

Chapter 21

Certification Checklists for Construction Projects

21.1 GENERAL

In July 2005 the Federal Highway Administration Florida-Division reviewed LAP and found construction contracts between the Local Agencies and their contractors were missing the necessary documents to be in compliance with federal requirements on construction projects. From this three checklists were developed to correct this problem and the following information discusses each one.

21.2 ADMINISTRATIVE CHECKLIST (LONG FORM)

21.2.1 The Administrative Checklist must be completed by the Local Agency including signature, verified by the District with signature and reviewed by the State LAP Administrator. Once it is approved and signed by the Statewide LAP Administrator the original checklist and supporting documents are returned to the District for their files and the State LAP Administrator will also retain a copy of the checklist. A copy of the Administrative Checklist is not forwarded to the Central Office Federal Aid Management Office.

21.2.2 The administrative checklist is required even if the Local Agency has already been certified. This checklist is needed before any construction checklists can be reviewed and approved by the State LAP Administrator. If a Local Agency is going through the Certification Process for the first time or a periodic cycle recertification then the Administrative Checklist will also need to be completed before the Local Agency is officially certified. It should also be noted that the checklist is a one time requirement.

21.3 CONSTRUCTION CHECKLIST (LONG FORM)

21.3.1 Each District LAP Administrator will forward to each Local Agency a copy of the checklist(s) requiring them to certify Administrative Operations and Construction Contracts federal requirements.

21.3.2 Each district can decide whether they need to meet with each Local Agency on an individual basis or hold a meeting with a group of them together to discuss the checklist.

21.3.3 All Initial or Future LAP Projects will need to be certified with the checklist by the Local Agency and then sent to the District LAP Administrator along with a copy of the construction contract. During the certification by the Local Agency they must indicate the location of the documents in the contract in the Reference Column of the Checklist.

21.3.4 The District LAP Administrator receives the checklist and construction contract document and verifies that the contract contains the federal requirements as outlined in the checklist. The LAP Administrator will either certify that the documents in the construction contract meet the federal requirements or contact the Local Agency to correct any missing information.

21.3.5 Once the District LAP Administrator has certified that the construction contract meets federal requirements a copy of the checklist will be sent to the State LAP Administrator and the District Federal Aid Coordinator.

21.3.6 The State LAP Administrator will then verify the checklist for completeness and then forward it to the Central Office Federal Management Office. If the checklist is incomplete it will be returned to the District to be corrected.

21.3.7 The Central Office Federal Management Office will then submit project to FHWA for Authorization.

21.3.8 The Central Office (CO) LAP Coordinator is finalizing the LAP certification process. To ensure compliance with all Federal-aid requirements, a checklist will be used to verify and reference the corresponding construction contractual documents. The Federal-aid authorization process will be as follows:

21.3.8.1 The Local Agency and the District LAP Administrator will review the contract documents, reference the location of the requirements, and sign indicating that the project complies with all requirements in the checklist. The entire package will be submitted to the CO LAP Coordinator and an e-mail will be sent to the District Federal Aid Coordinator by the District LAP Administrator so they can begin preparing the project for review in the Federal Authorization Management System (FAMS).

21.3.8.2 The CO LAP Coordinator will review the package and determine if it meets all of the requirements. If more information or clarification is needed, it will be returned to the District LAP Administrator for correction.

21.3.8.3 Once the CO LAP Coordinator signs off on the checklist for these projects, he will send the contract package and the original checklist back to the District LAP Administrator to be retained in their files. He will also send a copy of the signed checklist to the Federal Aid Management Office (FAMO) for retention. The CO LAP Coordinator will send an e-mail to the District Federal Aid Coordinator and District LAP Administrator upon certification so that they can put the project in review for submission to the FAMO. In addition, the District LAP Administrator needs to make sure a copy of the signed checklist is sent to the District Federal Aid Coordinator.

21.3.8.4 The District Federal Aid Coordinator will place a comment in FAMS, prior to submitting it to review, with the date of the CO LAP Coordinator signature, in the format:

LAP Certification date: DD/MM/YY

21.3.8.5 The FAMO will maintain a spreadsheet of all projects that have been LAP certified. CO FAMO analysts will verify that a copy of the checklist is maintained in the files and that the date is correct prior to certifying and transmitting the Federal Authorization Request (FAR) to FHWA. The FAMO is also working with the Office of Information Systems for an enhancement in FAMS to store this field.

