
200.00 PROJECT DEVELOPMENT PROCESS

200.90 CONSTRUCTION

Subcontracts

In accordance with 23 C.F.R. § 635.116, the CA Agency must not allow any contract work be performed under a subcontract unless an arrangement has been authorized by the CA Agency in writing. Before authorizing a subcontractor, the CA Agency must ensure each subcontract has the required assurances, prompt pay and payment reporting provisions, and wage determinations of the prime contract.

All CA Agency contractors and subcontractors must document the start date, which is the first day of project construction, and the end date, which is last day of project construction, for all projects. Start and end dates should be noted in project diaries and documented by the CA Agency.

Bulletin Board

FAHP projects require that information be readily accessible, conspicuously displayed, and maintained on a bulletin board in a safe and prominent location where employees congregate. The CA Agency must ensure that the contractor prominently posts the required information on the bulletin board. The required information for the bulletin board can be found at <http://www.fhwa.dot.gov/programadmin/contracts/poster.cfm>. The CA Agency must inspect the bulletin boards when employees begin work on the project and at least every six months until the project is completed to ensure the bulletin board is in good condition and displays the required posters.

Davis-Bacon Act

Federal-aid contracts exceeding \$2,000 will comply with the Davis-Bacon Act (40 U.S.C. § 3141 *et seq.*). The CA Agency must monitor and enforce the labor standard provisions of the Davis-Bacon and Related Acts.

The CA Agency must conduct employee interviews of all employee classifications and contractors on the project to determine if the contractor is complying with the Davis-Bacon prevailing wages. In accordance with 29 C.F.R. § 5.6(a)(3), interviews will be a sufficient number to establish the degree of adequacy and accuracy of the records based on the CA Agency's determination and nature and extent of any violations.

If a contractor's fringe benefit plan has already been approved by ADOT and/or the Department of Labor (self-funded plans are required to be approved by The Department of Labor), the CA will not need to re-approve the plan. In cases where the contractor does not have a valid approved plan, the CA will be required to approve the contractor's fringe benefit plan. ADOT will provide assistance for fringe benefit plan review, as needed.

Inspector Daily Reports

The CA Agency must ensure the inspectors' daily reports, progress charts, and other data are compiled in the field to facilitate job control and ensure that the project is completed safely and in reasonably close conformity with final PS&E, including supplemental agreements.

The CA Agency must verify that discussions and decisions with the contractor are documented. The project documentation must be complete, concise, accurate, factual, and in sufficient detail to document the completion of project work. The CA Agency must ensure that the diaries are signed and dated by an inspector and reviewed by the CA Agency's Responsible Charge or designee. For construction management review, the CA Agency must have complete documentation for work conducted, measured, and paid to include quantities.

DBE Commercially Useful Function (CUF) Inspection

The CA Agency must use the ADOT Business Engagement Compliance Office (BECO) Commercially Useful Function (CUF) checklist to conduct a CUF inspection for each DBE used to meet a project DBE goal on a FAHP project.

Supplemental Agreements

A supplemental agreement or change order between the CA Agency and contractor covers work within the project limits not otherwise provided for in the contract, contract time extensions or reductions, or revisions in or amendments to the contract terms. A supplemental agreement becomes part of the contract when signed by the CA Agency and contractor.

A change order, with back up documentations (engineer cost analysis, contractor cost estimate, plans & special provisions changes (if any) and approval by the CA's designated engineer) shall be sent to the ADOT District Engineer or his/her designee for prior concurrence, instead of the ADOT Project Manager (PM). The District Engineer will review and concur/notify within two business days by email. Once the completed change order is finalized, a copy of the finalized change order shall be sent to the ADOT PM and ADOT District for their records by the CA agency.

The change order approval process can be found on the ADOT LPA website.

Supplemental agreements must be in writing and signed by the CA Agency Responsible Charge. The CA Agency must prepare an independent cost analysis to justify the cost of the supplemental agreement and require the contractor to provide a detailed estimate of proposed prices.

On NHS projects, FHWA will provide prior concurrence for FHWA major change orders (an increase of over \$1,000,000, an increase of 20 percent or more to the project, work outside the project limits, or major scope changes) before starting the work. Work related to a major change completed or underway before FHWA prior concurrence may not be eligible for reimbursement.

The CA Agency must ensure on NHS projects, that any work outside the project environmental clearance limits, has been reviewed and that prior concurrence is obtained from ADOT EPG before starting the work.

On non-NHS projects, the CA Agency will notify the ADOT PM of any ADOT major change orders involving scope changes, time extensions, or work outside the project environmental clearance limits. ADOT will send copies of all approved non-NHS major change orders to FHWA.

For change orders for non-participating federal items using local funds, 23 C.F.R. § 635.120(f) requires FHWA coordination when the proposed work affects the design or participating construction features of a project. The CA Agency must notify the ADOT PM to initiate FHWA coordination.

For force accounts when the CA Agency and contractor cannot reach an agreement, the CA Agency must record the labor, equipment, rentals, direct charges, and materials for work identified in the supplemental agreement. 23 C.F.R. § 635.120(d) requires the CA Agency to document the reason or reasons for using the force account. The CA Agency must ensure that an inspector is present to document and verify the actual work being conducted and labor, materials, and equipment used to accomplish the work. The CA Agency must ensure the daily diaries are comprehensive and the contractor compares cost account records daily and resolves any discrepancies.

Prompt Payment and Payment Reporting

The CA Agency must adhere to A.R.S. § 34-221. The CA Agency must ensure the contractor makes prompt payments to subcontractors within seven calendar days of receipt of payment in compliance with A.R.S. § 34-221 and the prompt payment and return of retention requirements specified in *ADOT Standard Specifications for Road and Bridge Construction*, Subsection 109.06(B).

The CA Agency must monitor and enforce the prompt pay requirements on all reportable contracts. The failure to do so may result in deobligation of federal-aid funds from the FAHP project. Reportable Contracts means any subcontract, of any tier, DBE or non-DBE, by which work shall be performed on behalf of the contractor and any contract of any tier with a DBE material supplier. The requirements of this subsection apply to all Reportable Contracts.

Material Quality Assurance

In accordance with 23 C.F.R. Part 637, Subpart B, Quality Assurance Procedures for Construction, the CA Agency must adhere to the Appendix A of *ADOT Materials Quality Assurance Program* or use its own ADOT-approved quality assurance program. The *ADOT Materials Quality Assurance Program* applies to NHS and non-NHS projects.

The CA Agency must have an ADOT-approved Materials Quality Assurance Project Plan for inclusion in the federal authorization packet. The CA Agency must clearly define the contractual relationship between the acceptance laboratory, sampling/testing personnel, contractor, and CA Agency. The CA Agency must submit a copy of the materials sample checklist, materials certification log, contractual statement that details the contractual relationship between the acceptance laboratory, independent assurance laboratory, field sampling/testing personnel, contractor, and the LPA, and bid tab to the ADOT PM and Construction and Materials Group. The ADOT Construction and Materials Group Materials Quality Assurance Engineer will evaluate and approve the project's quality control and acceptance procedures, personnel, and facilities.

The CA Agency must ensure FAHP project inspections meet the ADOT-approved Materials Quality Assurance Project Plan and testing personnel have the required certifications and training to conduct assigned roles and duties. The CA Agency must sample and test materials in compliance with the ADOT-approved CA Agency specification and test method.

The CA Agency must verify and accept materials by Certificate of Compliance or Certificate of Analysis to ensure materials meet the requirements of *ADOT Standard Specifications for Road and Bridge Construction*, Subsection 106.05, as revised by *Stored Specification 106CERT*.

The CA shall maintain all test reports, certificates and test summaries for a minimum of five years after the project has been completed and properly closed with FHWA. All records shall be available for review by ADOT at any time while the project is in construction or during the five year retention period.

Buy America

In accordance with the current “Buy America” requirements of 23 C.F.R. § 635.410 as well as added requirements of ADOT Standard Specifications for Road and Bridge Construction, as modified by *Stored Specification 106DMAT*, the CA Agency must ensure that all steel and iron products permanently incorporated into a FAHP project will be domestically produced, including application of coating, and have proper certification statements from the manufacturer. Buy America certifications will accompany each shipment of material that includes steel or iron products, be submitted in compliance with the CA Agency Buy America provision that meets ADOT requirements, and be documented in the daily diaries or field reports.

The Buy America provision in 23 C.F.R. § 635.410 applies to the entire FAHP project as defined by the NEPA project limits. Failure to comply with 23 C.F.R. § 635.410 will jeopardize federal funding for the entire project. Buy America certification is not the same as Buy American certification. Buy American certified materials are unacceptable on FAHP projects.

Final Certification of Materials

In accordance with the *ADOT Materials Quality Assurance Program*, the CA Agency must submit the summary of testing materials of the entire project, materials sample checklist, materials certificate log, and materials certification/exception report electronically to the ADOT Construction and Materials Group, Materials Quality Assurance Engineer, at project completion. The ADOT Construction and Materials Group, Materials Quality Assurance Engineer will review these items and, if necessary, notify the CA Agency of any deficiencies that require corrective action within 30 days.

Construction materials that do not meet specification requirements that were incorporated into the project must be summarized in the materials certification/exception report with a detailed explanation listing penalties or justification for acceptance. The CA Agency must ensure a professional engineer registered in the State of Arizona signs and seals the materials certification/exception report.