes. Projects that fall under this definition involve require the work to meet the construction definition in 23 U.S.C 101 for a highway or bridge component on any NHS route. In general, these requirements are not applicable to Federal-aid highway construction projects on non-NHS routes, or Federal-aid non-highway construction, such as recreation trail projects or Transportation Enhancement work outside Federal-aid highway right-of-way. Examples of requirements falling under this category are the use of warranty and incentive/disincentive clauses.

Preventive maintenance contracts are generally subject to Federal-aid contract requirements. As defined in the October 8, 2004, memorandum on preventive maintenance, eligible preventive maintenance activities must extend the service life of a roadway asset or facility in a cost-effective manner.

Note: The instructor shows a slide with your State's route classification system. That slide is customized for each class and therefore does not appear in the workbook. See the URL below to obtain a copy of your State's NHS route map.

Resource

- Office of Policy Web site
http://www.fhwa.dot.gov/planning/national_highway_system/nhs_maps/

Slide 37



Determine FA Project Requirements



- Group activity
 - Classify projects
 - Determine which requirements apply

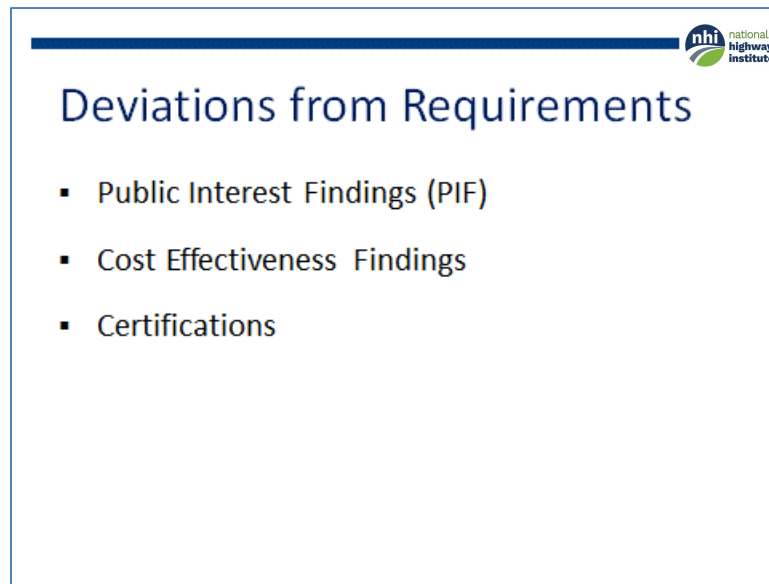
Directions

- Review the documents found in Appendix A of this workbook.
- Work in groups to answer the following questions.

Questions

- Which project is an NHS Project? Which is a non-NHS project?
- Are Project Estimates required on both projects?
- Are Davis-Bacon wages required to be paid on both projects?
- Are non-discrimination requirements needed in the specifications on either project?

Slide 38



CACC Manual Page: 13-15

Directions

- Review the descriptions below for a PIF, cost-effectiveness finding, and certification.
- Read and answer the question below.

Question

- i. Have your State and FHWA agreed to a standard format for any of these deviations?

Background

- **PIFs** require the STA to clearly demonstrate that the proposed deviation is more beneficial to the public than is meeting the requirement. Departments of Transportation cannot delegate PIFs to LPAs.
- **Cost Effectiveness Findings** require the STA to clearly demonstrate that the proposed deviation is more cost-effective than meeting the requirement.
- **Certifications** require that the STA certify the need to waive a requirement.

Resource

- Federal-aid Essentials *Cost-Effectiveness Determinations and Public-Interest Findings* video
<http://www.fhwa.dot.gov/federal-aidessentials/catmod.cfm?id=43>

Slide 39



Review Questions



- i. What type of information is typically contained in the S&O Agreement?
- ii. What are two important features of the Federal-aid program?
- iii. How is applicability of Federal-aid requirements determined for each project?

Directions

- Answer the review questions below with your group.

Review Questions

- i. What type of information is typically contained in the Stewardship and Oversight Agreement?
- ii. What are two important features of the Federal-aid program?
- iii. How is applicability of Federal-aid requirements determined for each project?

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Module 2 Contract Administration: Pre-award Phase

Lesson 2.1 Preparing the PS&E for Approval

Slides 40 and 41



Module 2
Contract Administration:
Pre-award Phase



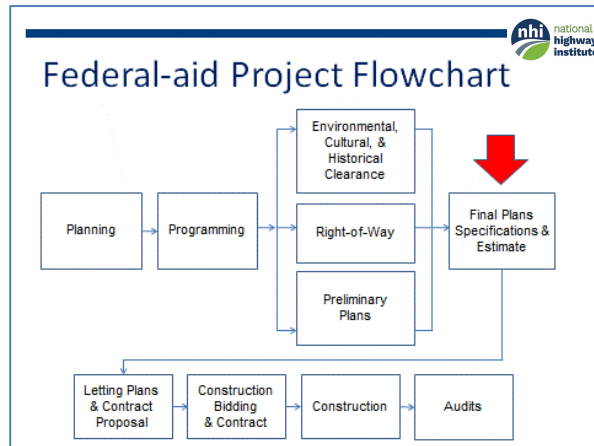
Module Topics

- What requirements need to be met in order to prepare a Federal-aid project for advertisement?
 - PS&E requirements and approvals, including material and equipment requirements
 - Bid package requirements and approvals, including procurement requirements
 - Deviations from requirements

Slides 42 and 43



Lesson 2.1
Preparing the PS&E for Approval



Slides 44 and 45




You Will Be Able to...

- Identify the contract administration requirements that need to be met in order to obtain PS&E approval and obligate Federal funds
- List acceptable contract methods that can be used for Federal-aid projects
- Describe the impact of Buy America requirements on a Federal-aid project
- For each requirement, determine which type of deviation may be used and the documentation required

Plans, Specifications, Estimates

- Plans and Specifications**

Location

Design features

Construction requirements

With sufficient detail to:

 - Facilitate the construction, the contract control and the estimation of construction costs of the project

Estimate

Anticipated cost of the project

With sufficient detail to:

 - Provide an initial prediction of the financial obligations to be incurred by the State and FHWA
 - Permit an effective review and comparison of the bids received.

CACC Manual Page: 60-62, 107

Directions

- Review the learning outcomes for this lesson.
- Read 23CFR 630.205(b) in the “Background” section of the RFP.
- Identify what the law requires in terms of plans and specifications.
- Identify what the law requires in terms of the estimate.

Questions

- i. Why is the Project Estimate important?
- ii. What type of data is the Project Estimate based on?
- iii. What is your State's policy on estimate confidentiality? Accuracy?

Background

“Plans and specifications shall describe the location and design features and the construction requirements in sufficient detail to facilitate the construction, the contract control and the estimation of construction costs of the project. The estimate shall reflect the anticipated cost of the project in sufficient detail to provide an initial prediction of the financial obligations to be incurred by the State and FHWA and to permit an effective review and comparison of the bids received.” 23CFR 630.205(b)

Resources

- FHWA *Guidelines on Preparing Engineer's Estimate, Bid Reviews and Evaluation*
<http://www.fhwa.dot.gov/programadmin/contracts/ta508046.cfm>
- FHWA *Guide for Construction Contract Time Determination Procedure*
<http://www.fhwa.dot.gov/construction/contracts/t508015.cfm>
- NHI 134061 *Construction Program Management and Inspection*
<http://www.nhi.fhwa.dot.gov/default.aspx>
- AASHTO *Controlling Design Criteria Report*, Appendix A (October, 2001)
<http://www.fhwa.dot.gov/environment/publications/flexibility/ch02.cfm>
- AASHTO *Greenbook* (2001 or 2004 [see memos])
- AASHTO *A Policy on Design Standards Interstate System* (January 2005)
- “Coordination of Vertical Clearance Design Exceptions on the Interstate System” and “Information on Application of Design Standards, Uniform Federal Accessibility Standards, and Bridges” (23 CFR 625 Non-regulatory supplement)
<http://www.fhwa.dot.gov/pgc/index.cfm?ddisc=62&dsub=903>

Slide 46



What Does the PS&E Include?



- Group Activity
 - Complete the PS&E Requirements table
 - Determine which items are required and which are State- or project-dependent

Directions

- Review the PS&E Requirements table on the next page. Note the requirements for which your group is responsible as the instructor makes the assignments.
- Locate the applicability of the requirements using the manual.
- Note that a few examples of how to complete the table are provided.

Federal-aid PS&E Requirements

Requirement	CACC Manual Page	Applicable to	Deviation Allowed? Y/N (Type)	Notes
1. Specifications and Plans	60			
2. Project Estimate	107			
3. Environmental Commitments	120	All FA highway construction projects	N	Any required environmental mitigation measures that result from the environmental clearance process must be included as appropriate in the relevant construction projects. This is the NEPA process and all Federal actions need an approved NEPA document, which may contain environmental commitments that need to be carried into the design and construction phases
4. Basis of Contract Award – Competitive Low Bid	47			
5. Public Agency force account	48			
6. Time-related Incentive/ Disincentive Clauses	109			
7. Quality Price Adjustment Clauses	115			
8. Commodity Price Escalation Clauses	116			

Requirement	CACC Manual Page	Applicable to	Deviation Allowed? Y/N (Type)	Notes
9. Standardized Changed Condition Clauses	118			
10. Value Engineering (VE)	64			
11. Road User Costs	67	Any Federal-aid highway construction contract with an incentive/disincentive clause, lane rental fees, or a liquidated damages charge that includes road user costs		
12. Life-Cycle Cost Analysis	65	State optional		
13. Patented or proprietary products	93			
14. Domestic steel and iron products (Buy America)	86			
15. State-owned, furnished, or designated materials	99			
16. Convict-produced materials	90			
17. Salvaged materials	100			

Slides 47 and 48



Allowable Contracting Methods

- Traditional design-bid-build, low bid contracts
- Alternative contracting (operational methods)
 - Cost-plus-time bidding (A+B)
 - Lane rental
 - Design-build contracting
 - Additive alternate bidding
 - Warranty clauses
 - Construction Manager/General Contractor (CM/GC)
 - Alternate pavement type bidding using life-cycle cost adjustment factors



Allowable Contracting Methods, cont.

- Alternative contracting (experimental methods)
 - Best value
 - ID/IQ
 - No excuse incentive/bonus
 - Lump sum bidding

CACC Manual Page: 47-59

Directions

- Read and answer the question below.

Question

- i. What are two examples of alternative contracting that are not allowed?

Resources

- FHWA Alternative Contracting Web site
http://www.fhwa.dot.gov/programadmin/contracts/sep_a.cfm
- FHWA Alternative Contracting Methods (ACMs) Library
<http://www.fhwa.dot.gov/construction/contracts/acm/>
- FHWA SEP-15 Web site http://www.fhwa.dot.gov/ipd/p3/tools_programs/sep15.htm
- NHI 134058 *Alternative Contracting* <http://www.nhi.fhwa.dot.gov/default.aspx>

Slides 49 and 50

Waiving Competitive Bidding Requirements



- Public agency force account can be used
 - When STA proves cost-effectiveness
 - When an emergency exists
- Negotiated contracts for emergency work to restore essential travel

Using Time-related Incentive/Disincentive Clauses



- Intended for projects with high traffic disruption potential
- Not intended to be used routinely
- Differs from liquidated damages
 - Recommended caps are 5% for incentives; none for disincentives

CACC Manual Page: 47-49, 109-111

Directions

- Read and answer the questions below.

