Local Agency Program (LAP) Process Review of the Florida Department of Transportation (FDOT)

Process Review Report
Phase II

FHWA Florida Division Office

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Local Agency Program (LAP) Process Review

Executive Summary

This review serves two purposes by incorporating a billing review and a process review of the locally-administered (LAP) program. The objective of the process review was to evaluate the level of oversight and quality assurance being provided by the Florida Department of Transportation (FDOT) in the administration of the construction phase of locally-administered projects. Additionally, the review also assessed the state-of-the-practice of LAP in Florida through discussions with a number of local agencies and FDOT. The objective of the billing portion was to ensure Federal funds are properly managed and effectively used in accordance with Federal policies.

Overall, the recommendations and findings of the process review indicate a need for more consistency in administration and oversight of the LAP among FDOT District Offices. One reason for the inconsistency appears to result from the varying staff levels devoted to administering LAP in various FDOT offices. Although the review team is not making a direct recommendation that FDOT provide additional staff to administer the LAP, this issue needs to be considered when addressing the specific recommendations below.

Recommendation 1) FDOT should address the need for standardizing documents, bidding practices, and producing other critical forms for local agencies to utilize as part of the LAP program, in order to improve consistency in administration and oversight of the program.

Recommendation 2) FDOT should establish a consistent and effective quality assurance (QA) process that would be incorporated district-wide. It is critical that FDOT Construction staff be part of this process, as they are for any routine state-administered projects.

Recommendation 3) The FDOT should consistently document any inspections done by engineers during the life of a LAP project (both on the State Highway System (SHS) and off SHS) and retain the reports in the project file at FDOT. In addition, all quality assurance reviews on any LAP projects done by FDOT staff should be documented and kept in the project file at FDOT and FDOT should keep copies of LAP construction contract files at the LAP Administrators office in the District.

Recommendation 4) Training on federal aid requirements and the National Environmental Policy Act (NEPA) should be included as part of the local agency certification process for the local agency Responsible Charge, or their designated consultant if the local agency does not have an engineering unit.

Recommendation 5) The FDOT should ensure personnel preparing and approving payments are aware of the proper procedures for processing payments to minimize the occurrence of administrative errors. Actions include closely monitoring invoicing procedures and ensuring supporting documentation is forwarded by local agencies with payment requests.

Recommendation 6) The FDOT should continue to closely monitor its reimbursement procedures and return incorrect invoices to local agencies for correction to minimize the occurrence of administrative errors and reiterate to local agencies their invoicing responsibilities. Additionally, FDOT should continue to document and maintain any exceptional occurrences.

Local Agency Program (LAP) Process Review of the Florida Department of Transportation (FDOT)

Review performed: April 25, 2007 through September 6, 2007

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Local Agency Participants:

City of Lakeland	Bay County	City of Ormond Beach
City of Marco Island	City of Parker	City of Tampa
Charlotte County	City of Pensacola	City of Clearwater
Collier County	Volusia County	City of Pinellas Park
Hillsborough County	DeSoto County	

Objectives and Scope

Through this process review, FHWA evaluated the level of quality assurance applied at the State and local agency level with respect to compliance with federal regulations and many other facets of LAP projects in construction phase. In addition, FHWA sought to assess the state-of-the-practice of LAP in Florida specifically focusing on the approach to materials testing and verification, construction inspections, program- and project-level quality assurance, project development, and conformity with the FDOT LAP administrative and construction checklists.

The scope of the review included National Highway System (NHS), non-NHS, State Highway System (SHS), and non-SHS local agency projects let to construction in federal fiscal years 2004 through 2006. FHWA emergency relief program projects were not included in this review. The LAP agreement, executed construction contract, plans, specifications, certification, invoicing, inspector and technician qualifications, and

inspection reports were some of the items reviewed for each selected project as part of the Project File Review portion of the review. The General Review of LAP State-of-the-Practice portion focused on gathering information on general administration of the LAP by FDOT Districts and Local Agencies.

