

CHAPTER 10 - FINANCIAL MANAGEMENT

10.1 PROGRESS INVOICING - GENERAL

10.1.1 The Local Agency shall submit all progress invoices to the District LAP Administrator according to the terms of the Local Agency Program (LAP) Agreement (Chapter 5). The District LAP Administrator will not accept invoices before the LAP Agreement is fully executed, and the Local Agency has received the written Notice-to-Proceed from the Department. Work completed before the full execution of the LAP Agreement and receipt of the Notice-to-Proceed will not be reimbursed.

10.1.2 The Department will not fully execute the LAP Agreement until it receives Federal funding approval from the Federal Highway Administration (FHWA).

10.1.3 In addition to the Financial Project Number (FPN) that the Department assigns to each project, the Comptroller's Office assigns a contract number on all Federal-aid projects. These two numbers identify the project. If the LAP Agreement is for a project with multiple phases, the Comptroller's Office will assign the same contract number for all phases. The Local Agencies should use the FPN and the contract number when communicating with and submitting invoices to the Department.

10.2 INVOICING PROCEDURES

10.2.1 After the Department has fully executed the LAP Agreement and has given the Local Agency the Notice-to-Proceed, the Local Agency may begin work on the first phase of the project. Any work that the Local Agency performs before it receives official authorization does not qualify for reimbursement.

10.2.2 Progress invoices are submitted as follows:

- A. The Local Agency submits requests for payment from contractors and/or Local Agencies to the District LAP Administrator in agreement with the LAP Agreement.
- B. The District will process requests using standard Department procedures.

10.3 BILLING PROCEDURES FOR LOCAL ADVERTISEMENT AND AWARD AND CONSTRUCTION

Progress billing is submitted as follows:

- A. The agency submits requests for payment from contractors and/or local agencies to the District Local Agency Programs Administrator in agreement with the Local Agency Program Agreement.
- B. The District will process requests using standard FDOT procedures.

10.4 NUMBER AND TIMING OF SUBMITTALS

10.4.1 The agency will number progress billings in order and submit them once per month at the most.

10.4.2 If the agency prepares billing properly, they should receive payment within forty calendar days of submittal. If the agency does not receive payment within this time, they should contact the District Local Agency Programs Administrator. The Department will reimburse the agency then seek reimbursement of federal funds from FHWA.

10.5 IDENTIFICATION OF FEDERAL AID PARTICIPATING AND NONPARTICIPATING CHARGES

10.5.1 Title 23 of the United States Code allows for the reimbursement of costs that are qualified for FHWA's participation. The following is an overview of participating and nonparticipating charges by FHWA.

10.5.2 **Participating Functions.** Classifications of work programmed with FHWA and eligible for federal aid:

10.5.3 **Preliminary Engineering.** The work of locating and designing, making surveys and maps, sinking test holes, making foundation investigations, preparing plans, specification and estimates, centerline right of way plan preparation and other related preliminary work and incidental construction staking (to the degree that staking is necessary to review construction plans), and related general engineering preparatory to forming a contract for construction. The work may also include traffic counts, studies undertaken to determine traffic demands, holding of public hearings, preparation of right of way cost estimates, legal, and other costs incidental to the location and design of a highway project necessary for the acquisition of right of way (up to but not including the appraisal of individual parcels for acquisition purposes).

10.5.4 These engineering costs generally occur before the date of construction PS&E approval or the date construction plan changes are completed, and before the beginning of construction. The date of contract award is the cutoff for charging preliminary engineering costs.

10.5.5 In some cases, a major change takes place during the construction phase of a project that requires additional design or PE effort. In these cases, the Department can reopen the proper Local Agency job or federal aid job on a case-by-case basis after approval from FHWA.

10.5.6 Also, the Local Agency should charge any construction staking done before the award to construction engineering and not PE.

10.5.7 **Acquisition of Rights of Way.** The on-going preparation of right of way plans; appraisal for parcel acquisition; review of appraisals; negotiation for property acquisition; preparation for and trial of condemnation cases; management of properties acquired; relocation advisory assistance; and other related labor expenses.