Questions

- What is the difference between disincentives and liquidated damages?
- What types of costs can be included in disincentives?
- If road user costs are used to calculate liquidated damages, can they be used again in figuring disincentive charges?

Slides 51 and 52

Price Adjustment Clauses



- Quality Price Adjustment Clauses
- Commodity Price Escalation Clauses

Standardized Changed Conditions Clauses

- Three different clauses
 - Differing site conditions
 - Suspensions of work ordered by the Engineer
 - Material changes in the scope of the work

CACC Manual Page: 115-120**Directions**

- Read page 115 in the manual to review a list of physical properties for which STAs include quality price adjustments.
- Read and answer the questions below.

Questions

- i. For what is a **quality** price adjustment clause typically used in your State?
- ii. What **commodity** price escalation clauses are used in your State?

Background: The four Ds for this type of price adjustment.

- Determine the critical physical properties
- Describe how each property influences product performance
- Describe the evaluation methods for each property
- Develop a price escalation clause for each property

Resources

- Transportation Research Board *National Cooperative Highway Research Program (NCHRP) 371: Quality-Related Pay Adjustment Factors for Pavements*
<http://www.trb.org/Publications/Blurbs/168404.aspx>

Slides 53-55



Differing Site Conditions

- Type I Condition
 - Subsurface or latent physical conditions that differ materially from the contract
- Type II Condition
 - Unknown physical conditions of an unusual nature that differ from those ordinarily encountered



Suspensions of Work Ordered by Engineer

- Allows adjustment of contract terms if the performance of all, or a portion, of the work is suspended or delayed by the Engineer for an unreasonable period of time
- Must be in writing



Material Changes in Scope of Work

- Permits adjustment of the contract terms if the Engineer orders an alteration of the work or in the quantities that **significantly changes** the character of the work
- Must be in writing

CACC Manual Page: 118-120**Directions**

- Read page 118 in the manual, entitled “Standardized Changed Condition Clauses.”
- Read and answer the questions below.

Questions

- i. Can adverse weather be a differing site condition?
- ii. What are some example causes of compensable owner delay?

iii. Are deleted items covered under the significant changes in the character of the work clause?

iv. What constitutes a significant change?

Slide 56

Does the Contractor Have a Valid Claim Under the Clause?



- Group Activity
 - Review the scenario
 - Determine if there are grounds for action

**Directions**

- Read the Changed Condition Clause scenario assigned to your group.
- Decide if there are grounds for action.

Changed Conditions: Delays #1

D.A. Elia Construction Corporation was contracted by the New York State Thruway Authority (NYSTA) to repair 4 concrete piers supporting the Castleton-on-Hudson Bridge. NYSTA required that Elia repair more—but smaller—areas of the piers than were identified in the bid documents. The contract had advised bidders to conduct their own inspections as the bid documents indicated only major repairs and were approximations subject to field conditions.

Elia did not conduct its own inspection, but rather based its bid on the assumption that an accurate field inspection by hammer soundings of the piers had recently been completed.

Elia sued NYSTA seeking compensation for additional work and costs.

Is Elia's claim justified?

Changed Conditions: Delays #2

Huff Enterprises was contracted by the Triborough Bridge and Tunnel Authority to construct office facilities. The contract contained a standard requirement that a 10-day written notice of delay be given to the owner. Full completion of the project was delayed for more than 2 years largely due to the Authority's revision of construction plans, which required Huff to perform extra work. Huff failed to provide written notice at the start of the delay.

After completion, Huff sued the authority, seeking to recover delay damages, as well as compensation for the extra work.

Huff claimed that the Authority repeatedly and deliberately ignored, and therefore waived, the contractual notice requirement. But, the Authority had verbally told Huff that any claim for delay damages should be submitted along with other claims at the end of the project.

Huff said it was established practice between the parties to bypass the strict mandates of the contract by not making notice of each item causing delay.

Does Huff have a legitimate case against the Authority?

Slide 57



Conducting a Value Engineering (VE) Study

- VE studies are required on certain FA projects
- Design-build projects are exempt from the VE requirements
- FHWA can require more than one VE analysis for major projects

CACC Manual Page: 64**Resources**

- FHWA Value Engineering Web site <https://www.fhwa.dot.gov/ve/>
- NHI 134005 *Value Engineering* <http://www.nhi.fhwa.dot.gov/default.aspx>

Slides 58-60

Materials Requirements



- Patented or proprietary products
- Domestic steel and iron products
- State-owned, furnished, or designated materials
- Convict-produced materials
- Salvaged materials

Using Patented or Proprietary Items



- Discourages use of brand or trade names
- Requires use of “equal to” phrasing when trade or brand names cannot be avoided
- Requires inclusion of equivalent materials and products in specifications
- FHWA does not pay a premium or royalty for patented or proprietary materials, specifications, or products

Patented or Proprietary Items May Be Used When...

- Obtained through competitive bidding
- Certified by the STA as being essential or unique
- Used for research or for a distinctive type of construction
- Approved by FHWA using a PIF

CACC Manual Page: 93-97**Directions**

1. Read item “Patented or proprietary materials” on page 93 of the manual.
2. Read and answer the question below.

Question

- i. What constitutes a ‘reasonable’ number of acceptable products in your State?

Resources

- FHWA Approvals of Patented and Proprietary Products from November 30, 2011 to Present
<http://www.fhwa.dot.gov/construction/contracts/pnpapprovals/approvals.cfm>
- FHWA Questions and Answers Regarding Title 23 CFR 635.411 (Patented and Proprietary)
<http://www.fhwa.dot.gov/programadmin/contracts/011106qa.cfm>
- AASHTO Product Evaluation List (APEL)
http://apel.transportation.org/all_certified_products.aspx

Slide 61-63

Buy America Requirements



- Domestic manufacturing of all steel and iron materials permanently incorporated in a Federal-aid project funded under Title 23 U.S.C.
- Includes the application of a coating

Buy America Does Not Apply to...

- Manufactured products that are not steel or iron (total iron and steel content <90% by weight)
- Miscellaneous steel or iron components, subcomponents, and hardware necessary to encase, assemble, and construct steel components

Buy America v. Buy American

Requirement	Statute/Regulation	Applicability	Coverage	Threshold
Buy America	23 USC 313 23 CFR 635.410	All projects funded under Title 23	Manufacturing process for steel and iron materials, application of a coating	None NAFTA and other international trade agreements have no effect
Buy American	41 USC 10a-10d 48 CFR 25	Direct Federal Procurement	All construction materials with exceptions	Thresholds identified in NAFTA and other trade agreements

CACC Manual Page: 86-90

Resources

- FHWA *Clarification of Manufactured Products under Buy America* Memorandum (12/21/12)
<http://www.fhwa.dot.gov/construction/contracts/121221.cfm>
- FHWA's *Buy America Q&A for Federal-aid Program*
http://www.fhwa.dot.gov/construction/contracts/buyam_qa.cfm

Slides 64 and 65

	
Circumstances that May Warrant Use of Non-domestic Steel or Iron  ▪ Minimal use ▪ Temporary use ▪ Alternate bid procedures ▪ Buy America waivers	Buy America Project Waiver Process ▪ STA requests waiver through the Division with supporting documents ▪ Division provides initial review with recommendations to FHWA headquarters (HIPA-30) ▪ FHWA hosts public comments period and in-depth reviews ▪ STA must resolve all comments before the waiver request is published in the Federal Register

CACC Manual Page: 86-90

Resource

- FHWA Notice of Buy America Waiver Request Web site
www.fhwa.dot.gov/construction/contracts/waivers.cfm

Slides 66 and 67

Materials Requirements (cont.)



- State-owned, furnished, or designated materials
- Convict-produced materials
- Salvaged materials

Deviations Case Study



- Determine if you need a PIF, cost effectiveness finding, or a certification for the project and materials listed
- Or identify if more information is needed

CACC Manual Page: 99, 90, 100

Case Study 1 Determining When to Deviate from Requirements

Goal

- Determine if you need a PIF, cost effectiveness finding, or a certification for the project and materials listed.

Directions for Completing Project-Materials Items 1-7

1. Review the descriptions for PIF, CEF, and certification on page 40 of the workbook.
2. Read the description of the project(s) and material(s) assigned to your group.
 - a. Determine if Buy America (BA) requirements apply.
 - b. Determine if the material is a patented or proprietary product (PPP).
 - c. If the answer to **a** or **b** is yes, determine which type of deviation(s) is (or are) required to utilize the item on the project.
 - d. If the answer to **a** or **b** is unable to be determined from the information provided, list what information you would need in order to make a determination.

Directions for Completing Project-Materials Item 8

3. As a whole group, read #8 and answer the questions that follow it. During discussion of the last question, refer to the Buy America waiver request letter and compare the actual response to your responses.

Project Materials

1. A Streetscape project's plans and specifications require the use of decorative light poles, Victorian-style, Model 10-X. These light poles are similar in appearance to those in place adjacent to the project.
2. An overlay project's plans and specifications require the use of the NovaChip® process.
3. An Interstate reconstruction project's plans and specifications require the installation of new underdrain and specifies the use of ConTech® plastic pipe.
4. A bridge project plan requires a pier to be constructed in the middle of a stream using a sheet pile cofferdam.
5. A superstructure replacement project's plans and specifications require the use of steel stay-in-place forms.
6. A bridge replacement project's plans and specifications require the use of a temporary bridge to be utilized as part of a detour for Maintenance of Traffic. The contractor may utilize a state furnished ACROW Bridge or provide their own, at no additional cost to the Government.
7. A project's plans and specifications require W-beam guardrail post, rails, and Slotted Rail Terminal (SRT) end treatments.

8. A consultant develops plans for the complete replacement of a 75-year-old vertical lift bridge. The estimated cost of the proposed project is \$160M. The plans were submitted to the State with the following statement: "No domestic manufacturer of these components has been found:

- 4 Mondel Mill Shoe Brake 13" BT/E ED50/6S
- 4 Mondel Machinery brakes 23" BT/E ED201/6S
- 8 Timkin Counterweight sheave bearings 241/710KYMD
- 16 Timkin Deflector sheave bearings 23040YM
- 8 Timkin span lock bearings SDAFS23064K."

- a. Should the State apply for a waiver, redesign, or proceed?
- b. If applying for a waiver, what would the State use as justification?
- c. What would happen if the consultant did not bring the materials to the attention of the State and the contract went out for bid?
- d. If you were the Secretary of the U.S. Department of Transportation, would you approve this waiver?



Paul R. LaPage
GOVERNOR

STATE OF MAINE
DEPARTMENT OF TRANSPORTATION
16 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0016

David Bernhardt
COMMISSIONER

February 25, 2014

Maria Drozd, Division Bridge Engineer
FHWA Maine Division
Edmund S. Muskie Federal Building
40 Western Avenue Room 614
Augusta, Maine 04330

Re: Sarah Mildred Long Bridge Buy America Waiver Request
MaineDOT WIN 16710.00, Federal Project Number BH-1671(000)

Dear Maria,

This letter is to request a waiver of the Buy America requirements of 23 CFR 635.410 for selected movable bridge machinery components.

