



MEMORANDUM

TO: Project Management Group, Construction Districts, and Project Resource Office

FROM: Bill Fay

State Construction Engineer
Construction Group

DS
BF

DATE: 12/15/21

RE: Federally Ineligible Items

This following list identifies items that will not be eligible for federal funds. Consideration should be given during project development and supplemental agreement evaluation. (*This list is not meant to be an all-inclusive list.*)

1. A change order for shutdowns (i.e. local events) after construction has started (i.e. scheduled events not specified in the bidding documents, but were known of during development and should have been foreseen).
2. Change orders for rework that should have been foreseen, or avoided with proper design or analysis.
3. Nonconformance with approved plans.
4. Use of construction standards, details or practices not incorporated into the approved plans and specifications (i.e. city details differ from state and not included in the approved plans)
5. Time extensions and delay claims associated with utility and railroad work or ROW clearances. Contracting Agencies are required to provide a statement confirming proper coordination with these third parties before construction authorization and take on all risks associated with proper coordination.
6. Change orders or time extensions due to unavailable or conditional right-of-way or utility clearances (the decision to advance the project even though some properties or utilities weren't fully cleared is done at risk to the owner).
7. Change orders to accelerate schedule post award
8. Increased material costs during the project without a cost escalation clause in the contract for that material (i.e. increases in steel costs).
9. Maintenance work on a construction project not being touched by the project (i.e. filling of potholes, cleaning culverts, repairing cut or damaged fences, refreshing lane lines).
10. Crash damage on projects.
11. Work outside the highway ROW – without needed permits.
12. Work outside the project limits (unless it can be shown necessary to implement the project).
13. Work outside the scope of NEPA review and approval.
14. Adjustments of private facilities (i.e. signs, fences, lawn sprinklers, etc.) unless part of ROW agreement/permit.
15. Anticipated profit on work not performed or canceled work.
16. Reimbursement for costs incurred prior to the date of FHWA authorization for construction

17. Reimbursement for costs not requested for federal authorization or identified to be paid by others e.g. Right-of-way, design fees, agency costs and ADOT processing fees, utility coordination efforts, construction administration activities, post design services, Utilities, etc.
18. Administrative settlements or negotiated contract changes that do not adequately document a cost analysis.
19. Non-compliance with the Buy America act or other Federal requirements. This could jeopardize eligible funding for entire project.
20. Change orders that specify or otherwise add a Furnished Material/Sole Source without a PIF.
21. Work done by in-house forces or use of publicly owned equipment (without a PIF/Cost Effectiveness Finding approved by FHWA or by ADOT for CA projects).
22. Payment for work done by an unapproved sub.
23. Work not in compliance with MUTCD
24. Payment for betterments or preference changes that do not have a transportation function and/or are not currently part of the project (i.e. such as utility upgrades that are not justified or oversizing sanitary sewer for future development).
25. Reconfiguring utilities (overhead to underground), unless there is a local ordinance or law requiring all parties to underground utilities.
26. Error in quantities shown on plans for Lump Sum items.
27. Permit or agency review costs that the contractor should be responsible for per the specs.
28. Drainage (allowing additional areas to drain into the highway system)/utility work (storm, sanitary sewer) not a result of the project.
29. Significant hauling/transport charges of salvaged items to ADOT or a LPA to store for use on a future NFA project.
30. Surplus or stockpiled items not incorporated in the project.
31. Restocking fees if eliminated work is not related to a participating change order.
32. Costs that arise from negligence, intentional acts or omissions, fraud, carelessness, incompetence or other actions by employees which are not consistent with the usual State practices.
33. All costs associated with NFA items are ineligible including taxes and bonds.
34. Federal-aid funds shall not participate in any cost which is not incurred in conformity with applicable Federal and State law, the regulations in this title (Title 23 Code of Federal Regulations), and policies and procedures prescribed by the Administrator.

Additional documents that may be helpful:

[Federal-aid Highway Project - Non-Participating Cost Items -September 10, 2015](#)

[Project Funds Management Guide for State Grants](#)