10.5.8 **Construction Engineering.** The supervision of construction activities, inspection of construction and related mechanical aspects, (e.g. staking necessary to review construction plans and staking necessary for the local agency to control construction operations), testing of materials used in construction, checking shop drawings, and measurements and preparations for progress and final estimates. Construction engineering costs generally occur only after approval of the PS&E. A contract number is issued. The costs also occur prior to:

- A. The date of completion of the final contract pay estimate and its submission to the contractor;
- B. The final date of charges for required material testing; or
- C. The date of completion of separating contract cost by code type, location, etc. (whichever is applicable to that portion of the construction engineering phase involved).

10.5.9 **Highway Planning.** The gathering and study of information about highways - such as the history of highway development and their extent, dimensions, conditions, use, economic and social effects, costs, and future needs.

10.5.10 Research and Development. The search for more complete knowledge of the highway system and putting the results of research into practice.

10.5.11 Administrative Settlement Costs - Contract Claims. Services related to the review and defense of claims against federal aid projects, as stated in II-3-05-2(h).

10.5.12 Miscellaneous Functions. Costs of other activities which relate to and help federal aid projects but do not belong under any of the previously defined functions.

10.5.13 Construction Costs for Other than Contractor Payments.

- A. Royalty expenses for materials supplied by the local agency that are used by the contractor.
- B. Temporary signs and traffic control, labor, traffic control devices, and temporary illumination provided by the Local Agency. The initial cost of traffic control devices that are purchased to be used on the project is an allowed participating cost. When the Local Agency supplies these used items, they may not request federal participation.
- C. Striping and pavement marking work performed by local forces.
- D. Second stage fertilizing by local forces. When second-stage seeding and fertilizer is applied after other work on the project has been completed and the contractor has been released from the contract, it is eligible for federal participation.

All costs for the fertilizer and the work by local forces are below the line expenses on the preliminary estimate and will be fully eligible for federal funds.

- E. Other Items. Items not identified here as eligible for federal aid participation - such as construction engineering costs, material supplied by the local agency, and work performed by local forces - are eligible for participation according to Section 2, and 3 below.

10.6 STANDARDS FOR SELECTED ITEMS OF COSTS

The following standards are used to determine if certain costs are allowable. In general, costs must be reasonable, necessary, and directly related to the specific project. Whether costs are allowable is subject to the general policies and principles stated in 10.5 above.

A. Salaries and Wages

1. Federal funds may be used in the cost of salaries, wages, and related payroll expenses while public employees are directly or indirectly participating in project-related activities. This is subject to appropriate authorization requirements.
2. Salaries, wages, and related payroll expenses of a local agency for maintenance, general administration, supervision and other overhead are not eligible for reimbursement except as stated in paragraph (2) of Section II-3-05-2(e).

B. Travel and Transportation

1. Federal funds may be used towards the cost of commercial transportation, privately owned automobiles, and per diem or subsistence when it is essential to the project and is performed in agreement with FHWA approved procedures.
2. Reimbursement may be made for use of privately owned automobiles and per diem or subsistence when it occurs in agreement with the reimbursement policy of the local agency. According to the agreement No. 525-010-d0 (6.00), the Local Agency must comply with Section 112.061 F.S.

C. Employee Leave and Holidays

1. A local agency may claim reimbursement for the costs of leave (i.e., annual, sick, military, jury, etc.), that are earned, accounted for, and used in agreement with set procedures. The cost of the leave must be a responsibility of the local agency and must be equally distributed to all activities. Also, the pro rata costs distributed to a federal aid project must be representative of the amount that is earned and accumulated while working on the project.
2. A local agency may claim reimbursement for compensatory leave given to eligible employees instead of overtime payment. Such leave costs must be given under set policies and meet the criteria discussed in paragraph 10.6(c)(1) of this section.

3. Costs for other similar leave which may be unique to a specific local agency may also be reimbursed as long as the leave meets the criteria in paragraph 10.6(c)(1) of this section.

D. Social Security, Retirement, and Other Payroll Benefits

1. Federal funds may be used towards costs of social security, retirement, group insurance premiums, and similar costs dealing with salaries and wages of public employees working on federal aid projects.
2. The costs for such benefits must be a responsibility of the local agency and must meet the criteria in paragraph 10.6(c)(1) above.