The Sarah Mildred Long Bridge Replacement project involves the complete replacement of a 75 year old vertical lift bridge and associated approach work. The estimated total project cost is \$160,000,000. The Buy America waiver request is for the machinery components listed below:

1. Motor Brakes
2. Machinery Brakes
3. Counterweight Sheave Bearings
4. Deflector Sheave Bearings
5. Operating Drum Bearings
6. Span Lock Bearings

Motor Brakes:

The motor brakes for this project are specified as Mondel Mill Duty Shoe Brake 13" BT/E – ED50/6S. Four motor brakes are required for this project at an estimated cost of \$19,500 each for a total cost of \$75,000. We have been unable to locate a domestic supplier for this component. Since no domestic manufacturer of this component has been found, the Department requests a waiver of the Buy America provisions for this component.

Machinery Brakes:

The machinery brakes for this project are specified as Mondel Mill Duty Shoe Brake 23" BT/E – ED201/6S. Four machinery brakes are required for this project at an estimated cost of \$34,500 each for a total cost of \$138,000. We have been unable to locate a domestic supplier for this component. Since no domestic manufacturer of this component has been found, the Department requests a waiver of the Buy America provisions for this component.

THE MAINE DEPARTMENT OF TRANSPORTATION IS AN AFFIRMATIVE ACTION • EQUAL OPPORTUNITY EMPLOYER
PHONE: (207) 624-3000 TTY: 888-516-9364 FAX: (207) 624-3001

REC-27

Counterweight Sheave Bearings:

The counterweight sheave bearings are very large spherical roller bearings. The design plans specify Timken 241/710KYMD or equivalent spherical roller bearings. Eight bearings will be required for this project. We have contacted two bearing manufacturers capable of producing such a bearing, Timken and SKF. Only one of those manufacturers would expect to produce that bearing domestically. The domestically produced bearing has been quoted at \$225,000 each for a total of \$1,800,000 for 8 bearings. The lift span fabricator quoting the mechanical package has informed us through the CM/GC process that a cost savings of \$800,000 (44%) can be realized by opening up competition to non-domestic sources. The Department's opinion is that since only one domestic source is available for this component that it is not available in sufficient and reasonable quantity and therefore a waiver of the Buy America provision is warranted.

Deflector Sheave Bearings:

The deflector sheave bearings are spherical roller bearings specified as Timken 23040YM or equivalent. Sixteen bearings will be required for this project at an estimated cost of \$3000 each for a total cost of \$48,000. We have contacted two bearing manufacturers capable of producing this bearing, Timken and SKF. Neither manufacturer produces this particular bearing domestically. Since no domestic manufacturer of this component has been found, the Department requests a waiver of the Buy America provisions for this component.

Operating Drum Bearings:

The operating drum bearings are pillow block spherical bearings specified as Timken SDAFS 23064K or equivalent. Eight bearings will be required for this project at an estimated cost of \$25,500 each for a total cost of \$204,000. We have contacted two bearing manufacturers capable of producing this bearing, Timken and SKF. Neither manufacturer produces this particular bearing domestically. Since no domestic manufacturer of this component has been found, the Department requests a waiver of the Buy America provisions for this component.

Span Lock Bearings:

The span lock bearings are pillow block spherical bearings specified as Timken SDAFS22522 or equivalent. Eight bearings will be required for this project at an estimated cost of \$3,300 each for a total cost of \$26,400. We have contacted two bearing manufacturers capable of producing this bearing, Timken and SKF. Neither manufacturer produces this particular bearing domestically. Since no domestic manufacturer of this component has been found, the Department requests a waiver of the Buy America provisions for this component.

Sincerely,



Jeffrey S. Folsom, P.E.
Project Manager
MaineDOT Bridge Program

Slide 68



Review Questions



- i. What are some examples of documentation that must be included in the PS&E to receive approval?
- ii. What are some examples of approved contract methods that can be used on Federal-aid projects?
- iii. What type of deviation is used for Buy America requirements?

Directions

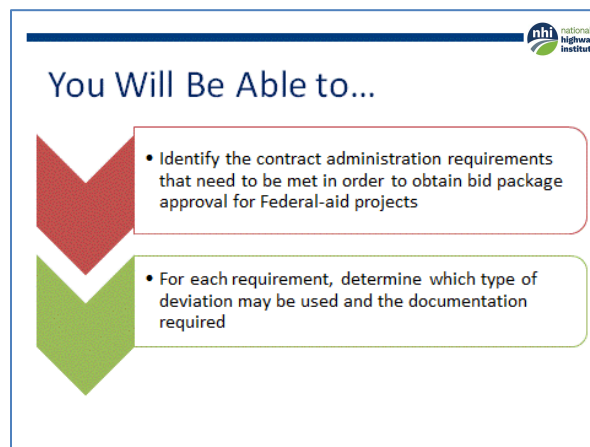
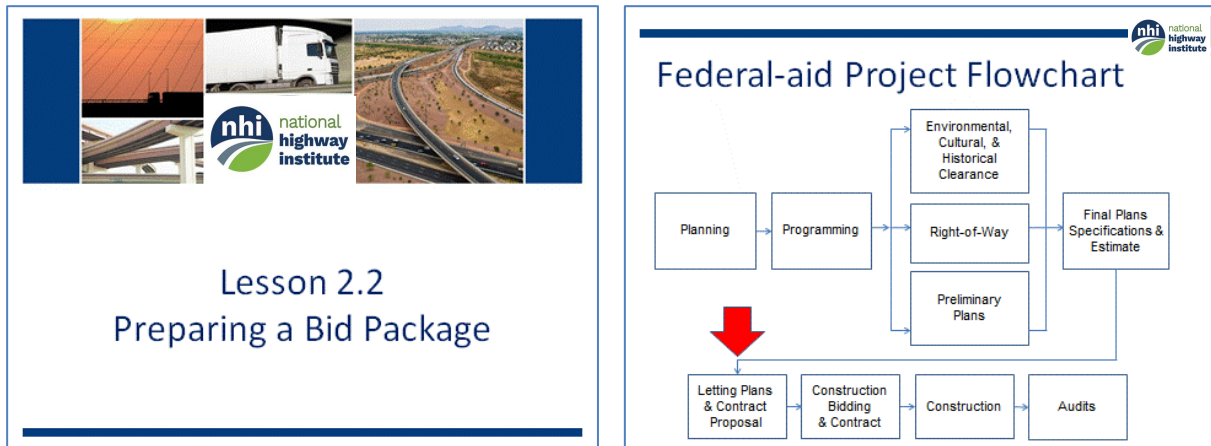
- Answer the review questions below with your group.

Review Questions

- i. What are some examples of documentation that must be included in the PS&E to receive approval?
- ii. What are some examples of approved contract methods that can be used on Federal-aid projects?
- iii. What type of deviation is used for Buy America requirements?

Lesson 2.2 Preparing a Bid Package

Slides 69-71



Directions

- Review the learning outcomes for this lesson.

Slide 72



What Does a Bid Package Include?



- Group Activity
 - Complete the Bid Package Requirements table
 - Determine which items are required and which are State- or project-dependent

Directions

- Review the Bid Package Requirements table on the next page. Note the requirements for which your group is responsible as the instructor makes the assignments.
- Use the manual to determine the applicability of the requirement, and then complete the last two columns of the table.

Bid Package Requirements

Requirement	CACC Manual Page	Applicable to	Deviation Allowed? Y/N (Type)
1. Foreign contractor and suppliers restrictions	20		
2. Prohibition on use of State preference	20		
3. Contract Time	108		
4. Bonding and Prequalification	127		
5. Wrap-up Insurance	68		
6. Publicly-owned equipment	102		
7. Contractor-purchased equipment for State	103		
8. Equipment rental rates	105		
9. Disadvantaged Business Enterprise (DBE)	112	All Federal-aid projects	N
10. Right-of-way (ROW) Certifications (Utilities and railroads)	129	All Federal-aid highway construction projects	N
11. Form FHWA-1273	121		
12. On-the-job training (OJT)	83		
13. Non-collusion statement	126		

Slides 73 and 74

Procurement Requirements	Optional Procurement Requirements
▪ Engineering and design-related services contracts ▪ Foreign contractors and suppliers restrictions ▪ Prohibition on use of State preference ▪ Contract time	 ▪ Prequalification ▪ Bonding ▪ Wrap-up Insurance

CACC Manual Page: 36, 20, 108, 127, 68

Directions

- Read and answer the questions below.

Question for slide 73

- i. What types of activities fall under engineering and design-related services?

Questions for slide 74

- i. Do you use prequalification?
- ii. If so, what criteria do you use for prequalification in your State?

Resource

- Office of the United States Trade Representative Web site www.ustr.gov

Slides 75 and 76

Equipment Requirements	Other Bid Package Requirements
 ▪ Publicly-owned equipment ▪ Contractor purchase for State ▪ Equipment rental rates	▪ Disadvantaged Business Enterprise (DBE) ▪ Right-of-way (ROW) clearances, including Utility and Railroad coordination ▪ Form FHWA-1273 ▪ On-the-job training (OJT) ▪ Non-collusion statements

CACC Manual Page: 102-106, 112, 129, 121, 83, 126**Directions**

- Turn to page 104 in the manual and find the definition for “equipment,” as it applies to contractor-purchased equipment.

Resource

- FHWA *Equipment Rental Rates* Memorandum (11/7/88)
<http://www.fhwa.dot.gov/programadmin/contracts/110788.cfm>

Slide 77



PS&E and Bid Package Approval Case Study



- Group activity
 - Determine which requirements have not been met for this project
 - Identify the documentation that needs to be provided to meet these requirements

Case Study 2 PS&E and Bid Package Approval**Goal(s)**

- Using a PS&E checklist, determine if all PS&E requirements are met for the project.
- Using a bid package checklist, determine if all bid package requirements are met for the project.

Directions

- Review the project description to determine what Federal-aid requirements should be met.
- Review the completed PS&E Checklist or the Bid Package Checklist, depending on your group's assignment. A "Y" indicates if the documentation to support the requirement is currently in the project file. A "N" indicates the document is not in the project file.
- Determine if any requirements are not met or if any required documentation is missing.
- Decide as a group: Would you approve the PS&E? Would you approve the bid package for a contract advertisement?
- If not, decide what is missing and needs to be provided to address the requirement. Use your manual for reference as needed.

Project Description

You are a State Program Manager reviewing a project file, with a request for concurrent approval of the PS&E and bid package.

Included with the file are completed PS&E and bid package checklists.

- The project is a \$65M Interstate interchange reconstruction project using cost-plus-time bidding (A+B).
- Due to the project's impact to one acre of wetlands, the project includes creation of 3 acres of new wetlands within the project limits.
- The State is requiring the use of McCain Programmable Traffic SignalsTM.
- The State has provided Maintenance of Traffic plans that include the use of a temporary pedestrian bridge. The project's specification allows the contractor to utilize a State-owned temporary bridge at no additional cost to the project or the contractor may request to utilize means and methods of their choosing and include the associated cost in their bid.
- The State has provided Maintenance of Traffic plans that include the use of 4 Horizon SQ3 Trailer Towable Portable Traffic SignalsTM. The project's specification requires 2 of the 4 Portable Temporary Traffic Signals shall become State property at the conclusion of the project and be delivered to the State Engineer fully operational and in like new condition.

