

Chapter 3 **Project Authorization**

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Exhibits

Exhibits applicable to this chapter can be found at:

<http://www.dot.ca.gov/hq/LocalPrograms/lam/forms/lapmforms.htm#goHere8>

Exhibit 3-A	Request For Authorization to Proceed With Preliminary Engineering
Exhibit 3-B	Request For Authorization to Proceed With Right of Way
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Exhibit 3-G	Federal Project Log Sheet (Minimum Requirements)
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Chapter 3 Project Authorization

3.1 INTRODUCTION

General

Prior to beginning highway work for which federal reimbursement will be requested, the project or project phase must be formally authorized (approved) by the Federal Highway Administration (FHWA). Each federally funded phase of work such as Preliminary Engineering (PE), Right of Way (R/W), Utility Relocation (R/W-UTIL), and Construction (CON), requires a separate federal authorization (the authorization of federal funds may be subdivided within a phase as well). Any work performed prior to federal Authorization to Proceed is not eligible for federal reimbursement.* Construction phase work performed prior to authorization may disqualify that phase.

On October 14, 2010, the FHWA and California Department of Transportation (Caltrans) entered into the current Joint Stewardship and Oversight Agreement (Agreement). This Agreement outlines the roles and responsibilities for oversight and approval of federally funded transportation projects under the jurisdiction of the FHWA. The Agreement defines two categories of projects – Delegated and High Profile. For Delegated projects, the FHWA has delegated as many project oversight and approval actions to Caltrans as the law allows. On High Profile projects, approval actions are determined on a project-by-project risk basis as agreed to by the FHWA and Caltrans. Regardless of whether the project is Delegated or High Profile, Caltrans recommends federal authorization and the FHWA must formally authorize the work. The determination as to whether a project is Delegated or High Profile is based on the criteria listed in Section 2.5, and the process defined in Figure 2-1, in Chapter 2, “Roles and Responsibilities,” of the Local Assistance Procedures Manual.

* **EXCEPTION** – For Emergency Relief projects, prior FHWA approval is not required for Emergency Opening and PE. Permanent Restoration work must have prior FHWA program approval and authorization, unless the work is done as part of Emergency Opening repairs.

Acronyms

AC	Advance Construction
ATP	Active Transportation Program
CE	Construction Engineering
CFR	Code of Federal Regulations
CMAQ	Congestion Mitigation and Air Quality Improvement Program
CON	Construction
CTC	California Transportation Commission
CTIPS	California Transportation Improvement Program System

DBE	Disadvantaged Business Enterprise
DLA	Caltrans Division of Local Assistance
DLAE	Caltrans District Local Assistance Engineer
DMT	Caltrans Division of Mass Transportation
DTR	Caltrans District Transit Representative
EA	Expenditure Authorization Number (for accounting purposes)
ER	Emergency Relief
E-76	Electronic Authorization to Proceed
FADS	Federal-Aid Data System (State Database)
FHWA	Federal Highway Administration
FMIS	Fiscal Management Information System (Federal Database)
FPN	Federal Project Number
FSTIP	Federal Statewide Transportation Improvement Program
FTA	Federal Transit Administration
FTIP	Federal Transportation Improvement Program
FFY	Federal Fiscal Year
FY	Fiscal Year (State)
HBP	Highway Bridge Program
HSIP	Highway Safety Improvement Program
IIP	Interregional Improvement Program portion of STIP
ISTEA	Intermodal Surface Transportation and Efficiency Act of 1991
ITS	Intelligent Transportation Systems
LAPG	Local Assistance Program Guidelines
LAPM	Local Assistance Procedures Manual
LPA	Local Programs Accounting Branch
LSSRP	Local Seismic Safety Retrofit Program
MAP-21	Moving Ahead for Progress in the 21 st Century
MPO	Metropolitan Planning Organization
NEPA	National Environmental Policy Act
NBI	National Bridge Inventory
NBIS	National Bridge Inspection Standards
NHS	National Highway System

OA	Obligation Authority
OFR	Caltrans Office of Federal Resources
PA/ED	Project Approval/Environmental Document
PE	Preliminary Engineering
PPNO	Project Planning Number
PSA	Program Supplement Agreement
PS&E	Plans, Specifications and Estimate
RIP	Regional Improvement Program (Portion of STIP)
RSTP	Regional Surface Transportation Program
RTPA	Regional Transportation Planning Agency
R/W	Right of Way
SAFETEA-LU	Safe, Accountable, Flexible, Efficient, Transportation Equity Act – A Legacy for Users
SEMP	Systems Engineering Management Plan
SERF	Systems Engineering Review Form
SHS	State Highway System
SR2S	Safe Routes to School Program
STD	State Transportation Department
STIP	State Transportation Improvement Program
STP	Surface Transportation Program
TAP	Transportation Alternatives Program
TE	Transportation Enhancements Program
TEA-21	Transportation Equity Act for the 21st Century
USC	United States Code

Terms and Definitions

Allocation – An administrative distribution of funds.

Apportionment – A statutorily prescribed division or assignment of funds. An apportionment is based on prescribed formulas in the law and consists of dividing authorized obligational authority for a specific program among the states.

Appropriation Period – The six years starting on July 1 of the appropriation year through June 30 of the reversion year that an encumbrance is eligible for reimbursement.

Appropriation Year – The state budget year (July 1 to June 30) that Legislature has approved for enactment and Local Programs Accounting (LPA) has authority to encumber funds.

Authorization to Proceed – Federal project funding eligibility approval for a particular phase of work by the Federal Highway Administration (FHWA).

Construction Engineering – Supervision and inspection of construction activities, additional staking functions considered necessary for effective control of the construction operations, testing materials incorporated into construction, checking shop drawing, and measurements needed for the preparation of pay estimates.

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

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

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

E-76 – Federal-aid program form titled Authorization to Proceed. It provides federal authorization to begin reimbursable work for a specific phase of work.

Encumbrance – The commitment of funds based on an agreement that permits Caltrans to reimburse eligible costs for an approved phase of a project.

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

06 runs from October 1, 2005, until September 30, 2006.

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

FSTIP – Federal Statewide Transportation Improvement Program, a four-year list of all state and local transportation projects proposed for federal surface transportation funding and/or are considered regionally significant. This is developed by Caltrans in cooperation with

MPOs/RTPAs and in consultation with local and other rural entities. The FSTIP, including FTIPs, requires FHWA/FTA approval.

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

High Profile – High Profile projects are high-risk projects for which the FHWA maintains project level approval for many project delivery activities. Prior to September 2007 these projects were referred to as FHWA “Full-Oversight” projects based on set criteria (rather than risk) such as Interstate construction over \$1 million, major Intelligent Transportation System, etc. Very few Local Assistance projects are High Profile projects.

LAPG – The *Local Assistance Program Guidelines* manual provides local project sponsors with a complete description of the federal and state programs available for financing local public transportation related facilities.

LAPM – The *Local Assistance Procedures Manual* describes the processes, procedures, documents, authorization, approvals and certifications, which are required in order to received federal-aid and/or state funds for many types of local transportation projects.

Local Agency – A city, county or other public entity.

Local Assistance Project – A local surface transportation project funded with federal and/or state funds for the operation, maintenance, and acquisition or development of facilities or land, provided the local entity retains ownership after completion of the project. Examples include:

- Project on Local Street with federal CMAQ funds
- Project on Local Street with RIP (STIP) funds

National Environmental Policy Act (NEPA) – Federal environmental law requiring federal agencies to consider the environmental impacts of their actions, evaluate least damaging alternatives and ensure decisions are made in the public’s best interest based on a balanced consideration of the need for safe and efficient transportation.

Obligation – The federal government’s legal commitment (promise) to pay or reimburse the states or other entities for the federal share of a project’s eligible costs.

Obligation Authority (OA) – Total amount of federal funds that may be obligated in a FFY.

Overall Work Plan (OWP) – The OWP is the MPO/RTPA’s transportation planning structure/plan for the state fiscal year, July 1 through June 30.

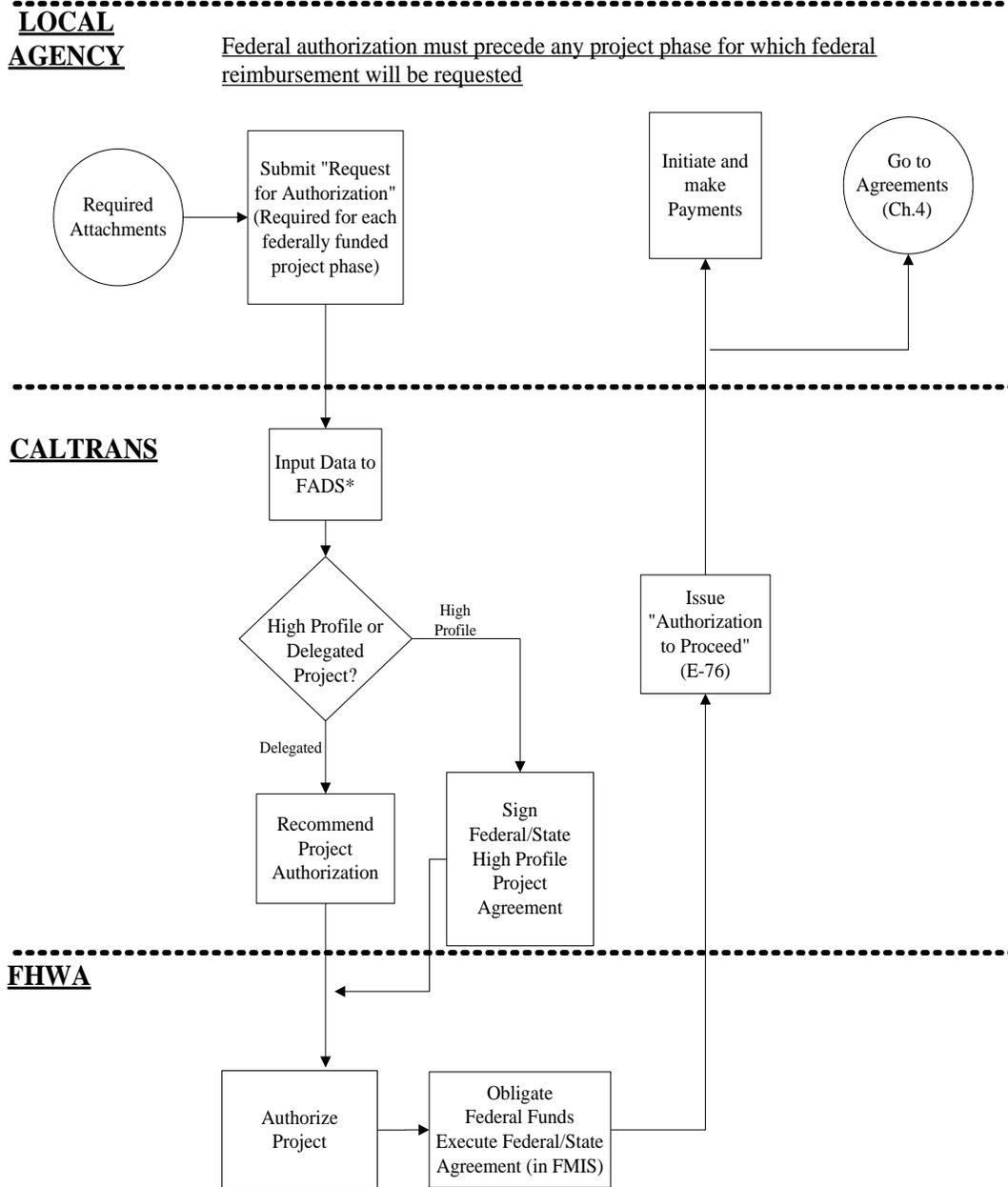
Preliminary Engineering (PE) – This phase includes all project initiation and development activities (including NEPA approval) undertaken through the completion of PS&E. It may include preliminary utility investigation and engineering work associated with utility relocation and pre-acquisition R/W activities such as estimating, title search and other studies necessary for project agreement approval and NEPA compliance.

Reversion Date – The last day that Caltrans may legally reimburse an encumbrance per state statute.

State Budget Authority – The state budget year and its period of reimbursement that is assigned to a particular state or federal encumbrance. State budget authority must be applied to all state and federal funds that are passed-through Caltrans to be eligible for reimbursement.

Figure 3-1. High-Profile/Delegated Project Identification Process

**FINANCIAL MANAGEMENT PROCEDURES
PROJECT AUTHORIZATION/OBLIGATION
For Developing All Local Federal-Aid Projects**



*FADS: Federal Aid Data System

3.2 PRIOR TO FEDERAL AUTHORIZATION

Prior to federal authorization, all federally funded transportation projects must be included in the current federally approved Federal Transportation Improvement Program/Federal Statewide Transportation Improvement Program (FTIP/FSTIP). The FTIP/FSTIP (or amendment thereto) must identify scope of work, project location, project sponsor, federally funded phases of work, programmed Federal Fiscal Year (FFY), and the types and amounts of federal funds. Emergency Relief (ER) projects that involve substantial functional, locational, or capacity changes also must be included in the FTIP/FSTIP.

For Intelligent Transportation Systems (ITS) projects and other projects with ITS elements, a preliminary classification of the project should be made as High-Risk (formerly “Major”), Low-Risk (formerly “Minor”), or Exempt. For further explanation, reference Chapter 13 “Intelligent Transportation Systems (ITS) Program,” of the Local Assistance Program Guidelines (LAPG).

Non-capacity increasing projects funded by the following federal programs are typically included in Caltrans’ administered Lump Sum listing of projects. The following Lump Sum listings of projects are developed in cooperation with the Metropolitan Planning Organizations/Regional Transportation Planning Agencies (MPOs/RTPAs) and local agencies:

- Highway Bridge Program (HBP, previously HBRRP)
- Local Seismic Safety Retrofit Program (LSSRP)
- Highway Safety Improvement Program (HSIP)
- Safe Routes to School (SRTS) Program

NOTE: Transportation Enhancements (TE) funded projects are now programmed in the State Transportation Improvement Program (STIP) (see Chapter 23, “Local Agency State Transportation Improvement Projects,” of the LAPG for requirements associated with federally funded STIP projects).

Projects funded with regionally programmed Surface Transportation Program (STP) or Congestion Mitigation and Air Quality Improvement (CMAQ) funds may be included in a Regional Lump Sum listing of projects as adopted by the appropriate MPO/RTPA. The RTPA/MPO is responsible for project eligibility determination and financial constraint of the regional program. When a local agency requests federal authorization of a project, the MPO/RTPA’s approved list of projects must be provided to the Caltrans District Local Assistance Engineer (DLAE).

Planning type projects funded with PL (MPO Planning Funds) or Section 5303 funds are not required to be listed in the FTIP/FSTIP when they do not lead to construction, however, these projects must then be included in a federally approved planning document such as an Overall Work Plan (OWP).

Soon after a project is selected and programmed for inclusion or amended into the FTIP/ FSTIP, the sponsoring agency should contact the Caltrans DLAE to discuss how and when they plan to proceed with project implementation. The discussion should cover the timing and process for the authorization/obligation of federal funds, whether a Formal Field Review is required or

recommended (see Chapter 7, “Field Reviews,” of the LAPM), and the California Transportation Commission (CTC) allocation(s) of STIP funds, if necessary.

If federally funded work is to be performed by a consultant or contractor, the local agency must have a Caltrans approved California Department of Transportation Disadvantaged Business Enterprise Implementation Agreement (Exhibit 9-A) and the approved Local Agency DBE Annual Submittal Form (Exhibit 9-B). The Local Agency DBE Annual Submittal Form is due to the DLAE by June 30 of each year for the following FFY. (See Chapter 9, “Civil Rights and Disadvantaged Business Enterprise,” of the LAPM.)

3.3 REQUEST FOR AUTHORIZATION

The project sponsor identified in the FTIP/FSTIP to receive the federal funds is responsible for requesting the federal Authorization to Proceed. The project sponsor must prepare and submit a Request for Authorization to Proceed package to the appropriate Caltrans District Local Assistance Office. The request package should include, as a minimum, the agency’s Request for Authorization to Proceed (see Exhibits 3-A, B, C, D, or Q), Request for Authorization to Proceed Data Sheets(s) (see Exhibit 3-E), Finance Letter and all required support documentations. The Caltrans District Local Assistance Office must submit to Caltrans Headquarters Division of Local Assistance (DLA), the Federal Project Log Sheet (Exhibit 3-G) with the appropriate documents attached.

If the Request for Authorization package is complete and all federal and state requirements have been satisfied, a minimum of three (3) weeks processing time should be allowed to receive federal Authorization to Proceed for Delegated projects. More time will be required for “High Profile” projects. Additional time may also be required near the beginning or end of the FFY.

If the Request for Authorization to Proceed package is incomplete, unacceptable or missing information that cannot be quickly obtained by FAX, telephone, e-mail, or other source, the package will be returned to the local agency for resubmittal.

Preliminary Engineering

Eligible preliminary engineering (PE) work includes location and environmental studies, NEPA approval (LAPM Chapter 6, “Environmental Procedures”), preliminary utility investigations and engineering work associated with utility relocation, final design (Plans, Specifications and Estimates, PS&E) and other related work including the cost of advertising leading to physical construction of a project. Preliminary R/W activities that may be considered eligible and authorized as part of PE include pre-acquisition activities such as estimating, title search and preliminary property map preparation and studies, as needed for NEPA compliance (see LAPM Chapter 13, “Right of Way”).

Only eligible work performed after the date of federal authorization is eligible for federal reimbursement. The preliminary studies portion of PE may be authorized prior to an optional or mandatory field review (see Chapter 7, “Field Reviews,” of the LAPM). This allows for the reimbursement of selecting consultants and other specialists who may be needed for field review. However, a completed Field Review form shall be submitted to Caltrans within four-

months from the initial PE authorization. Otherwise, the Authorization to Proceed will be canceled automatically.

Preliminary Engineering Phases Over Ten Years

Title 23 [CFR 630.112\(c\)\(2\)](#), as well as [USC Title 23, Section 102 \(b\)](#), requires the following for any federal-aid project: In the event that right-of-way acquisition for, or actual construction of, the road for which this Preliminary Engineering is undertaken is not started by the close of the tenth fiscal year following the fiscal year in which the project is authorized, the local agency will repay to the FHWA the sum or sums of federal funds paid to the transportation department under the terms of the agreement.

[FHWA Order 5020.1](#) published on April 26, 2011 provides policy direction on the repayment of federal-aid funds expended on Preliminary Engineering projects when reasonable progress has not been made toward R/W acquisition or construction. This directive also provides additional guidance clarifying when the FHWA can grant time extension.

Policy

- Projects that reach the status of “PE over 10 years” are out of compliance with [23 CFR 630.112\(c\)\(2\)](#), as well as [Section 102 \(b\) of USC Title 23](#), unless the project has an approved time extension. All invoice requests for a project out of compliance will cease to be paid. The project will be reviewed for closure and repayment of federal funds.
- Projects that have not moved to either R/W or CON in 8 years, exceeded the 10-year deadline, or approved with a time extension, will be posted on the Division of Local Assistance (DLA) website:
http://www.dot.ca.gov/hq/LocalPrograms/pe_over_10yrs.html.
- For any project in the PE phase that is within two years of reaching the 10-year deadline, the local agency may either submit a Request for Authorization (E-76) for R/W or CON, request a time extension request, or withdraw the project. If the time extension is denied, the project will be closed and federal funds repaid.
- Local agencies must inform the District Local Assistance Engineer (DLAE) of projects that advance to the R/W or CON phase without the aid of federal funds to be closed and removed from the "PE over 10 years" list.

Local Agency (Agency)

- Monitor projects in the PE phase for compliance.
- Submit Request for Authorization (E-76) for R/W or CON funds, if PE phase is completed.
- Inform the DLAE when the project advances to R/W or CON phase using local or state funds only (No federal funds).
- Submit a time extension request if the PE phase cannot be completed before the 10-year deadline.

- Ensure projects progress to either the R/W or CON phase before reaching the 10-year deadline or before the approved time extension request expires.
- Submit status update of approved projects to the DLAE at the beginning of each FFY that the time extension is in place.
- For denied time extension requests, close project and repay federal funds.
- Coordinate with the DLAE.
- Submit E-76 for R/W or CON, withdraw the project, or submit time extension request to DLAE 120 days before the end of the tenth (10th) fiscal year.

Time Extension Requests

Justifications for time extensions should be unforeseeable and beyond the agency's control. Shifting political priorities, insufficient transportation budgets, additions to the scope of work, and staffing issues are not considered acceptable justification for a time extension request.

Some examples of acceptable justifications include:

- Litigation resulting in delay or stoppage of preliminary project design.
- Complex project consultations involving Federal, State and local agencies, as well as sovereign nations.
- Congressional Earmarks requiring review by FHWA.
- Change in the project's purpose and need due to the public involvement process.
- Utilization of a unique implementation or funding approach that the administering agency is not accustomed to carrying out, such as development of public-private partnerships or other innovative financing strategies to help finance the project.
- Delay caused due to environmental findings or complications with the environmental studies.

All projects with an approved time extension are expected to:

- Proceed to the R/W or CON phase prior to expiration of the time extension
- Submit a status update at the beginning of each FFY the time extension is in place
- Invoice against the federal funds in the timeframes outlined in [23 CFR 630.106 \(5\)](#) and [Chapter 5, "Invoicing of Local Assistance Procedures Manual,"](#) to avoid inactivity

Time Extension requests are accepted continually throughout the year.

FHWA requires submittal of the following items with a time extension request:

Provided by Local Agency:

- [Time Extension Request Form](#)
- Applicable backup documentation for reason of delay

- Chronology of events leading to the delay (if litigation, supply a copy of the summary of the actual litigation documents filed with the acceptance date and stamp by the Court system)
- Updated schedule of future milestones (i.e., PE complete, NEPA approval, Final Design completion, construction award, etc.) helps demonstrate agency's commitment to completing the project
- Current Finance Letter Issued
- Prior FHWA decision letters on time extension request, if applicable

Provided by District DLAEs:

- Copy of pending E-76 requesting funds
- Copy of initial E-76 for project
- Current project programming (FTIP)
- HBP-Program Listings for FTIP/FSTIP (*compiled if Structures Project*)

Provided by PE>10 Projects Coordinator:

- FMIS printouts showing project authorizations, expenditures and balances

Intelligent Transportation Systems

For Intelligent Transportation Systems (ITS) projects, PE includes Systems Engineering, equipment, software development, and use of a Systems Manager or Systems Integrator (see Chapter 13 “Intelligent Transportation Systems (ITS) Program,” of the LAPG for details on Systems Engineering and the project development process for ITS projects).

The System Engineering analysis of High-Risk (formerly “Major”) ITS projects, as defined in Chapter 13 of the LAPG, must be approved by the FHWA prior to PE. The Systems Engineering Review Form (SERF) of High-Risk ITS projects must be approved by FHWA prior to or shortly after PE authorization. Development of the Systems Engineering Management Plan (SEMP) is contingent upon federal review comments and approval of the SERF. FHWA approval of the SEMP is required prior to proceeding to detailed component design.

Low-Risk (formerly “Minor”) ITS projects can undergo the traditional one PE phase authorization and will not require FHWA approval of the SERF and SEMP. However, the local agency still must complete the SERF as part of the Field Review Form.

Exempt ITS projects can undergo the traditional one PE phase authorization and will not require the SERF and SEMP.

Right of Way

Eligible Right of Way (R/W) work includes the preparation of R/W plans, making economic studies, other R/W related-preliminary work, appraisal for parcel acquisition, review of appraisals, payments for real property acquired, preparation for and trial of condemnation cases, management of properties acquired, furnishing of relocation assistance, and other related labor expenses (see 23 CFR 710 for details). This work is covered in the local agency’s Request

for Authorization to Proceed with Right of Way (Exhibit 3-B of this chapter). **Only eligible work performed after federal Authorization to Proceed with R/W may receive federal reimbursement.**

As noted above, some pre-acquisition R/W activities and studies necessary for project agreement approval and completion of the NEPA process may be authorized as part of PE. However, an approved NEPA document is required prior to the majority of R/W activities (e.g., negotiating with property owners, acquisition and relocation assistance, see Chapter 13, “Right of Way,” of the LAPM). The request for R/W authorization must include an approved NEPA document and completed Field Review Form if not submitted previously.

Right of Way Utility Relocations

If federal reimbursement is sought for utility relocations (adjustments), all work must be performed in accordance with the FHWA’s “Alternate Procedure” 23 CFR 645.119 (e)(2). Refer to Chapter 14, “Utility Relocations,” of the LAPM for detailed information and procedures related to eligible costs, required federal actions (Authorization to Proceed [E-76], FHWA Specific Authorization to Relocate Utilities, and FHWA Approval of Utility Agreement[s]), sequence of activities, notifications, support documentation and federal reimbursement.

The DLAE must identify the name of the utility owner, type of facility, and estimated cost to relocate/adjust each utility in the “State Comments” section of the E-76.

Note: Investigative and preliminary utility engineering work associated with utility relocation necessary to complete NEPA and PS&E may be authorized under Preliminary Engineering.

Construction and Construction Engineering

Eligible construction costs include the actual cost to construct the highway itself, including its appurtenant facilities and any removal, adjustment or demolition of buildings or major obstruction, utility or railroad work that is a part of the physical construction of the project construction engineering, and administrative settlement of cost for contract claims.

Construction costs exclude costs of PE, R/W, and construction engineering.

Federal Authorization to Proceed with construction must be received prior to advertising.

Projects advertised for a construction contract prior to federal authorization are NOT eligible for federal reimbursement.

The request package for Authorization to Proceed with construction must include a Field Review form, a copy of the approved NEPA document (either a signed Categorical Exclusion, Finding of No Significant Impact [FONSI], or Record of Decision [ROD]), if not previously submitted, approved Right of Way Certification, project Finance Letter, engineer’s estimate, PS&E Certification (Exhibit 12-C), PS&E Checklist (Exhibit 12-D) and PS&E package.

For projects of \$100 million or more, but less than \$500 million, a Financial Plan must be prepared and submitted to the DLAE with the request for construction authorization. For major projects of \$500 million or more, a Financial Plan must be submitted prior to the request for construction authorization and submittal of a draft Project Management Plan is required prior to environmental approval. For major projects, the Final Project Management Plan is due 90

days after the environmental decision document (i.e., FONSI or ROD). A Cost Estimate is required to be included in each Financial Plan. Both the Financial Plan and Project Management Plan are to be submitted to the DLAE for FHWA approval. The requirements for both of these plans are discussed in Chapter 2, “Roles and Responsibilities,” of the LAPM.

Construction Engineering (CE) includes the supervision and inspection of construction activities, additional staking functions considered necessary for effective control of the construction operations, testing materials incorporated into the construction, checking shop drawings, and measurements needed for establishing pay quantities. CE costs must be specifically included in the Authorization to Proceed with Construction and authorized to be eligible for federal reimbursement. CE costs must also be included on the project Finance Letter. If CE is authorized after construction begins, only those CE costs incurred after the date of the CE authorization are eligible for federal reimbursement.

It is highly recommended that local agencies use 15% as a guide for estimating CE costs and maintain justification for higher CE costs. CE costs in excess of 15% on federally funded projects selected and programmed directly by Caltrans will need justification by local agencies and approval by the DLAEs. See LAPM Section 12.12 for more information on CE.

If Caltrans source inspection services will be requested, the local agency must submit/justify their request (refer to Exhibit 16-V, “Source Inspection Request from Local Agency to Caltrans’ District Local Assistance Engineer,” of the LAPM) at least 30 days prior to local agency submittal of their “Request for Authorization to Proceed with Construction.” Caltrans may perform the requested source inspection services, subject to the availability of their inspectors (see “Source Inspection,” Section 16.14, “Quality Assurance Program,” of the LAPM).

Some ITS projects may be fully deployed without ever advancing to construction. There are other ITS projects with non-construction activities, which might be handled as consultant, low-bid, or service contracts (see Section 13.9, “Procurement/Construction,” of the LAPG).

Non-Infrastructure Projects

Non-infrastructure (NI) projects are those transportation-related projects that will NOT involve engineering design, right of way acquisition, and the eventual physical construction of transportation facilities. Examples of non-infrastructure projects include public awareness campaigns and outreach, Traffic Demand Management (TDM), traffic education and enforcement in the vicinity of schools, student sessions on bicycle and pedestrian safety, freeway service patrol, ridesharing activities, commuter incentives, and the purchase of alternative-fueled vehicles.

Federal-aid highway funds have primarily been used on highway construction projects. Recent highway acts have authorized the use of federal-aid highway funds for non-construction projects. For example, SAFETEA-LU mandated an allocation of 10-30% of the Safe Route to School Program (SRTS) funds to be used for non-infrastructure related activities. Other federal-aid funding programs that have been used for non-infrastructure projects are Transportation Enhancement (TE) and Congestion Mitigation and Air Quality (CMAQ) programs.

The eligibility of non-infrastructure projects for federal participation is governed by the various federal funding program guidelines, such as SRTS-NI, TE, and CMAQ Programs. While it is

apparent that projects receiving funding from the SRTS-NI program should be processed as NI projects, project sponsors receiving funding from other federal-aid programs should consult with their Caltrans District Local Assistance Engineer to see if their projects can be processed as NI projects.

For typical federal-aid highway construction projects, authorizations to proceed for federal-aid projects are granted to one of the project delivery phases, i.e., PE, R/W /Utility Relocation, or CON. NI projects do not neatly fit under any of the above traditional project phases. Due to various considerations such as the “PE over 10 years rule” and FTIP programming issues, federal Authorization to Proceed for NI projects will be processed under the Construction phase using Exhibit 3-Q, “Request for Authorization to Proceed with Non-Infrastructure Project.”

FTIP/FSTIP: Most NI projects are programmed in the FTIP/FSTIP as “Grouped” projects, also known as “Lump-sum” projects. As such, they are traditionally programmed in the Construction phase. NI projects that are individually listed in the FTIP/FSTIP shall also be programmed under Construction.

Environmental Review: Even though NI projects do not involve the traditional engineering design, right of way, and ground disturbance during construction, environmental reviews are still required to ensure that the project will not have negative impacts on the environment. A full-scale preliminary environmental study (PES), however, may not be required for NI projects. Instead, the Preliminary Environmental Screening Form for Non-Infrastructure Projects (PES-NI) may be used to streamline the environmental reviews of NI projects. The approval of the PES-NI will result in a Categorical Exclusion as the NEPA determination. A copy of the PES (NI) Form is available at:

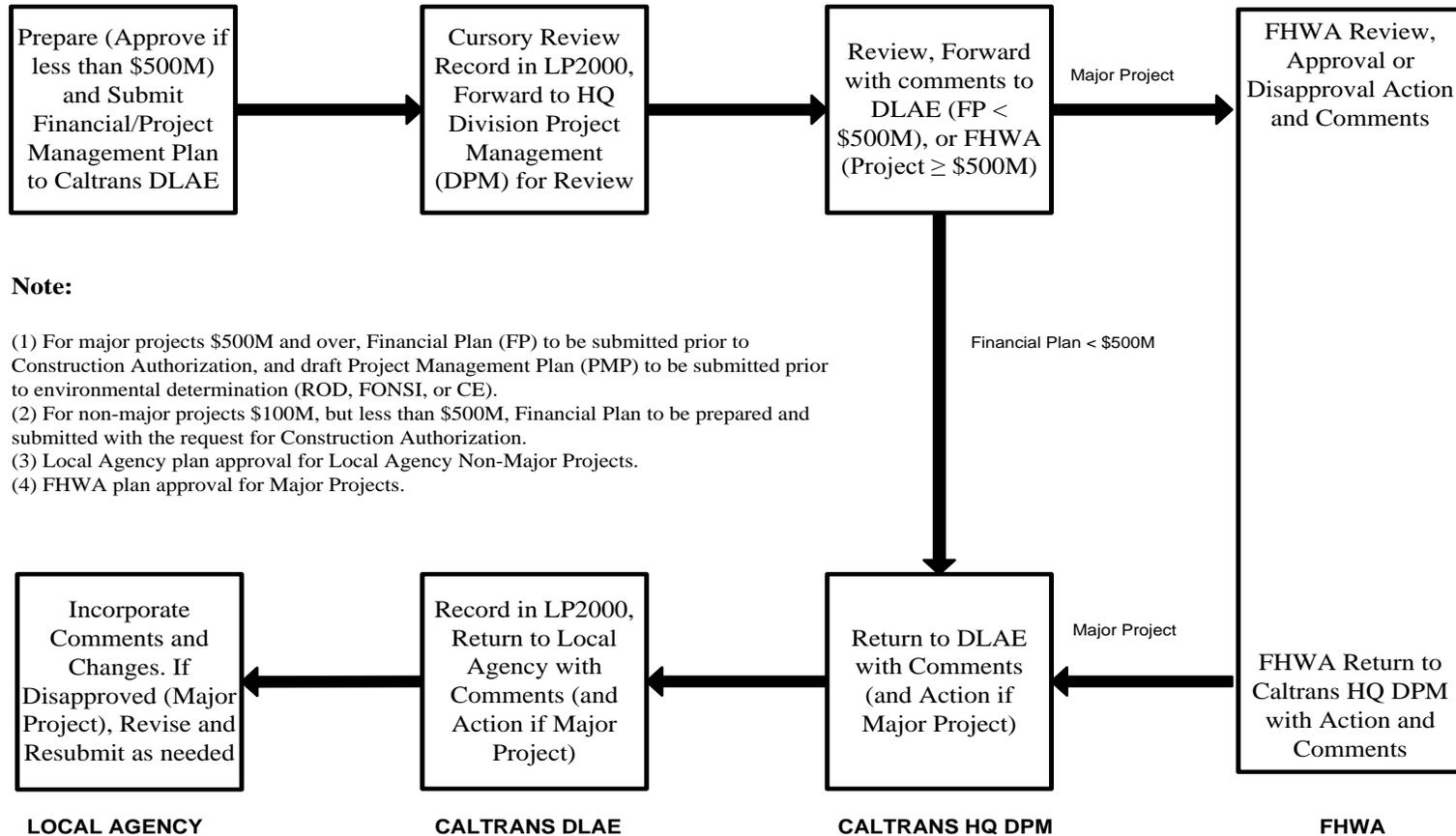
<http://www.dot.ca.gov/hq/LocalPrograms/lam/forms/lapmforms.htm>

Right of Way: Since NI projects will not involve right of way acquisition or utility relocation, FHWA has agreed with Caltrans that Right of Way Certifications will NOT be required.

Plans, Specifications, and Estimates (PS&E): Any NI project requesting authorization to proceed must include a NI project work plan in lieu of the traditional PS&E. The work plan must be of sufficient detail to describe project tasks, schedule, activities, deliverables, and budgets/costs. A sample work plan is shown in Exhibit 3-R.

Figure 3-2. Major Federal-aid Project Flowchart

LOCAL AGENCY PROJECTS EQUAL OR OVER \$100 M (FP) & \$500 M (FP&PMP)



3.4 ADMINISTRATIVE PROCEDURES

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

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

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

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

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

Data Universal Numbering System (DUNS) Number

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

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

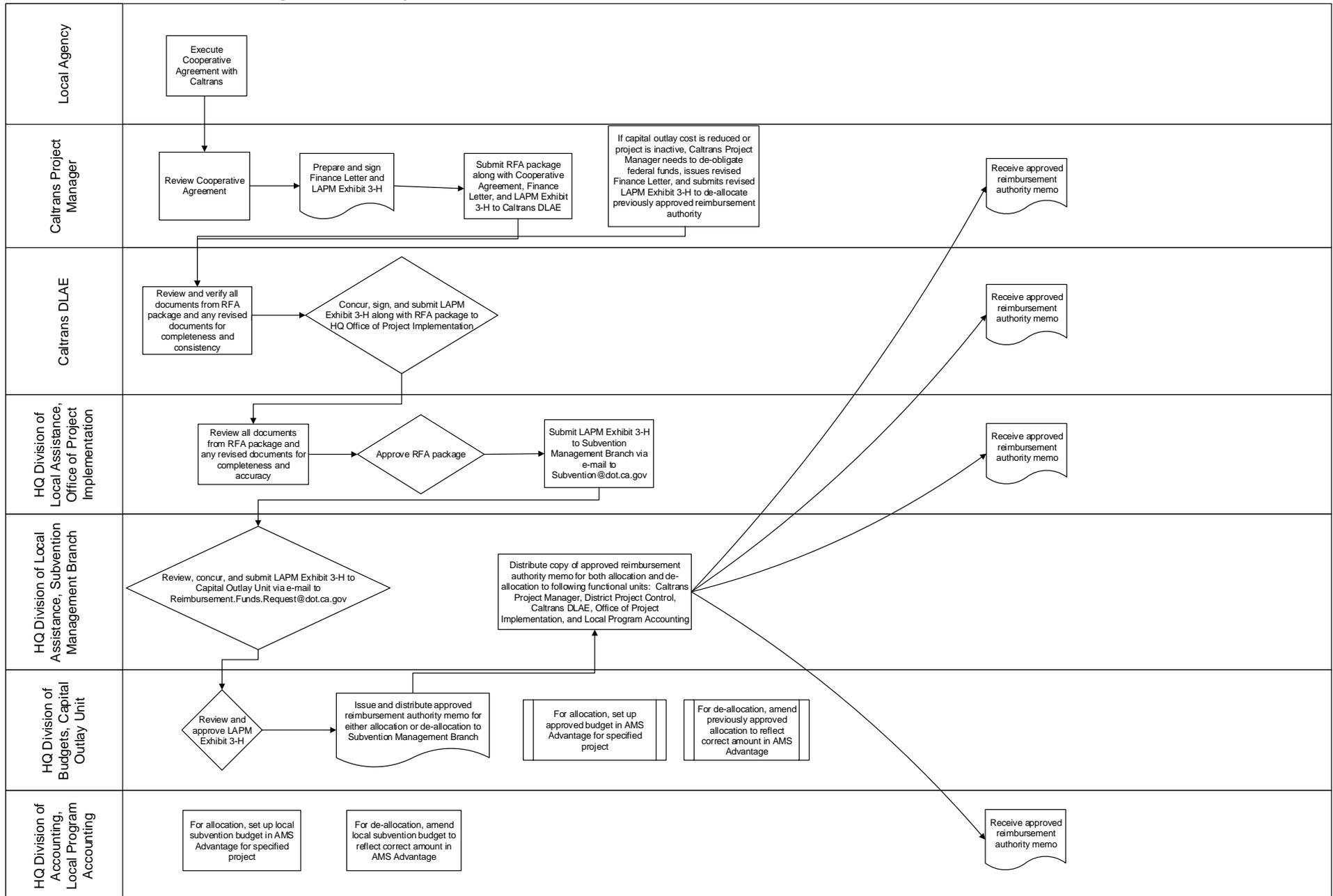
For Caltrans administered projects located on the SHS financed with local assistance funds, the Caltrans Project Manager assigned to the project must submit Exhibit 3-H, "Request for Capital Subvention Reimbursement Allocation," to the DLAE when requesting federal authorization. Once the request is approved,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

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

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

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

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



3.5 ALLOCATION, AUTHORIZATION, ENCUMBRANCE, & REIMBURSEMENT

The obligation of federal funds is a commitment by the FHWA to reserve the authorized federal funds for the project. The FHWA obligates federal funds for all federally funded projects under their jurisdiction. Typically, the obligation of federal funds is automatic upon federal authorization of the project (or phase of work) provided the state has sufficient Obligation Authority (OA) and federal fund balances for the current FFY.

Finance Letter

The Finance Letter is a project specific financial summary document (prepared by the Local Agency and approved by Caltrans DLA) required by LPA as support documentation for the project funding agreement. The Finance Letter identifies:

- Project reference data such as responsible and administering agency(ies), project number, Project ID, PPNO, whether or not the project is on the State Highway, etc.
- Federally funded phases of work, to date.
- Total project costs and cost eligible for federal participation by phase of work, to date.
- Federal, state, local and other fund sources (by fund type and amount) funding each phase of work, to date.
- Federal reimbursement rates for progress invoice purposes (by phase of work and fund types).
- Local agency certification and signature.
- Project specific remarks.

For each request for federal authorization, the project sponsor must attach a detailed project Finance Letter (see Exhibit 3-O of this chapter) identifying the phases of work for which federal reimbursement is sought. In addition, the project Finance Letter must specify the types and amounts of federal, state and local match funds contributing to the project.

Following the obligation of federal funds, State Budget Authority must be reserved by “encumbering” the funds on a project specific program supplement agreement (PSA). The PSA must be signed by the project sponsor and executed by Caltrans prior to requesting the reimbursement of funds (see Chapter 4 “Agreements”).

Caltrans will prepare the PSA upon receiving the complete Field Review Form from the local agency. The Field Review Form shall be submitted by the local agency to Caltrans within four months from the date of authorization for PE, or along with the first request for authorization for the project if PE is done with nonfederal funds. In an effort to streamline the agreement process, revised agreements are typically no longer required for each phase of work. California Government Code 16304 stipulates that any federal and state local assistance funds encumbered for a project are typically available for disbursement for a period of six (6) years from the beginning of the fiscal year(s) the funds are appropriated in the State Budget Act. A DLA prepared project Finance Letter (based on information provided by the project sponsor) is sent to the project sponsor and reflects various project fund reversion dates. It is imperative that a local agency request federal authorization only when they are ready to do the work and only for

work that will be completed and invoiced within this time period. Federal authorization for the remaining project work should be requested at a future date.

Once the PSA has been executed by Caltrans, Local Programs Accounting (LPA) will encumber the funds with an appropriation year corresponding to the state fiscal year authorized for expenditure in the State Budget Act.

Since 2008-09, each annual State Budget Act has provided six years to encumber and liquidate (expend) all state and federal Local Assistance funding. This six-year term or appropriation period, always begins on July 1 of the appropriation year even if the State Budget Act is signed late and also applies if funds are encumbered after July 1 of the state budget year. State budget authority lapses on June 30, six years after the appropriation period.

Section 16304.3 of the Government Code authorizes the Department of Finance to extend the liquidation period of an encumbrance up to eight years. If an encumbrance cannot be fully reimbursed (liquidated) within the six-year appropriation period, the local agency may apply for a Cooperative Work Agreement (CWA) to extend the liquidation period for up to two years. The local agency will need to apply for the CWA in the fall of the fifth year. For more information on the CWA process, please visit DLA's CWA website:

<http://www.dot.ca.gov/hq/LocalPrograms/CWA/cwa.htm>.

If the local agency chooses not to apply for a CWA and the appropriation period lapses, the local agency will be responsible to finance the remaining balance with their own funding.

3.6 UNDERFUNDED PROJECTS

When the federal funds programmed for a project in the FTIP/FSTIP are insufficient to reimburse a local agency at the maximum federal reimbursement rate (legal pro rata) permitted for a federal fund type, the project is defined as "federally underfunded." From a federal perspective, underfunded projects result in more federal projects for a given amount of federal funds. The increased oversight/administration costs make this an inefficient way of utilizing federal funds.

Section 630.106 of Title 23 (Highways) of the United States Code of Federal Regulations (CFR) stipulates:

- (1) The federal-aid share of eligible project costs shall be established at the time of project authorization in one of the following manners:
 - Pro rata, with the authorization stating the federal share as a specified percentage; or
 - Lump sum, with the authorization stating that federal funds are limited to a specified dollar amount not to exceed the legal pro rata.
- (2) The pro rata or lump sum share may be adjusted before or shortly after contract award to reflect any substantive change in the bids received as compared to the State Transportation Department's (STD's) estimated cost of the project at the time of FHWA authorization, provided that federal funds are available.

- (3) Federal participation is limited to the agreed federal share of eligible costs incurred by the state, not to exceed the maximum permitted by enabling legislation.
- (4) The state may contribute more than the normal nonfederal share of Title 23, U.S.C. projects. In general, financing proposals that result in only minimal amounts of federal funds in projects should be avoided, unless they are based on sound project management decisions.

Therefore, except as permitted by 23 CFR 630.106 (f)(2), once a federal fund source is placed under agreement (E-76) for a phase of work, the pro rata reimbursement rate for that federal fund type (apportionment) and phase of work is fixed for the life of the project. In other words, when a phase of work is placed under federal agreement (E-76), the project sponsor has agreed to deliver a scope of work for an agreed upon amount of federal funds. If project costs increase, the federal share of the eligible costs is fixed at the federal pro rata established at the time of the project was placed under agreement. For this reason, MPOs/RTPAs should strive to fund projects at the maximum federal reimbursable rate.

Administrative Rules

For Delegated projects, Caltrans DLAE will consider underfunding on a project-by-project basis. However, if there is a potential for a Region to lapse funds to the "Use It or Lose It" provisions of AB1012, Caltrans will not permit the initial underfunding of projects for that Region.

Many federal "earmark" and "discretionary" federal funding programs (High Profile projects, Historic Bridge, and so forth) release or allocate federal funds on an annual basis. For long-term or high-cost projects, the total anticipated federal funds might not be available at the time of the initial federal authorization for the project phase of work. Therefore, for these types of funds, FHWA will permit adjustment to the federal pro rata as the federal funds become available.

Federal Reimbursement of Underfunded Projects

At the time of Federal Authorization (E-76), the federal reimbursement rate for a project or phase of work is established by dividing the authorized federal funds by the federal participating costs of work, not to exceed the legal pro rata.

For progress invoices, the federal reimbursement rate is limited to the rate established in FMIS by the most current Federal Authorization to Proceed/Obligation of Funds (E-76) at the time of award. On the final invoice, the federal reimbursement rate may fluctuate to ensure that the local agency receives the total federal funds to which it is entitled not to exceed the legal pro rata or obligated federal funds.

3.7 LOCAL ADVANCE CONSTRUCTION PROCEDURES

When federal funds are not available for obligation due to an insufficient balance of funds or OA, a local agency may request in writing federal authorization to proceed with the project (or project phase) under advance construction procedures (see Exhibit 3-I, "Request for Local Advance Construction Authorization" in this chapter).

Under local advance construction procedures, following federal authorization to proceed, the local agency will use its own funds to perform work eligible for future federal reimbursement.

The local agency must have sufficient local funds to pay for all project costs until such time as federal funds become available. An FTIP amendment may be required when the Advance Construction Authorization is converted to a real obligation of federal funds (see Exhibit 3-1 “Request for Local Advance Construction Authorization” in this chapter). The local agency must consider the risk that the federal funds may never become available. The following local federal-aid programs are eligible for Advance Construction:

- Congestion Mitigation & Air Quality Improvement (CMAQ) Program
- Regional Surface Transportation Program (RSTP)
- Highway Bridge Program (HBP previously HBRRP)

A project authorized under advance construction procedures must comply with all federal requirements including programming in the FTIP. Local advance construction federal authorization does not constitute a commitment of federal funds to the project, and a program supplement agreement will not be issued. The Federal Authorization date establishes the start date for performing federally reimbursable work. If and when federal funds become available, a follow-up Authorization to Proceed (E-76) must be processed to obligate the federal funds (i.e., place funds under agreement with FHWA). The project or project phase must be listed in the current FTIP/FSTIP at this time. The program supplement agreement between Caltrans and the local agency also must be executed and/or Finance Letter signed/approved by Caltrans before a local agency can receive federal reimbursement.

NOTE: Federal-aid projects utilizing “tapered match” provisions (discussed below) are not eligible for advance construction authorization.

3.8 TAPERED MATCH

The use of “tapered match” provisions enables a project sponsor to vary the nonfederal share of a federal-aid project over time provided, the federal contribution toward the overall project does not exceed the federal pro rata limit.

Traditionally, a project sponsor is responsible for paying the required nonfederal share of the project costs on each invoice submitted for reimbursement. Under the tapered match approach, a nonfederal-matching ratio is assigned to the project, rather than individual payments. The federal share can be as high as one-hundred percent in the early stages of project reimbursement provided, that the overall federal contribution does not exceed the statutory federal-aid limit at the end of project completion.

Tapered match provisions cannot be used on advance construction projects, STP funded projects where the nonfederal match is being provided on program-wide-basis, and bond projects authorized under Title 23-Section 122. These activities are considered inconsistent with the intent of tapered match.

The use of tapered match provisions is subject to review and approval by both Caltrans (Office of Federal Resources) and FHWA (California Division). The project sponsor must submit written taper match plan to the DLA for review. The project sponsor shall also show that they

have their matching pro rata share available and are committed to providing it as applicable. The request must include the justification and a tapered match schedule.

The FHWA may approve cases where tapered match would:

- Expedite project completion.
- Reduce the project's overall cost.
- Provide incentive to attract additional nonfederal funds to the project.

3.9 FLEXIBLE MATCH

Federal flexible match provisions allow a wide variety of public and private contributions to be credited toward the nonfederal match for federal-aid projects. Eligible contributions include donations of public and private cash, R/W (Acquisition) and in certain cases, public and private materials or services rendered.

The use of flexible match also is subject to review and approval by both Caltrans (Office of Federal Resources) and the FHWA (California Division). The project sponsor must submit a written flexible match plan to the DLAE for review. The plan must specify the appraised value (fair market value) of donated property, materials, and/or services.

Eligibility of flexible match for credit against nonfederal match is subject to the following:

- **Cash** – Private, state, and local entity funds must be received during the period between project approval/authorization and submittal of the project final voucher.
- **Right of Way** – Private, state, local agency property may be donated any time during the project development process. The property must be appraised to determine the fair market value and must be included in the total project cost. The donation of the property shall not influence the NEPA process.
- **Materials** – Private and local entity donation of materials must be appraised to determine fair market value. Credit for state donated materials is not permitted.
- **Services** – State and local entity services may only be credited toward the nonfederal match for Transportation Enhancements (TE) projects. Private donation of services must be documented as to fair market value.

In addition to the referenced flexible match opportunities above, certain sources of federal grant funds may be eligible to match certain categories of highway projects. For more information refer to FHWA's "Innovative Finance Primer" Chapter 2 "Innovative Management of Federal Funds," located at: <http://www.fhwa.dot.gov/innovativefinance/ifp/innoman.htm>.

3.10 TOLL CREDIT IN LIEU OF NON-FEDERAL MATCH

Section 1508 of the Moving Ahead for Progress in the 21st Century Act (MAP-21) as established under Section 120(i) of the Title 23 of the United States Code (USC) authorizes states to use certain toll revenue expenditures as a credit toward the non-federal matching share of programs

authorized by Title 23 (except for the Emergency Relief (ER) Program) and for transit programs authorized by Chapter 53 of Title 49 of the USC.

Federal-aid highway projects typically require the project sponsors to provide a certain percentage of non-federal funds as match to the federal funds. For example, Surface Transportation Program (STP) funded projects require a minimum of 11.47% of non-federal match funds. Through the use of toll credits, the non-federal share match requirement can be met by applying an equal amount of toll credits and therefore *allow a project to be funded at 100% federal* for federally participating costs. Toll credits can be used on all federal-aid highway funding programs EXCEPT for the ER Program.

Local agencies may now use other federal funding to replace the required local match for both On-System Local Highway Bridge Program (HBP) projects and Highway Safety Improvement Program (HSIP) projects. With this option toll credits can be applied to each federal funding component in the project to increase the federal reimbursement rate to 100%. Caltrans policies also limits the use of toll credits on HSIP and HBP. (The limit of toll credit use for On-System Local Highway Bridge Program (HBP) projects and Highway Safety Improvement Program (HSIP) projects is because all available funds have been fully programmed and there are more needs than funding capacity).

Two websites have been added to the policy to assist local agencies that wish to use toll credits for the federal Planning and Federal Transit Administration (FTA) funds:

- http://www.dot.ca.gov/hq/tpp/offices/orip/owp/index_files/Final_2011_RPH.pdf
- <http://www.dot.ca.gov/hq/MassTrans/Docs-Pdfs/5311/transittollcreditsrev012611.pdf>

One of the conditions for FHWA's approval of the toll credits is that its use does not reduce the state's non-federal transportation capital expenditures. To conform to this policy, California must demonstrate continued efforts to maintain its non-federal transportation expenditures. Therefore, project sponsors that have savings of transportation dollars due to toll credit match of federal funds shall spend that savings on other transportation related projects.

In addition, it needs to be noted that the use of toll credits does not generate any additional federal funding. Its use is merely to meet the non-federal match requirement of the federal participating cost. The amount of toll credit available each year is limited by the amount of annual Federal Obligation Authority (OA).

Toll credits can be used in any phase of federal-aid projects (Preliminary Engineering, Right of Way, or Construction) as long as that phase of work has not been previously authorized. Caltrans policy does not allow the retroactive use of toll credits on a phase of work that has already received federal authorization. However, subsequent phases can be authorized to use toll credits.

In order to use toll credit, a project MUST meet the following requirements:

- The intended use of toll credits is explicitly expressed in the Request for Authorization (RFA) to proceed by marking the appropriate toll credit use area;
- Indicate the use of toll credits in the Remarks of the signed project Finance Letter;

- Be fully funded at the maximum allowable federal reimbursement rate, excluding federally non-participating costs;
- Programmed in the current Federal Statewide Transportation Improvement Program (FSTIP) as using toll credits;
- The project is funded with funds from one of the programs listed in Caltrans' Statewide Toll Credit Use Policy.
- Project must meet the eligibility criteria for that particular funding being used on the project.

The following examples demonstrate how the use of toll credits is different than the normal federal/non-federal match funding.

Scenario A – Traditional Project Funding with Match

For a project with a total cost of \$120,000 including \$20,000 of federally non-participating costs (\$100,000 federally participating) using a federal reimbursement rate of 88.53%, the funding plan would normally be as indicated in the following Table 1.

Prog Code	Total Cost	Participating Cost	Federal Funds	Non-Federal Funds	Toll Credit
M240	\$120,000	\$100,000	\$88,530	\$31,470	\$0

The federal fund amount required in this scenario is \$88,530 (88.53%) of the participating cost and the non-federal funding amount is equal to the non-participating amount \$20,000 plus the required \$11,470 (11.47%) non-federal match for a total amount of \$31,470.

Scenario B – Toll Credit Funding

When toll credit is being applied to the project, it will be used as a credit toward the non-federal share or \$11,470. Since toll credits are not federal funds, federal share must be increased to accommodate the reduction of Non-Federal funds resulting from the toll credit being used as indicated in the following Table 2.

Prog Code	Total Cost	Participating Cost	Federal Funds	Non-Federal Funds	Toll Credit
M240	\$120,000	\$100,000	\$100,000	\$20,000	\$11,470

The federal fund amount required is changed from \$88,530 (88.53%) to \$100,000, the total Participating Cost, and the non-federal funding amount is equal to the non-participating amount. This option is not applicable for Local HBP projects on the State Highway System and Highway Safety Improvement Program (HSIP) projects (see Scenario C below).

Scenario C – Toll Credit with Dual Federal Funding

This scenario is for an HSIP project using STP funds as a match. When other types of federal funding are being applied as a match to the project, each fund must be treated as a separate funding component with 100% federal funding and a corresponding toll credit. A toll credit value equal to the required non-federal match will be applied to each of the federal funding lines as indicated in Table 3.

Funding Line	Prog Code	Total Cost	Participating Cost	Federal Funds 1	Federal Funds 2	Toll Credit
1	MS30 (HSIP)	\$90,000	\$90,000	\$90,000	\$0	\$9,000
2	M240 (STP-Match)	\$10,000	\$10,000	\$0	\$10,000	\$1,147
	Total	\$100,000	\$100,000	\$90,000	\$10,000	\$10,147

For this example, the required non-federal match for HSIP funding line #1 is \$9,000 (10%). For funding line #2 the required match for STP funding is \$1,147 (11.47%). Therefore, the total amount of toll credit applied to this project is \$10,147. This option is applicable for On-System Local HBP projects and Highway Safety Improvement Program (HSIP) projects.

Local Agencies:

- Work with the respective Metropolitan Planning Organization (MPO) or RTPA to ensure the use of toll credit is appropriate and that such use is properly programmed in the MPO's Federal Transportation Improvement Program (FTIP), and subsequently in the Federal Statewide Transportation Improvement Program (FSTIP);
- Submit Request for Authorization (RFA) and Finance Letter indicating the use of toll credits for the project; Federal funds must equal 100% of the total participating costs. Include a comment in the "Remarks" section of the Finance letter for the use of toll credits; and
- After receiving Authorization to Proceed, an executed Program Supplemental Agreement (PSA), and a State approved Finance Letter. Invoices for eligible costs may be billed at 100% of the participating costs.

Assume a project need of \$100,000.

With funds that you can normally use toll credits with, you have the breakdown below:

	TOTAL	PARTICIPATING	FEDERAL 1	LOCAL	TOLL CREDIT
Traditional	\$100,000	\$100,000	\$88,530	\$11,470	\$ 0
Toll Credit	\$100,000	\$100,000	\$100,000	\$0	\$11,470 (\$100,000 x .1147)

Using On-System Bridge funds, you must have a second non-HBP source of federal funds to make it work:

	TOTAL	PARTICIPATING	Federal 1 ON SYS HBP	Federal 2 STP	LOCAL	TOLL CREDIT
Traditional	\$100,000	\$100,000	\$88,530	\$0	\$11,470	\$0

Toll Credit (HBP piece)	\$88,530	\$88,530	\$88,530	\$0	\$0	\$10,154 (\$88,530 x .1147)
Toll Credit (STP piece)	\$11,470	\$11,470	\$0	\$11,470	\$0	\$1,316 (\$11,470 x .1147)
TOTAL	\$100,000	\$100,000	\$88,530	\$11,470	\$0	\$11,470

If, for example, the second fund source is DEMO, it would breakdown like this:

	TOTAL	PARTICIPATING	Federal 1 ON SYS HBP	Federal 2 DEMO	LOCAL	TOLL CREDIT
Traditional	\$100,000	\$100,000	\$88,530	\$0	\$11,470	\$0

Toll Credit (HBP piece)	\$88,530	\$88,530	\$88,530	\$0	\$0	\$10,154 (\$88,530 x .1147)
Toll Cre (DEMO* piece)	\$11,470	\$11,470	\$0	\$11,470	\$0	\$2,294 (\$11,470 x .20)
TOTAL	\$100,000	\$100,000	\$88,530	\$11,470	\$0	\$12,448

*Note - Eligibility must be check when using DEMO or any other Federal funds in-lieu of the Local match.

Figure 3-6: Toll Credit Example

3.11 FTA Transfer

Under provisions of the ISTEA of 1991, continued by the Transportation Equity Act for the 21st Century (TEA-21), and superseded by the 2005 Safe, Accountable, Flexible, Efficient Transportation Equity Act – A Legacy for Users (SAFETEA-LU), state, regional, and local agencies have greater opportunity to select transit-related projects to meet their transportation needs. These provisions include:

- Expanded eligibility criteria under major funding programs (including STP and CMAQ) to implement both highway and transit improvements,
- The ability to transfer federal funds from one funding program to another permitting the implementing agencies to capitalize on expanded eligibility (e.g., HBP to STP), and
- The ability to transfer federal funds from the jurisdiction of the FHWA to that of the FTA and vice versa.

Section 134(k) of Title 23 (Highways) of the United States Code (USC) requires that Title 23 funds made available for public transit projects, typically administered by the FTA, be transferred from the FHWA to the FTA. These transferred funds are administered in accordance with the requirements of Chapter 53 (Mass Transportation) of Title 49 (Transportation), except that Title 23 (Highways) provisions related to the nonfederal share shall apply. Transit-related highway projects, typically administered by FHWA, should remain under the jurisdiction of FHWA. For transit projects that could be processed through either FHWA or FTA, the local agency and/or MPO may select the administering federal agency via placement of the project in the FTIP or FSTIP.

All FHWA apportioned federal funds must be programmed in an FHWA/FTA approved FSTIP prior to transferring the funds to FTA. The transferred funds must be used for the original programmed intent and remain eligible under the funding program. In other words, using the transferred federal funds for a different purpose than originally programmed is not permitted.

The FTA will only accept transfer applications from recognized transit operators. Most transit agencies are familiar with and often prefer to use FTA project implementation procedures. If a project is programmed to receive both FHWA and FTA apportioned funds, the transfer of funds facilitates the use of one set of project implementation procedures.

Highway Funds Eligible for Transfer

From a procedural perspective, local assistance federal funds, which can be transferred to FTA, fall into 2 categories: 1) Local federal-aid funds, and 2) Federal STIP funds. The Caltrans DLA Office and Headquarters DLA process the transfer of local federal-aid funds and Transportation Enhancements (TE) funds. The Headquarters Division of Mass Transportation (DMT) and Office of Federal Resources (OFR) process Federal STIP fund transfers except for STIP TE funds.

Local federal-aid fund categories eligible for transfer to FTA include:

- **Regional Surface Transportation Program (RSTP)** - Eligible transit activities include transit capital projects, including vehicles and facilities, publicly or privately owned that are used to provide intercity bus service, and safety

improvements for transit. However, RSTP funds may not be used for Section 5307 (Urbanized Grant Program, discuss later) operating expenses.