E. General Administration and Other Overhead Costs Are Not Allowed

1. General administration, supervision, and other overhead costs of a local agency are unallowable. These costs are necessary for the management, supervision, and administrative control of an operational agency that is properly equipped and staffed. . Examples of such unallowable costs may include, but are not limited to, the following types of personnel, related payroll benefit costs, and other administrative or support services:
 - a. Directors, department heads, legal, accounting, budgeting, personnel, and procurement units.
 - b. Related clerical, secretarial, and other support services for officials and personnel listed immediately above.
 - c. Management, supervision, and administration overhead costs incurred by other units or department of state, county, or city governmental organizations.
2. However, costs of services provided by administrative employees may be eligible for reimbursement for:
 - a. A highway planning unit and a research development unit - in the ratio of administrative employee time spent on the participating portion of work in the unit to the total unit's working hours; and

- b. Other operating units if the employees are assigned for specific periods of time to perform project-related activities in the same manner as other operating personnel.

F. Use of Cost Accumulation Centers and Cost Distribution Methods

1. The Local Agency may use cost accumulation centers (i.e., cost centers, cost pools, or other acceptable cost accumulation methods), to capture related types of costs. The Local Agency can later distribute the costs to all projects or other related work that was performed during the accounting period. The accounting and cost distribution procedures must agree with paragraph (2) of this section for types of costs incurred under the following general criteria:
 - a. Salaries, wages, and related payroll benefit costs may be incurred during a payroll accounting period which affects a number of projects. Therefore, these costs may not be easily charged directly to individual projects due to such factors as: (i) different time periods for individual projects, (ii) an excessive amount of time or documents to provide separate project coding, or (iii) a documented reduction of overhead costs because of: the elimination of processing source and coding required, increased electronic data processing applications, and additional accounting requirements.
 - b. Small costs may be incurred which affect several projects and would result in a large amount of time and documents for separate project accounting compared to the small amount of costs involved.
 - c. Sometimes, agencies do not claim costs for reimbursement that may be eligible because of their nature and the small amounts involved. When the amounts are small, the additional overhead costs required for separate project coding and effective internal controls are greater than the reimbursements for the separate projects.
 - d. The costs must be directly attributable to the projects to which they are distributed. The costs must not lose their identity (i.e., type, amount, purpose for which incurred, whether federally participating, input source, etc).

2. Local Agencies must use separate cost accumulation centers for similar types of costs before percentages, or other acceptable distribution methods, for cost distribution to benefiting projects or other activities. The accounting procedures and methods of distribution used must: (i) have prior approval of the Federal Highway Administration (FHWA), (ii) represent average actual costs, and (iii) make sure that the Local Agency (a) distributes costs evenly and fairly to all work which was performed on projects and activities during the accounting period - no matter where funds came from, (b) establishes methods for separating similar costs, (c) fully accounts for and controls actual costs and responsibilities, and (d) makes reviews periodically, and adjusts the rates or other distribution methods at least once annually by any over or under distributed accumulated costs from the cost accumulation center for the previous accounting period.
3. Local agencies may use percentages of average actual costs to distribute leave, social security, and other payroll benefits. Such rates are based on prior costs that are adjusted using factors which will affect overall costs during the current year (i.e., scheduled salary increases, changes anticipated in insurance premiums, etc).

G. Audit Expense

AUTHORITY: 23 U.S.C. 121 AND 315; 49 CFR 1.48(b). SOURCE: 49 FR 45578, Nov. 19, 1984, unless otherwise noted.

Project related audits performed by the Local Agency are eligible for federal participation, given that they are in agreement with auditing standards (as modified by the Comptroller General of the United States) and applicable federal laws and regulations.

The local agency may use other state, local public agency, federal audit organizations, and licensed or certified public accounting firms to support its audit force.

Audits which directly benefit federal aid highway projects are eligible for federal participation. The following audits are all considered to be project related: (a) audits performed in agreement with 23 CFR Part 12, (b) audits of third party contract costs, and (c) other audits assuring that a recipient has followed FHWA regulations.

The following audits are all not considered to be project related: (a) audits benefiting only nonfederal projects, (b) audits performed for the use local agency management only, or (c) audits serving similar nonfederal purposes.

1. Federal funds may be used to reimburse a local agency for the following types of project related audit costs:
 - a. Salaries, wages, and related costs paid to public employees in accordance with Chapter 10, Section 10.6;
 - b. Payments by the local agency to any federal, state, or local agency audit organization; and
 - c. Payments by the local agency to licensed or certified public accounting firms.
2. Audit costs incurred by a local agency shall be evenly distributed to all benefiting parties. The portion of these costs owed to the Federal Aid Highway Program which are not directly related to a specific project shall be evenly distributed (as a minimum) to the major FHWA funding categories in that state.

H. Administrative Settlement Cost - Contract Claims

AUTHORITY: 23 U.S.C. 121, 315; 49 CFR 1.48(b); and OMB Circular A-102, Attachment G, Standard 2(h) and (i).

SOURCE: 44 FR 59233, Oct. 15, 1979, unless otherwise noted.

Administrative settlement costs are costs related to the defense and settlement of contract claims including: salaries of a contracting officer or his/her authorized representative, attorneys, members of state boards of arbitration, appeals boards, or similar tribunals. These costs, except for administrative or overhead costs, may be charged to the findings and determinations of contract claims.

1. Federal funds may be used towards administrative settlement costs which are:
 - a. Incurred after notice of claim;

- b. Properly supported;
 - c. Directly related to a specific federal aid or federal project;
 - d. Used to employ special counsel for review and defense of contract claims, when:
 - i. Recommended by the State Attorney General or local agency legal counsel; and
 - ii. Approved in advance by the FHWA Division Administrator, with advice of FHWA Regional Counsel; and
 - e. For travel and transportation expenses, if in agreement with established policy and practices.
2. No reimbursement shall be made if the FHWA determines that there was negligence or wrongdoing of any kind by the local agency officials with respect to the claim.

10.7 UTILITY RELOCATIONS, ADJUSTMENTS, AND REIMBURSEMENT

A. Eligibility

- 1. When requested by the local agency, federal funds may be used, at the appropriate proportional share, in an amount actually paid by a local agency for the costs of utility relocations. Local agencies must follow Chapter 645.103(d) of 23 CFR to receive federal funds and may be made under one or more of the following conditions when:
 - a. The local agency certifies that the utility has the right to be in its location because it holds the fee, an easement, or other real property interest. Eminent domain may repay for damage or taking of this property;
 - b. The utility facility occupies privately or publicly owned land, including public road or street right of way, and the local agency certifies that the payment is made following a law authorizing the payment in agreement with 23 U.S.C. 123;

and/or

- c. The utility occupies publicly owned land, including public road and street right of way; is owned by a public agency or political subdivision (such as a municipality or county) of the state; is not required by law or agreement to move at its own expense; and the local agency has the legal authority or duty to make such payments.
2. On projects which the local agency has the authority to participate in project costs, federal funds may not be used by a political subdivision for relocation of facilities when state law prohibits the local agency from making payment for relocation.
 3. On projects which the local agency has the authority to participate in project costs, federal funds may be used in payments made by a political subdivision for relocation of facilities. To do this, the local agency must certify that the payment is based upon the terms of this part and does not violate the use and occupancy agreement, or legal contract, between the facility and the local agency.
 4. Federal funds cannot be used for costs that the utility supplies or repays to the local agency. An exception is for utilities owned by the political subdivision on projects which qualify according to (3) of this part. In this case, the costs of the utility are considered to be costs of the local agency.
 5. The FHWA may deny the use of federal funds in any payments made by a local agency for the relocation of utility facilities when the payments do not properly qualify for federal fund use according to Title 23, U.S.C.
 6. The rights of any public agency or political subdivision of a state that is under contract, franchise, or other instrument or agreement with the utility will be considered the rights of the local agency as long as there is no opposing state law. These rights may pertain to the utility's use and occupancy of publicly owned land, including public road and street right of way.
 7. Instead of the individual certifications required by (1) and (3), the local agency may file a statement with the FHWA stating the terms that the

local agency must follow while making payments for the relocation of utility facilities. The FHWA must confirm that the statement and conditions are appropriate for federal funding according to 23 U.S.C. 123. Then, the FHWA may approve the use of federal funds in utility relocations proposed by the local agency under the conditions of the statement

8. Federal funds may not be used in the cost of relocations of utility facilities that are done only for benefit or convenience of a utility, its contractor, or a highway contractor.
9. In some projects, there is advance installation of new utility facilities that cross or occupy the proposed right of way of a planned highway project. In these projects, plans should be made for the facilities to be installed in a way that will meet the requirements of the planned highway project. These plans should be made prior to the time that the right of way is purchased or under control of the local agency. Federal funds may be used in the additional cost incurred by the utility that are attributable to the highway project. However, these costs must occur after the FHWA authorizes the work. Federal participation may be approved in the above circumstances when it is shown that the action is necessary to protect the public interest and the adjustment of the facility is necessary because of the actual construction of the highway project. This approval must follow the conditions of this regulation.
10. Federal funds may be used in the costs of: (a) preliminary engineering and allied services for utilities, (b) obtaining replacement right of way for utilities, and (c) the physical construction work for utility relocations. These costs must be incurred by a utility after the work has been included in an approved program and after the FHWA has authorized the local agency to proceed in agreement with 23 CFR 630, Subpart A, Federal Aid Programs Approval and Project Authorization.

B. Cost Development and Reimbursement

1. Developing and recording costs. All utility relocation costs will be recorded using work orders in an approved work order system. An exception is when the FHWA and local agency approve another method of developing and recording costs, such as lump-sum

agreement. The individual and total costs recorded in the utility's accounts will be the maximum amount of federal participation. The costs must be recorded according to the approved method for developing the costs, or the lump-sum agreement. Work done under contracts is excluded,

Each utility shall keep its work order system or other approved accounting procedure so it will show: (a) the nature of each addition to or retirement from a facility, (b) the total costs, and (c) the source or sources of cost. Separate work orders may be issued for additions and retirements. Retirements, however, may be included with the construction work order as long as all items relating to retirement are kept separate from those relating to construction.

2. Direct labor costs.
3. Labor surcharges.
4. Material and supply costs. If available, materials and supplies should come from utility company stock. However, they may be obtained from other sources near the project site when available at a lower cost. When not available from utility company stock, the utility owner may purchase materials either under competitive bids or existing continuing contracts that provide the lowest available prices. Minor quantities of materials, supplies, and proprietary products that are routinely used in the utility's operation and are necessary for the system compatibility may be excluded from these requirements. The utility will not be required to change its existing standards for materials used in permanent changes to its facilities. Costs should be determined as follows:
 - a. Materials and supplies from company stock should be billed at the current stock prices for such new or used materials at time they are issued.
 - b. The utility should bill materials and supplies not from utility company stock at actual costs to the utility delivered to the project site.
 - c. A reasonable cost for plant inspection and testing may be included in the costs of materials and supplies when the

expense exists. The calculation of actual costs of materials and supplies should include the subtraction of all offered discounts, rebates, and allowances.

- d. The cost of repairing rather than replacing existing utility facilities to meet the requirements of a project is reimbursable, as long as this cost does not exceed replacement costs.

Materials recovered from temporary use and reused by the utility should be credited to the project at prices charged to the job, minus 10 percent for loss in service life. Materials recovered from the permanent facility of the utility that are returned to stock should be credited to the project at the current stock prices of such used materials. The utility or local agency should sell materials that are not reused by the utility to the highest bidder. These sales should occur after an opportunity for the local agency to inspect materials and appropriate solicitation for bids. The sales should also only occur if the materials have a net sale value. If the utility practices a system of periodic disposal by sale, credit to the project should be at the going prices according to records of the utility.

Federal participation may be approved for the total costs of removal when: (i) the highway construction requires the removal or, (ii) the existing facilities cannot be abandoned in place for aesthetic or safety reasons. When the utility facilities can be abandoned in place but the utility or highway constructor elects to remove and recover the materials, federal funds will not be used in removal costs which exceed the value of the materials removed.

The actual and direct costs of handling and loading materials and supplies at utility company stores or material yards, and of unloading and handling recovered materials accepted by the utility at its stores or material yards are reimbursable. Instead of actual costs, the utility may use average rates which represent actual costs, if approved by the local agency and the FHWA. The Department should adjust these average rates should be adjusted at least once annually to take into account anticipated changes and correction for any over or under

applied costs for the earlier period. The utility has the option of receiving 5 percent of the amounts billed for the materials and supplies issued from company stores and material yards or the value of recovered materials as reimbursement instead of actual or average costs for handling.

5. Equipment costs. The average or actual costs of operation, minor maintenance, and depreciation of utility-owned equipment may be reimbursed. Reimbursement for utility-owned vehicles may be made at average or actual costs. When utility-owned equipment is not available, reimbursement will be limited to the amount of rental paid (a) to the lowest qualified bidder, (b) under existing continuing contracts at reasonable costs, or (c) as an exception by negotiation when paragraph (1) and (2) of this section are impractical due to project location or schedule.
6. Transportation costs. The utility's cost of necessary employee transportation and subsistence directly related to the project is reimbursable. This cost must be consistent with the utility's overall policy.

Reasonable costs for the movement of materials, supplies, and equipment to the project and return to storage are reimbursable. This includes the associated cost of loading and unloading equipment

7. Billings. The Department will not accept billings before the Local Agency Program Agreement is completed and authorization in writing has been received from FDOT. Also, the Department cannot accept billings for work done before an agreement has been carried out and authorization has been received in writing. After the FHWA approves the completed local agency/utility agreement, the utility owner may be reimbursed through the local agency by progress billings for costs. Cost for materials stockpiled at the project site or specifically purchased and delivered to the utility for use on the project may also be reimbursed on progress billings after the FHWA approves the local agency/utility agreement.

The utility should provide one final and complete billing of all costs, or of the agreed-to lump-sum, at the earliest practicable date. The final billing to the FHWA should include a certification by the local agency that the work is complete, acceptable, and in accordance with the

terms of the agreement.

Representatives of the state and federal government may audit all utility costs records and accounts relating to the project for a period of three years from the date the utility receives the final payment.

10.8 REIMBURSEMENT FOR RAILROAD WORK

AUTHORITY: 23 U.S.C. 315; 49 CFR 1.48, unless otherwise noted.

SOURCE: 40 FR 16057, April 9, 1975, unless otherwise noted.

- A. **Applicability.** From this subpart onwards, all references made to "projects", apply to: (i) federal aid projects for the elimination of hazards of railroad highway crossings and (ii) other projects which use railroad properties or involve highway construction that require adjustments to railroad facilities or facilities that are jointly owned or used by railroad and utility companies.

- B. **Reimbursement Basis**
 - 1. **General.** On projects involving the elimination of hazards of railroad highway crossings, and on other projects where a railroad company is not obligated to move or to change its facilities at its own expense, FHWA will reimburse the costs of making changes to railroad facilities that are required in connection with a federal aid highway project.

 - 2. **Eligibility.** To be eligible, the costs must be:
 - a. For work which is included in an approved program;
 - b. Incurred after the date of authorization by the Federal Highway Administration (FHWA);
 - c. Incurred in agreement with the terms of 23 CFR, Part 646, Subpart B; and
 - d. Properly related to the project.

- C. **Labor costs.** (See Chapter 10, Section 10.5.3 & 10.5.8)

- D. **Materials and Supplies.** (See Chapter 10, Section 10.7 (B) (4))

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- E. **Equipment.** (See Chapter 10 , Section 10.7 (B) (3))
- F. **Transportation.** (See Chapter 10, Section 10.7 (B) (6))
- G. **Credits for Improvements.**
1. Local Agencies will credit the project for additions or improvements which provide for higher quality or increased service capability of the operating facility and which are provided only for the benefit of the company.
 2. When buildings and other structures of a company which are integral to operation of rail traffic must be replaced, the department shall make a credit to the project according to 23 CFR 646.216(c) (2).
 3. No credit is required for additions or improvements which are:
 - a. Required by the highway project.
 - b. Replacements of equivalent standard (although not identical).
 - c. Replacements of devices or materials no longer regularly manufactured and the next highest grade or size is used.
 - d. Required by governmental and appropriate regulatory commission requirements.
- H. **Protection.** At times during the construction, the railroad company may request essential protective services to ensure safety to railroad operations. These costs are reimbursable as long as an item for the services is included in the railroad agreement or in a work order issued by the local agency and approved by FHWA.
- I. **Maintenance and Extended Construction.** The cost of maintenance and extended construction is reimbursable to the amount stated in 23 CFR 646.216(f) (4), as long as it is included in the State-Railroad Agreement or approved by the state and FHWA.
- J. **Lump Sum Payments.** The department may give compensation as a lump sum, instead of actual costs as long as it is approved by FHWA, follows 23 CFR 646.216(d) (3), and is stated in the agreement.

- K. **Billings.** (See Chapter 10, Section 10.7 (B) (7))

10.9 OTHER COST ALLOWABLE SUBJECT TO FHWA'S APPROVAL

Although Part 149, "Reimbursement," of 23 CFR does not specifically mention some categories as eligible for federal participation, the local agency is allowed to request approval from the FHWA prior to billing if it wishes to use federal funds. The Local Agency should identify costs that are related to the federal aid project through proper documentation.

10.10 OTHER UNALLOWABLE COSTS

- A. **Bad debts.** Any losses arising from uncollectible accounts and other claims and related costs are not allowable.
- B. **Contingencies.** Contributions to a contingency reserve or any similar provisions for unforeseen events are unallowable.
- C. **Contributions and Donations.** Unallowable.
- D. **Entertainment.** Costs of amusements, social activities, and other related costs (such as meals, beverages, lodgings, rentals, transportation, and gratuities), are unallowable.
- E. **Fines and Penalties.** Costs resulting from violations of or failure to comply with federal, state, and local laws and regulations are unallowable.
- F. **Governor's Expenses.** The salaries and expense of the office of the governor of a state or the chief executive of a political subdivision are considered a cost of general state or local government and are unallowable.
- G. **Interest and Other Financial Costs.** Interest on borrowings (however represented), bond discounts, cost of financing and refinancing operations, and related legal and professional fees, are unallowable except when authorized by federal legislation.
- H. **Legislative Expenses.** Salaries and other expenses of the state legislature or similar local governmental bodies (such as county supervisors, city councils, school boards, etc.), are unallowable. It does not matter whether

the expenses were for legislation or executive direction,

- I. **Under-recovery of Costs Under Grant Agreements.** Any excess of cost over the federal contribution under one grant agreement is unallowable under other grant agreements.

10.11 SUMMARY AND EXAMPLES OF PARTICIPATING AND NONPARTICIPATING PROJECT COSTS

- A. **Participating (Eligible for Federal Aid).** In summary, the following criteria must be met for charges to be considered participating when charged directly to a federal aid project:
 1. The work must be programmed with the FHWA.
 2. The costs must have been incurred after the date of FHWA authorization to proceed with the work.
 3. The costs must be completely for the benefit of the project being charged, i.e., labor performed directly for that project, supplies used up in the course of a project, etc.

The following list gives examples of federal aid participations. This list is not limiting or all-inclusive.

- a. Labor - to design, survey, prepare plans, appraise right of way, inspect construction activities, audit agreements, etc.
- b. Travel and Per Diem - of employees involved in any participating activity related to the project.
- c. Materials - used in a federally approved project.
- d. Supplies - purchased and consumed entirely on a federally approved project. Supplies might include: cloth tapes, cylinder molds, drafting supplies, film including developing and printing, hubs, paint (marking spray), stakes, long distance telephone calls identified by project, royalty on materials, and initial or new costs of temporary traffic control devices.
- e. Services for material testing, document reproduction, mapping, and computer and equipment usage charges. All of these are based upon rates set by FHWA.

- B. Nonparticipating.** For specific projects, the following items are not eligible for federal aid use:
1. Equipment purchase and repair - unless specifically approved by FHWA (i.e., engineering, safety, or office equipment and supplies).
 2. Supplies - purchased and consumed on a number of projects or for the general management or operation of the organizational unit (example would be in maintenance or in administration - signs, small tools, and temporary traffic control devices).
 3. Office Rental - including utilities and telephone service.
 4. Labor - for activities not directly related to the project nor programmed with FHWA. Labor activities pertaining to the general operation of an agency are not eligible for federal participating.
 5. Travel and Per Diem - of employees performing activities classified as nonparticipating or unrelated to a specific federal aid project.
 6. Right of Way:
 - a. Excess land (appraised value) including uneconomic remnants.
 - b. Right of way acquired after certification by the local agency that right of way necessary for a designated federal aid highway project has been acquired.
 - c. Judgments in condemnation cases not appealed when the attorney's closing report indicates a reason for appeal. The amount in excess of the review appraiser's recommendation of fair payment is nonparticipating.
 - d. Landowners:
 - i. Attorneys' fees;
 - ii. Witness fees;
 - iii. Expert witness fees; or

- iv. Similar costs to a landowner based on value of the services provided to him which are paid by the local agency for purchase of rights of way. This is regardless of whether such costs are included in court judgments of court costs in litigated condemnation cases.