PS&E Example Project Checklist

Requirement	Complete and included in project file?	Is the document necessary? If yes, why? If no, why not?
1. Specifications and Plans	Y	
2. Project Estimate	Y	
3. Environmental Commitments	N	
4. Basis of Contract Award	Y	
5. Time-related Incentive/Disincentive Clauses	Y	
6. Quality Price Adjustment Clauses	N	
7. Commodity Price Adjustment Clauses	N	
8. Standardized Changed Condition Clauses	Y	
9. Value Engineering	N	
10. Road Users Costs	N	
11. Patented and proprietary product approvals	N	
12. Domestic steel and iron products (Buy America)	Y	

Bid Package Example Project Checklist

Requirement	Complete and included in project file?	Is the document necessary? If yes, why? If no, why not?
1. Contract Time	Y	
2. Bonding and Prequalification	Y	
3. Publicly-owned equipment	N	
4. Contractor purchase for State	N	
5. Disadvantaged Business Enterprise	Y	
6. ROW Certifications (including utilities and railroads)	Y	
7. Form FHWA-1273	N	
8. OJT	Y	
9. Non-collusion statement	Y	

Slide 78



Review Questions



- i. Which one of the Federal-aid requirements addresses the use of engineering and design-related consulting services?
- ii. What are some examples of optional procurement requirements that can be added to a Federal-aid contract?
- iii. What are some examples of equipment requirements that might be included in a Federal-aid contract?

Directions

- Answer the review questions below with your group.

Review Questions

- i. Which one of the Federal-aid requirements addresses the use of engineering and design-related consulting services?
- ii. What are some examples of optional procurement requirements that can be added to a Federal-aid contract?
- iii. What are some examples of equipment requirements that might be included in a Federal-aid contract?

Module 3 Contract Administration: Advertising and Award Phase

Lesson 3.1 Project Advertisement, Bid Review, and Award

Slides 79 and 80



Module 3
Contract Administration:
Advertising and Award Phase



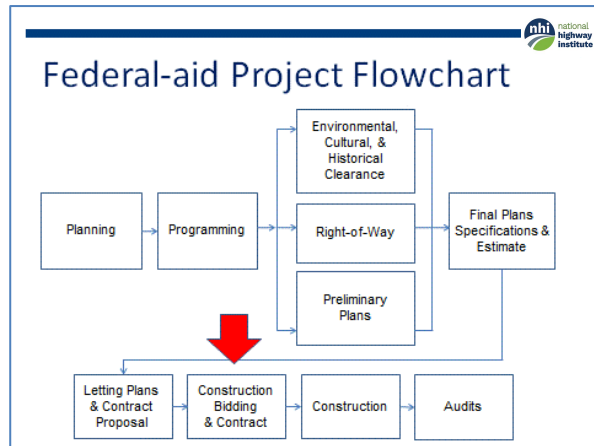
Module Topics

- Advertising for bids
- Bid opening
- Bid analysis and award
- Bid rigging
- Concurrence in award

Slides 81 and 82



Lesson 3.1
Project Advertisement, Bid
Review, and Award



Slides 83 and 84



You Will Be Able to...

- Identify the critical requirements that need to be met in order to advertise a Federal-aid project
- Describe the process for reviewing and analyzing bids
- Explain what is meant by the terms “responsible bidder” and “responsive bidder”
- Determine what constitutes an adequate, good faith effort for meeting Disadvantaged Business Enterprise goals
- Describe the process for obtaining concurrence and awarding the contract



Obtaining FHWA Approval to Advertise

CACC Manual Page: 129-130

Directions

- Review the learning outcomes for this lesson.
- Read and answer the question below.

Question

- When can a project be advertised? What tasks need to be confirmed as ‘complete’?

Note: Slide 84 is intentionally left blank so you do not have the answers to the question.

Slides 85-87

Video Questions

- i. What is the minimum advertisement period on a Federal-aid project?
- ii. What step is immediately taken by the STA following the close of the bid submittal period?
- iii. What four factors need to be considered during bid analysis?
- iv. What indicates a responsible bidder?
- v. Inclusion on what list prevents a contractor from being awarded a Federal-aid contract?

Video Questions, cont.

- vi. When comparing the apparent low bid to the project estimate, what two types of unbalanced bids are possible?
- vii. What are some examples by which a bid could be deemed “non-responsive”?
- viii. Why might re-advertisement of a project be necessary?
- ix. Before notifying the contractor that its bid was selected or rejected, what must an STA or LPA do?



Federal-aid Essentials Video
[Project Advertisement, Bid Review, and Request for Concurrency in Award](#)

Directions

- Watch the Federal-aid Essentials video *Project Advertisement, Bid Review, and Request for Concurrency in Award*.
- Record answers to the questions below.

Questions

- i. What is the minimum advertisement period on a Federal-aid project?
- ii. What step is immediately taken by the STA following the close of the bid submittal period?
- iii. What four factors need to be considered during bid analysis?

- iv. What indicates a responsible bidder?
- v. Inclusion on what list prevents a contractor from being awarded a Federal-aid contract?
- vi. When comparing the apparent low bid to the Project Estimate, what two types of unbalanced bids are possible?
- vii. What are some examples by which a bid could be deemed “non-responsive”?
- viii. Why might re-advertisement of a project be necessary?
- ix. Before notifying the contractor that its bid was selected or rejected, what must an STA or LPA do?

Resource

- Federal-aid Essentials *Project Advertisement, Bid Review, and Request for Concurrence in Award* video <http://www.fhwa.dot.gov/federal-aidessentials/catmod.cfm?id=5>

Slides 88 and 89



Advertising Requirements

- Method of Advertising
- Bid Advertisement Period
- Pre-bid meeting
- Addenda



Bid Opening



- Bid opening and reading
 - Indicates apparent low bidder
 - Establishes the cost to build the project

CACC Manual Pages: 129, 131

Slides 90 and 91



Bid Analysis and Award

- When analyzing bids, what four criteria should you use?



Determining Adequate GFEs

- Solicitations
- Break-out items
- Amount of work made available
- DBE commitment
- Number and dollar amount of DBE bids
- Bonding, insurance, materials, and supplies assistance
- Plans, specifications, and requirements available

CACC Manual Page: 133, 112

Directions

- Read and answer the question below.

Question

- i. How would you define a good faith effort (GFE) in your State?

Resources

- AASHTO Practical Guide to Cost Estimating (2013)
- FHWA *Bid Analysis and Unbalanced Bids* Memorandum (05/16/88)
<http://www.fhwa.dot.gov/programadmin/contracts/051688.cfm>
- FHWA *Guidelines on Preparing Engineer's Estimate, Bid Reviews and Evaluation* (2004)
<http://www.fhwa.dot.gov/programadmin/contracts/ta508046.cfm>
- System for Award Management
<https://www.sam.gov/portal/SAM/#1>

Slides 92 and 93

 Example #1: Is GFE Adequate?

- DBE Contract Goal = 14%

Bidder	Amount	DBE Commitment	Good Faith Effort Submitted
A	\$ 8.5 M	10.3%	Yes
B	\$ 9.0 M	8.3%	Yes
C	\$9.5 M	8.5%	Yes
D	\$16.0 M	14%	No

 Example #2: Is GFE Adequate?

- DBE Contract Goal = 14%

Bidder	Amount	DBE Commitment	Good Faith Effort Submitted
A	\$ 8.5 M	8.6%	Yes
B	\$ 9.0 M	14.1%	No
C	\$9.5 M	14%	No
D	\$9.6 M	14%	No

Directions

- Complete example #2 using the instructions provided by the instructor.

Background

“In determining whether a bidder has made good faith efforts, **you may take into account the performance of other bidders in meeting the contract.** For example, when the apparent successful bidder fails to meet the contract goal, but others meet it, you may reasonably raise the question of whether, with additional reasonable efforts, the apparent successful bidder could have met the goal. **If the apparent successful bidder fails to meet the goal, but meets or exceeds the average DBE participation obtained by other bidders,** you may view this, in conjunction with other factors, as evidence of the apparent successful bidder having made good faith efforts.” (49 CFR 26, Appendix A, Section V)

Slide 94



DBE Goal Case Study



- Evaluate contractor DBE practices for compliance with Federal-aid requirements

Case Study 3 Disadvantaged Business Enterprise

Goal

- Evaluate contractor DBE practices for compliance with Federal-aid requirements.

Directions

- Read each project narrative reflecting common DBE practices.
- Answer the questions that follow to determine if the practices of the contractor or agency are acceptable, or potentially fraudulent, and why.

Case Study 3A

Prior to the bid opening, Jane Wilson, the president and owner of a DBE landscaping company, submitted a bid to the prime contractor for the landscaping work on a Federal-aid project. The prime contractor told Ms. Wilson he had already met the DBE goal for the project and, therefore, he did not consider her bid.

After the bid opening, Ms. Wilson heard that the non-DBE subcontractor selected to perform the work submitted a bid for the same amount as Ms. Wilson's bid. Ms. Wilson believes that the correct procedure was not followed.

A review of the project records revealed that the prime contractor had met the DBE goal for the project.

- Do you think there is a problem with the subcontractor selection?

Case Study 3B

Always Redi Mix, Inc., and Ace are two companies that bid regularly on Federal-aid projects. Always is listed as the prime contractor and Ace is a subcontractor, identified as a DBE.

Ace leases concrete ready-mix plants from Always Redi Mix, Inc. Each truck load is identified either as an Always load or an Ace load. Concrete batch plant employees are shared between Ace and Always. The lease agreement between Always and Ace is based on a tonnage arrangement (not a monthly lease). Ace's President has skills to manage the plant, but not to design batches to State specifications. Ace only performs on Federal-aid contracts and never on 100% State or local projects.

- i. Are the prime contractor and subcontractor in compliance with DBE regulations? Is Ace, the DBE “. . . responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved” (49 CFR 26.55(c)(1)?
- ii. Does the manufacturer “. . . [operate] or [maintain] a factory or establishment that produces, on the premises, the materials, supplies, articles, or equipment required under the contract and of the general character described by the specifications” (49 CFR 26.55(e)(1)(ii)?
- iii. Does this arrangement represent normal industry practice?
- iv. Would Ace, the DBE, exist without the DBE program?

Slides 95 and 96



Bid Rigging



- The most common types of collusion are
 - Complementary bids
 - Territorial allocation
 - Joint ventures
 - Bid rotation



Suspension and Debarment



- Debarment excludes persons and companies from participation in all Federally-assisted programs
- Debarment requires due process
- Suspension excludes anyone proposed for debarment

CACC Manual Page: 138-139, 23, 125, 165-167

Directions

- Read the manual pages referenced above and respond to the questions below.

Question for slide 95

- i. If you suspect bid rigging has occurred, what should you do?

Question for slide 96

- i. If a parent company is debarred, does it mean that subsidiary firms of the parent company are debarred as well?

Background: To make a complaint, use the following contact information.

- **Call:** 1-800-424-9071 (toll free)
- **Email:** hotline@oig.dot.gov
- **Mail:** DOT Inspector General, 1200 New Jersey Ave SE, West Bldg. 7th Floor, Washington, DC 20590

A contractor may also use the online Federal Acquisition Regulation Disclosure Form to report criminal or civil violations in connection with a Federal contract.

