

Local Public Agency (LPA) Certification (Risk Assessment) Program (FAQ)

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*Note that the purpose of this document is to provide responses to the frequently asked questions. It does not supersede policy and procedures currently on the Caltrans' website.

1. What is the LPA Certification?

LPA Certification is a risk assessment process whereby a state transportation agency conducts risk assessment of an LPA's ability to administer and/or manage a portion(s) of the project development and implementation process. These portions include the planning, environmental, design, right-of-way, and construction phases of a project. State evaluates LPA qualifications through a review process/audit. Evaluation criteria include knowledge of federal and state requirements, processes, and procedures (i.e., consultant selection, environmental assessments, cost estimates, contract bidding and award, financial systems, and controls, etc.), past performance, adequacy of staffing, and a demonstrated knowledge and capability to oversee and manage projects.

2. Does the Federal Highway Administration (FHWA) require the implementation of the Certification Program?

FHWA recognizes the LPA Certification Program as a preferred project delivery mechanism for federal-aid projects administered by LPAs. Caltrans has established oversight policy and procedures in the Certification Program to ensure local agencies have the necessary financial management and delivery system to carry out government requirements outlined in 23 USC 106(g) and 2 CFR 200. As the designated recipient of transportation funds from the federal government, Caltrans is required to comply with 23 USC 106(g)(4), which states that it is responsible for determining sub-recipients (LPAs) have:

- a) Adequate project delivery systems for projects approved under 23 USC 106(g)
- b) Sufficient accounting controls to properly manage such federal funds

3. What is the definition of a Local Public Agency (LPA)?

An LPA is a unit of government with less than statewide jurisdiction or any officially designated public LPA or authority of such a unit of government that has the responsibility for planning, construction, operation, or maintenance of, or jurisdiction over a transportation facility. The term includes but is not limited to, a county, an incorporated municipality, a Metropolitan Planning Organization (MPO), an expressway

or transportation authority, a road and bridge district, a special road or bridge district, or a regional government unit.

4. How does the Certification Process add value to the current project development process?

The Certification Program will reduce the financial burden on the LPAs; accelerate project delivery; reduce staff time and overall project cost; and reduce the risks of losing federal funds. It is a “proactive approach” to risk-management focusing on preventing rather than correcting deficiencies.

5. How does the Certification Program help LPAs deliver federal-aid projects?

The Certification Program provides training in various aspects of federal-aid delivery including Architectural & Engineering (A&E), Title VI, NEPA, Accounting Process, and Project Development Methods. The Certification Program ensures that LPAs have the knowledge, staffing, resources, and organizational structures needed to successfully deliver projects. The overall goal is to reduce the risk of losing funds and increase project delivery efficiency.

6. Is the Certification Process applicable to State funded projects?

The certification process is applicable to federal funded only projects. The LPA is not required to obtain certification to be eligible for federal/state fund reimbursement.

7. How does the certification process work with projects that use both Federal and State funds?

The certification process would be the same for projects that use both Federal and State funds. It is important to verify with the DLAE if the Plans, Specifications, and Estimate (PS&E) need to be reviewed and approved by the State Department of General Services in addition to compliance with the LAPM and LAPG.

8. Can a non-certified LPA apply and receive federal funds?

Yes, the certification is not required for applying and receiving federal funds.

9. Does Caltrans certify individuals or LPAs?

Certification is applicable to the agency and not individuals. Caltrans can only pass through funds and enter into agreements with an entity that has jurisdiction over the right of way. To obtain/maintain certification, LPAs’ staff will need to demonstrate qualifications in managing federally funded projects and successfully completing mandatory training.

10. How do small LPAs with limited resources meet the certification requirements to deliver projects?

Small LPAs can meet certification requirements with qualifying staff and consultants, good organization, and internal control. Many small or mid-sized LPAs are proficient at delivering federal-aid projects. A small LPA who is not able to meet certification requirements to deliver federal-aid projects may improve its qualifications by partnering with another LPA.

