

ADOT
CERTIFICATION ACCEPTANCE MANUAL

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ACRONYMS

A.A.C.	Arizona Administrative Code
ADA	Americans with Disabilities Act
ADEQ	Arizona Department of Environmental Quality
ADOT	Arizona Department of Transportation
A.R.S.	Arizona Revised Statutes
AZPR2X	Federal-aid Authorization Form
BECO	Business Engagement Compliance Office
CA	Certification Acceptance
CE	Categorical Exclusion
C.F.R.	Code of Federal Regulations
CMAR	Construction Manager at Risk
CRO	Civil Rights Office
CUF	Commercially Useful Function
DBE	Disadvantaged Business Enterprise
DCR	Design Concept Report
EA	Environmental Assessment
EEO	Equal Employment Opportunity
EIS	Environmental Impact Statement
EPRISE	DBE Special Provisions
FAHP	Federal-aid Highway Program
FAST Act	Fixing America's Surface Transportation Act
FHWA	Federal Highway Administration
FIT	Federal Improvement Type
HPAN	Highway Project Advancement Note
HSIP	Highway Safety Improvement Program
IGA	Intergovernmental Agreement
ISTEA	Intermodal Surface Transportation Efficiency Act of 1991
LPA	Local Public Agency
MAP-21	Moving Ahead for Progress in the 21st Century Act
MPO	Metropolitan Planning Organization
NEPA	National Environmental Policy Act of 1969
NHS	National Highway System
NOI	Notice of Intent
NOT	Notice of Termination
OJT	On the Job Training
OSHA	Occupational Safety and Health Administration
PA	Project Assessment
PI	Public Information
PIF	Public Interest Finding
PM	Project Manager
PMDR	Project Management Design Review
PoDI	Project of Division Interest
PS&E	Plans, Specifications, and Estimates
QA	Quality Assurance
ROW	Right-of-way

SAFETEA-LU	Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users
SHPO	State Historic Preservation Office
SRTS	Safe Routes to School
STIP	Statewide Transportation Improvement Program
SWPPP	Stormwater Pollution Prevention Plan
TAP	Transportation Alternatives Program
TEA-21	Transportation Equity Act of the 21st Century
TIP	Transportation Improvement Program
TMP	Transportation Management Plan
TO	Transportation Operations
TPAN	Transportation Project Advancement Notes
TTC	Temporary Traffic Control
U.S.C.	United States Code

CERTIFICATION ACCEPTANCE

The Federal-aid Highway Program (FAHP) is a federally-assisted program of state-selected transportation projects on the Federal-aid System. The following legislation provides the Federal Highway Administration (FHWA) flexibility in delegating certain FAHP and project-level responsibilities to the State:

- Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA)
- Transportation Equity Act for the 21st Century (TEA-21)
- Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU)
- Moving Ahead for Progress in the 21st Century Act (MAP-21)
- Fixing America's Surface Transportation Act (FAST Act)

Title 23, United States Code (U.S.C.), Section 103 describes the Federal-aid System as the National Highway System (NHS), which is a network of approximately 160,000 miles (256,000 kilometers) of highways that are important to the nation's economy, defense, and mobility. The NHS includes the Interstate System, principal arterials serving major travel destinations, highways that provide an important function for national defense, and highways that provide connections to other intermodal transportation facilities, such as airports and seaports.

According to 23 U.S.C. § 106(c), States can assume the responsibility of the Secretary of Transportation. 23 U.S.C. § 106(c)(1) and (2) state that:

Non-interstate NHS projects – For projects under this title that are on the National Highway System but not on the Interstate System, the State may assume the responsibilities of the Secretary under this title for design, plans, specification, estimates, contract awards, and inspections of projects unless the State or the Secretary determines that such assumption is not appropriate.

Non-NHS projects – For projects under this title that are not on the National Highway System, the State shall assume the responsibilities of the Secretary under this title for design, plans, specifications, estimates, contract awards, and inspection of projects unless the State determines that such assumption is not appropriate.

23 U.S.C. § 106(c)(3) requires that the Arizona Department of Transportation (ADOT) and FHWA enter into an agreement outlining the responsibilities ADOT assumes from the Secretary. *The FHWA and ADOT Stewardship and Oversight Agreement for Arizona* includes information on project approvals and related responsibilities and FHWA's oversight of the FAHP, as required by 23 U.S.C. § 106(g). ADOT and FHWA work collaboratively to manage the FAHP and review, monitor, and approve activities as necessary in the designated areas of responsibility to comply with applicable laws, regulations, directives, and standards.

In accordance with Title 23, Code of Federal Regulations (C.F.R.), Sections 1.11 and 635.105, ADOT may delegate certain activities, under supervision, to local public agencies (LPAs) for FAHP projects under 23 U.S.C. § 117, Certification Acceptance (CA). As the supervising agency, ADOT may impose requirements that are more stringent than federal requirements.

Because 23 C.F.R. § 1.11 and § 635.105 do not recognize LPAs as direct recipients of federal-aid funds, ADOT, as the supervising agency, retains responsibilities of the Secretary when LPAs construct FAHP projects. ADOT provides oversight to ensure the LPAs comply with federal-aid requirements on FAHP

projects and complete the projects in conformance with approved plans, specifications, and estimates (PS&E). FHWA works in partnership with ADOT to ensure LPAs comply with federal-aid requirements on FAHP projects.

FHWA delegates certain responsibilities to ADOT through a formal stewardship and oversight agreement. In turn, ADOT delegates certain responsibilities to the LPAs using a fully executed CA Agreement. The CA Agreement requires the CA Agency to adhere to the most current version of the CA Manual for delivering the FAHP in compliance with federal and state laws and regulations and managing federal-aid funds effectively and efficiently.

INTENT AND PURPOSE OF THE CERTIFICATION ACCEPTANCE MANUAL

The intent and purpose of the CA Manual is to document the roles and responsibilities of the CA Agency, ADOT, and FHWA and provide procedural guidance with respect to delivery, oversight, and stewardship of the FAHP.

SCOPE OF THE CERTIFICATION ACCEPTANCE MANUAL

The CA Manual applies to the following projects that fall within the CA Agency's jurisdiction:

- NHS projects off the Interstate System
- NHS projects off the State Highway System unless a designated major or principal arterial
- Non-NHS projects

The CA Manual covers the typical project delivery methods for Design-Bid-Build. The CA Agency may use alternative delivery methods, such as Design Build or Construction Manager at Risk (CMAR) as long as the CA Agency obtains prior ADOT concurrence and FHWA approval on specific projects.

For CA-administered FAHP projects that are determined to be a Project of Division Interest (PoDI), the project development process may be subject to change on a case-by-case basis. When the determination is made, the CA Agency must meet with ADOT and FHWA to identify the process changes.

PROJECT DEVELOPMENT AND DELIVERY PROGRAM

To demonstrate that the CA Agency has a compliant project development and delivery program, accounting controls, and a project inspection and internal program evaluation process for FAHP projects on and off the NHS, the CA Agency must have the following written procedures:

- Procurement (Consultant and Materials and/or Install)
- Materials (Materials and Pavement Design Guidelines, Design Exceptions, Quality Assurance [QA])
- Right-of-way (ROW)
- Civil Rights (Title VI, Americans with Disabilities Act [ADA], Disadvantaged Business Enterprise [DBE])
- Project Delivery Manual
- Internal Operations (Staffing, Communication, Training)
- Bid Analysis and Award
- Subcontractor Approval
- Performance Measures (Finance, Audit and Oversight, Reporting)

The ADOT LPA Section will keep a copy of the CA Agency's written procedures for the record.

The CA Agency must have a process for updating the written procedures in compliance with federal and state laws and regulations. The CA Agency must review the written procedures annually and update accordingly. ADOT will review any revisions to the CA Agency's written procedures. In accordance with 23 C.F.R. § 172.9, ADOT will approve any revisions to the CA Agency's procurement procedures. The CA Agency must provide the ADOT LPA Section with an updated copy of its written procedures for the record.

ADOT will continually assess whether the CA Agency has an adequate project development and delivery program, accounting controls, and quality control process to manage projects and deliver the FAHP.

DESIGNATED PERSONNEL

In accordance with 23 C.F.R. § 635.105(c)(3), the CA Agency must be adequately staffed and equipped to perform necessary work efficiently and cost effectively, including the supervision and training of staff. The CA Agency must identify the following designated qualified personnel:

- Designated Approval Authority
- CA Liaison
- Responsible Charge
- ADA Coordinator
- DBE Liaison
- ROW Agent
- Title VI Coordinator

The CA Agency must ensure the duties associated with the designated qualified personnel are maintained at all times. In the event of a change in personnel, the CA Agency must reassign those duties immediately, so no lapse occurs. The CA Agency must notify the ADOT LPA Section in writing of the CA Agency's plan to reassign the duties to existing staff or fill the vacated position.

COMMUNICATION PROTOCOL

The CA Agency must send agency communication to ADOT. ADOT will manage all communications with FHWA. The CA Agency must refrain from contacting FHWA directly. If the CA Agency needs to meet with FHWA, ADOT will arrange a meeting.

Program Issue Resolution

For program-specific issues, the CA Agency must work with the ADOT LPA Section Process Manager or designee, who will work with the appropriate technical team. If an issue cannot be resolved at the lowest level, then the parties need to use the CA Agency's program-specific issue resolution matrix to resolve the issue promptly.

Project Issue Resolution

For project-specific issues, the CA Agency must work with the ADOT Project Manager (PM). If an issue cannot be resolved at the lowest level, then the parties need to use the CA Agency's project-specific issue resolution matrix to resolve the issue promptly.

CONTRACT ADMINISTRATION

Intergovernmental Agreements (IGAs)

The CA Agency must enter into an intergovernmental agreement (IGA) with ADOT when:

- A project type or activity is not covered by the CA Manual, such as Design Build or CMAR
- A project impacts an ADOT facility or another CA Agency facility
- A project exceeds \$10 million in federal-aid funding total project costs and is authorized as Advance Construction (This also requires a tri-party agreement with the Metropolitan Planning Organization [MPO].)
- A project is funded with either Highway Project Advancement Notes (HPAN) or Transportation Project Advancement Notes (TPAN)
- A project is funded by Railroad Section 130 funds
- Using an ADOT-administered on-call contract, or
- Maintenance activities intersect with ADOT's ROW
- Deemed applicable

When ADOT receives the CA Agency's executed IGA, federal-aid funds may be authorized.