<http://www.oig.dot.gov/contractor-disclosures-certain-violations-criminal-law-and-civil-false-claims-act-0>

Resources

- U.S. Department of Transportation Office of the Inspector General www.oig.dot.gov/Hotline
- System for Award Management, including Excluded Parties List System
<https://www.sam.gov/portal/public/SAM/#1>

Slides 97 and 98



Concurrence in Award Decision



- Required to
 - Authorize construction and award the contract to the successful bidder
 - Select a bid that was not the lowest
 - Reject all bids



Review Questions



- i. What requirements need to be completed in order to advertise a Federal-aid project?
- ii. What is a “responsive bid”?
- iii. Which tasks must be completed in order to review and analyze bids appropriately?

CACC Manual Page: 136**Directions**

- Answer the review questions below with your group.

Review Questions

- i. What requirements need to be completed in order to advertise a Federal-aid project?
- ii. What is a “responsive bid”?
- iii. Which tasks must be completed in order to review and analyze bids appropriately?

Day 1 Review Questions (Homework)

- Answer each question assigned to your group.
- Use the *CACC Manual* as needed.

Pre-award Procedures

1. What is the benefit to the SHA of developing standard specifications and standard plans for use on Federal-aid projects?
2. List three reasons why the Engineer's Estimate is important.
3. List three categories of costs associated with Road User Costs.
4. List five actions, or steps, that must be completed prior to FHWA's construction authorization.

Buy America

Are the following statements True or False regarding Buy America as it pertains to the FHWA Federal-aid Program?

1. Steel manufactured in the United States may contain up to 50% (by value) foreign steel, without a deviation being required.
2. Foreign alloys, e.g., carbon, chromium, can be used in the production of domestic steel or iron to achieve certain characteristics within the final product.
3. An SHA creates a contract package which allows alternate bids for foreign versus domestic steel and iron materials. It includes a notation that if the lowest total bid containing foreign

steel and iron materials is lower by more than 25%, then the SHA will award to the bidder with the foreign steel or iron.

4. A Canadian reinforced concrete pipe manufacturer uses steel rebar cages wholly fabricated in the United States. The firm asserts that it is only assembling components, not fabricating steel, and therefore, it is complying with Buy America.

Equipment and Materials

1. Are the following items permitted on a Federal-aid NHS project?
 - a. A requirement to use a guiderail block made from recycled plastic from sources within the State
 - b. The optional use of recycled guiderail blocks manufactured by Prison Industries
 - c. The mandatory use of State-furnished guiderail blocks made from plastic recycled by a proprietary source within the State
 - d. A requirement to use a specific brand of fabric-based reinforcement prior to the placement of asphalt
 - e. A requirement to use a State-owned Bailey Bridge (temporary bridge)
 - f. A requirement to use a specific brand of Road Weather Information System device

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Slide 149

**Directions**

- Watch the “Up Close and Personal: Connecticut DOT” segment of OIG’s *Fraud Awareness Video on False Statements and Claims*.
- Document clues or red flags for detecting fraud, abuse, and irregularities, as well as record one way to report suspicions, as you watch the video.

Slide 150



Review Questions



- i. What constitutes a contract change?
- ii. What are the four components of change orders?
- iii. How do controlling items of work affect contract time extension?
- iv. How is it determined that a change affects a critical path item on the project?
- v. What are the three categorical reasons for termination?

Directions

- Answer the review question assigned to your group.

Review Questions

- i. What constitutes a contract change?
- ii. What are the four components of change orders?
- iii. How do controlling items of work affect contract time extension?
- iv. How is it determined that a change affects a critical path item on the project?
- v. What are the three categorical reasons for termination?

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Conclusion

Slides 160 and 161



A graphic for a 'Course Review' slide. It features a photo of a man thinking, with his hand to his chin. To the right of the photo is a list of review categories. The NHI logo is in the top right corner.

Course Review

- Review categories
 - FAHP overview
 - Pre-award requirements
 - Bid advertisement, analysis, and award requirements
 - Post-award requirements

Directions

- Read and answer the review questions assigned to your group. These questions are found on the following page.

Course Review Questions

1. What types of information are typically included in a Stewardship and Oversight Agreement?
2. What are some typical responsibilities assigned to the State DOT on behalf of FHWA for Federal-aid projects?
3. List the items that must be documented in the PS&E in order for it to be approved.
4. What contracting methods can be used on Federal-aid projects, both operational and experimental?
5. How do you determine which Federal-aid requirements apply to a project?
6. Explain the reimbursement process used by the States and FHWA to pay for work on Federal-aid projects.
7. Can a Construction Manager hired in accordance with Brooks Act requirements be the State's person in responsible charge of a Federal-aid project?
8. What does Buy America require?
9. What do the Davis-Bacon and Copeland Acts require?
10. What is the definition of a public interest finding and an example of its use?
11. What is the definition of a cost effectiveness finding and an example of its use?
12. What are the characteristics of a responsive bid?

13. What requirements must be met in order to advertise a project?
14. What steps must you follow in order to properly review and analyze bids?
15. Explain why concurrence in award is required.
16. What duties are assigned to a person in responsible charge?
17. What requirements are documented in Form FHWA-1273?
18. What are the job site poster requirements?
19. What labor and employment-related requirements must be met on Federal-aid contracts?
20. What are the components of a QA program?
21. What changes do change orders document?
22. Time extensions are typically granted under what circumstances?
23. What are categorical reasons for termination of a contract?
24. What are some indicators that bid rigging has occurred?
25. What are the steps to close out a project?

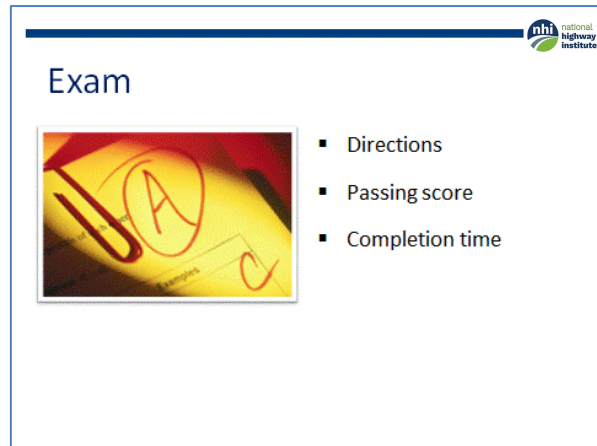
Slides 162-164



Administrative Matters



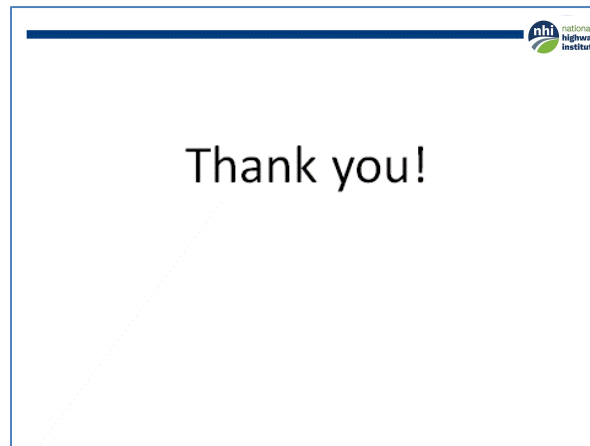
- Session roster
- Participant registration forms
- Course evaluations
- Certificates
- Continuing Education Credits



Exam



- Directions
- Passing score
- Completion time



Thank you!

Directions

- Be sure you have completed and submitted all required registration forms.
- Complete a course evaluation form.
- Complete and submit your exam.
- Collect your NHI certificate of attendance.

Acronyms

CEU	Continuing Education
CFR	Code of Federal Regulations
DBE	Disadvantaged Business Enterprise
EEO	Equal Employment Opportunity
FA	Federal-aid
FAHP	Federal-aid Highway Program
FHWA	Federal Highway Administration
GFE	Good-faith Estimate
LPA	Local Public Agency
MAP-21	Moving Ahead for Progress in the 21 st Century Act
NHI	National Highway Institute
OIG	Office of Inspector General
OSHA	Occupational Safety and Health Administration
PIF	Public Interest Finding
PS&E	Plans, Specifications, and Estimate
QA	Quality Assurance
S&O	Stewardship and Oversight
STA	State Transportation Agency
USC	United States Code

Web Resources

- Form FHWA-1273
<http://www.fhwa.dot.gov/programadmin/contracts/1273/>
- AASHTO *Controlling Design Criteria Report* Appendix A (October, 2001)
<http://www.fhwa.dot.gov/environment/publications/flexibility/ch02.cfm>
- Design Exception Guidance
<http://www.fhwa.dot.gov/design/standards/qa.cfm>
- Federal-aid Essentials Videos
<http://www.fhwa.dot.gov/federal-aidessentials/>
- Federal Highway Administration Contract Administration
<http://www.fhwa.dot.gov/programadmin/contracts/>
- Federal Highway Administration Program Policy and Guidance Center
<http://www.fhwa.dot.gov/pgc/>
- Federal Highway Administration Stewardship and Oversight
<http://www.fhwa.dot.gov/federalaid/stewardship/>
- Job Posters
<http://www.fhwa.dot.gov/programadmin/contracts/poster.cfm>
- *Responsible Charge Memorandum (08/04/11)*
<http://www.fhwa.dot.gov/federalaid/110804.cfm>
- U.S. Department of Labor, Davis-Bacon Resources
<http://www.dol.gov/whd/programs/dbra/>

Federal-aid Essentials Video Information: Overview

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U.S. Department of Transportation
Federal Highway Administration



Federal-aid Essentials for Local Public Agencies

The Federal Highway Administration offers an online library of dynamic videos and related materials specifically designed for local public agencies. This resource highlights key components of the Federal-aid Highway Program, offering valuable and helpful information to manage federally funded transportation projects. The materials are featured on a Web site called [Federal-aid Essentials for Local Public Agencies](#).

Federal-aid *Simplified*.

UNDERSTANDING THE ESSENTIALS

[Federal-aid Essentials for Local Public Agencies](#) is a gateway to up-to-date materials, and an extensive directory of State resources and Federal contacts. It is an online library of informational video modules, designed to help local public agencies answer the important questions about federally funded projects.

Available 24 hours a day on most devices with Internet access, [Federal-aid Essentials for Local Public Agencies](#) is readily accessible and available when you want an answer. Each module addresses a single topic presented in plain language—condensing the complex regulations and requirements of the Federal-aid Highway Program into easy-to-understand language and illustrated examples. Brief, concise, and to the point—each video is less than 10 minutes long and highlights an important topic essential to the successful delivery of a federally funded project. Videos can be viewed online in any order and at any time. Companion resources accompany each presentation, along with links to additional resources.

Federal-aid Essentials for Local Public Agencies is organized around main categories:

- Federal-aid Program Overview
- Civil Rights
- Environment
- Finance
- Right-of-Way
- Project Development
- Project Construction & Contract Administration

The Web site allows you to indicate areas of interest and receive alerts when new material becomes available. You also can give feedback that will help FHWA continue to provide useful assistance through this Web site.

[Federal-aid Essentials for Local Public Agencies](#) presents what you need to know about the Federal-aid Highway Program. It is designed to help local agency staff navigate the Federal-aid Highway Program and to further understand the benefits of the policies, procedures, and practices. Your State department of transportation – your DOT – is very knowledgeable about Federal-aid projects and continues to be your primary resource for complying with Federal requirements. The Federal-aid Essentials Web site also includes a comprehensive listing of State Resources, consisting of links to local program Web sites, manuals, references, local technical assistance programs, and local program coordinators.