11. Is the certification process applicable for projects on the National Highway System (NHS) and State Highway System (SHS)?

The certification requirements of the qualifications are the same for all LPAs administering federal-aid projects. The project development process for projects on SHS is required to comply with the Caltrans Project Development and Procedures Manual and Highway Design Manual. Project delivery responsibilities on the NHS and off SHS are required to comply with Section 2.8 and Exhibit 2-B of the Local Assistance Procedures Manual (LAPM).

12. Can a certified LPA be reimbursed for work that occurred before PE Authorization?

No, Section 1440 of Fixing America's Transportation Act (FAST) authorizes FHWA to reimburse recipients and its subrecipients for Preliminary Engineering (PE) Costs; if the costs meet all applicable requirements under Title 23, US Code, before receiving project authorization. For projects that require California Transportation Commission (CTC)'s allocation, only work after CTC's allocation is eligible for federal reimbursement. Section 1440 does not waive any federal requirements. Project activities must still meet all eligibility requirements and will be reimbursed after E-76 has been authorized by FHWA. Until funds are authorized, all project activities are considered At-Risk.

13. Is it necessary for an LPA to obtain certification to be eligible for federal-aid reimbursement?

No, the certification is not a requirement for federal aid reimbursement. The LPA is encouraged to obtain certification to reduce the risks of non-compliance and improve delivery efficiency.

14. What are the major components of the LPA Certification Process?

The Certification Process includes four main components: Training, Application, Monitoring, and Recertification. Training will include mandatory courses for LPA's key staff. The LPAs should complete the Certification Training Modules before submitting the application. The Application is designed to ensure LPAs' staff have the expertise, legal documentation, and an adequate project management system to deliver the project. Monitoring process will include measurable parameters to help LPAs and Caltrans evaluate the health of the project delivery system. Recertification will occur every three years through a self-audit, self-certification process. The Monitoring and Recertification processes are currently under development.

15. How will the Certification Program affect on-going projects?

There will be no effect to projects that already received E-76 prior to the official implementation date of the Certification Program. The Person in Responsible Charge for the LPA may contact Caltrans Certification Office at any time to initiate the certification process.

16. Does an LPA need to have prior experience of managing Federal-Aid projects to apply for certification?

No, an LPA does not need to have prior federal project experience. However, it needs to successfully complete the mandatory training courses and meet the minimum qualifications as described on the application.

17. How long is the Certification Process?

It will take approximately 2 months to complete the training and application, 2 months for application review and interview, and 6 months for the Financial Audit if necessary. A Single Audit Report may be required if an LPA had spent more than \$1,000,000 in the previous year and had completed the Single Audit with no outstanding deficiencies.

18. What is the Certification Life Cycle? What happens after the Certification expires?

The Certification Life Cycle will be three years from certification approval. Prior to expiration date, the LPA will self-certify by completing the self-audit form indicating either no changes to the initial application or any deficiencies that were identified through self-monitoring/audit or State's audit have been corrected.

19. What are examples of the work that may not be applicable for LPA certification?

- Work conducted by State and Federal Agencies
- Planning studies that do not lead to construction
- Emergency repairs (LPA is still required to have a Master Agreement)
- An LPA is reimbursed by State for equipment purchased with federal-aid funds to be installed on transportation projects.

20. Can LPAs be reimbursed for projects that are not consistent with Transportation Improvement Program's (TIP's) priority?

LPAs can only be reimbursed for projects that are consistent with the Regional Transportation Improvement Program (RTIP)/State Transportation Improvement Program (STIP) priority.

21. What are the options for LPA to partner to implement the projects?

Option 1 - Caltrans will enter into a three-party intergovernmental agreement between grant recipient agency, implementing agency, and Caltrans. The agreement will define roles and responsibilities and give the implementing agency the right to perform work within project rights of way and to enter supplemental agreement with Caltrans. Only implementing agency is eligible for federal reimbursement. The implementing agency will invoice Caltrans for the federal share; and non-implementing agency for the match and non-participating costs.