Review Locations

April 25 – 27, 2007: Kickoff meeting, process review, and closeout summary presented in District 5 in Deland.
May 7 – 9, 2007: Kickoff meeting, process review, and closeout summary presented in District 1 in Bartow. Interview with City of Lakeland conducted.
May 9 – 11, 2007: Kickoff meeting, process review, and closeout summary presented in District 7 in Tampa. Interviews with City of Tampa, City of Clearwater, City of Pinellas Park, and Hillsborough County conducted.
May 21 – 23, 2007: Kickoff meeting and process review presented in District 3 in Chipley. Interviews with Bay County and City of Pensacola conducted.
June 26, 2007: Closeout summary presented in District 3 in Chipley.
August 14, 2007: Interviews with Volusia County and City of Ormond Beach conducted in District 5 in Deland.
August 15, 2007: Interviews with Charlotte County, Collier County, and City of Marco Island conducted in District 1 in Bartow. Review of DeSoto County's files (in lieu of interview).
August 27, 2007: Closeout briefing held with FDOT Office of Inspector General.
September 6, 2007: Interview with City of Parker conducted.

Organizational Structure

Organizationally, FDOT comprises of 7 districts which operate independently, but coordinate with a central office located in the State capital. The Local Agency Program (LAP) coordination function is located in the Central Office of FDOT in Tallahassee. Administration of the LAP occurs at the District level with at least one employee designated as a LAP Administrator. In the course of the review, the LAP administrators and LAP Coordinator were asked to discuss the organizational structure and other specifics of their respective Districts. This information is summarized below in Table 1.

Table 1. FDOT Organizational Structure of LAP

FDOT Office	No. of FDOT Staff Dedicated to LAP	No. of certified local agencies per District	Total volume of federal funds per District $million*	Percentage of federal funds %	No. of Active Projects
District 1	2	34	36.2	10.7	84
District 2	2	10	19.2	5.7	30
District 3	1	29	17.5	5.2	42
District 4	2	26	68.7	20.2	83
District 5	7	36	42.5	12.5	50
District 6	2	16	45.4	13.4	52

District 7	6	16	104.0	30.6	61
Central Office	3**	4	6.0	1.8	8

* based on State Fiscal Year 2007-2008
** the Local Agency Program is administered by one employee located in Central Office

Background of Local Agency Program (LAP) in Florida

The FHWA Division conducted a review on the LAP program in Florida during 2005. Based on the Phase I review findings (2005), FHWA cited major concerns relative to financial accountability on these projects since mandatory, basic federal-aid requirements were not being included in a significant number of the contracts. The initial findings found a significant number of contracts that did not incorporate the following basic requirements: FHWA-1273, Buy America, DBE requirements, standardized changed condition clause, and Davis-Bacon Wage Rates. Additionally, general observations included the following concerns: the FDOT District Offices view the LAP as a "funding pass through" program and were taking a hands-off approach to LAP construction projects; obtaining copies of the executed contracts was a difficult task. In fact, we were unable to obtain some contracts from the FDOT District Offices. FDOT District Offices are not approving the plan and specification packages on State Highway System LAP projects, as stipulated in the LAP Agreement. FDOT District Offices are assuming that the latest FDOT specifications are being utilized on the LAP projects, when in fact most local agencies are often utilizing local agency specifications or a combination of local and FDOT specifications. This is a risky practice because many FDOT specifications contain the basic Federal-aid requirements. The 2005 review resulted in the FDOT/FHWA development of administrative and construction checklists used to better ascertain that local agencies are meeting basic federal aid requirements. It should be noted that the Districts and local agencies are responsible for their own QA of the LAP program.

The bulk of guidance for the FDOT LAP program is contained in the department's LAP Manual. The LAP Manual is available online and is periodically updated. The manual was developed and submitted as a result of the FHWA Phase 1 LAP Review. It contains information on LAP procedures regarding local agency certification, project selection and management, agreement processing, contracting, and quality assurance. There are also chapters that deal with standards and practices for LAP projects, general and special project development, project management, construction and post-construction, and maintenance.

FDOT has continued to make progress in focusing efforts on the local agency program. They have tailored some of the activities based on observations from the FHWA 2005 Phase 1 LAP Review and findings from the FHWA National Review of LAP in 2006. Activities include further revision of the FDOT LAP manual, development and local incorporation of the three LAP checklists, training for LAP agencies (starting with the February 2007 statewide conference), and the transition from FDOT specifications to local agency-select specifications for various items. FDOT Central Office personnel are working with District LAP staff to draft a new construction oversight document. In

addition, the LAP Coordinator has led the effort to revise and clarify the FDOT *Final Inspection and Final Acceptance* form.