Start here: for help managing your next Federal-aid transportation project, go to www.fhwa.dot.gov/federal-aidessentials.

Want more information on the Federal-aid Essentials for Local Public Agencies Web site?

E-mail: LPA-feedback@dot.gov

A Peek Inside the Library

Federal-aid Essentials can become your personal reference library available 24 hours a day. Consult Federal-aid Essentials at the start of a new roadway project concept, or when questions arise about financing, right-of-way, or environmental impacts. Or, you may have an interest in civil rights, or a need for more information on project development or construction contract administration. You may simply want to review the process to closeout a project. Federal-aid Essentials offers a wide range of video modules to address questions and concerns.

SAMPLE TOPICS IN THE LIBRARY

Federal-aid Program Overview

- Stewardship and Oversight
- A Process from “Cradle to Grave”
- Key Actions in the Cradle-to-Grave Process
- Funding Basics and Eligibility
- Project Requirements
- National Bridge Inspection Standards
- Hiring a Consultant Using Competitive Negotiation Procedures

Civil Rights

- Background and Purpose
- Nondiscrimination Requirements on Construction Contracts
- Foundations of the ADA/Section 504
- Disability Protections
- Self-Evaluation Basics
- Disadvantaged Business Enterprise Program Overview

Environment (and NEPA, the National Environmental Policy Act)

- Overview of NEPA as Applied to Transportation Projects
- Documentation and the Environmental Process
- NEPA Compliance and Class of Actions
- Categorical Exclusion
- Environmental Impact Statement
- Environmental Assessment
- Purpose & Need, and Alternatives
- Public Involvement

Finance

- Introduction to Cost Principles
- Common Grant Rule
- Transparency Act Sub-Award Reporting
- Internal Control Regulations and Requirements
- Introduction to Internal Control
- Single Audit (OMB Circular A-133)

Right-of-Way

- Introduction to Right-of-Way Requirements and the Uniform Act
- Project Development
- Property Management
- Valuation
- Acquisition and Negotiation
- Relocation Assistance

Project Development

- Projects and Statewide Planning Requirements
- Cost Effectiveness Determinations and Public Interest Findings
- Selecting the Method of Construction: Contract or Force Account
- Project Advertisement, Bid Review, and Request for Concurrence in Award

Project Construction and Contract Administration

- Introduction to Project Construction and Contract Administration
- Supervising Agency Requirements
- Construction Quality Assurance
- Design-Build Procurement

New Videos are Now Available!

Title VI Program

- Implementation Plans
- Nondiscrimination Assurances
- Compliance and Enforcement

Operations

- Purchasing Intelligent Tracking Systems (ITS) and Traffic Technology
- Scoping and Conducting a Traffic Study to meet Community Needs

Project Development

- Applying the MUTCD to Aid Safety and Reliability

Moving Ahead for Progress in the 21st Century (MAP-21)

...and others are coming soon in the areas of Safety, Emergency Relief, Planning, and more!

Federal-aid Essentials Video Information: Stewardship and Oversight

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Check out
the video

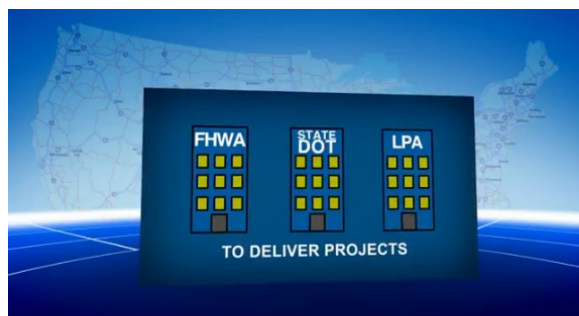
Federal-Aid Program Overview Stewardship and Oversight

www.fhwa.dot.gov/federal-aidessentials

Federal-aid stewardship and oversight are vital to maintaining public trust of LPA-administered projects



Today, we think nothing of our ability to easily drive into the city for work, or taking the family on vacation and using an Interstate highway to get there. In 1955, President Dwight David Eisenhower told Congress it was essential to the unity of our country to have a transportation system that provided for “the easy transportation of people and goods.” His vision has evolved into nearly 4 million miles of roads and streets open to public travel in the United States. One small piece is known as the National Highway System, which includes the Interstate system. The National Highway System carries a majority of the movement of traffic and freight serving economic and strategic priorities. Collectively, the Federal Highway Administration (FHWA), State departments of transportation (State DOTs), and you, as a local public agency (LPA), work together by delivering transportation projects to keep these systems working.



You can think of the national road system like a triangle that has been divided into sections. The Federal government is responsible for about 181,000 miles located in national parks and other federally owned properties, the smallest portion and the apex of the triangle. That is only a fraction of the nearly 800,000 miles that are under State control represented by the middle section. However, LPAs, such as yours, are responsible for the greatest portion at the bottom with about 2.7 million miles of the Nation's roads. Since the vast majority of the Nation's roadways are under the control of State and local government agencies, the responsibility for planning, constructing, operating and maintaining roads and highways fall to the State and local governments.

The FHWA and the State DOTs have administered the Federal-aid Highway Program for many years. Jointly, they are tasked with carrying out the Federal-aid program to maintain the national highways.

Exercising sound judgment and good decision-making while managing Federal funds is the basis of what is called stewardship.

Congress and the public hold FHWA accountable for ensuring that the Federal-aid Highway Program is both efficient and effective. The FHWA is tasked with ensuring highway projects approved for Federal funding are consistent with applicable laws, regulations and policies. This lays the foundation for what is known as oversight.



However, in 1991, in recognition of the significant role the States have of maintaining the national road system, the role of State DOTs was formally increased. Legislation made it possible for FHWA to formally assign some of its responsibilities for the Federal-aid program to the State DOTs. While this is true, FHWA is still responsible for ensuring compliance with Federal requirements in the delivery of the Federal-aid program. These legislative changes affect how FHWA implements this responsibility. The law allows State DOTs to act on behalf of FHWA by taking the responsibilities for project development, as well as administering the construction and inspection of many Federal-aid projects.

The FHWA provides assistance to States and LPAs in constructing, preserving, and improving transportation for the movement of people and goods. The Federal-aid program provides the financial resources and mechanism to perform these activities. Tax dollars are allocated and distributed by FHWA directly to the State DOTs, as a direct-recipient for Federal-aid projects or LPAs like yours, as sub-recipients, for “eligible” activities. In turn, the State DOTs provide oversight of LPA projects and ensure that local agencies that receive and deliver federally funded projects comply with Federal and State requirements.

In recognition of FHWA’s assignment of responsibilities to the State DOTs, Congress requires that a formal written agreement be established between FHWA and each State DOT with regard to the use of Federal-aid dollars. The jointly developed Stewardship-Oversight Agreement for each State documents the extent to which the State assumes the responsibilities of FHWA for the highway program. This agreement governs the partnership between FHWA and State DOTs. It also establishes how the Federal-aid program will be administered for each State.



To explain the meaning of stewardship and oversight, stewardship is the efficient and effective management of public funds that have been entrusted to FHWA. Stewardship involves the activities to deliver the Federal-aid program such as leadership, technology deployment, technical assistance, problem-solving, program administration and oversight. The FHWA division office and State DOTs are jointly responsible for how the Federal-aid program is developed and implemented.

Oversight means the act of ensuring that the Federal-aid program is delivered consistent with laws, regulations and policies. Oversight is the compliance or verification component of stewardship activities. Oversight activities enable FHWA and State DOTs to ensure the Federal-aid program is delivered effectively. The Stewardship-Oversight Agreement also provides details of how the State will handle its oversight responsibilities.

So, what does all of this have to do with you as an LPA? It is important that you are familiar with the Stewardship-Oversight Agreement implemented in your State to understand the oversight responsibilities for your local Federal-aid projects.

The Stewardship-Oversight Agreement describes your State DOT's approval and oversight responsibilities on locally administered Federal-aid projects.



The State DOT, acting on behalf of FHWA, is expected to exercise judgments similar to FHWA based on Federal laws, regulations, and policies. Examples of these responsibilities apply to:

- Transportation planning activities
- Assessing environmental impacts
- Project design requirements
- Civil rights protections
- The purchase of rights-of-way
- Administering construction projects
- Maintenance activities

These responsibilities provide assurance that approval actions will be performed in accordance with State policies, practices and standards and all requirements of federal law.



In summary, much of the authority for administering the Federal-aid program falls to the State DOTs, which are responsible for providing oversight and to ensure compliance with Federal and State requirements. Becoming more familiar with your State's Stewardship-Oversight Agreement will help you as an LPA to understand the various responsibilities and authority when delivering Federal-aid projects. Contact your State DOT for more information on the Stewardship-Oversight Agreement that governs your locally administered Federal-aid projects.

Additional Resources

- Information and links to stewardship-oversight agreements by State <http://www.fhwa.dot.gov/federalaid/stewardship/>

The content of this document is not a substitute for information obtained from State departments of transportation, appropriate FHWA Division Offices, and applicable laws. Scenarios have been simplified for emphasis and do not necessarily reflect the actual range of requirements applicable to the scenario or this topic. This document was created under contract number DTFH63-11-F-00066 by the Federal Highway Administration, U.S. Department of Transportation, and is offered to the public to heighten and focus awareness of Federal-aid requirements within the local public agencies community and reinforces the importance of these necessary policies, procedures, and practices.

This companion resource is the script content for the video production of the same name.

Federal-aid Essentials Video Information: Funding Basics and Eligibility

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Check out
the video

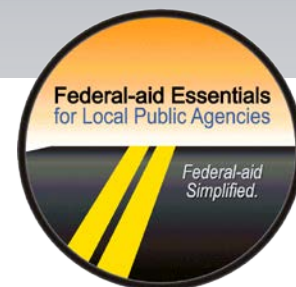
Federal-aid Program Overview

Funding Basics and Eligibility

Funding Basics and Eligibility

www.fhwa.dot.gov/federal-aidessentials

Key points must be understood about the Federal-aid Highway Program and how its funds can be used



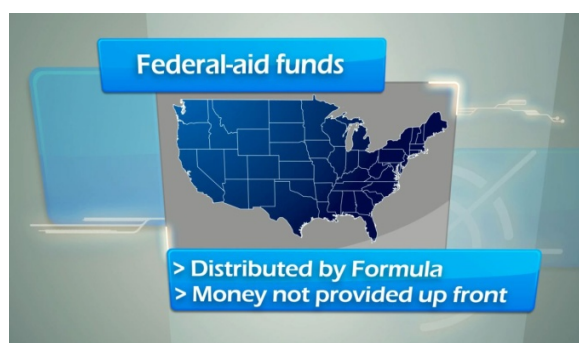
If you're considering using Federal-aid Highway Program funds on a local public agency, or LPA, project, you'll need to understand some key points about this type of funding and how you can use it. This overview module will help you attain awareness about Federal-aid funding itself and some important criteria that you'll need to meet in order to use the money on your project.

Let's begin with a brief explanation of the source of Federal-aid funding, and how these funds are provided to and administered by the States.



Congress established the Highway Trust Fund in 1956 to support building the interstate system as one of the earliest major initiatives of the Federal-aid Highway Program. Today, this fund continues to provide a steady source of surface transportation financing for the Federal-aid program. User fees such as gasoline taxes go into the Highway Trust Fund to finance surface transportation system projects, primarily for highways and bridges.