Option 2 – Recipient agency will enter into a work agreement with the implementing agency giving implementing agency the rights to work within its rights of way; to get reimbursed for the matching funds and non-participating funds; and to enter into a supplemental agreement with Caltrans to obtain reimbursement for federally eligible expenses.

TRAINING

22. What courses are included in the Certification Program Training?

The training will include several modules covering all components of the federal-aid project delivery process. The mandatory training modules will be web-based and targeted toward the key staff responsible for the various components of the project delivery.

The training courses are available on the Local Assistance website, under the “Local Public Agency Certification (Risk Assessment) Program”.

23. Does the LPA need to complete additional training after certification?

Yes, LPAs are required to continue meeting the training requirements to renew the certification. The LPAs will be notified of these courses.

24. Does the Person in Responsible Charge (PRC) need to be a Registered Professional Engineer?

No, the PRC only needs to be a full-time LPA employee. The PRC cannot be a consultant. The PRC is expected to administer governmental project activities including those dealing with cost, time, adherence to contract requirements, construction quality, and scope of federal-aid projects. Specific duties of PRC include:

- Be aware of and ensure compliance with contracts and conditions pertaining to the project.
- Maintain familiarity of the day-to-day project operations including project safety issues.

- Make or participate in decisions about changed conditions or scope changes that require change orders or supplemental agreements.
- Visit and review project(s) on a frequency that is commensurate with the magnitude and complexity of the project(s).
- Review financial processes, and transactions and documentation to ensure that safeguards are in place to minimize fraud, waste, and abuse.
- Direct project staff, LPA, and consultants, to carry out project administration, contract oversight, and proper documentation.
- Be aware of the qualifications, assignments, and performance of the LPA and consultant staff at all stages of the project.

25. Who is the LPA Certification Program Liaison and what are his/her qualifications and responsibilities?

The LPA Certification Program Liaison is an LPA employee who is responsible for quality control of all submittals to DLAE and serves as a primary point of contact. This person has the following qualifications and responsibilities:

- Be the primary point of contact for all issues and correspondences relating to federal-aid project delivery
- Be intimately familiar and stay current with the Local Assistance requirements
- Ensure LPA's key staff are up to date with the federal-aid training, policy changes, new programs, and legislations
- Review all submittals to ensure meeting quality standards and federal/state requirements

26. Can an LPA employ on-call consultants to manage the procurement for an FHWA's funded project?

Yes, however, if the on-call consultant is paid with federal funds, the procurement process must follow the LAPM, and the federal consulting contract must have Disadvantaged Business Enterprise (DBE) goals corresponding to the federal-aid projects listed on the Request for Proposals.

27. Can a consultant obtain the LPA Certification and deliver projects on behalf of the LPA?

No, LPA Certification is only for local public agencies. However, on-call consultants' qualifications can be considered in evaluating the LPA's qualifications.

28. What are the options for LPA to deliver federal-aid projects?

There are three options to deliver federal-aid projects:

- 1) The LPA may swap/exchange federal funds for state or local funds.
- 2) The LPA may partner with a more qualified LPA to improve its qualifications

3) The LPA may either deliver project with its own forces or supplement staff with consultants

APPLICATION

29. How does the LPA start the Certification Application (Risk Assessment) process?

The LPA may request to initiate the process via an email to DLA.LPA.RAP@dot.ca.gov.

30. What are the components of the LPA Certification Application?

The LPA Certification Application consists of 4 Sections (Project Qualification, Project History, Project Delivery Process, and Civil Rights). An LPA applying for the Certification needs to complete the mandatory training and submit the Application to the Local Public Agency Certification (Risk Assessment) Program mailbox DLA.LPA.RAP@dot.ca.gov. The LPA may be required to submit additional documents and attend follow up meetings as deemed necessary by the LPA Certification Office.

31. What are the application minimum requirements?

Requirements	Description
Agreement	The LPA must have a current Master Agreement.
STIP Portfolio Management	LPA must be able to manage, schedule, and adequately staff their portfolio of STIP projects to ensure that federal deadline obligations are met for each programmed phase of a project.
LPA Certification Program Liaison	LPA must assign a full-time employee to be a single point of contact for the LPA Certification Program. This person can be the same as the person in responsible charge.
Person in Responsible Charge (PRC)	The PRC must be a full-time employee of the LPA. This person needs not be a registered professional engineer. This requirement applies even when the consultants are providing the construction engineering services.
Qualified Staff	The LPA shall have sufficient expertise, qualified staff, and the capability to perform and supervise all project phases for which they are certified.
Publication	The LPA shall have appropriate documents including but not limited to: <ul style="list-style-type: none"> • American Association of State Highway and Transportation Officials (AASHTO) Policies and Design Guides • Caltrans Highway Design Manual • Local Assistance Procedures Manual • Local Assistance Program Guidelines

	<ul style="list-style-type: none"> • Manual on Uniform Traffic Control Devices (MUTCD) and California Supplements • Caltrans Right of Way Manual • Caltrans Construction Manual • Caltrans Standard Plans
Foundation Documents	<p>Non-Discrimination Title VI Program & Plan (LAPM 9.2)</p> <ul style="list-style-type: none"> • All LPAs that are subrecipients of federal funds must maintain a Title VI Program and Title VI Plan which is updated every three to five years or as needed and submit an Annual Accomplishment Reports to the Office of Civil Rights • LPA Title VI Program must identify a Title VI Coordinator; develop a complaint mechanism; and develop and maintain procedures for gathering and collecting and analyzing data. <p>ADA Title II Transition Plan & Self-Assessment (LAPM 9.3)</p> <ul style="list-style-type: none"> • All LPAs that are subrecipient of federal funds must maintain an ADA Title II Transition Plan • LPAs must complete the self-assessment form • LPA must designate an ADA Liaison if employs 50 or more employees. • LPA must develop a complaint mechanism; develop a public involvement strategy for review of the plan. <p>Disadvantaged Business Enterprise (LAPM 9.5)</p> <ul style="list-style-type: none"> • Exhibit 9A – DBE Implementation Agreement for Local Agencies • Exhibit 9B – Local Agency DBE Annual Submittal Form <p>Quality Assurance Program (LAPM 16.11)</p> <ul style="list-style-type: none"> • All LPAs must have a current Quality Assurance Program (QAP) prior to submitting Request for Authorization for Construction. The requirements of the QAP depend on whether project is on or off the NHS.

32. Is maintenance a part of the certification application qualification requirements?

Yes, according to the Master Agreement, projects must be maintained by adequate and well-trained staff. The maintenance staff can either be LPA staff or contractors.

33. How often does State conduct technical and financial audits?

As stipulated in Article V of the Master Agreement, State reserves the right to conduct technical and financial audits of project work and records. The frequency of the audits will depend on the risk level of the project and the LPA.

34. What is re-certification?

Re-certification is the process of extending certification upon expiration. The certified LPA will be required to do a self-audit and self-certification of its qualifications and submit to the Local Public Agency Certification (Risk Assessment) Program for concurrence. If any non-compliance issues were identified either by the LPA and/or the Local Public Agency Certification (Risk Assessment) Program, the LPA will be required to correct the deficiencies prior to receiving certification extension approval.

35. Are LPAs required to maintain qualified staff?

All LPAs are required to maintain qualified staff and update the DLAEs of any staff changes as soon as practicable.

ROLES AND RESPONSIBILITIES

36. How are the Roles and Responsibilities defined under the proposed LPA Certification Program?

The Roles and Responsibilities of managing federal-aid projects are delegated to Caltrans via the Stewardship & Oversight (S&O) Agreement ([ca.pdf \(dot.gov\)](#)). Caltrans further delegates to LPAs via Exhibit 2B of the LAPM [Exhibit 2-b Federal-aid Project Responsibilities List \(ca.gov\)](#). The details of the delegated tasks are outlined in the LAPM, LAPG, and RW Manual.

37. What activities cannot be delegated to certified LPAs per Exhibit 2B of the LAPM [Exhibit 2-b Federal-aid Project Responsibilities List \(ca.gov\)](#)?

- Federal-aid project agreements and modifications
- Obligation of federal funds
- Reimbursement to Caltrans of interim and final vouchers
- Project-level conformity determinations
- Right-of-Way Certificate 3
- Protective buying and hardship acquisition
- New/modified interstate access determination of engineering and operations acceptability (minor access changes assigned to Caltrans)
- Design exceptions on the interstate
- Buy America waivers

- Innovative contracting practices

38. What activities cannot be delegated to LPAs per S&O Agreement ([ca.pdf \(dot.gov\)](#))?

- Ensure project in Federal Statewide Transportation Improvement Program (FSTIP)/ Transportation Improvement Program (TIP)
- Identify proposed funding category
- Develop financial plan for federal projects between \$100 million and \$500 million
- All Environmental Assessment/Finding of No Significant Impact/Record of Decision (EA/FONSI/ROD), 4(f), 106, 6(f) and other approval actions required by federal environmental laws and regulations included in the FHWA-CA 327 NEPA Assignment MOU
- Airway highway clearance coordination and respective public interest finding (if required) [23 CFR 620.104]
- Provide approval of preliminary plans for unusual /complex bridges or other structures (non-interstate) [23 USC 109109(a) & FHWA policy]
- Retaining right-of-way encroachments [23 CFR 1.23(b) & (c)]
- Use of local force account agreements [23 CFR 635.104 & 204]
- Use of publicly owned equipment [23 CFR 635.106]

39. What activities are currently delegated to LPAs?

Caltrans exercises its FHWA delegated authority by further delegating federal authority to local agencies to the greatest extent possible for those federal-aid projects that are located off of the State Highway System. The LPA is delegated decision-making authority and responsibility for most design and construction-related activities of federal-aid projects. These include:

- Getting the project into the FSTIP
- Preparing the Request for Authorization for each project phase
- Determining Project DBE contract goals
- Fulfill civil rights requirements including DBE, ADA, and EEO
- For ITS projects and other projects with ITS elements, make a preliminary classification of High-Risk, Low-Risk, or Exempt
- Selecting consultant and approving consultant contracts
- Approving local design standards for projects off the NHS
- Approving design exceptions for projects on or off the NHS
- Preparing environmental documents and obtaining permits
- Preparing and certifying PS&E (Caltrans must approve the LPA PS&E procedures for most NHS projects and FHWA for Projects of Division Interest)

- Qualifying/selecting right of way consultants
- Right of Way acquisitions and relocation
- Preparing and approving Quality Assurance Programs
- Advertising and awarding construction project
- Construction contract administration and inspection (Caltrans must approve the LPA construction administration procedures for high cost, complex, corridor-type NHS projects)
- Construction contract acceptance on delegated projects
- Coordinating railroad agreements
- Contract compliance
- Perform mitigation as required by the permits
- Perform maintenance

40. How do LPAs address the minimum qualifications for performing right of way work?

LPA is required to meet the minimum qualifications described in Chapter 17 of the RW Manual as follows:

- Three level qualifications (1,2,3) with Level 3 as the most qualified.
- The qualification review process is conducted on a project by project basis for on system and every 3 years for off system.
- LPAs will need to submit to RW District Coordinator the organization chart, resume, duty statement, and workplan.
- District staff will review the submittals; meet with LPAs to explain the process; issue letters of approval or denial; monitor performance; and impose penalties.
- Under “Nonqualified LPA Option”, LPAs can hire consultants. There is no training or qualification requirements for LPA’s RW Consultant Contract Manager