21.3.8.6 Projects that were previously authorized will still need to go through the LAP certification process before any subsequent authorization modifications will be processed (including modification to convert Advanced Construction projects to regular funds).

21.4 ABBREVIATED CHECKLIST

21.4.1 The abbreviated LAP Checklist can be used on all phase 58 construction projects which obtained their initial federal authorization on or before July, 2005. The abbreviated checklist can be used on LAP construction projects as follows:

- 1) All ongoing construction projects (not completed) but authorized prior to July, 2005 can use the abbreviated checklist.
- 2) All AC projects, regardless of completion status, must use the abbreviated checklist.

- 3) All current construction completed projects, whether or not they need to have a FMIS modification to add or reduce funds, do not need a checklist. These will be processed as usual and a list of those projects is attached and has been provided to FHWA.

Note: All construction projects authorized after July, 2005 will need the long checklist, and all other projects with phases such as ROW and Design do not need a checklist.

21.4.2 When completing the abbreviated checklist if it indicates all “yes” or “N/A” then the checklist should be signed and sent to the State LAP Administrator for processing with the Federal Aid Management Office.

21.4.3 When the checklist is completed for projects if any of the six requirements receive a “no” response then action must be taken to resolve the problem. All efforts should be made to supplement the contract with the correct documents, and any problems such as with the Davis-Bacon Wage Rates should be resolved by restitution to those that worked on the project.

21.4.4 Once the district and local agency have worked through the issues, then the checklist must be signed and returned to Central Office for signature. Then it will be sent to the Central Federal Management Office for processing. If you had a “no” response and whether the issue was resolved or not a written explanation needs to be prepared and sent with the checklist explaining the problem and what was done to resolve it. FHWA will not participate in any additional costs necessary to resolve these compliance problems.

21.4.5 The consequences of not resolving the issues are as follows:

1. The department may have to absorb the entire cost of the project if the Local Agency is unable to resolve the issue(s) between themselves and the contractor.
2. If federal funds are removed from the project and the project is off the state highway system, then the department will have to request repayment for the cost of the project from the local government. No state funds can be used on off-system projects.
3. If “**No**” is the answer to any of the 6 items listed on the Abbreviated Checklist and they cannot be resolved, then if FDOT desires to retain any federal-aid funds on the project, FDOT must submit formal written request explaining why FHWA should allow federal-aid funds to remain on project and request FHWA to

authorize the project under the “forgiveness” provisions of 23 USC Section 1.9. This request should be submitted directly to the State LAP Administrator for processing with the Federal Aid Management Office.

21.5 LAP FORCE ACCOUNT REQUIREMENTS

21.5.1 Under LAP Force Account work by a Local Agency the following must be submitted to the District LAP Administrator for review and then sent to Central Office for review and processing.

1. Administrative Checklist with requirements 5a and 6a completed and supporting documents.

5a - Engineer’s Estimate

6a – Project Supervision and staffing

2. Construction Checklist (long) with the following requirements completed and supporting documents.

1 - PS&E Submittal

2 - Audits

4 - Buy America

21 - Owner Force Account/Cost Effective Justification*

22 - Patented/Proprietary Materials

25 - Prohibition against Convict Produced Materials

28 - Records Retention

31 - Standard Specifications and Plans

21.5.2 For requirement number 21* on the long checklist and number 5* on the abbreviated checklist the “Cost Effectiveness Justification” needs to be approved by the District LAP Administrator or the person designated by the district. Before approval is given appropriate functional areas within the district should assist in the review. Once the review has been completed the approval should be put in the form of a letter, and a copy should be sent to the Local Agency and filed in the district. When the checklists are sent to Central Office State LAP Administrator for approval this information should also be submitted with it.

3. Abbreviated Checklist (short) the following requirements need to be completed:

3 - Buy America

5 - Cost Effectiveness Justification

6 - Patented/Proprietary Materials

21.6 APPENDICES

21.6.1 Administrative Checklist

<http://formserver.dot.state.fl.us/MiscRepository/forms/52501043.pdf>

21.6.2 Construction Checklist

<http://formserver.dot.state.fl.us/MiscRepository/forms/52501044.pdf>

21.6.3 Abbreviated Checklist

<http://www.dot.state.fl.us/projectmanagementoffice/lap/pdfs/AbbreviatedChecklist.doc>

21.6.8 Code of Federal Regulations – Contract Administration Core Curriculum Participant's Manual 2005

<http://www.fhwa.dot.gov/programadmin/contracts/index.htm>