Federal-aid funds are generally distributed to States using formulas specified in Federal law, although the money is not provided up front. The Federal law provides a promise of future reimbursement. The funds distribution enables a State department of transportation, or State DOT, to enter into agreements with the Federal Highway Administration, or FHWA, that will ultimately be reimbursed from Highway Trust Fund receipts. The funds distribution is provided to each State within funding categories or programs that focus on key areas, such as the Surface Transportation Program and the Highway Safety Improvement Program.



State DOTs are the designated recipients or "grantees" for the funds, and LPAs are sub-recipients or "sub-grantees," meaning LPAs receive funds via the State DOT. State DOTs oversee decisions regarding the selection of projects for funding and are responsible for ensuring Federal requirements are met, including those for funds eligibility.

**Federal-aid Essentials Video Information: Project Advertisement, Bid Review,
and Request for Concurrence in Award**

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Check out
the videoProject Development
Required ApprovalsProject Advertisement, Bid Review, and Request for
Concurrence in Awardwww.fhwa.dot.gov/federal-aidessentials

Awarding a construction contract to a responsible contractor is an important requirement of Federal-aid project



After the environmental and design work for your Federal-aid project is complete and you're ready to bring in a contractor to build the project, you should consider the following questions:

- * Are there specific rules for advertising my project?
- * How do I analyze bids in order to choose a contractor?



Let's focus on the answers to these questions, and the associated requirements you must adhere to before your Federal-aid construction contract can be awarded. These requirements help preserve a competitive environment for bidding, ensure fair and open competition, and ultimately maximize the use of Federal-aid funds.

After your oversight agency authorizes the use of Federal funding for construction, your first step is to find a contractor to do the work. This is typically referred to as advertising the project,



meaning you publically or electronically announce your intent to solicit bids for a construction

contract. Under normal circumstances, you advertise the project for a minimum of three weeks to provide sufficient time for contractors

to assemble and submit bids. The solicitation must specify the exact day and time the advertisement period closes in the announcement. All contractors must submit their completed bid packages to you by the official "close" of the solicitation period. After that date and time, bids can no longer be accepted or changed.

Just after the close of the advertisement period, you open the bids and read aloud or publicly share the list of bidders and their bids, and identify which is the "apparent" low bid. Advertising and opening bids according to these requirements help to maintain credibility and transparency among the bidders and the public.

Now that the bids have been opened, it's time for you to analyze the apparent low bid is acceptable and meets all requirements. You need to consider four primary factors:

- Is the bidder considered responsible?
- How do the bids compare to the engineer's estimate?
- Is the bid considered responsive?
- Was there adequate competition?

- 1 Is Bidder **RESPONSIBLE?**
- 2 How Do Bids **COMPARE?**
(to Engineer's Estimate)
- 3 Is Bid **RESPONSIVE?**
- 4 Was there adequate **COMPETITION?**



The first question to consider in your analysis is: “Is the bidder responsible?” A responsible bidder is one who is

physically organized and equipped with the financial means to undertake and complete the contract. A responsible bidder is also one that is not suspended or debarred, or whose business ethics have not been otherwise determined to be inadequate. The Federal government maintains a list of all parties, called the Excluded Parties List System (EPLS), which have been suspended or debarred. You have a duty to ensure that the contractor is not listed on the EPLS before awarding a contract to that entity.

Some agencies use a prequalification process to help determine responsible bidders. However, prequalification should not be used to restrict competition or discourage otherwise responsible bidders from submitting a bid.

The next question to consider is: “How do the bids compare to the engineer’s estimate?”

Local public agencies, or LPAs, must develop and use an engineer’s estimate for analyzing bids. You use the engineer’s estimate as the benchmark to compare against all bids. This estimate reflects the amount you consider fair and reasonable, and are willing to pay for the performance of the work.



As you analyze the apparent low bid, you should pay close attention to any irregularities associated with either an individual item or the overall bid. An irregular bid is when the apparent low bid differs from the engineer’s estimate in a manner that appears unreasonable. Irregular bids play a key role in the decision to reject or award a contract.

Pay special attention to unbalanced bids and consider the potential for savings if the project is re-advertised. There are two types of unbalanced bids:

- * A mathematically unbalanced bid contains lump sum, or unit bid items that do not

reasonably reflect the actual costs to construct the item

- * A materially unbalanced bid creates reasonable doubt that award to that bidder would result in the lowest ultimate cost to the government.

You should consider rejecting an unbalanced bid when it cannot be reasonably explained, or if you have a reasonable doubt that it would result in the lowest overall cost to the government. If you detect an unbalanced bid, contact your State for assistance, as these issues are typically handled case by case.



Also, if at any time you believe collusion or bid-rigging among bidders has occurred, report concerns directly to your nearest U.S. Department of Transportation Office of Inspector General.

Your next question should be: “Is the bid responsive?” A responsive bid is one that meets all the requirements of the advertisement and proposal, meaning all bid-related paperwork or electronic forms are completed and signed. Your solicitation must clearly identify these requirements, which the bidder must comply with in order for the bid to be deemed responsive. Among the reasons a bid may be considered non-responsive are:



- * Not signing the bid in ink or not supplying a valid electronic signature where electronic bidding is used

- * Failing to include the required certification statements

- * Not meeting specified prequalification, or bonding and insurance requirements

- * Failure to commit to the project Disadvantaged Business Enterprise, or DBE, goals or failure to demonstrate good-faith efforts in attempting to commit to DBE goals



Your last bid review-related question to consider is: “Was there adequate competition?”

Receiving only one or two bids may or may not justify re-advertising the project. The number of bids received is a complex issue that depends on many factors, including bidder interest in the work, location of the work, and current market conditions. When you have concerns with the adequacy of competition or the number of bids for your project, contact your State department of transportation (State DOT) to help you determine if re-advertising the project is appropriate.

At the conclusion of the analysis, your goal is to confirm the apparent low bid is a responsive bid, submitted by a responsible bidder for contract award.



You must obtain concurrence for your decision from your oversight agency before officially notifying a

contractor that its bid was either selected for contract award or rejected. Submit your written request for concurrence in award to the State DOT, which will either act on your request or forward it to the Federal Highway Administration for approval, depending on who has oversight of the project.

In support of your request, you must summarize the results of your bid analysis and highlight any irregularities that may be identified. Your summary must include the bid tabulations of the project, showing bid item details for at least the low three acceptable bids and the total amounts of all other acceptable bids.

Don't forget to include a statement that identifies which bid you are recommending for contract award.

Once you have received the written concurrence in award, this becomes your authorization to notify the contractor of award and enter into a contract for construction. If you enter into a contract before receiving written concurrence in award, the result can mean losing all Federal funds for the project.



Awarding a construction contract to a responsible contractor who submits the lowest responsive bid is one of the most basic tenets of Federal-aid contracting. These requirements help preserve a competitive bidding environment to provide the lowest cost to the government for projects. Contact your State DOT if you have questions about advertising, analyzing bids, or requesting concurrence in award of your a Federal-aid contract.

Additional Resources

- Federal guidelines on preparing engineer's estimate, bid reviews, and evaluation (2004)
<http://www.fhwa.dot.gov/programadmin/contracts/ta508046.cfm>
- FHWA guidelines on preparing engineer's estimate, bid reviews and evaluation
<http://www.fhwa.dot.gov/programadmin/contracts/ta508046.cfm>
- FHWA policy memo on performing a bid analysis and evaluation of unbalanced bids (1988)
<http://www.fhwa.dot.gov/programadmin/contracts/051688.cfm>
- FHWA memo providing reasons for rejection of unbalanced bids (1987)
<http://www.fhwa.dot.gov/construction/contracts/870729.cfm>
- FHWA guidance covering online based letting and evaluation for contracts
<http://www.fhwa.dot.gov/programadmin/contracts/interbid.cfm>

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This companion resource is the script content for the video production of the same name.

**Federal-aid Essentials Video Information: Supervising Agency Requirements
(Responsible Charge)**

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Check out
the video

Project Construction and Contract Administration Project Management Supervising Agency Requirements (Responsible Charge)

www.fhwa.dot.gov/federal-aidessentials

Necessary supervision and inspection must be provided to ensure contract satisfaction in order to receive Federal-aid funds



There is a saying, “You don’t get what you ‘ex’-pect, but what you ‘in’-spect,” which is why the Federal Highway Administration, or FHWA, places importance on construction project supervision. Why is this important? Because agencies must satisfy certain project supervision requirements in order to receive Federal-aid highway construction funds.

These requirements follow good business practice by having the agencies close to the work safeguard the public’s interests as they supervise completion of a project. Simply stated, an agency must provide necessary supervision and inspection to ensure contract satisfaction and that the public gets what it is paying for.

Federal regulations stipulate that the State department of transportation, or DOT, is the first-line supervising agency. The State DOT must provide an “engineer in responsible charge” to oversee construction project administration.

In some cases, the State DOT will arrange for a local public agency, or LPA, having

jurisdiction over a highway, to complete the construction work. This means assigning the LPA some supervising agency responsibilities. The LPA may use a contractor or its own staff to complete the work. Most often, contractors are hired and, depending on the situation in your State, an LPA may contract for the construction itself or through the State DOT.

To enter into such an arrangement, an LPA must meet certain conditions and get State DOT and FHWA approval in advance. The State DOT maintains overall project responsibility, and oversees the LPA and any consultant staff based on some consideration of experience with Federal-aid projects.



Each State DOT should clarify project supervision responsibilities through agreements with the LPA.

So what are the conditions for an LPA to assist as a supervising agency?

- You must include all Federal requirements in the contract and ensure compliance.

Appendix A: Case Study Route Maps

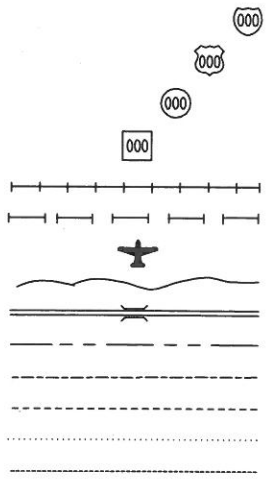
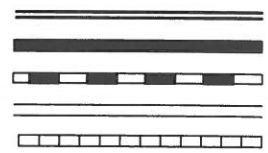
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BRIDGE REPLACEMENT - PPCB
BRFIM-080-5(272)142--05-77

POLK COUNTY

POLK COUNTY - DESIGN NO. 1010

CONVENTIONAL SIGNS



SIGNS

DIVIDED HIGHWAY
PAVED ROAD
BITUMINOUS ROAD
GRAVEL ROAD
EARTH ROAD

INTERSTATE HIGHWAY
UNITED STATES HIGHWAY
STATE HIGHWAY
COUNTY HIGHWAY

RAILROAD
PIPELINE
AIRPORT
HYDROLOGY
BRIDGE
STATE BOUNDARY
COUNTY BOUNDARY
CORPORATE LIMIT LINE
TOWNSHIP LINE
SECTION LINE