The intent of this review is especially timely in light of the fact that FDOT has proposed to allow the local agencies to use their own specifications for hot-mix asphalt (HMA), Portland cement concrete (PCC), earthwork and landscaping on non-State Highway System (off-SHS) routes.

Project File Review and Project Selection Process

The first part of the process review consisted of a project file review. The file review included both an engineering and billing review of LAP projects currently in the construction phase. For the engineering file review, federal aid compliance and project quality assurance were evaluated in the construction contract and corresponding files.

A sample of projects was selected from each of the four districts by reviewing the list of projects in the Fiscal Management Information System (FMIS). The main criteria for projects were that they were in the construction phase during 2004 to 2006 and that they already invoiced FHWA. A variety of projects were desired in terms of project cost, work types, and location. Projects ranging from small bike path or trail jobs to large added capacity or bridge replacement jobs were selected. The list of projects was additionally filtered by their location so that projects both on and off the NHS and SHS were captured as part of the sample. The 21 projects that were selected from four FDOT Districts are shown in Appendix A. This set was subjected to both the engineering file review and billing review. Since a majority of the projects selected by the criteria explained above were initiated prior to the introduction of the LAP administrative and construction checklists, three additional projects were added to the engineering file review from two Districts. These construction projects were initiated after the checklist requirement was in place and one is a significant earmarked bridge replacement project in District 7.

General Review of LAP State-of-the-Practice

The second aspect of the process review consisted of a general review of the LAP in Florida. The purpose was to assess the state-of-the-practice of various aspects of the program from both FDOT and local agency perspectives. Completing a general review of this type helps FHWA to identify trends on how the program is utilized by FDOT and local agencies and also to document, and eventually reduce, inconsistencies in application of the LAP. An assessment of this type also gives FHWA the “grass root level” perspective of resources, manpower, and general understanding for LAP by reaching out to professionals who are applying the program on a daily basis. Knowledge of the state-of- the-practice will enable FHWA to make realistic and efficient policy decisions regarding LAP and to identify areas that need clarification at the federal level.

Another justification for completing the general review was to competently answer the directive issued on April 5, 2007 by FHWA Headquarters regarding LAP nationally. The directive requested that each FHWA Division Office rate the level of competency of their

State and local agency partners in administering and using the LAP. There were several areas, ranging from project scoping to final acceptance of LAP projects, suggested to be included in the rating and all of them were part of this process review.

SUMMARY OF PROJECT FILE REVIEW

In order to conduct the project file review, the administrative and construction files for each sampled LAP project were requested at the FDOT District office. The files were produced for the review team to cross-check their compliance with federal aid requirements, approach to invoicing and pay documentation, and methods for ensuring quality (QC/QA) of LAP projects. The overall observations from the project file review are presented in the following sections.

Federal Aid Compliance

The provision of federal aid contract requirements in LAP project files was investigated as a first step in the project file review. These requirements include inclusion of FHWA 1273, Davis-Bacon wage rates, Buy America, conditions for change orders and claims, provisions prohibiting use of convict-produced materials, force account work approved by FDOT with cost effectiveness finding, and competitively bid/low bid-awarded projects. The review also identified whether a full-time local agency employee was in Responsible Charge of the project.

Specific Findings: *Out of the 24 projects reviewed in four FDOT districts, 63% were in compliance with the basic federal aid contract administration requirements.* Some of the contracts mentioned FHWA 1273, Davis-Bacon wage rates, Buy America, etc., but they were not physically incorporated in the contract package. However, this was found almost exclusively for contracts prior to the full checklist requirement was put in place after July 2005.

Specific Findings: *In the case of the two force account projects, there was no evidence of FDOT-approved cost effectiveness findings for either one*. The other 22 projects were all competitively-bid and awarded to the low bidder.

Specific Findings: *In 23 out of 24 projects, there was a local agency employee in responsible charge.* In the one agency that did not, it was because there are no engineers on staff to conduct the projects. Therefore, the local agency representative was an elected official and the responsible charge for engineering was a consultant hired by the agency.

In general, it was found that if projects were initiated before the institution of the LAP checklists requirement, there were a number of project contracts not in compliance with federal aid requirements.

Project Quality Assurance

The quality assurance review evaluated the procedural features of the construction projects. Information in the project file on nature and number of subcontracts, specifications, and construction contracting method was examined. In addition, the presence of an approved abbreviated, or approved administrative and construction, checklists was noted.

Specific Findings: *Information on any subcontracts used for the LAP projects was included in 39% of the files.* In the 9 project files that did list subcontractors and their services, there was no evidence of FDOT approving the subcontract.
Specific Findings: *In 80% of the projects, a local agency engineer performed the final inspection.* FDOT performed final acceptance for all of the 24 projects and the responsible party for each district is shown in Table 2.

Table 2. FDOT Final Acceptance of LAP Projects.

FDOT District	Employee Conducting Final Acceptance
1	Operations Center Manager
3	LAP Administrator
5	Construction Team
7	Construction Team

Specific Findings: *In terms of specifications used in the 24 projects sampled, 66% were FDOT and 25% were Local Agency specifications.* There was also one project that utilized a combination of FDOT and local specifications, and another project file that listed no information on the specifications. All of the projects sampled were contracted by the conventional bid method, with the exception of the two force account projects done by in-house staff. Finally, in all but a couple of isolated cases, the abbreviated (for projects started before July 2005), administrative, and construction checklists were included in the LAP project files.

FDOT Office of Inspector General Audit
The FDOT Office of Inspector General simultaneously conducted their own project file review which was focused on contract compliance, segregation of duties, and administrative issues. The findings from their audit identified two areas of noncompliance: checklist approval and quality assurance reviews. The audit identified that there was not sufficient documentation to support compliance as required by the checklists for several federal requirements. In addition, the report cites that quality assurance reviews were not conducted as required by the LAP Manual. The report outlines some recommendations to help ensure program compliance and improve both efficiency and effectiveness and best practices to strengthen overall LAP administrative activities. They are generally focused on standardization of LAP documents for improved federal and state compliance, standardization of project file contents, development and monitoring of a long-range strategic plan to provide improved LAP administration activities, and routine LAP training. Further details of their draft report are included in Appendix B.

SUMMARY OF GENERAL REVIEW OF LAP STATE-OF-THE-PRACTICE

In order to conduct the general review, a series of interviews were set up with various LAP staff at FDOT District offices and with the local agencies whose projects were sampled as part of the project file review. FDOT District staff described their role and administration of LAP by answering questions dealing with construction, project development, environmental compliance, program quality control, and oversight monitoring. A sample of the questions utilized in the interview to generate discussion is included in Appendix C. Representatives from 14 local agencies also participated in interviews with the review team. Interviews were focused on project development and program quality control at the local agency level. The local agencies also brought their complete project files (for their specific project identified as part of the File Review) for the review team to examine. Documentation from the construction contract including subcontracts, bid tabulations, daily inspection reports, materials test records, bid advertisement, specifications, drawings, certified payrolls, etc., was submitted to the review team. Local agencies also were asked to discuss their concept of the benefits and challenges of the LAP. The overall observations from the state-of-the-practice assessment are presented in the following sections.

Project Development

Several aspects of project development were discussed with FDOT. Some of the questions pertained to FDOT responsibilities and others requested FDOT's estimation of how local agencies are honoring their responsibilities. All districts have similar approaches to dealing with project design, monitoring engineering services, local agency consultant selection procedures, and recordkeeping for design. Every district has a consistent familiarity with requirements for design standards and standardized documentation requirements for LAP projects. In addition, the process for reviewing PS&E packages, contract provisions, standards, special provisions, and documenting and approving design exceptions is consistent in each district. Variation exists in how project scopes and estimates are developed, and how design is monitored, for LAP projects from district to district.

Specific Findings: The review interviews indicated that FDOT does not have a consistent knowledge of how the local agencies provide monitoring of design consultants and what is their level of documentation standards. The level of awareness at FDOT in terms of local agency use of standardized documentation (e.g., change orders, construction diaries, materials test reports, certified payrolls, and labor compliance and EEO reviews) for LAP projects was inconsistent among the districts.

Environmental Compliance

An evaluation of the environmental compliance included questions on how environmental documents are developed for LAP projects and describes the review process set up by FDOT. In each of the Districts, an environmental specialist verifies the information required for producing environmental studies and documentation. Prior to sending the document to FHWA, FDOT carefully reviews it and will make corrective recommendations back to the local agencies, if needed.

***Specific Findings*:** There were some inconsistencies among Districts found in terms of who signs approving programmatic categorical exclusions (local agency versus FDOT) and what type of information FDOT requires from the local agency or their consultants for these documents. Additionally, in all but one of the Districts sampled, local agencies or their consultants are allowed to develop the environmental documents.

Construction

In general, most of the questions in the construction section dealt with detailing how LAP projects are contracted, inspected, tracked for progress, and accepted. An analysis of responses from the four FDOT Districts revealed agreement on many things. The construction phase of LAP projects is typically tracked via invoices and status reports. Conventional bid is the primary contracting method although a couple of CM@Risk and Design-Build projects have been tried in recent years. FDOT project managers conduct inspections, coordinate final inspection with local agencies, and perform the final acceptance. Another set of questions discussed with FDOT dealt with the type and level of quality control (QC) done on LAP construction projects. Some of questions pertained to FDOT responsibilities and others requested FDOT's estimation of how local agencies are honoring their responsibilities. In general, FDOT was consistent in their estimation of the number of LAP projects with local agency, consultant, or contractor staff performing sampling and verification testing. However, the majority of QC activities and knowledge of local agency QC is inconsistent among the four districts. Two of the Districts are lagging behind in the QC/QA area in comparison with the other two districts. The level of independent assurance (IA) reviews of local agencies and their consultants varies per district, from not performed to a moderate level of IA. A similar trend exists in terms of the amount of FDOT materials certification testing; one district doesn't confirm certification testing, two other districts do, and the fourth district does it only for SHS projects.

Specific Findings: There were trends identified that indicated inconsistencies among Districts in terms of inspection of LAP construction projects. In some cases, the District construction staff is marginally or not at all involved in the inspection and acceptance of LAP projects. Interim construction inspections of LAP projects range from "not done at all" in one district to "performed weekly" in another district. The availability of inspections reports at FDOT districts is not consistent and for the Districts that do keep inspection reports, there are different requirements in terms of where they are stored. Another observation in the QC area was FDOT does not have a consistent knowledge of how the local agencies are performing their own QC/QA to LAP projects. The answers to questions such as estimating the number of qualified local agency/consultant/contractor staff performing testing on LAP projects, number of temporary or new hires performing testing on LAP projects, and local agency monitoring of consultant laboratories varied widely among districts.

FDOT Oversight Monitoring

In order to determine the intensity of FDOT's monitoring of the LAP, the review team gathered information on FDOT staffing levels, experience, and overall oversight

approach. In each of the districts, FDOT LAP administrators are ultimately responsible for oversight, technical reviews, measurement, and evaluation of projects. However depending on the organization of the program, some districts involve a special project team, design team, or project managers to help with oversight. Every district defines, performs, documents, and communicates their monitoring activities to management through periodic meetings and status reports. In two of the districts, management uses monitoring activities to track production schedules. Management in the other two districts does the same, but also takes the information to determine each local agency's capacity for handling the number/complexity of LAP projects.

Specific Findings: Each district does something different in terms of monitoring compliance with standards, policies, and procedures for LAP. Inconsistencies were also found among districts in terms of how they disclose and resolve deficiencies with LAP projects, and what level and type of follow-up activities are performed once deficiencies are found.

Local Agency Appraisal of LAP

The benefits of LAP, as described by 14 local agencies, are described below:

- The majority of local agencies consistently stated the main benefit of the LAP was the opportunity to use federal dollars for funding projects sooner.
- Most of the smaller agencies also indicated that they could build larger, more expensive projects because of budget increases through the LAP.