- **Congestion Mitigation and Air Quality Improvement (CMAQ) Program** - CMAQ funds must be used to support transportation projects in air quality nonattainment areas. A CMAQ funded project must contribute to the attainment of the national ambient air quality standards by reducing pollutant emissions from transportation sources. Eligible transit activities include transit capital projects and up to three years of operating expenses for new eligible services.
- Since 2004, TE projects are programmed in the STIP; therefore, TE funds can be transferred to FTA only after the allocation by the CTC.
- FHWA Discretionary funds include High Priority Demonstration, Ferry Boat Discretionary, Federal Lands Highway Program, and Transportation and Community and System Preservation Pilot Program (TCSP) programs. These funds may only be used for the designated purpose (line item description), as authorized by Congress or FHWA.

Federal STIP funds under the programming control of the RTPAs may be transferred to the FTA but must be allocated by the CTC prior to transfer to the FTA.

FTA Grant Programs

FHWA funds may be transferred to three different FTA Formula Grant Programs. These programs are contained in Title 49 (Transportation), Subtitle III (General Intermodal Programs), Chapter 53 (Mass Transportation) of the United States Code (USC). They are the Section 5307 "Urbanized Area Formula Grant Program," Section 5311 "Formula Grants for Other than Urbanized Areas Program," and Section 5310, "Formula Grants and Loans for Special Needs of Elderly Individuals and Individuals with Disabilities Program." These programs vary by population density and whether the purchase of buses and vans for the elderly and disabled are involved. Section 5307- Urbanized Area Formula Program

- **Section 5307 Grant Program procedures**
Are used by local agencies in urbanized areas of over 200,000 populations, as well as, in urban areas with populations of 50,000 to 200,000. Under Section 5307 Grant Program procedures, each local agency submits one grant application per fiscal year to the FTA. Following the FTA Transfer, the Applicant Agency will deal directly with the FTA on all project-related activities. Remember that the FTA only will accept grant applications from agencies that they have certified (i.e., recognized transit agencies). Noncertified agencies must find a certified project sponsor.
- **Section 5311 - Non-Urbanized Area Formula Program**
Section 5311 Grant Program procedures are used in non-Urbanized areas and cities of under 50,000 populations. Every year, the FTA allocates apportioned Section 5311 Program funds to each state. For California, Caltrans is the delegated recipient of these FTA funds. The Caltrans DMT "Office of Rural and Small Transit Operators" manages the Section 5311 Program jointly with the assistance of the District Transit Offices. Under the Section 5311 Program, the Caltrans DMT acts as the grant applicant on behalf of the local agencies and deals directly with the FTA. The Caltrans DMT submits

one annual statewide grant application to the FTA that includes both local and state-sponsored projects. Detailed procedures for the processing FTA transfers to the Section 5311 Program are contained in the Caltrans "Section 5311 Handbook and Guide" and are briefly summarized in Exhibit 3-K of this chapter, "Administrative Procedures for Transfer of Local Federal-aid Funds to Federal Transit Administration."

- **Section 5310 – Elderly and Persons with Disabilities Program**

Section 5310 Grant Program procedures are used by nonprofit organizations and public agencies (approved by the state) for the purpose of meeting the transportation needs of the elderly and individuals with disabilities where existing public transportation services are, otherwise unavailable, insufficient or inappropriate. Similar to Section 5311 procedures, the Caltrans DMT' "Specialized Federal Transit Branch" acts as the grant applicant on behalf of the local agency and works directly with FTA. Section 5310 funds typically are used to purchase vans and small buses for the elderly and persons with disabilities.

FTA Transfer Procedures

Under ISTEA the transfer of FHWA funds to the FTA was accomplished via the Federal Authorization and Obligation Process (E-76). The transferred federal funds remained with FHWA (Washington D.C.) until the FTA submitted project invoices that were reimbursed by the FHWA.

The FHWA and FTA have since developed procedures that provide for the direct transfer of federal funds and Obligation Authority (OA) to the recipient federal agency. Caltrans submits a formal FTA transfer request to the FHWA (California Division) via a "Request for Transfer of Federal Funds to the FTA" letter (see Exhibit 3-J). Upon FHWA concurrence, the federal funds are transferred and deducted from the appropriate State and RTPA/MPO apportionment balances.

See Exhibit 3-K, "Administrative Procedures for Transfer of Local Federal-aid Funds to the Federal Transit Administration," for a step-by-step discussion of the transfer of FHWA apportioned local federal-aid funds to the FTA.

Federal-aid funds programmed in the STIP also may be transferred to the FTA. The DLAE and DLA are **not** involved in the transfer process (except for TE funds) instead, Caltrans DMT and the Office of Federal Resources within the Division of Budgets process the transfer of these funds.

Detailed procedures for Transfer of STIP to the FTA funds under the Section 5307, 5311, and 5310 Grant programs are available on the Caltrans DMT website at:

<http://www.dot.ca.gov/hq/MassTrans/>

Upon transfer of FHWA apportioned federal funds to the FTA, the Applicant Agency, typically will deal directly with the FTA on all subsequent project-related matters. However, occasionally a FTA transfer project may qualify to receive State Match Funds through the STIP. The project must be programmed to receive the STIP State Match Funds by an RTPA/MPO and be used, eligible activities under Article XIX of the California State Constitution.

Prior to reimbursement with STIP State funds: 1) the CTC must allocate the STIP match funds, 2) a Program Supplement Agreement (PSA) between the Applicant Agency and Caltrans must be signed and executed, 3) the Applicant Agency must prepare and sign a project specific Finance Letter, and 4) the Applicant Agency must provide evidence that payment of federal funds were invoiced/received from the FTA. Invoice format and procedures must adhere to Chapter 5, "Invoicing," of the LAPM.

3.12 MPO/RTPA PROGRAMMED FUND BALANCES

Under state law, certain federal funds are apportioned to the RTPA/MPO regions by formula. These funds include RSTP and CMAQ funds. These funds are programmed to local agencies for specific projects through the FTIP/FSTIP processes. Both Caltrans and the FHWA monitor the obligation and balance of federal funds. Caltrans maintains reports showing the obligation of funds summarized at the District, MPO and county levels. These reports show fund balances and list the individual city and county projects. Please refer to the Division of Local Assistance Home Page for balances located at:

http://www.dot.ca.gov/hq/LocalPrograms/Reports_db.htm.

3.13 References

- [23 CFR 635.301 et. seq.](#)
<http://www.fhwa.dot.gov/legisregs/legislat.html>
- [23 CFR 630.106](#)
http://www.dot.ca.gov/hq/LocalPrograms/PE_over_10yrs/23cfr630_106.pdf
- [23 CFR 645](#)
http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title23/23cfr645_main_02.tpl
- [23 CFR 940](#)
<http://www.fhwa.dot.gov/legisregs/directives/fapg/cfr0940.htm>
- [USC 134\(k\)](#)
<https://www.fhwa.dot.gov/map21/docs/title23usc.pdf>
- [23 USC 120\(j\)](#)
<http://www.fhwa.dot.gov/map21/docs/title23usc.pdf>
- [49 USC, Section 5301, et. seq. \(Federal Transit Laws\)](#)
<https://www.transit.dot.gov/regulations-and-guidance/legislation/title-49-ch-53/title-49-ch-53>
- [A Guide to Federal-Aid, Programs, Projects and Other Uses of Highway Funds, Federal Publication No. FHWA-IF-99-006, dated May 1999](#)
<https://www.fhwa.dot.gov/programadmin/if99006.cfm>

- [Federal-Aid Data System Instructions 06/06/02](http://www.dot.ca.gov/hq/LocalPrograms/lpp/LPP06-04.pdf)
<http://www.dot.ca.gov/hq/LocalPrograms/lpp/LPP06-04.pdf>
- [Federal Uniform Relocation Assistance and Real Property Acquisition Act](http://www.dot.ca.gov/hq/row/pubs/residential_english.pdf)
http://www.dot.ca.gov/hq/row/pubs/residential_english.pdf
- [Financing Federal-Aid Highways, Federal Publication No. FHWA-PL-99-015 dated August 1999.](https://www.fhwa.dot.gov/reports/fifahwy/finfahwy.pdf)
<https://www.fhwa.dot.gov/reports/fifahwy/finfahwy.pdf>
- [Local Assistance Program Guidelines \(LAPG\) Web site:](http://www.dot.ca.gov/hq/LocalPrograms/public.htm)
<http://www.dot.ca.gov/hq/LocalPrograms/public.htm>
- [Joint Stewardship and Oversight Agreement \(Stewardship Agreement\)](http://www.dot.ca.gov/hq/oppd/stewardship/)
<http://www.dot.ca.gov/hq/oppd/stewardship/>
- [SAFETEA-LU Web site:](http://www.fhwa.dot.gov/safetealu/index.htm)
<http://www.fhwa.dot.gov/safetealu/index.htm>