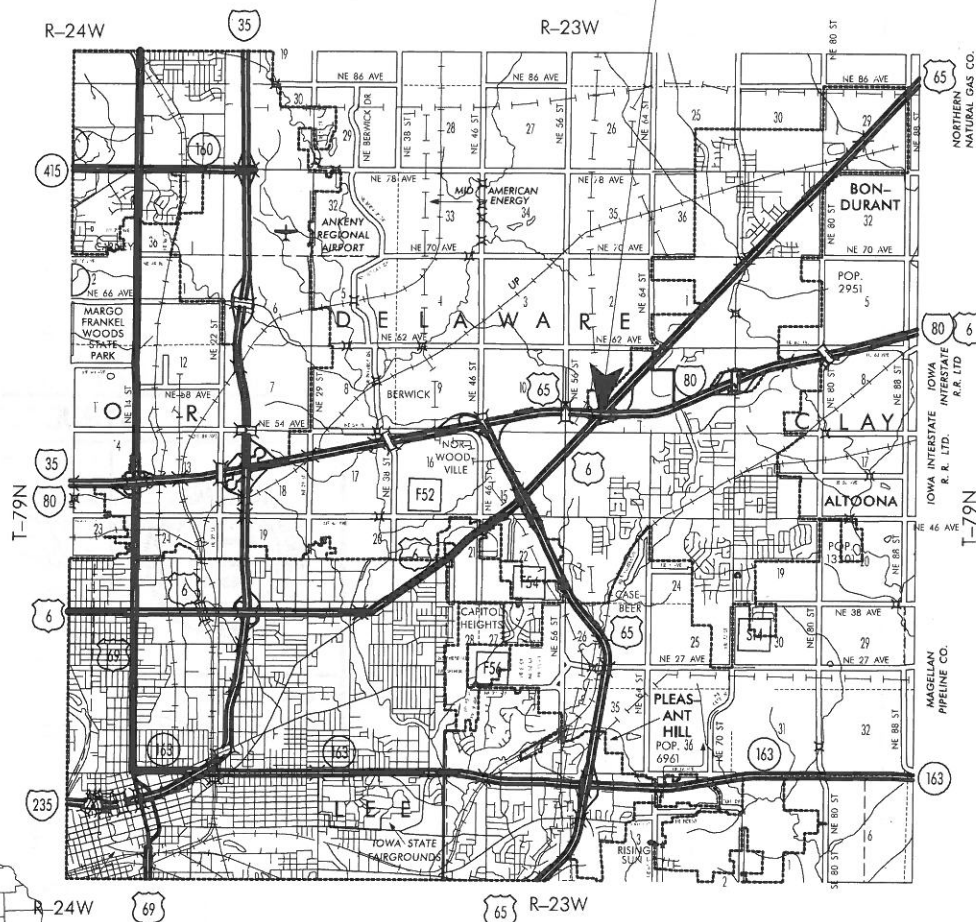
Department of Transportation Highway Division

PLANS OF PROPOSED IMPROVEMENTS ON THE INTERSTATE ROAD SYSTEM POLK COUNTY

BRIDGE NEW - PPCB EASTBOUND I-80 OVER US 65

THE DEPARTMENT OF TRANSPORTATION STANDARD SPECIFICATIONS FOR HIGHWAY AND BRIDGE CONSTRUCTION, SERIES 2009, PLUS APPLICABLE GENERAL SUPPLEMENTAL SPECIFICATIONS, DEVELOPMENTAL SPECIFICATIONS, SUPPLEMENTAL SPECIFICATIONS AND SPECIAL PROVISIONS SHALL APPLY TO CONSTRUCTION WORK ON THIS PROJECT.

DESIGN NO. 1010



LOCATION MAP

PROJECT DIRECTORY NAME: 77080180B94

ENGLISH STANDARD BRIDGE PLANS

STANDARD ISSUED REVISED

TOTAL SHEETS
35

PROJECT NUMBER

BRFIM-080-5(272)142--05-77

R.O.W. PROJECT NUMBER

PROJECT IDENTIFICATION NUMBER

94-77-080-180

INDEX OF SHEETS

NO.	DESCRIPTION
1	TITLE SHEET
1A	REVISION SHEET
2	ESTIMATE SHEET - DESIGN 1010
2-29	DESIGN 1010
SPS.1-SPS.4	SOIL PROFILE SHEET
C.1	ESTIMATE SHEET FOR ROADWAY
C.1-J.1	ROADWAY SHEET

REVISIONS

SEE REVISION SHEET 2-1-2011
SEE REVISION SHEET 12-7-2011
SEE REVISION SHEET 2-1-2012
SEE REVISION SHEET 4-4-2012



ONE CALL

1-800-292-8989

STANDARD ROAD PLANS

STANDARD ROAD PLANS ARE LISTED
ON SHEET

DESIGN DATA RURAL

2010 AADT	10600	V.P.D.
2030 AADT	12500	V.P.D.
2030 DHV		V.P.H.
TRUCKS	18	%
Total Design ESALs		

INDEX OF SEALS

SHEET NO.	NAME	TYPE
1		STRUCTURAL DESIGN
SPS.1		GEOTECHNICAL DESIGN
C.1		ROADWAY DESIGN

STRUCTURAL DESIGN

I hereby certify that this engineering document was prepared by me or under my direct personal supervision and that I am a duly licensed Professional Engineer under the laws of the

6-28-10

Signature Date

Printed or Typed Name

My license renewal date is December 31, 2010

Pages or sheets covered by this seal: SHEETS 1 THRU 29 OF 35

DESIGN TEAM SSN/DAW/DLB

ENGLISH

* OFFICE OF BRIDGES AND STRUCTURES

FILE NO. 29841

POLK COUNTY

PROJECT NUMBER BRFIM-080-5(272)142--05-77

SHEET NUMBER 1

W:\Projects\77080180B94\BRF\770805272.brg 7701010S000 11x17.pdf.pltcf

Appendix B: Answers to Federal-aid PS&E Requirements Group Activity

Requirement	CACC Manual Page	Applicable to	Deviation Allowed? Y/N (Type)
1. Specifications and Plans	60	All FA highway construction projects	N
2. Engineer's Estimate	107	All FA highway construction projects	N
3. Environmental Commitments	120	All FA highway construction projects	N
4. Basis of Contract Award – Competitive Low Bid	47	All FA highway construction projects	Y (Cost effectiveness finding (Public Agency Force Account), a time sensitive emergency exists, or under the SEP-14 program and TE projects via small purchase procedures)
5. Public Agency force account	48	All FA highway construction projects	N
6. Time-related Incentive/ Disincentive Clauses	109	All FA highway construction projects on the NHS	
7. Quality Price Adjustment Clauses	115	All FA highway construction projects on the NHS	
8. Commodity Price Escalation Clauses	116	All FA highway construction projects	
9. Standardized Changed Condition Clauses	118	All FA highway construction projects other than design-build projects where the applicability will be determined on a project-by-project basis	N

Appendix C: Answers to Bid Package Requirements Group Activity

Requirement	CACC Manual Page	Applicable to	Deviation Allowed? Y/N (Type)
1. Foreign contractor and suppliers restrictions	20	All Federal-aid construction projects	N
2. Prohibition on use of State preference	20	All Federal-aid highway construction projects	N, with one exception (Livability Initiative under SEP-14 permits states to request SEP-14 approval for contracting practices intended to enhance livability and sustainability as part of any project that is to be jointly funded with the Department of Housing and Urban Development (preferential hiring under HUD's Section 3))
3. Contract Time	108	All Federal-aid highway construction projects on the NHS	N
4. Bonding and Prequalification	127	All Federal-aid highway construction projects	n/a
5. Wrap-up Insurance	68	State optional	n/a
6. Publicly-owned equipment	102	All Federal-aid highway construction projects	Y (Cost effectiveness finding)
7. Contractor-purchased equipment for State	103	All Federal-aid highway construction projects	Y (Cost effectiveness finding)
8. Equipment rental rates	105	All Federal-aid highway construction projects	N, Note: FA participation shall be limited to the hourly rate obtained by dividing the monthly rate by 176.
9. Disadvantaged Business Enterprise	112	All Federal-aid projects	N
10. ROW Certifications (Utilities and railroads)	129	All Federal-aid highway construction projects	N

Appendix D: Form FHWA-1273

FHWA-1273 -- Revised May 1, 2012

REQUIRED CONTRACT PROVISIONS
FEDERAL-AID CONSTRUCTION CONTRACTS

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

ATTACHMENTS

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

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

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

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

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

I. GENERAL

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

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

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

II. NONDISCRIMINATION

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

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

Appendix E: Davis-Bacon and Copeland Acts Case Study Materials

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Employee #	Classification	Interview Wage Rate	Payroll		DOL Wage		Covered by Davis-Bacon Y/N		Is the employee's wage in compliance with Davis-Bacon	NOTES
			Hourly Rate of Pay	Fringe Benefits	Rates	Fringes				
1	Timekeeper									
2	Flagger									
3	Carpenter									
4	Laborer									
5	Carpenter									
6	Carpenter									
7	Trainee-Operator-Crane									
8	Operator-Crane									

NOTES:

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Page: 1 of 4
Date: 11/06/2013
Time: 10:42 AM

THIS PROJECT TOTAL

Appendix F: Project Close-out Documents

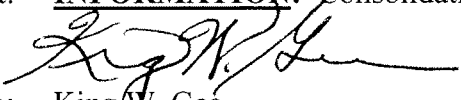


U.S. Department
of Transportation
**Federal Highway
Administration**

Memorandum

Subject: **INFORMATION:** Consolidation of FHWA Forms

Date: OCT 12 2011

From: 
King W. Gee
Associate Administrator of Infrastructure

In Reply Refer To:
HIAM-20

To: Division Administrators
Construction and Project Management Discipline

The compilation of the Area Engineers Manual in 2010 has helped in the development of our new Engineers, improving consistency, and assisted in understanding the flexibilities associated with the administration of the federal-aid program. At this time, we have developed a new chapter to be included in the manual that focuses on the Project Final Acceptance and Closure of Full Oversight Projects. Please find a copy attached.

We have worked closely with your division offices in reviewing the commonalities associated with the FHWA Form 1446a and 1446b. During this process, you demonstrated how some of your offices have enhanced the forms (checklists, photo captions, focus areas based on project type, etc.) to meet your current needs. That is exciting and encouraging. In support of this effort, we have combined FHWA Form 1446a and 1446b into one FHWA Form 1446. Please use this form as a starting point for your construction inspections, whether for process review, project review, or final acceptance of the project.

In addition, I would like to bring to your attention the Construction and Project Management Discipline SharePoint site, documents section, where these documents and appendix folders are presented (<https://one.dot.gov/fhwa/CPMDSS/Reference%20Library1/Forms/AllItems.aspx>). There are subfolders containing examples of inspection reports and checklists.

If you have any question, please contact Mr. Bryan Cawley at 202-366-1333 or bryan.cawley@dot.gov.

Attachments



U.S. Department of Transportation
Federal Highway Administration

Inspection Report

DIVISION	REPORT NO. 1	DATE OF INSPECTION	DATE OF REPORT	STATE # FEDERAL #
DATE CONTRACT STARTED	COMPLETION DATE	OWNER ACCEPTANCE DATE	COUNTY	
PROGRESS OF WORK Unsatisfactory ☐ Satisfactory ☐	QUALITY OF WORK Unsatisfactory ☐ Satisfactory ☐	FUNDS EXPENDED %	TIME ELAPSED %	
PROJECT TITLE AND LOCATION				
INSPECTOR(S)				
☐ Process Review/Product Evaluation ☐ Inspection In-Depth ☐ Project ☐ Final ☐ Final Acceptance				

Project Scope and Location:

Project Records and Inspection Observations:

Conclusion: