

**Under what conditions may a Local Agency utilize In-house forces to provide Construction Engineering and Inspection (CEI) services on LAP projects?**

SKED & ANSWERED

**Purpose:** To clarify the policy for Local Agencies utilizing In-house local forces for the purpose of providing CEI functions (i.e. Inspection, Verification Testing, etc.) and to clarify the differences in requirements for On-System and Off-System projects.

**Details: On-System projects:** Local Agencies may utilize In-house forces to accomplish CEI functions on on-system projects with prior approval of the Local Agency Program (LAP) Administrator and appropriate functional area experts. The LAP Administrator will coordinate with the appropriate functional area experts (i.e. District Construction Engineer, District Materials and Research Engineer, etc.) for approval prior to issuing such approval to the Local Agency. Those Local Agencies desiring to utilize In-house forces to accomplish CEI functions on on-system projects shall develop and submit a Quality Assurance (QA) Plan. The QA Plan must identify, at a minimum, the Materials Testing & Sampling requirements, Laboratory Qualifications, Field and Laboratory Test Result Tracking (data entry), Personnel Qualifications, Personnel Experience, and Contractor Evaluation. The QA Plan may address other items as deemed appropriate for the type of work being performed.

In addition to providing the information above, the following specific requirements would need to be addressed by the QA Plan for on-system projects:

- Provide a list of employees along with experience and qualifications proposed to perform CEI services. This would require appropriate levels and numbers of Professional Engineering staff with construction management experience to perform the role of Senior Project Engineers and Project Administrators. Additionally, experienced, qualified staff would be required in appropriate numbers for the project inspection efforts and for contract compliance monitoring. Project staffing level guidance may be obtained from the State Construction Office website at: <http://www.dot.state.fl.us/Construction/DesignBuild/ConsultantCEI/ProjectStaffingHistory.xls> CEI employee experience and qualification guidance may be obtained from the State Construction Office website at: [http://www.dot.state.fl.us/Construction/DesignBuild/ConsultantCEI/CEI\\_ScopeOfServices.doc](http://www.dot.state.fl.us/Construction/DesignBuild/ConsultantCEI/CEI_ScopeOfServices.doc)
- Outline the Local Agency's plan to assess the performance of staff assigned to the project. This plan would need to specifically identify how the Local Agency ensures: that the contractors have performed the proper sampling and testing and entered results; that staff have taken required sampling and testing and entered results; that staff have kept up with the progress payments to the contractor; that staff have documented as-built drawings and quantities to be used for final estimates to the contractor; that staff have regularly monitored the contractor's compliance with Equal Employment Opportunity (EEO) requirements; that staff have monitored contractor's wage rates for compliance with wage tables provided by the US Department of Labor; that staff have ensured the project complies with Buy America provisions; and that staff have monitored the subletting arrangements between the prime contractor and its subcontractors. Specific EEO and contract compliance requirements are found in the FDOT Contract Compliance Workbook at: <http://www.dot.state.fl.us/equalopportunityoffice/ContractComplianceWorkbook.shtm>
- Outline the Local Agency's plan for: addressing claims analysis for any/all claims submitted by a contractor; preparing defense of the claims as CEI for the project; participating in Disputes Review Boards or other dispute resolution processes; participating in litigation in the event of lawsuits; and analyzing issues that may be deemed to be the liability of the Local Agency for damages to the Department.

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- Outline the Local Agency's plan for addressing responsibility for any CEI errors made during the administration of these projects.

**Off-System projects:** Staffing and qualifications required for off-system projects differ from the requirements for on-system projects.

**Qualifications of staff:**

- For staffing off-system projects, it is not necessary for the staff to hold CTQP qualifications as long as the personnel have demonstrated competence through training and experience appropriate for the specific project.
- Typical staffing levels for Local Agency projects should be based on the complexity of each project.
- FDOT will review the agency's staffing plan when LAP certification for CEI is being considered. For agencies with limited Federal Aid CEI experience, the certification may include conditions regarding additional oversight by FDOT, but generally, FDOT approval of CEI staffing will not be required on a project by project basis.
- If a Local Agency has in the past performed CEI duties on LAP projects, such agencies shall be allowed to continue to perform such duties. It is understood that if an agency has completed CEI duties in the past, such certification has been already accepted by FDOT.

**Requirements for record keeping:**

- The local agency will maintain all required records including test results in the agency's record system, and this will be available for inspection and review by the FDOT and FHWA as needed.

**Requirements for contract administration**

- Issues like claims disputes, supplemental agreements, cost overruns, etc. will be handled by the local agencies. All project cost overruns must be evaluated by the local agency for federal aid eligibility in accordance with CPAM section 7.3.11 and approved by FDOT.
- This agency process should be reviewed as part of the certification process, and any extraordinary requirements should be handled as a condition of LAP certification or as a requirement in the LAP contract for a particular project.

**References:** 23CFR637.207, 23CFR637.209, Local Agency Program Manual Chapter 23, FDOT Material Manual Section 5.2.

**Exceptions:** Local Agencies would be required to contract with FDOT Pre-qualified Consultants for the following projects:

- On-System Projects \$10 million or greater
- Off-System Critical Projects and projects \$10 million or greater

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