Procurement of an Engineering or Design-related Services Consultant

For FAHP projects, the CA Agency may use ADOT's list of prequalified consultants, its own list from an ADOT-approved prequalification process, or its qualification-based selection process requiring the consultant to provide financial information demonstrating the firm's financial viability and compliant accounting system that meets federal acquisition regulations.

When using federal funds for FAHP projects, the CA Agency must adhere to federal and state laws and regulations, including the Brooks Act (40 U.S.C. §§ 1101 through 1104), 23 U.S.C. § 112, 23 U.S.C. § 117, 2 C.F.R. Part 200, 23 C.F.R. Part 172, 48 C.F.R. Chapter 12, and 49 C.F.R. Part 26 during the selection, negotiation, and management of design contracts.

According to 23 U.S.C. § 112(b)(2)(D) and (E), the CA Agency must ensure the contract and subcontracts are performed and audited according to the cost principles contained in 48 C.F.R. Part 31. The CA Agency must conduct a final/incurred cost audit to determine contract cost allowability, allocability, and reasonableness.

For a CA Agency to use an on-call contract procurement method, the CA Agency must have ADOT-approved on-call contract administration and procurement procedures before advertising. If the CA Agency needs to deviate from the approved procedures, the CA Agency must submit a request with justification to the ADOT LPA Section for ADOT approval before the procurement of on-call services.

Procurement of a Contractor

ADOT recommends that the CA Agency use a prequalification process.

In accordance with 23 C.F.R. § 635.110 (c), the CA Agency must not require that the contractor obtain a license before submitting a bid.

23 C.F.R. § 635.113 requires that all bids be received, opened, and read without regard to licensing requirements. The reading of bids reveals the apparent lowest responsive, responsible bidder. A successful responsive bidder will have 60 calendar days to obtain the proper contractor's license required by the State. If the lowest responsive bidder cannot obtain the required license, the project may be awarded to the next lowest responsive bidder who has the required license.

In accordance with 23 C.F.R. § 635.113(a), the CA Agency must not negotiate or alter the scope of work, quantities, or pay items with contractors after the opening of bids and before contract award.

In the event of a tie between two or more bidders for the low bid, the CA Agency must provide the ADOT PM and LPA Section written notice immediately after the bid opening. The CA Agency must receive ADOT concurrence before award.

Failure to comply with competitive bidding requirements is a violation of federal and state laws and regulations that will jeopardize federal reimbursement.

Materials-Only Procurement/Procurement of Materials and a Contractor for Installation

When federal funds are used, the CA Agency must award contracts for the procurement of materials only and procurement of materials and a contractor for installation in compliance with federal regulations, the Arizona Procurement Code, and ADOT-approved CA Agency procurement procedures.

The CA Agency must follow approved competitive procurement procedures when using federal-aid funds to buy materials and/or equipment. Failure to comply with competitive bidding requirements is a violation of federal and state laws and regulations that will jeopardize federal reimbursement.

Advertisement

Design

The CA Agency must administer the solicitation and contract award in compliance with 23 U.S.C. § 112, 23 C.F.R. Part 172, and ADOT-approved procurement procedures.

Construction

The CA Agency must administer the bid advertisement and contract award in compliance with 23 C.F.R. § 635.112 and Arizona Revised Statutes (A.R.S.) §§ 34-201 through 34-203.

When FHWA provides federal authorization, the CA Agency may work on a FAHP project and advertise for bids. The CA Agency must send a copy of the advertisement to the ADOT PM before advertising and notify the ADOT PM when advertised. The CA Agency must include the DBE contract goal in the contract bid advertisements and request for proposals or other solicitation documents. In accordance with 23 C.F.R. § 635.112 and Arizona Administrative Code (A.A.C.) R2-7-8314, the CA Agency must advertise for at least three weeks and make the contract files and records available for public inspection after award.

FHWA may only authorize the work that is ready to proceed, which typically anticipates the CA Agency issuing a request for proposal, qualifications, and/or bids within 90 days and awarding the contract soon thereafter. Authorizing a phase of a project before it is ready to advance is a significant cause of project inactivity and is not allowable. Authorization is FHWA's internal control mechanism to ensure federal

and state laws and regulations have been met before costs are incurred. Three months after the advertisement concludes, the CA Agency must begin construction.

If the CA Agency believes it is unable to meet the schedule, the CA Agency must provide the ADOT PM written notice with justification and a revised schedule. ADOT has sole discretion to approve the revised advertisement and award schedule. If the CA Agency has not started construction within six months of the advertisement date, then FHWA may deobligate funds.

Contract Provisions

Federal laws and regulations require that specific contract provisions be included in federal-aid construction contracts. The CA Agency must ensure the bid package and awarded construction contract are complete. The package includes the most current version of:

- Appendix A & E of the Title VI Assurances
- Bidders' List Form 3104C
- Breach of Contract Language
- Buy America Provisions
- Cargo Preference Act Language
- DBE Assurance Form 3102C
- DBE Intended Participation Affidavit (Individual Form 3105C and DBE Intended Participation Affidavit Summary for Prime Form 3106C)
- DBE Special Provisions (EPRISE)
- Energy Efficiency Language
- Equal Employment Opportunity (EEO) Clause
- Form FHWA-1273
- Non-collusion Provision
- On the Job Training (OJT) Special Provisions
- Prompt Pay Provisions
- Recovered Materials Language
- Environmental Commitments
- Standard Change Condition Clause
- Termination of a Contract Language
- Wage Determination Decision
- List of Required Job Site Posters
<http://www.fhwa.dot.gov/programadm/in/contracts/poster.cfm>

The CA Agency must ensure that the contractor and subcontractors comply with federal, state, and local immigration laws and regulations, as set forth in *Arizona Executive Order 2005-30*.

Addenda

An addendum may affect the obligation of federal-aid funds. Issuing an addendum during advertisement could have a profound impact on bid prices and the basis for bid comparisons. For any addendum, the CA Agency must notify the ADOT PM and provide justification before its release to the prospective bidders. If several changes are made through addendum, the CA Agency or ADOT may need to consider a bid extension to allow ample time for bidders to respond. All bidders will bid the project on the same basis, so that no particular advantage or disadvantage occurs to any potential bidder or the CA Agency.

Bid Analysis

Bid analysis is the basis for justifying the contract award or rejection of bids. A bid analysis helps ensure that federal-aid funds are being used effectively. In accordance with 23 C.F.R. § 635.114(c), the bid analysis process examines the unit bid prices for reasonable conformance with the engineer's estimated prices. The CA Agency must conduct a bid analysis on all bids. When the low bid is more than 110

percent or less than 85 percent of the engineer's estimate, a thorough analysis must be undertaken to justify contract award.

The CA Agency must have an ADOT-approved bid analysis process to justify the contract award and rejection of bids. The CA Agency must notify the ADOT PM of all bid awards and bid rejections before the CA Agency takes action. The CA Agency must obtain all proper statements and affidavits as required by federal laws and regulations.

In accordance with 23 C.F.R. § 635.114(d) and (e), when obvious unbalanced bid items exist, the CA Agency must support the decision to award or reject a bid with written justification. The CA Agency may award a bid that is mathematically unbalanced, but not materially unbalanced. When a low bid is determined to be both mathematically and materially unbalanced, the CA Agency must notify the ADOT PM for ADOT concurrence before making an award to any other bidder. The ADOT PM will notify FHWA.

In accordance with 23 C.F.R. § 635.114(f), when the CA Agency believes that the apparent low bidder should be rejected, the CA Agency must notify the ADOT PM for ADOT concurrence before making an award to the next lowest responsive and responsible bidder. The ADOT PM will notify FHWA.

In accordance with 23 C.F.R. § 635.114(h), the CA Agency must notify the ADOT PM for ADOT concurrence before rejecting all bids received for a federal-aid contract. The ADOT PM will notify FHWA.

Award

Contracts for the construction of FAHP projects will be awarded under 23 U.S.C. § 112, 23 C.F.R. Part 635, and A.R.S. § 34-221. The CA Agency must award the contract competitively to the responsible contractor that submits the lowest responsive bid. Following the contract award, the CA Agency must submit an electronic copy of the executed construction contract to the ADOT PM for ADOT and FHWA's records.

Claims

The CA Agency must process any dispute or claim not involving a question of law during the contract performance in compliance with 23 C.F.R. § 635.124(b) and 23 C.F.R. Part 140, Subpart E. The CA Agency must provide the ADOT PM and LPA Section written notice immediately of any contract claim or issue under dispute and must keep ADOT informed throughout the settlement process. The CA Agency must bear the costs unless approved for reimbursement or partial reimbursement by ADOT. The CA Agency must notify the ADOT PM of proposed settlement offers before sending the offer to the contractor. The CA Agency must settle all claims before final acceptance.

The CA Agency must report all active claims on CA-administered FAHP projects to the ADOT PM, so the claims can be included in the quarterly claims report that ADOT submits to FHWA.

Termination of a Contract

The CA Agency must comply with 23 C.F.R. § 635.125. In accordance with 23 C.F.R. § 635.125(a), the CA Agency must ensure all contracts contain suitable contract provisions for termination by the CA Agency, including the manner by which the termination will be effective and basis for settlement, conditions

where the contract may be terminated for default, and conditions where the contract may be terminated due to circumstances beyond the contractor’s control.

Before terminating a federal-aid contract, the CA Agency must contact the ADOT PM to receive ADOT concurrence. ADOT will notify FHWA when a contract is to be terminated and determine whether contract termination costs, including final settlement, are eligible for federal reimbursement.

PROJECT DEVELOPMENT PROCESS

The CA Agency must deliver FAHP projects using a similar process as the ADOT project development process, illustrated in Figure 1. The timelines listed in Figure 1 are only estimates based on the reality of delivering FAHP projects. The design stage completion percentages for each CA Agency may vary slightly from ADOT’s completion percentages.

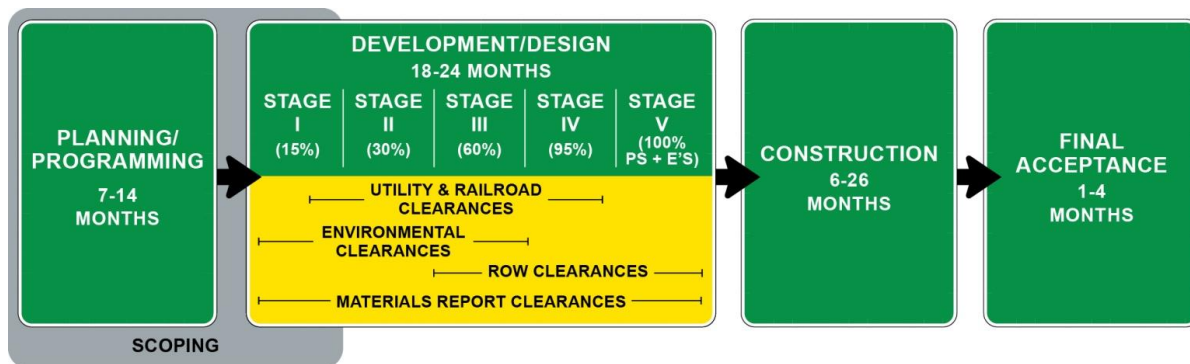


Figure 1. ADOT Project Development Process

PLANNING/PROGRAMMING

Pre-planning

Through pre-planning activities, the CA Agency evaluates potential issues and opportunities to identify projects that should move forward. Pre-planning considers:

- Type of work
- Project location
- Environmental issues
- ROW needs
- Utility issues
- Constructability issues
- Project schedule
- Cost analysis
- Funding source
- Other issues

As part of the MPO project application process, the CA Agency provides project information to the MPO to confirm funding-source eligibility.

Eligibility

Several federal-aid funding programs, such as the Highway Safety Improvement Program (HSIP), Transportation Alternatives Program (TAP), and Safe Routes to School (SRTS), require projects to obtain eligibility of federal-aid funding before programming. The CA Agency can contact ADOT for information on specific eligibility requirements. When applicable, the CA Agency must submit an eligibility request to

the ADOT LPA Section. ADOT and FHWA will complete the eligibility determination. ADOT will provide the CA Agency with an eligibility determination letter.

Programming

The CA Agency must coordinate with the MPO to program the project in the MPO Transportation Improvement Program (TIP). The CA Agency must provide project information to the MPO, so the project can proceed through the MPO's competitive prioritization process for programming in the MPO TIP. The MPO TIP needs to show a separate line item for federal aid for each project task (i.e., design, ROW, utilities, and construction).

The MPO will submit the MPO TIP to ADOT for review and inclusion in the Statewide Transportation Improvement Program (STIP) that FHWA reviews and approves. FHWA authorizes federal-aid funding for a CA-administered FAHP project only if the project is programmed in the MPO TIP and STIP.

Project Initiation

When the project is in the MPO TIP and STIP, the CA Agency must request project initiation, a federal project number, and an ADOT project number from the ADOT LPA Section before the project development process begins. The request includes:

- Project scope
- Project name
- Project termini
- Project length
- Road classification
- Project location map
- Estimated cost for design and construction, including construction administration
- Schedule of major ADOT-defined milestones
- Approved portion of the MPO TIP showing the project, federal-aid funding source, and year of programming (or amendment and approval letter)
- Funding source for ADOT Project Management Design Review (PMDR) fee, if applicable

The schedule of major ADOT-defined milestones includes the dates for the project initiation letter, project start-up or kickoff, National Environmental Policy Act of 1969 (NEPA) approval, ROW, utility, and railroad clearances, construction package, federal authorization for construction, bid advertisement, and bid award. If applicable, the schedule may include dates for pre-planning, federal authorization for preliminary engineering, design stages I, II, III, and IV, materials memo, and final PS&E. The CA Agency must notify the ADOT PM and LPA Section of schedule changes in a timely manner.

Copies of the approved portions of the MPO TIP and STIP concerning the project must show the federal-aid funding source and year of programming.

If the CA Agency seeks federal-aid funding for the ADOT PMDR fee, then the project initiation request must include the PMDR fee with any design costs.

ADOT will provide the federal and ADOT project numbers and assign an ADOT PM to the project.

DEVELOPMENT/DESIGN

Authorization

FHWA will not reimburse any costs incurred before the date of federal authorization. Federal authorization for design covers the scoping document, NEPA documentation, and preliminary and final design activities. ROW and construction require subsequent federal authorizations separate from design.

The CA Agency must submit a written request for federal authorization for design on a project to the ADOT PM and receive authorization before starting any work associated with the project tasks eligible for federal reimbursement for design. The request includes the project end date for design in accordance with 2 C.F.R. § 200.210, after which no further charges will be eligible for reimbursement. When FHWA approves the request, the ADOT PM will provide notice to proceed by email. When the ADOT PM receives a copy of the Federal-aid Authorization Form (AZPR2X) from FHWA, the ADOT PM will provide a signed copy by FHWA to the CA Agency. If the CA Agency does not receive a copy, the CA Agency must request it from the ADOT PM.

Project Meetings

The CA Agency must schedule and participate in project meetings for FAHP projects. The CA Agency must notify the ADOT PM in advance of the meeting and include the ADOT PM in the distribution of the meeting materials, notes, and documentation of engineering decisions.

Scoping Document

The CA Agency must determine and prepare the proper scoping document (i.e., scoping letter, project assessment [PA], or design concept report [DCR]) commensurate with the level of effort for each project. The scoping document refines the scope and further evaluates the total project cost, schedule, and potential design and construction alternatives, including an assessment of the clearance and permit needs identified during pre-planning. In conjunction with the preliminary scoping document, supporting technical reports (i.e., geotechnical, drainage, traffic analysis, etc.) may be required when appropriate.

Typically, the scoping document and supporting technical reports provide detailed information on the following topics:

- Construction cost estimates
- Construction feasibility issues
- Current site characteristics
- Environmental information
- Geotechnical investigation
- Hydrologic and drainage conditions
- Land ownership
- Major project components
- Material source and supply
- Potential design alternatives
- Potential project footprint
- Project Scope
- ROW information
- Traffic analysis
- Utility and railroad coordination

The CA Agency must submit the scoping document, supporting technical reports, and the accompanying design plans to the ADOT PM and Environmental Planning for review.

The CA Agency Responsible Charge must approve the final scoping document and ensure a professional engineer or landscape architect registered in the State of Arizona signs and seals the final scoping document.

Scoping Changes

If the scope of the project changes at any time during project development, the CA Agency may need to prepare an amendment to the MPO TIP and STIP. If an amendment is needed, the CA Agency must notify the ADOT PM and ADOT LPA Section and contact the MPO representative for instructions on how to submit amendments to the MPO TIP and STIP.

Design Phases

The project development process is segmented into stages that follow a standardized design progression. The CA Agency must define a phased program for completing FAHP projects or follow ADOT's phased program, as defined in the *ADOT Dictionary of Standardized Work Tasks*.

Design Criteria

NHS Projects

As specified in 23 U.S.C. § 109(c), FHWA has adopted design standards for the NHS, which are listed in 23 C.F.R. § 625.4 and 49 C.F.R. § 37.9. Regardless of the funding source for the project, the CA Agency must comply with the FHWA-adopted design standards for all projects on the NHS.

Non-NHS Projects

In accordance with 23 C.F.R. 625.3(a)(2), FAHP projects not on the NHS are to be designed, constructed, operated, and maintained in accordance with local laws, regulations, directives, safety standards, design standards, and construction standards. The CA Agency must ensure that no conflicts arise from using multiple sets of standard details.

ADOT does not review the CA Agency's design for technical accuracy or compliance with the standard of care unless the project impacts ADOT's ROW or facility.

Design Exceptions

Design exceptions are required when any of the 13 Controlling Criteria (design speed, lane width, shoulder width, bridge width, horizontal alignment, superelevation, vertical alignment, grade, stopping sight distance, cross slope, vertical clearance, lateral offset to obstruction, and structural capacity) are not met. The CA Agency must document the need for design exceptions and notify the ADOT PM as early as possible to discuss or seek FHWA approval. The CA Agency should submit design exceptions for consideration before 60 percent design plans. Design exception requests with appropriate justification must be sent from the CA Agency to the ADOT PM. Following ADOT review and concurrence, design exception requests on the NHS are to be submitted by ADOT to FHWA for review and approval.

When using design exceptions in the project design, the CA Agency must ensure a professional engineer or landscape architect registered in the State of Arizona signs and seals the design exceptions. The CA Agency must include a statement in the federal authorization letter and the design exception in the final PS&E.

NHS Projects

In accordance with 23 C.F.R. § 625.3(f), FHWA, in its sole discretion, will approve all design exceptions on the NHS regardless of funding source.

Non-NHS Projects

When design values on non-NHS projects do not meet the adopted design criteria, the CA Agency must follow their standard procedure for design exceptions that include identifying, justifying, and documenting the deviation, and taking into account its effect on safety.

Materials and Pavement Design Guidelines

The CA Agency must have materials and pavement design guidelines for new pavement and pavement preservation projects. The CA Agency must design pavement to accommodate current and predicted traffic needs in a safe, durable, and cost effective manner.

Proprietary Items

A proprietary item on a project is a specific product, specification, or process, also referred to as a patented or proprietary product. A proprietary item must meet one of the conditions listed under 23 C.F.R. § 635.411(a) or (c) to be eligible for federal reimbursement or used on a FAHP project.

Certification of a Proprietary Item

The CA Agency must request a certification of a proprietary item and include a statement that the particular proprietary item is either essential for synchronization with existing facilities or is a unique product for which there is no equally suitable alternative. The documentation will include a description of the proprietary item's:

- Uniqueness
- Essentiality
- Cost (estimate of any additional costs incurred as a result of the proprietary product requirement)
- Synchronization with existing facilities
- Maintenance requirements
- Availability
- Impacts on safety that would justify a higher standard
- Potential benefit to the public

Synchronization may be based on a combination of:

- Function
- Aesthetics
- Logistics
- Life cycle
- Size and extent of products and systems to be synchronized with, and
- Relative cost of the proprietary item compared to the cost of replacing the existing elements requiring synchronization

The CA Agency must obtain ADOT approval from the appropriate Assistant State Engineer through the ADOT PM before including the product or process in the plans or specifications. The Assistant State Engineer will provide approval in the form of a signed statement certifying that a particular proprietary item is either essential for synchronization with existing facilities or a unique product for which there is no equally suitable alternative. If the certification extends beyond a single project, the CA Agency must obtain FHWA approval through the ADOT PM.

In the federal authorization packet, the CA Agency must include the product name, ADOT Group that certified, and certification date in the CA Agency request letter.

If ADOT denies the certification request, the CA Agency must competitively bid the item for it to be federally reimbursable. If the CA Agency specifies three or more products with the words “or equal,” a certification is not required.

Proprietary Item Public Interest Finding

The CA Agency must submit a Public Interest Finding (PIF) letter requesting that it is in the public interest to use a specific material or product even though other equally acceptable materials or products are available. The letter includes documentation of a compelling justification of the reasonableness of the CA Agency’s minimal needs and best method to meet these needs consistent with the requirement for the broadest practical competition. The level of documentation depends on the nature of the product and project involved. Supporting materials may include:

- Additional costs, if any
- Benefits to the public
- Description of need, including limitations and conditions
- Engineering and economic considerations
- Evaluation of the pool of other equally acceptable products
- Logistical concerns
- Product availability
- Other unique considerations

The CA Agency must obtain ADOT approval through the ADOT PM to specify a proprietary item at project authorization. In the federal authorization packet, the CA Agency must include a statement with the product name, ADOT Group that certified, and certification date in the CA Agency request letter and a copy of all approved PIFs.

If ADOT denies the PIF request, then the item must be competitively bid or not be eligible for federal reimbursement. If the CA Agency specifies three or more products with the words “or equal,” a PIF is not required.

Experimental Product

An experimental product is a proprietary item used for research or a distinctive type of construction on relatively short sections of roadway on an experimental basis. The CA Agency must designate the project as an experimental research project. The CA Agency must develop a work plan that includes:

- Description of the experimental feature
- Experimental feature objectives
- Construction requirements (including necessary measurements)
- Characteristics to be evaluated
- Time schedules
- Reporting requirements
- Cost estimates
- Construction and post-construction inspection schedules
- Control sections
- Evaluations to be conducted

The CA Agency must submit the work plan to the ADOT PM for ADOT approval and FHWA concurrence. In accordance with the funding program, the CA Agency must report the results to the ADOT PM, who will provide the results to FHWA upon completion of the project.

The same approval authority applies when an experimental product is requested through a construction change order.

Buy America

In accordance with 23 C.F.R. § 635.410, no FAHP project is to be authorized for advertisement or otherwise authorized to proceed unless one of the following requirements is met:

- The project includes no permanently incorporated steel or iron materials or if steel or iron materials are to be used, all manufacturing processes, including application of a coating, for these materials must occur in the United States. Coating includes all processes that protect or enhance the value of the material to which the coating is applied.
- When steel and iron materials are used in a project, the requirements do not prevent a minimal use of foreign steel and iron materials, if the cost of such materials used does not exceed one-tenth of one percent (0.1 percent) of the total contract cost or \$2,500, whichever is greater. For purposes of this paragraph, the cost is that shown to be the value of the steel and iron products as they are delivered to the project.

The CA Agency must address Buy America requirements during project design, because the delivery of steel and iron materials could affect the project schedule and cost.

FHWA is responsible for approving Buy America waivers. Meeting the contractor's construction schedule when domestic materials are available and the cost differential between domestic and foreign products are not adequate bases for a waiver.

Plans, Specifications, and Estimates (PS&E)

The CA Agency must prepare and ensure a professional engineer or landscape architect registered in the State of Arizona signs and seals the final PS&E.

The plans and specifications describe the location and design features and construction requirements in enough detail to facilitate the advertising, bidding, awarding, contract control, construction, and estimation of construction costs of the project. The estimate shows the expected project cost in enough detail to provide an initial prediction of the financial obligations to be incurred by the CA Agency, ADOT, and FHWA and allow an effective review and comparison of the bids received.

The CA Agency must ensure NEPA approval and ROW, utility, and railroad clearances have been obtained (or necessary arrangements have been made) so as not to delay the construction contractor.

The CA Agency must submit the final PS&E to the ADOT PM for federal authorization for construction. The federal authorization packet includes:

- All bid advertisement documents (PS&E, special provisions including the DBE Special Provisions (EPRISE), bid/contract), signed and sealed
- CA Agency request letter that includes a railroad, design exception, and proprietary products statements
- Clearances
 - ROW
 - Utility

- Railroad (required even when no railroad is involved in the FAHP project and can be a statement in the utility clearance)
- Current MPO TIP and STIP pages (showing the project name, funding year, and funding source)
- DBE goal assessment letter
- Financial recapitulation sheet, including a clear cost breakdown of local funds that are federally eligible and those that are not federally eligible
- Materials memo
- Materials QA project plan approval letter
- NEPA approval
- Period of performance, including the construction schedule and project start and end dates
- Project location/vicinity map
- Certification, PIF, or Experimental Product approval, if applicable
- Design exception approval, if applicable
- Executed IGA, if applicable
- Subprogram eligibility letter, if applicable
- Systems engineering checklist, if applicable

ENVIRONMENTAL

In accordance with NEPA (42 U.S.C. § 4321 *et seq.*) and other relevant environmental laws and regulations, the CA Agency must prepare a Categorical Exclusion (CE), Environmental Assessment (EA), or Environmental Impact Statement (EIS) that includes engineering technical reports, environmental technical studies, agency coordination, and public involvement for all FAHP projects. The CA Agency must prepare the NEPA documentation and analysis for ADOT and/or FHWA approval.

NEPA approval is FHWA's responsibility that cannot be delegated to the CA Agency under the CA Agreement. Pursuant to Section 1318(b) of MAP-21 and 23 C.F.R. § 771.117(g), FHWA has entered into a programmatic agreement with ADOT, known as *The Programmatic Agreement Between the Federal Highway Administration Arizona Division and Arizona Department of Transportation regarding the Determination and Approval of Categorical Exclusion Actions for Federal-aid Highway Projects*, that delegates the authority of determining and approving most CEs to ADOT. The non-delegated technical areas are Section 4(f), Section 106, air quality, and biology. All decisions, consultations, and approval related to these processes must be completed by FHWA.

Initiation

During the pre-planning of project design, the CA Agency must conduct early coordination with ADOT Environmental Planning for a preliminary determination of the proper NEPA class of action and level of NEPA documentation needed.

For CE-level projects, the environmental review process may start during the pre-planning and continue into design. When the scoping documents (scoping letter or PA) are completed, the CA Agency must submit the scoping documents to the ADOT PM and Environmental Planning for review of pertinent environmental information. ADOT Environmental Planning will confirm the preliminary NEPA document determination made during the pre-planning or design contract phase and provide guidance to the CA Agency on environmental analysis.

Typically, DCRs are prepared for EA-level projects and require the development of project alternatives that will need to be analyzed during the NEPA review process. For projects requiring an EIS, ADOT and FHWA will determine jointly who will prepare the EIS.

The level of public involvement will be commensurate with the proposed action and conducted in compliance with NEPA requirements and the CA Agency's public involvement guidelines.

NEPA Review Process

The CA Agency must prepare the NEPA documentation. The CA Agency must provide this documentation to ADOT Environmental Planning for approval.

For projects requiring a CE, the CA Agency must obtain NEPA approval before proceeding beyond the 60 percent design plans. If the CA Agency proceeds beyond the 60 percent design plans before obtaining NEPA approval, the CA Agency must provide the ADOT PM written notice by email. Without prior approval by ADOT and FHWA, those design activities are considered "at risk" and may not be reimbursed if redesign is required.

For projects requiring an EA or EIS, the CA Agency must obtain NEPA approval before proceeding beyond the 30 percent design plans.

After NEPA approval, ADOT Environmental Planning will send a copy of the document to the CA Agency. When the CA Agency receives a copy of the NEPA approval, the CA Agency may begin final design. If any part of the scope of work changes after NEPA approval, the CA Agency must contact ADOT Environmental Planning for reevaluation.

The CA Agency must submit subsequent design plans to FHWA through ADOT upon request of the State Historic Preservation Office (SHPO) for projects with a "no adverse effects" determination.

Environmental Commitments

Before the ADOT PM requests authorization for construction from FHWA, the CA Agency must verify that the environmental commitments are included in the final design plans or specifications.

In accordance with 23 C.F.R. § 635.309(j), the CA Agency must incorporate the environmental commitments into the PS&E exactly as approved in the project NEPA approval. The environmental commitments include project-specific mitigation measures, any required permits, and any required species handling guidelines. The CA Agency must adhere to and cannot change the approved environmental commitments without prior written consent from ADOT Environmental Planning. The CA Agency must ensure that the environmental commitments assigned to the CA Agency and contractor are successfully implemented and documented in the project file.

After receipt of the NEPA approval, the CA Agency must contact ADOT Environmental Planning for an assessment of any design changes as changes could trigger additional environmental analysis under NEPA. This applies to pre- and post-bid activities. After NEPA approval, design changes may require reevaluation in accordance with 23 C.F.R. § 771.129.

RIGHT-OF-WAY

The CA Agency's ROW agent prepares the ROW plan, administers appraisal, relocation, and acquisition activities (if needed), and prepares the ADOT ROW Certification Form. The CA Agency must determine during pre-planning if ROW activities, including property rights and temporary or long-term easements, are required for the proposed construction of a FAHP project.

For projects requiring new ROW acquisition for which reimbursement of federal-aid funds for ROW activities will be requested, the CA Agency must have federal authorization for ROW activities and ADOT's notice to proceed for appraisal, relocation, and acquisition activities before those ROW activities may begin. Before submitting the request for ROW activities, the CA Agency must have NEPA approval. Regardless of the funding source, ROW acquisition will comply with the Federal Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970 (42 U.S.C. § 4601 *et seq.*), as amended, and 23 C.F.R. Part 710 and 49 C.F.R. Part 24 (Uniform Act).

The federal authorization request packet for right-of-way includes:

- CA Agency authorization request letter
- Current MPO TIP and STIP pages (showing the project name, funding year, and funding source)
- NEPA approval
- Project location/vicinity map
- ROW plan
- Title report (parcel and ownership information)

For projects with federal-aid funds in any part of the project, the CA Agency must conduct ROW activities in compliance with the *ADOT Right-of-Way Procedures Manual* or the CA Agency's ROW procedures that follow the Uniform Act. Any changes to the CA Agency's procedures require approval from ADOT. After the ROW acquisition is complete and before advertisement, the CA Agency must submit the ROW certification package and clearance letter to the ADOT PM to obtain verification and concurrence from the ADOT ROW Group. Any deviation from these procedures must have ADOT approval with FHWA concurrence. If any property interest is acquired in advance of the project authorization, those property interests must be compliant with the Uniform Act and the FAHP.

If all ROW has not been acquired before the request for federal authorization for construction, the CA Agency must submit the conditional clearance to the ADOT PM to obtain approval from the ADOT ROW Group and FHWA. The CA Agency must not advertise until the ROW acquisition process is complete and has received full clearance unless FHWA has approved a conditional clearance.

In accordance with ADOT's *Requirements regarding Right-of-Way Acquisition by Local Public Agencies on Federal Aid Projects*, all FAHP projects with ROW acquisition require oversight and records inspection by the ADOT ROW Group throughout project development to ensure compliance with federal and state laws and regulations. The CA Agency must maintain ROW records for at least five years after the FHWA final voucher payment has been recorded. Under certain circumstances, FHWA may request a longer period. The ADOT ROW Group will conduct reviews of the CA Agency's ROW recordkeeping activities.

UTILITIES AND RAILROADS

Buy America applies to utility and railroad contracts eligible for assistance under the FAHP within the scope of a finding, determination, or decision under NEPA, regardless of funding source, if at least one contract within the scope of the NEPA document is funded with federal funding under the FAHP.

Utilities

The CA Agency must ensure utilities affected by FAHP projects are identified during the design phase.

If using federal funds for utility relocation, the CA Agency must obtain design authorization from FHWA and send a utility letter to the utility company identifying utilities located within the project limits before requesting federal funds. After receipt of federal authorization, the CA Agency can authorize the utility company to start work. No utility design or relocation work done before federal authorization will be eligible for federal reimbursement.

When a FAHP project involves either the installation of new utilities or the retention, relocation, or adjustment of existing utilities, the CA Agency must comply with 23 C.F.R. Part 645. Utility coordination must occur during design and continue throughout construction. The CA Agency must coordinate with all utility companies in compliance with ADOT's *Accommodating Utilities on Highway Rights-of-Way* and the Arizona Utility Coordination Committee's *Public Improvement Project Guide*.

The CA Agency must provide written notice to the utility companies when utilities are located within the project limits, explaining and showing the proposed scope of work. The notice includes the scoping document and submission of design plans at phased stages and final PS&E. The CA Agency must obtain the utility clearance letter from the utility company during the project design and comply with the ADOT-approved CA Agency utilities and railroad checklist or ADOT Utilities and Railroad Section Stage Submittal Checklist in Appendix 1 of the *ADOT Utility Coordination Guide for Design Consultants*.

The CA Agency must identify and determine prior rights for all utilities within the project limits. When prior rights for utilities exist, the CA Agency must prepare and execute a formal agreement with the utility company and pay for utility relocation work. If using federal funds for any part of the project, all utility agreements for utilities with prior rights will be in accordance with 23 C.F.R. Part 645 and include Buy America provisions regardless of what funding source is used to fund the relocation.

Before federal authorization for construction, the CA Agency must prepare a utility clearance letter certifying that all utilities have been relocated or arrangements for relocation of all conflicting utilities have been made. The clearance letter includes final relocation dates, mitigation measures, and construction requirements, and certifies that all federal and state laws and regulations have been met. The letter also includes the utility company name, contact person, phone number, description, resolution of the utility conflict, and schedule of work to be completed before the construction contractor starts work. The CA Agency must include a statement that the utilities are cleared and there is no conflict or identify what work needs to be completed in the special provisions. Utility design relocations and construction work will be completed in conformance with approved plans and specifications.

For utilities not relocated before bid advertisement, the CA Agency must include the scope and schedule of pending relocations as the contractor's responsibility in the construction contract.

Submission of the utility clearance constitutes an affirmative representation by the CA Agency that the CA Agency has performed all acts necessary to accomplish the utility investigation and has completed all necessary utility relocations or has arranged for them to be completed during construction.

Railroad

The CA Agency must ensure railroads affected by FAHP projects are identified during the design phase. Railroad coordination must occur during design and continue throughout construction. If additional ROW is required, federal authorization for ROW must be obtained through the ADOT PM before contacting the railroad. If no railroads are affected by FAHP projects, a railroad clearance is still required that states that there is no railroad involvement.

The CA Agency must request and receive federal authorization for railroad design or construction work. After receipt of federal authorization, the CA Agency can authorize the railroad to start work. No railroad design or construction work done before federal authorization will be eligible for federal reimbursement.

The CA Agency must provide written notice to the railroad companies when railroad ROW is located within the project limits, explaining and showing the proposed scope of work. The notice includes the scoping document and submission of design plans at phased stages and final PS&E. The CA Agency must obtain the railroad clearance letter from the railroad company during the project design and comply with the ADOT-approved CA Agency utilities and railroad checklist or ADOT Utilities and Railroad Section Stage Submittal Checklist in Appendix 1 of the *ADOT Utility Coordination Guide for Design Consultants*.

When a FAHP project impacts a railroad, the CA Agency must coordinate with the railroad to identify additional ROW needs and associated mitigation measures. The CA Agency must comply with the *ADOT Utility Coordination Guide for Design Consultants*. Mitigation measures involving work by railroad forces, on railroad facilities, or in coordination with railroad personnel will be documented in the railroad clearance letter and special provisions. The CA Agency must execute a formal agreement with the railroad company using guidance from the ADOT Utility and Railroad Section. The railroad agreement includes mitigation work and flagging requirements. All railroad agreements will be in accordance with 23 C.F.R. Part 645 and include Buy America provisions.

Signal relocations or other parts of the railroad crossing road surfacing work required under the agreement between the CA Agency and railroad company will be paid through the agreement, as invoiced by the railroad company.

When a CA-administered FAHP project adds or deletes an at-grade crossing, widens an existing crossing, or installs or changes the configuration of protective warning devices, the CA Agency must request an opinion and order from the Arizona Corporation Commission, which has legal jurisdiction over the installation, operation, maintenance, use, and protection of railroad crossings. All adjustments and execution of work will comply with 23 C.F.R. §§ 140.900 through 140.922 and 23 C.F.R. Part 646.

Submission of the railroad clearance constitutes an affirmative representation by the CA Agency that the CA Agency has performed all acts necessary to accomplish the railroad investigation and has completed all necessary railroad work or has arranged for them to be completed through construction.

Railroad Section 130

When railroad-highway grade crossing safety funds are used in accordance with 23 U.S.C. § 130 (Section 130), the ADOT Utility and Railroad Section will manage and administer the agreements and obtain all federal authorizations for Section 130 projects. The CA Agency must perform all railroad civil activities (i.e., sidewalks, road approaches, ramps, typical roadwork, curb and gutter, median work, signing and striping associated with updated crosswalks, utility relocation, traffic control associated with any of the improvements, and non-railroad work) under Section 130, as detailed in the IGA/JPA between the CA Agency and ADOT.

CONSTRUCTION ADMINISTRATION

Authorization

The CA Agency must obtain federal authorization for construction through the ADOT PM before advertising the project. In accordance with 23 C.F.R. 630.106(a)(3), the request for authorization must be supported by a documented cost estimate. The request must also include the project end date, after which no charges will be eligible for federal reimbursement. When FHWA approves the request, the ADOT PM will provide notice to proceed by email. When the ADOT PM receives a copy of the AZPR2X Form from FHWA, the ADOT PM will provide the copy to the CA Agency. If the CA Agency does not receive the copy, the CA Agency must request it from the ADOT PM.

Preconstruction Meetings and Submittals

When the CA Agency has awarded a project to the contractor, the CA Agency must administer and oversee the preconstruction meeting and preconstruction submittals.

The CA Agency must notify the ADOT PM and FHWA Area Engineer of upcoming preconstruction meetings. The CA Agency must conduct the preconstruction meeting, prepare meeting materials, notes, and documentation of engineering decisions, and discuss the following items if applicable:

- Contractor's submittals
- Railroad or utility adjustments
- Public relations and interests of abutting property owners
- Contractor's work plan and schedule of operations
- Specific contract requirements, including EEO, DBE, and OJT
- Safety and traffic control plans
- Environmental commitments
- Erosion control/Stormwater Pollution Prevention Plan (SWPPP)
- ROW available for use by the contractor
- Time limits and performance of operations, including materials delivery considerations
- Construction time and cost control
- Emergency response to incidents
- Escalation process
- Authorized signature form
- Quality assurance for materials

The CA Agency will provide a written copy of the preconstruction meeting notes to the ADOT PM.

The CA Agency must be fully acquainted with the contractor's plan of operations, planned progress schedule, shop drawings, and other submittals.

Before construction begins, the CA Agency must have a traffic control plan, contractor's safety plan, and SWPPP, if applicable.

In accordance with 23 C.F.R. §§ 630.1010 and 630.1012 (b) and (c), the CA Agency must include in the PS&E either a Transportation Management Plan (TMP) or provisions for contractors to develop a TMP. The CA Agency must approve a contractor-developed TMP before implementation. A TMP consists of a Temporary Traffic Control (TTC) plan and addresses both Transportation Operations (TO) and Public Information (PI) components. For projects that the CA Agency determines to have less than significant work zone impacts, the TMP may consist only of a TTC plan. The CA Agency must consider TO and PI issues for all projects.

The CA Agency must review the contractor's safety plan. The safety plan is specific to the project and specifies the procedures the contractor will implement to satisfy Occupational Safety and Health Administration (OSHA) and state occupational safety guidelines for workers and the public during construction.

The CA Agency must require the contractor to submit the Erosion Control Coordinator's certificate and experience to the CA Agency for approval. For projects with one or more acres of disturbed area, the CA Agency must review and approve the SWPPP. When the SWPPP is approved, the CA Agency must file a Notice of Intent (NOI) for coverage under the Arizona Department of Environmental Quality's (ADEQ's) *Arizona Pollutant Discharge Elimination System General Permit for Stormwater Discharges Associated with Construction Activity to Waters of the United States*. The CA Agency must ensure the contractor does not conduct earth-disturbing activities before the SWPPP is approved, the contractor's NOI is filed, and the authorization letter is received from ADEQ. The CA Agency must monitor the control measures established in the SWPPP to ensure the contractor is following and updating the SWPPP accordingly.

If the contractor needs a staking plan, the CA Agency must review the plan before staking begins. The CA Agency must discuss the staking plan with the contractor throughout the project to ensure the contractor follows the plan.

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, provisions, and wage determinations of the prime contract.

The CA Agency must document start and end dates for the contractor and all subcontractors in the daily diaries or field reports.

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.

Inspector Daily Diaries

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 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.

The CA Agency must notify the ADOT PM of supplemental agreements that meet the ADOT-defined threshold for impacts to the project schedule, scope, budget, and/or add or subtract work.

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 project or environmental clearance 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.

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 limits of the NEPA documentation. 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 Pay

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. The failure to do so may result in deobligation of federal-aid funds from the FAHP project.

Material Quality Assurance

In accordance with 23 C.F.R. Part 637, Subpart B, the CA Agency must adhere to the *ADOT Materials Quality Assurance Program (ADOT Materials Testing Manual – Series 900)* 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 QA 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 checklist, materials certification log, contractual statement, and bid tab to the ADOT PM and Construction-Materials Group. The ADOT Construction-Materials Group 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 QA 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 and *ADOT Materials Testing Manual – Series 1000*.

Buy America

In accordance with 23 C.F.R. § 635.410, 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 test summaries, materials sample checklist, materials certificate log, and materials certification/exception report electronically to the ADOT Construction-Materials Group at project completion. The ADOT Construction-Materials Group will review these items and, if necessary, notify the CA Agency of any deficiencies that require corrective action.

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.

FINAL ACCEPTANCE AND PROJECT CLOSEOUT

Final Walk-Through and Inspection

When project construction is near completion, the CA Agency must provide the ADOT PM and FHWA Area Engineer written notice 10 calendar days before conducting the final walk-through and inspection. ADOT has the right to attend the final walk-through and inspection. The CA Agency must ensure that any issues identified during the inspection are resolved before the CA Agency completes final acceptance.

Final Acceptance Request

Before final acceptance, the CA Agency must ensure completion of the CA Agency's punch list, contractor's affidavit of final payment, consent of surety for final payment, bonding lien release waiver, subcontractor's waiver, and release on final payment. If a contractor disputes final payment, the CA

Agency must provide the ADOT PM and LPA Section written notice immediately and include an estimated timeframe for resolution.

Upon final acceptance of the project, the CA Agency must ensure that the contractor files a Notice of Termination (NOT) with ADEQ for projects with a NOI. Upon final stabilization of the project, the CA Agency must file a NOT with ADEQ for projects with a NOI.

The CA Agency must submit final acceptance documentation to the ADOT PM within 90 calendar days after construction is completed. The CA Agency's final acceptance documentation includes the:

- Final reconciliation statement
- Statement of verified and closed certified payrolls
- Contractor's affidavit about the settlement of claims
- Copy of the CA Agency's final acceptance to the contractor
- Final pay request
- Record drawings (as-built plans) if construction
- Project location and vicinity map
- List of items installed and locations if procurement
- Final acceptance letter attesting to project completion

Final Acceptance Letter

The CA Agency's final acceptance letter to ADOT will be on CA Agency letterhead. The final acceptance letter includes:

- Federal and ADOT project numbers
- A statement that the project is complete
- A statement that the CA Agency accepts and will maintain the project or there is an IGA showing another agency's acceptance and maintenance responsibility
- Confirmation of receipt of final payment or final pay request
- A statement that the results of the tests used in the Materials QA Project Plan indicate materials incorporated in the construction work and construction operations controlled by sampling and testing were in conformity with the approved contract
- A list of documents included

A project will not be accepted until the CA Agency verifies that it is acceptable, including certifications. All physical work will be completed before the final acceptance letter date.

The CA Agency must submit the final payment request and final acceptance letter to the ADOT PM. When the ADOT PM has verified that the CA Agency has received final reimbursement, the ADOT internal project closeout process begins. Upon FHWA approval, the project will be closed and no additional federal reimbursement of project costs can be made.

Record Drawings (formerly As-built Plans)

The CA Agency must ensure redlines are drawn accurately and to scale with necessary explanation and references noted. Redlines include all changes from the as-bid documents, permit work, subcontract work, supplemental agreements, addendums, field adjustments, requests for information, and discovered, relocated, or abandoned irrigation systems and utilities.

Maintenance

Post-construction operation and maintenance activities, including repairs such as filling potholes, do not qualify for federal funding, with the exception of preventive maintenance costs allowed under 23 U.S.C. § 116(d). The CA Agency must maintain FAHP projects and commit financial resources and adequate personnel for on-going maintenance operations in compliance with 23 C.F.R. § 633.208. These maintenance activities cannot be transferred to another party except through an IGA or annexation.

CIVIL RIGHTS

Americans with Disabilities Act

Section 504 of the Rehabilitation Act of 1973 (49 C.F.R. Part 27) prohibits discrimination based on disability in programs, activities, and services that receive federal financial assistance. Title II of the American with Disabilities Act of 1990 (28 C.F.R. Part 35) prohibits discrimination based on disability in state and local government services regardless of whether the public entity receives federal financial assistance.

In accordance with 49 C.F.R Part 27 and 28 C.F.R. Part 35, a CA Agency that receives federal financial assistance from FHWA must comply with the following:

- Notify the public of ADA obligations
- Designate an ADA Coordinator
- Adopt and implement complaint/grievance procedure for ADA complaints received by the CA Agency
- Conduct a self-evaluation of programs and services for accessibility
- Develop and implement a transition plan to make structural modifications to facilities in order to achieve program accessibility. For FHWA recipients and public entities with responsibilities over roads, highways and pedestrian facilities, the transition plan must include a curb ramp installation schedule
- Provide assurances to ADOT and FHWA when receiving federal financial assistance that the CA Agency does not discriminate based on disability in any of its programs, services, and activities
- Conduct programs, services, and activities in accessible facilities or provide alternative means of accessibility
- Make new and altered buildings and facilities accessible in accordance with accessibility guidelines
- Provide effective communications using auxiliary aids (sign language interpreters, large print, or Braille text) so that individuals with hearing, visual, sensory, or cognitive impairments have access to programs, services, and activities

Title VI Nondiscrimination

In accordance with Title VI of the Civil Rights Act of 1964 (49 C.F.R. Part 21) and related statutes and regulations, the CA Agency must comply and further ensure that:

No person in the United States shall, on the grounds of race, color, or national origin, age, sex, disability, or income status, be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination under any programs or activity receiving federal financial assistance.

In accordance with 23 C.F.R. Part 200, the CA Agency must submit a Title VI program plan to the ADOT Civil Rights Office (CRO) for review and approval and an annual report by August 1. The Title VI program plan must include:

- Signed Policy Statement
- Signed Title VI Assurances
- Organization and Staffing/Designated Title VI Program Coordinator
- Program Review Procedures
- Special Emphasis Program Areas
- Sub-Recipient Review Procedures
- Data Collection/Reporting/Analysis
- Title VI Training
- Complaint Procedures
- Dissemination of Title VI Information/Public Participation Plan
- Limited English Proficiency
- Environmental Justice
- Compliance and Enforcement Procedure
- Review of CA Agency Directives

In accordance with *US DOT 1050.2A*, the CA Agency must insert the following notification in all solicitations for bids, requests for proposals for work, or material subject to the Acts and regulations made in connection with all FAHP and, in adapted form, in all proposals for negotiated agreements regardless of funding source:

The **CA Agency**, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252.42 U.S.C. §§ 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color national origin in consideration for an award.

In accordance with *US DOT Order 1050.2A*, the CA Agency must insert the clauses of Appendix A and E of the Title VI Assurances in every contract, subcontract, or agreement. When applicable, the CA Agency must insert Appendix B, C, or D of the Title VI Assurances in contracts and subcontracts.

The CA Agency must forward Title VI complaints filed against the CA Agency on a federal-aid program or project to ADOT CRO for investigation.

Equal Employment Opportunity

In accordance with 23 C.F.R. Part 230, Subpart A, ADOT BECO will conduct periodic EEO compliance reviews on CA-administered FAHP projects. The CA Agency must coordinate with ADOT BECO at every stage of the review process to ensure the contractor complies with 23 C.F.R. Part 230.

In accordance with 23 U.S.C. § 140(a) and 23 C.F.R. Part 230, Subpart A, the CA Agency must submit a Federal-Aid Highway Construction Contractors Annual EEO Report (Form FHWA-1391) for each active contractor or subcontractor, regardless of tier level, with a contract or subcontract of \$10,000 or more. The CA Agency must submit the report to ADOT BECO every year by August 15.

Disadvantaged Business Enterprise

49 C.F.R. Part 26 removes barriers to participation and creates a level playing field for the participation of DBEs. The CA Agency must adhere to the *ADOT FHWA DBE Program Plan* to be eligible for federal reimbursement.

Before project advertisement, the CA Agency must submit the DBE Goal Setting Worksheet to ADOT BECO to obtain a DBE contract goal. The CA Agency must ensure the advertisement and contract contain the required DBE goal percentage and DBE contract language for engineering and design-related services or the ADOT DBE Special Provisions (EPRISE) for construction projects as mandated by the *ADOT FHWA DBE Program Plan*. Only BECO can set the DBE goal for a FAHP project. Inclusion of a local goal will cause the project to be ineligible for federal reimbursement.

In accordance with the *ADOT FHWA DBE Program Plan*, when there is a DBE contract goal, BECO will determine whether a bidder/offeror has met the DBE goal or has documented sufficient good faith effort to be considered responsive. The CA Agency must provide the ADOT PM and BECO written notice immediately following bid opening if the apparent low bidder indicates on the DBE Assurance Form that it cannot meet the DBE goal.

Following bid opening, the CA Agency must submit to BECO the DBE Assurance Form and DBE intended participation affidavits from the apparent low bidder, bidders' list from all offerors, and if applicable, good faith effort documentation or any other documents required by the *ADOT FHWA DBE Program Plan*. The CA Agency must not award a contract until BECO has concurred.

For contracts with a DBE goal, the contractor's DBE commitment made at the time of bid is a condition of contract award. The CA Agency must notify BECO as soon as the CA Agency is aware of any potential issues that may affect DBE commitments made at award. If the contractor and/or DBE is unable or unwilling to fulfill the commitment in compliance with 49 C.F.R. Part 26 for the duration of the contract, the CA Agency must provide BECO written notice before a committed-DBE's termination, substitution, or reduction of work. The CA Agency must obtain written approval from BECO before replacing or reducing committed DBE participation.

Failure to carry out the DBE Program requirements can result in withdrawal of federal funding from the FAHP project. When ADOT notifies the CA Agency of its failure to carry out the DBE Plan, ADOT will impose sanctions, which may include measures that affect CA status and the CA Agency's ability to receive federal funding.

On the Job Training

ADOT BECO will assess an OJT goal at the time of the DBE goal assessment in accordance with the ADOT OJT Program requirements. The CA Agency must include the OJT Special Provisions provided by ADOT BECO in contracts with OJT goals and monitor those contracts to ensure contractor compliance with OJT provisions.

FINANCIAL ADMINISTRATION

In accordance with 2 C.F.R. § 200.303, the CA Agency must establish and maintain effective internal financial and accounting controls over FHWA awards and ensure federal-aid funds are being managed in compliance with federal and state laws and regulations.

Before incurring any costs for which reimbursement will be sought, the CA Agency must submit a letter to the ADOT PM requesting federal authorization (preliminary engineering/design, ROW, utility, construction). Eligible project costs incurred by the CA Agency are eligible for federal reimbursement

only after the date of federal authorization by FHWA, as documented on the AZPR2X Form. FHWA will not reimburse any costs incurred before the date of federal authorization.

Design

ADOT Project Management Design Review (PMDR) Fees

The CA Agency must pay ADOT PMDR fees for required work completed by ADOT staff in the delivery of FAHP projects. The ADOT PMDR fee is an estimated amount that can vary depending on the type and complexity of a project. Currently, the presumptive amount is a minimum of \$10,000. The fee funds the following ADOT work activities, which may vary depending on the type and complexity of the project:

- Project Management and Coordination
- Environmental Document Review
- ROW Activities

When the CA Agency initiates a project with the ADOT LPA Section, ADOT will send the CA Agency an invoice for the ADOT PMDR fee before federal authorization of the project. The CA Agency must submit payment within 30 days of receipt of the invoice. When ADOT receives payment, project management and coordination can begin. During the project lifecycle, the ADOT PM will manage the ADOT PMDR budget and notify the CA Agency if the budget needs to be increased. ADOT will bill the CA Agency in increments of \$5,000 for additional PMDR fees until project construction starts. When the project has been completed and closed, ADOT will return any remaining funds in the PMDR budget to the CA Agency.

Construction

The CA Agency must provide award recapitulations to the ADOT PM within 30 calendar days of making the award on FAHP projects. For those projects in which the authorized amount exceeds the awarded amount by more than \$250,000, the project funds will be deobligated down to the authorized amount and those federal-aid funds will be returned to the MPO for reprogramming. ADOT will revise the federal-aid funds obligated within 90 days after the determination that the estimated federal share of project costs has decreased by \$250,000.

Project costs that exceed the amount of federal aid authorized for a project are the sole responsibility of the CA Agency. The CA Agency may coordinate with the MPO to request additional funding, if available. When the applicable TIP reflects the additional funding, the CA Agency must notify the ADOT PM to request subsequent federal authorization.

For construction projects requiring an increase in funding or exceeding one year in duration, ADOT will rebalance the funding by Federal Improvement Type (FIT) to ensure costs are properly accounted for by FIT.

Period of Performance

2 C.F.R. Part 200 mandates project start and end dates be established for each project, defining the period of performance. Costs will only be incurred within the period of performance. After the project end date, no additional costs can be incurred and claimed for federal reimbursement. All costs, including auditing and project closeout, should be accounted for during the establishment of the project end date.

A project end date is required for all federal actions, including new project authorizations and modifications to previously authorized projects. The CA Agency must establish a project end date for each phase of the project requiring a separate federal authorization (i.e., design, ROW, utilities, and construction).

At the time of federal authorization, FHWA will ensure the estimated period of performance is in line with ADOT procedures and project schedules. For end date modifications, the CA Agency must provide written justification to the ADOT PM with sufficient information for FHWA to consider the request.

The CA Agency must provide the ADOT PM written notice of the start and end dates before the preconstruction meeting and monthly schedule updates ensuring the project does not exceed the approved project end date. The update will include the project name, federal and state project numbers, actual start time, days contract used, bid amount/earned to date, percent complete/time. ADOT will share this information with FHWA.

When the CA Agency knows a change to the project affects the project end date, the CA Agency must notify the ADOT PM immediately. The CA Agency must submit a letter to the ADOT PM explaining the cause for the change and expected duration. When the change to the project end date has been approved by FHWA, the ADOT PM will notify the CA Agency.

Mandatory Disclosures

In accordance with 2 C.F.R. Part 200, the CA Agency must disclose to the ADOT LPA Section in writing all violations of law that involve fraud, bribery, or gratuity violations affecting the award and any potential conflicts of interest that arise and may affect FHWA awards. The CA Agency must establish internal procedures to meet this requirement.

Reimbursement

The FAHP provides funding through federal reimbursement. ADOT bears no financial responsibility for CA-administered FAHP projects. The CA Agency must bear all costs not eligible for federal reimbursement.

The CA Agency must submit all requests for federal reimbursement to the ADOT PM for verification. In accordance with 2 C.F.R. § 200.302(b)(3), the reimbursement request will contain proper documentation supporting the payment of eligible expenses.

Design

In accordance with 23 C.F.R. § 630.112(c)(2), the CA Agency must repay all federal reimbursements for preliminary engineering costs on a project when ROW acquisition or construction has not started by the close of the tenth fiscal year following the fiscal year when the project was authorized, unless FHWA grants a time extension.

Construction

The CA Agency must make the initial request for reimbursement within three months after the award of the construction contract and include the notice to proceed with the initial reimbursement request. Subsequent requests for reimbursement will be made monthly to the ADOT PM.

The CA Agency may seek federal reimbursement for the cost of preparing record drawings by including it in the construction engineering cost for the project.

All reimbursement requests will identify cost breakouts by FIT. The CA Agency must provide the FIT information on the reimbursement request, so ADOT can meet the federal requirement to report federal expenditures by FIT.

Inactive Projects

An inactive project is a project that has not had billing activity within the established timeframes set by ADOT and FHWA. The established timeframes are from the date of last billing activity. FHWA's timeframes are subject to change and ADOT's timelines would adjust accordingly. The timeframes as of the publication of the 2016 CA Manual are:

- 90 calendar days – Projects are first identified on the ADOT inactive project list. ADOT will communicate this to the CA Agency.
- 180 calendar days – Projects are considered inactive by ADOT.
- 270 calendar days – Projects authorized for greater than \$50,000 with no expenditures within the first nine months of federal authorization are considered inactive by FHWA.
- 365 calendar days – Projects that have unexpended federal-aid funds and have an available balance greater than \$150,000 are considered inactive by FHWA.

When a project exceeds the 270- or 365-day FHWA timeframes, the project may be subject to deobligation and cancellation. This may result in the CA Agency absorbing all project costs and potentially having to repay any federal-aid funds already reimbursed. Projects that do not show billing activity against the obligated funds at least quarterly run the risk of increased ADOT and FHWA scrutiny as potentially inactive projects. When the CA Agency has not submitted reimbursement request within six months, the CA Agency must provide sufficient justification for the obligated funding and explanation for the delay. Any deobligated funds from an inactive project will be returned to the MPO or ADOT, as applicable, for reprogramming.

PROJECT INSPECTIONS AND PROGRAM EVALUATION

The CA Agency's project inspection and program evaluation plan details the activities for monitoring performance and resolving issues over time. The CA Agency monitoring activities must cover the life cycle of the project, from design through construction, to determine whether the project is on time, within budget and scope, complies with federal and state requirements, and conforms to approved plans and specifications.

For FAHP projects, ADOT has sole discretion to inspect CA Agency, contractor, and subcontractor documents and visit the construction site to verify the project is on time and within budget and scope, complies with federal and state requirements, and conforms to approved plans and specifications. ADOT will provide notice to the CA Agency to ensure that a CA Agency representative is present.

Annual Reporting

In accordance with *The FHWA and ADOT Stewardship and Oversight Agreement for Arizona*, ADOT will provide FHWA with an annual Oversight and Monitoring Report summarizing the CA Agency's performance based on ADOT's program and project reviews and the CA Agency's internal reviews.

The CA Agency must submit an annual report to the ADOT LPA Section before November 30 of each year, documenting compliance efforts in delivering the FAHP. The annual report will summarize the CA Agency's accomplishments, program status, audits, independent project reviews, and any corrective action plans requiring implementation by the CA Agency. This information will be shared with FHWA through ADOT's Oversight and Monitoring Report.

Audits

The CA Agency must establish and maintain effective internal controls over FHWA awards to ensure federal-aid funds are being managed in compliance with federal and state laws and regulations. The CA Agency conduct audits on required projects. The CA Agency must have an annual Single Audit as required by the Single Audit Act Amendments of 1996 and 2 C.F.R. Part 200, Subpart F. The CA Agency must submit the Single Audit to ADOT no later than nine months after the CA Agency's fiscal year end.

Independent Project Reviews

The CA Agency must conduct project reviews in specific areas outlined in the independent construction inspection review program with personnel familiar with FAHP project requirements and who are not involved in the project's administration. The CA Agency must maintain project review records and take corrective action on any findings.

Records Retention

In accordance with A.R.S. § 35-214, the CA Agency must maintain project records for at least five years after the FHWA final voucher payment has been recorded.

The CA Agency must ensure the project file is complete, readily available, organized, and kept in a manner that allows for review by ADOT and FHWA during project inspection or review. The content and organization of the project file is one indicator of effective and efficient project management by the CA Agency. Whenever the CA Agency is unable to produce requested information, ADOT will assume the required action was not done or properly recorded.

Corrective Action

In accordance with the *ADOT Local Public Agency Oversight and Monitoring Work Plan*, the ADOT LPA Section will conduct performance reviews of CA-administered FAHP programs and projects to ensure compliance with federal and state laws and regulations.

When ADOT's reviews of the CA Agency are poor or a single incident requires corrective action, the ADOT LPA Section will notify the CA Agency in writing of unsatisfactory performance. ADOT may take further action if the CA Agency continues to perform poorly, repeats offenses, or is unresponsive. ADOT can terminate the CA Agreement for lack of adequate staffing and performance.

GLOSSARY

Acquisition

The process required to obtain an interest in, and possession of, real property.

ADOT project number

Project identification number assigned by ADOT. A project must be included in the Statewide Transportation Improvement Program and scoped in order to receive an ADOT project number. ADOT provides federal-aid and ADOT project numbers for all federally funded design, right-of-way, utility, and construction projects.

Authorization

Approval by FHWA for a given project to move forward. Authorization is required at several phases of the project development process (preliminary engineering, right-of-way, and construction). Funding authorization must be secured before work begins; work that is completed before the federal-aid authorization effective date will not be reimbursed.

Bid advertisement

Advertisement of a project in order to receive bids from consultants and contractors to provide advice or services for the project. Federal-aid projects must be advertised either by ADOT or by an authorized LPA.

Bid package

All plans, specifications, estimates, construction documents, bid forms, and bid bonds relevant to a construction project prepared for advertising and soliciting contractor bids.

Categorical Exclusion (CE)

A category of action that meets the definition contained in 40 Code of Federal Regulations (CFR) 1508.4 and 23 CFR 771.117 and, based on past experience with similar actions, that does not involve significant individual or cumulative environmental impacts. These actions do not induce significant impacts on planned growth or land use for the area, do not require the relocation of significant numbers of people; do not have a significant impact on any natural, cultural, recreational, historic, or other resource; do not involve significant air, noise, or water quality impacts; do not have significant impacts on travel patterns; and do not otherwise, either individually or cumulatively, have any significant environmental impacts.

Certification Acceptance Agreement (CA Agreement)

Legally binding document that delegates approval authority to an LPA for specified areas of authority; this agreement is required for Certification Acceptance projects.