10.12 CERTIFICATION FORWARD REQUEST - GENERAL

The Certification Forward Request is the Department's annual request to the Executive Office of the Governor (EOG) to certify forward outstanding obligations as of June 30. This process affects cost center managers, Financial Services Offices, Office of the Comptroller, Budget Office, Office of Work Program and Work Program Offices.

10.13 CERTIFICATION FORWARD

This process deals with any balance of any appropriation, which is not disbursed but rather is spent or contracted to be spent. The head of the affected state agency to the Executive Office of the Governor certifies the balance. The request will show in detail the amounts due and to whom they are owed. (Section 216.301 F.S.).

10.14 RESPONSIBILITY

10.14.1 All District LAP Administrators should reference Procedure Topic Number 350-030-450-g when processing certifications.

10.14.2 Link to procedure: <http://ombnet.dot.state.fl.us/procedures/bin/350030450.pdf>

10.15 FORMS

None required.

10.16 ROLL FORWARD - GENERAL

10.16.1 Roll Forward is the process where the Department moves forward unopened project phases and the uncommitted portion of open project phases in the adopted work program into the new fiscal year at the end of the current fiscal year. Central office and District Work Program personnel should use this procedure.

10.16.2 Section 339.135(7), F.S. states that any uncommitted project phases in the adopted work program not certified forward under the terms of Section 216.301(2)(a), F.S.,

will be available for roll forward for the next fiscal year. Spending authority associated with such project phases may be rolled forward to the next fiscal year through a budget amendment approved by Executive Office of the Governor.

10.16.3 Three strategies can be pursued to try and minimize the amount of LAP roll forward.

10.17 CODE LAP PROJECT PHASES PROPERLY

10.17.1 Currently, some Districts roll forward LAP amounts that should be encumbered in future years of the Work Program. For example, some Districts program design and construction in the same year. Then, when the design phase has been delayed or not completed but has been encumbered by the end of the fiscal year, the construction dollars are rolled forward. Some Districts schedule LAP projects like DOT projects. The District might schedule design (Phase 38) in FY 2005 and construction (Phase 58) in FY 2007. If right-of-way (Phase 48) was involved, the District would program it out 18 months to 2 years in FY 2006. All of this should be outlined in the LAP Agreement.

10.17.2 This bulletin directs all Districts to immediately ensure that they are coding their LAP projects properly by programming multiple phased projects in the correct fiscal year. In addition, the Districts should make adjustments to the Work Program when they have the opportunity to move out project phases (if it is deemed appropriate). The LAP Agreement should also reflect this information in Exhibit "B" (Schedule of Funding). One note of clarification, the Department should program any project that has multiple project phases, and can be completed in the same fiscal year, in the year it is scheduled.

10.18 LOCAL AGENCY PRODUCTION SCHEDULE

Local Agencies must be in agreement with the LAP Agreement's general requirements. To do this, Local Agencies should start and complete their projects in a sensible, economical, and efficient manner. The agencies must also carry out the projects in accordance with the LAP Agreement between the Local Agency and the Department. To help the Local Agency to meet these general requirements and help to reduce the LAP roll forward, each District should focus more attention on the Local Agency's production schedule. The District should work with the Local Agency to ensure that the project completion date is realistic. This may include the Department adding time to the Local Agency's estimated completion date.

10.19 EXPIRATION OF AGREEMENT

Each Local Agency will agree to complete its projects on or before a completion date that is agreed upon by the Local Agency and the Department. According to paragraph 2.02 (Form No. 525-010-30) Expiration of Agreement, if the Local Agency does not complete the project within the time period, the LAP Agreement will expire on the date of scheduled completion. However, the LAP Agreement may be extended if the Local Agency requests a time extension and the Department grants it before the Agreement's date. The expiration of the Agreement will be considered the termination of the project. The Department will not reimburse the cost of any work performed after the Agreement's expiration date. The Department must continue to monitor project completion dates to help minimize roll forwards on multiple-phased jobs. Roll forwards can be avoided by making sure that each District only extends a project completion date under proper circumstances.

10.20 RESPONSIBILITY

10.20.1 All District LAP Administrators should be sure to reference Procedure Topic Number 360-030-005-c when processing certifications.

10.20.2 Link to procedure:

<http://www2.dot.state.fl.us/proceduraldocuments/procedures/bin/360030005.pdf>

10.21 FORMS

None required.