Certified Acceptance Agency (CA Agency)

An LPA that has been approved under the Certification Acceptance Program to independently manage most aspects of the project development process, with ADOT oversight. A certified LPA retains a significant degree of approval authority at the local level when developing federally funded transportation projects.

Commercially Useful Function (CUF)

Performed when a Disadvantaged Business Enterprise is responsible for the execution of a distinct element of the work of a contract by actually managing, performing, and supervising the work involved (49 CFR 26.55).

Construction administration

Management of construction activities. Typical construction-administration responsibilities include approval of construction staking and surveying, review of shop drawings and contractor submittals, materials testing and certifications, daily reviews and inspections of construction activities, and ensuring that the workmanship and materials are in accordance with the approved project specifications and estimates and other documents incorporated by reference in the project specifications and estimates package. An LPA is also responsible for ensuring that independent quality-assurance activities related to workmanship and materials are completed as part of construction administration.

Davis-Bacon Act

A federal law requiring federal contractors to pay prevailing wages on public works projects. All federal government construction contracts, and most contracts for federally assisted construction over \$2,000, must include provisions for paying on-site workers no less than the locally prevailing wages and benefits paid on similar projects.

Deobligation

Downward adjustment of the obligations for a given project. Federal funds may be deobligated if the obligated amount exceeds the current cost of the project or if the project becomes inactive as defined in 23 CFR 630A.

Design Concept Report (DCR)

Scoping document for complex projects. Design concept reports include a completed project schedule, preliminary project design plans (to Stage I), details and cross sections, and a detailed cost estimate based on the format provided at the predesign conference.

Design exceptions

An exception to established design standards or criteria that is required when any of the 13 Controlling Criteria (design speed, lane width, shoulder width, bridge width, horizontal alignment, superelevation, vertical alignment, grade, stopping sight distance, cross slope, vertical clearance, lateral offset to obstruction, and structural capacity) are not met.

Design stages

The standardized design segments for ADOT's design process: 15% design (Stage I), 30% design (Stage II), 60% design (Stage III), 95% design (Stage IV), and 100% design (Stage V, also known as plans, specifications, and estimates).

Design criteria or standards

Specifications of dimensions, materials, procedures, etc., that directly affect the project design. Design criteria ensure that project designs provide safe and fully functional transportation-related facilities. All applicable federal, state, and local design criteria must be followed for LPA projects.

Environmental Assessment (EA)

Document prepared pursuant to the National Environmental Policy Act, 40 Code of Federal Regulations (CFR) 1500–1508 and 23 CFR 771.119, in order to assist in determining the significance of impacts of a proposed transportation project. An EA describes the positive and negative environmental effects of a proposed action and should be prepared for each proposed action that does not meet the criteria for a categorical exclusion and that does not clearly require the preparation of an environmental impact statement. An EA may satisfy National Environmental Policy Act compliance or may only assist in determining if further analysis is needed in the form of an environmental impact statement. If it is found that significant impacts will result, the preparation of an environmental impact statement should commence immediately.

Environmental Impact Statement (EIS)

Document prepared pursuant to the National Environmental Policy Act, 40 Code of Federal Regulations (CFR) 1500–1508 and 23 CFR 771.123 and 771.125, for a proposed project that is likely to cause significant impacts on the environment. An EIS is a full-disclosure document that details the process through which a transportation project was developed, describes a range of reasonable alternatives, analyzes the potential positive and negative impacts resulting from the proposed action and the alternatives, and demonstrates compliance with other applicable environmental laws and executive orders. An EIS is a decision-making tool.

Federal-Aid Highway Program (FAHP)

An umbrella term, not defined in law, which in general refers to most of the federal programs providing highway funds to the states. When used in a budgetary context, Federal-Aid Highway Program specifically refers to highway programs financed by contract authority out of the Highway Account of the Highway Trust Fund, plus any Highway Trust Fund supplemental appropriations for the Emergency Relief Program. Such authorizations are contained in Titles I and V of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users and in 23 United States Code 125, as well as in acts providing supplemental appropriations.

FHWA and ADOT Stewardship and Oversight Agreement for Arizona

An agreement document that outlines the roles and responsibilities of both FHWA (Arizona Division) and ADOT in the oversight and administration of the Federal-Aid Highway Program in Arizona. Through the agreement, FHWA delegates specific oversight roles and approval responsibilities to ADOT for certain project-level actions and authorities (i.e., design, plans, specifications, estimates, contract awards, and inspections of projects), as defined in Title 23 USC 106.

Intergovernmental Agreement (IGA)

Legally binding documents that define the obligations of all parties involved in a project; required for ADOT-administered and self-administered LPA projects. Intergovernmental agreements and joint project agreements carry the same statutory requirements, but they generally differ in that intergovernmental agreements are agreements between public entities and joint project agreements are agreements between ADOT and the private sector.

Local Public Agency (LPA)

Any city, town, county, or tribal government.

Metropolitan Planning Organization (MPO)

A federally funded organization consisting of representatives from local governments and governmental transportation authorities that organizes and directs transportation planning processes for all urbanized areas. MPOs are required for areas with populations of 50,000 or more. MPOs are also responsible for the development of regional transportation plans and transportation improvement programs that conform to the State Long-Range Transportation Plan and Statewide Transportation Improvement Program processes.

Environmental commitments

Action taken (a) to avoid an impact altogether by not taking a certain action or parts of an action; (b) to minimize impacts by limiting the degree or magnitude of the action and its implementation; (c) to rectify an impact by repairing, rehabilitating, or restoring the affected environment; (d) to reduce or eliminate an impact over time by preservation and maintenance operations during the life of the action; or (e) to compensate for an impact by replacing or providing substitute resources or environments (see 40 CFR 1508.20).

Notice of Intent (NOI)

Notice that an environmental impact statement will be prepared and considered (see 40 CFR 1508.22).

Notice of Termination (NOT)

Notice that the LPA is no longer authorized to discharge stormwater associated with industrial activity under the Arizona Pollutant Discharge Elimination System program for the facility. A Notice of Termination must be submitted within 30 days after the covered discharges cease permanently or responsibility for the discharging facility (or group of facilities) is transferred.

Notice to proceed

Notice from ADOT to the LPA stating the date work can begin on a project.

Obligation

A legal commitment from FHWA to reimburse the eligible costs of the authorized federal portion of the project.

On the Job Training (OJT) program

An apprenticeship program that is managed by ADOT Civil Rights Office for the purpose of training and upgrading minorities and women toward journey worker status.

Prior rights

The identification that utilities (public and private) were in place before establishment of a public roadway. If the roadway is in place before the establishment of the utilities, then the utilities are there "by permit" and must be relocated at the utility companies' expense. If the utility has "prior rights," then ADOT is responsible for utility relocations.

Procurement

Purchasing goods or services using federal funds; procurement can take place only after the project is in the State Transportation Improvement Plan and has received federal funding authorization. For ADOT-administered and self-administered projects, an intergovernmental agreement must also be in place.

Programming

Programming occurs on the project level and involves the development of short-term, fiscally constrained, capital improvement programs that commit funds to specific projects. During programming, ADOT works to carry out federal transportation policy and administer federal funding requirements.

Project Assessment (PA)

A scoping document that ensures project components have been sufficiently defined, a reliable cost estimate has been established, and a schedule has been developed that meets the LPA's desired construction start date.

Project closeout

Process in which ADOT conducts a final review of a project to ensure the LPA completed the project in accordance with the approved contract documents and federal-aid requirements.

Public Interest Finding (PIF)

As used in 23 CFR 635.411(c), an approval by FHWA, based on a request from a contracting agency (e.g., LPAs, ADOT), that it is in the public interest to allow the contracting agency to require the use of a specific material or product even though other equally acceptable materials or products are available.

Quality Assurance (QA)

The establishment of quality standards and a system of observation/sampling techniques to confirm that those standards are met.

Quality control (QC)

The active implementation of control measures to ensure quality standards are met.

Record drawings (formerly as-built plans)

The final set of ADOT construction plans showing improvements as ultimately constructed. These plans are generated upon completion of project construction; they often differ from the plans generated at the time the contract for the project is awarded due to changes made "in the field" during the construction and landscaping phases of a project.

Responsible charge

The full-time LPA staff member who serves as the agency contact for the project, ensures project compliance with applicable regulations, commits resources for project activities, closely monitors the project progress, participates in decisions that may modify the project, and maintains project records.

Right-of-way (ROW) plan

A plan associated with a transportation project that indicates all properties required to construct and maintain the project, including temporary construction easements. To develop a ROW plan, the LPA must assess ROW ownership and title data and determine the amount of lead time and certification required. If new ROW is needed, the ROW plan must also contain data essential for appraisal and negotiation activities and for preparation of legal descriptions of the properties to be acquired.

Statewide Transportation Improvement Program (STIP)

A capital improvement program for statewide transportation. This program is a 4-year project-specific, fiscally constrained capital improvement program made up of all projects contained in current regional Transportation Improvement Programs and the Five-Year Transportation Facilities Construction Program. The inclusion of projects in the Statewide Transportation Improvement Program is necessary for obligating federal-aid funds.

Stormwater Pollution Prevention Plan (SWPPP)

A detailed document that describes how a contractor will address, control, and maintain structural implements and nonstructural practices designed to reduce pollution and restore conditions of natural surroundings before, during, and after construction phases.

Subrecipient

Receiver of federal assistance indirectly through a recipient or another subrecipient. Subrecipients are subject to Title VI/nondiscrimination and compliance obligations.

Title VI

The section of the 1964 Civil Rights Act intended to prevent individuals from being excluded in, denied the benefit of, or subjected to discrimination on the basis of race, color, national origin, age, sex, and disability.

Transportation Improvement Program (TIP)

A regional collection of LPA projects programmed with federal-aid funds as identified in Title 23 and Title 49 of the Code of Federal Regulations. Projects contained in a TIP are developed in cooperation with their respective metropolitan planning organization or council of governments, technical advisory committees, and executive board or administration committees in consultation with the ADOT Multimodal Planning Division.

Uniform Relocation Assistance and Real Property Acquisition Policies Act for Federal and Federally Assisted Programs (Uniform Act)

The primary law for acquisition and relocation activities on federal or federally assisted projects and programs (42 United States Code 61). The Uniform Act provides assistance and protection to people affected by federally funded projects. The law protects individuals and groups whose real property is acquired or who are displaced by projects that receive federal funds.

ADOT Certification Acceptance Manual Revision History

Revision Date	Section Revised	Description of Change	Approved By