The challenges of LAP, as described by 14 local agencies, are described below:

- Challenges identified by local agencies include time delays due to the LAP certification process, time constraints via the LAP agreements, and cumbersomeness of the process for smaller budget projects.
- The general feeling is that federal requirements are too strict for local projects and ultimately can incur more cost, both in terms of time and resources, to projects.
- Concerns were raised by several Local Agencies and by FDOT related to the extent of the NEPA process for locally-administered projects. The general feeling is that the NEPA process should not be required for small projects such as sidewalks or milling/resurfacing of existing roadways. With the ever-present risk of an earmark being attached to a LAP project, there may be some merit in adjusting regulations regarding the NEPA process for certain types of low-level LAP projects. In addition, local agencies have raised their frustrations with the need to "go back to Square 1" on added capacity or other more complex projects, after the project has already advanced into design or construction. This additional cost and delay to the project has made a few local agencies decide to no longer participate in the LAP program. Other local agencies have cited that unless they are dealing with a project costing $5 million or more, they would not participate in the LAP program.

<u>Local Agency Project Development</u>

Each of the 14 local agencies was queried on the various aspects of project development as part of LAP. This section presents the general trends found among local agency responses:

- Project scopes are developed based on capital improvement plan, county commissioner and public input, and safety and mobility needs.
- Cost estimates are based primarily on historical bid data from past projects. Whether the agency engineers, or the engineering consultants, produce cost estimates varies per agency.
- The majority of the local agencies utilize consultants for developing project designs, although this generally depends on the complexity of the project.
- Most of the local agencies use the FDOT CCNA consultant selection process; however, the contract duration time for these consultants varies widely from agency to agency (2 year to indefinite "on call"). Approximately half of the agencies queried have a process for evaluating and documenting consultants' performance.
- The oversight monitoring of consultants is generally done by assigning a local agency project manager to each LAP project; however, the level of oversight and type of project reviews vary significantly.
- The local agencies interviewed were all consistent in their treatment of record keeping procedures; project records are housed at the city or county facility.
- Design is closely monitored during project development by agency project managers, review meetings, and percent complete design reviews.
- FDOT or Florida Greenbook design standards are consistently used by the local agencies for the overwhelming majority of LAP projects. If the local agency elects to use their own standards/specifications, they must be approved by the City or County Engineer.
- Design exceptions are documented in the specification package and in plans, documented by project managers in the project file, and must be approved by the City or County Engineer.
- Standardized documentation is consistently used for construction daily reports, change orders, and disadvantaged business enterprises (DBE) goals.
- Standardized documentation is generally not used for materials test reports (provided in specific geotechnical consultants' format), certified payrolls (provided in contractor's format), labor compliance reviews (a few agencies do use Department of Labor's forms), and EEO reviews (a few agencies have adopted FDOT's standard EEO forms).

Local Agency Program Quality Control

The 14 local agencies were also asked about the various aspects of program quality control (QC) performed as a part of the LAP. This section presents the general trends found among local agency responses on program QC:

- For LAP projects, none of the local agencies perform their own verification testing and sampling; however, in some circumstances with smaller projects, a few agency project managers perform a minimum level of quality verification.

- In all cases where quality assurance testing is being done, it is done by consultants. The type and duration time of the consultant contracts varies widely per agency, although almost all geotech consultants are procured through on-call contracts.
- None of the local agencies utilize contractor QC sampling or testing results.
- The majority of local agencies require through their contracting procedure (RFQ) that consultant technicians performing testing on LAP projects be FDOT-certified.
- The majority of LAP projects are inspected daily and inspection reports are produced and stored in hard-copy or electronic files at the city or county.
- The local agency project manager typically handles final inspection and invites the contractor, design consultants, and FDOT for final walkthrough.
- Project status is typically tracked as percent complete for lump sum projects and budget complete for unit cost projects through progress reports (daily, weekly, or monthly basis).
- Local agencies reported a very low level of staff turnover which helps with training any new hires brought on board to replace staff who are retiring. In general, they have observed relatively little turnover in the design and geotech consultants participating in LAP projects.
- Only one of the 14 local agencies interviewed performs any type of independent assurance review on their testing consultant laboratories. The other agencies cited reliance on FDOT's laboratory certification program to provide quality assurance for verification testing. However, there are a few local agencies that have inspectors trained in engineering materials (e.g., PCC, asphalt, etc.) and provide field-level quality assurance.
- Local agencies generally rely on FDOT programs to certify laboratory equipment is calibrated and to check that technicians have valid testing certificates.

SUMMARY OF FINANCIAL REVIEW

As part of the Financial Integrity Review and Evaluation Program (FIRE), the Florida Division of the Federal Highway Administration (FHWA) performed a review on Federal-Aid Billing Transactions associated with Florida Department of Transportation's (FDOT) Local Agency Program (LAP).

Background and Introduction

The FIRE program is a review and oversight program that each FHWA division office is required to perform in support of the agency's annual certification of internal and financial controls. The LAP Program was identified by the Florida Division as a high risk area during the Fiscal Year (FY) 2007 Risk Assessment rankings. Risk Assessment rankings and financial management reviews are integral to the FIRE program.

The primary purposes of this segment of the review were to: 1) ensure Federal funds are properly authorized for LAP projects in accordance with Federal policies; 2)

determine the level of reliance FHWA can place on the accounting and management systems used by FDOT and LAP agencies in the production of correct and supportable Federal-aid LAP billings; 3) analyze procedural compliance with contractual payment terms; and 4) to confirm that FDOT is providing adequate financial oversight of LAP compliance for Federal reimbursements. The review, also determines the level of reliance FHWA can place on the accounting and management systems used by FDOT in the production of correct and supportable Federal-aid billings. Systems should ensure that all required controls and processes are in place to satisfy FHWA requirements and use the most economic and efficient practices. Federal-Aid billings should be in compliance with A-87, 49 CRF Part 18, 23 CFR Part 140 and other applicable statutes, regulations and rules.

Scope and Methodology

The scope of the review covered LAP reimbursements for construction projects undertaken during the 2004-2006 time period. Our fieldwork was conducted in Districts 1, 3, 5 and 7 during April 2007 through June 2007. We reviewed 22 invoices totaling $7.6 Million in reimbursements as seen in Table 3. Our sample was subjectively selected for review to reflect a diverse work mixture.

Table 3: Sample size distribution

	# of Invoices	***$ Amount of Invoices***
District 1	6	$ 1,089,875.01
District 3	5	$ 517,106.36
District 5	6	$ 2,602,170.16
District 7	5	$ 3,420,076.59
	22	**$ 7,629,228.12**

The billing review methodology included the following processes:

Reviewing applicable laws, rules, regulations and procedures, including:

- Office of Management and Budget (OMB) Circular A-123, Management Accountability and Control
- OMB Circular A-127, Financial Management Systems
- OMB Circular A-133, Audits of States, Local Governments and Non-Profit Organizations
- OMB Circular A-87, Cost Principles for State, Local and Indian Tribal Governments
- Title 23 – United States Code (USC) Highways
- Title 49 – Code of Federal Regulations (CFR)
- FHWA Order 4560.1a, Financial Integrity Review and Evaluation (FIRE) Program, dated May 19, 2006
- FDOT's Federal Project Authorizations Procedures dated June 22, 2006
- FDOT's Local Agency Program Manual
- FDOT's Construction Project Administration Manual

- Federal-Aid Policy Guide, Section G3015.1

Examining and testing of data included the following procedures:

- Site visits to four FDOT districts identified in the Introduction of this report.

- A questionnaire was developed to gather information to determine the degree of reliance that can be placed on LAP financial policies, procedures, and practices to produce valid claims for reimbursement.

The review focused on material components of FDOT's reimbursement processes for LAP projects that affect Federal-Aid disbursements including (but not limited to):

- Costs were for work completed subsequent to an issuance of a Notice to Proceed (NTP), execution of a LAP Agreement, and FHWA project authorization.
- Payments were eligible for federal participation
- Reimbursements to local agencies were made in a timely manner
- Supporting documentation for reimbursement transactions were adequate and correct
- Participating ratios were calculated and billed accurately
- Levels of approval are designated and properly endorsed
- Action is taken if costs for identified ineligible costs
- Processes and procedures are documented and effective
- Controls exist, are properly documented and assure procedures function as documented, for both FDOT districts and local agencies.
- Documentation is organized, complete, correct and properly approved

Source documents were reviewed to verify the validity of claims for reimbursement from FDOT to local agencies. Items reviewed included, but not limited to:

- LAP Agreements (FDOT and local agency)
- Federal-Aid Project Agreements (FHWA and FDOT)
- All signed contracts related to the project (e.g. vendor and local agency)
- Notices to Proceed
- State of Florida Voucher Schedules
- FDOT Contract Invoice Transmittals (CIT)
- Application and Certification for Payment documents
- Vendor Invoices
- Payroll and Timekeeping Documents
- Internal Control Questionnaires for local agencies
-

Documents were reviewed to verify valid claims for reimbursement from the LAP to FDOT. The Federal-Aid project agreements were verified in FMIS to determine that Federal Authorization was granted before work was performed on the project. The LAP Agreement was reviewed to determine that both parties signed the agreement and that work was conducted after the agreement was signed. The Notice to Proceed was reviewed to verify work was not started prior to its issuance.

Each sample transaction was traced to supporting documentation, such as payment vouchers, vendor claims for payment, and other documents for payment justification. The state voucher/CIT was reviewed to determine the presence of required authorizations and approvals.

Appropriate support documentation was verified as being included with the State voucher/invoice in the payment file. This included vendor bills, contract documents, etc.

The review verified that the amount authorized and approved did not exceed the vendor's claim and is in agreement with State support documentation , including financial terms and conditions of the contract or agreement, etc.

Payment amounts were verified to their limitation to the Federal share of participating costs.

State vouchers and CIT's were examined to determine: work was performed during the time period of the contract(s) and agreements. Under OMB Circular A-133, federal funds can be used only to reimburse costs incurred by an entity. It is the responsibility of the LAP to pay contractors before reimbursement may be claimed from FDOT. Documentation was reviewed to verify that local agencies were paying contractors prior to reimbursement from FDOT.

Interviewing appropriate personnel identified in the Introduction of this report.

Conclusions of Billing Review

Overall, it was found that FHWA can rely upon the accounting and management systems used in the LAP billing processes to produce correct and supportable Federal-aid reimbursement request. Our assessment of financial accountability involved a review of the formal billing process and internal controls for the local agencies. The LAP manual includes a comprehensive chapter on financial management including invoicing procedures for submitting, reviewing and paying for local Federal-aid project activities. Furthermore, eligible and allowable costs are defined in this chapter. Also incorporated into the LAP manual is a discussion of eligibility requirements. Final cost reviews are performed at the district level prior to submission to the Central Office Comptrollers Close-out audit. Information provided by local agencies was sufficient to determine local agencies have an adequate degree of financial policies, procedures, and practices to produce valid claims for reimbursement.

Our review, based on the above information and our sample tests, indicates that the controls and processes in place satisfy FHWA requirements, are in compliance with OMB Circular A-87, 49 CFR Part 18, 23 CFR Part 140 and other applicable statutes, regulations and rules.

The discrepancies noted below are administrative in nature and have no material effect on FDOT overall performance. Table 4 details specific data for each invoice reviewed.

Table 4: Pertinent Invoice Data

District	Local Agency	Contract number	FPN	Invoice Amount	Work Type	Issue
1	Collier County, C/W	AL310	40436015801	$508,333.77	Paved Shoulders	No Supporting Documentation for Invoice In File
1	Hendry Co	ANL76	4080911A801	$28,516.99	Sidewalks	DATES OF SERVICE DISCREPANCY ON CIT
1	City of Marco Isl	ANB21	4102701A801	$97,500.00	Path	DATES OF SERVICE DISCREPANCY ON CIT
						Invoice submitted in incorrect FY that funding was approved
1	Charlotte Co.	ANO36	41176715801	$157,636.25	Shoulders	DATES OF SERVICE DISCREPANCY ON CIT
1	Polk County	AN181	4117751A801	$65,000.00	DW Sidewalks	Invoice submitted in incorrect FY that funding was approved
						No date on workforce salary summary; no timesheets attached for verification
						DATES OF SERVICE DISCREPANCY ON CIT
1	DeSoto Co.	ANM05	198507	$65,710.10	Sidewalks	DATES OF SERVICE DISCREPANCY ON CIT
						No documentation of DOT/CEI approval of work
3	City of Parker	AN527	4080511A801	$197,723.41	Sidewalks	INCORRECT DATES OF SERVICE ON CIT
3	City of Pensacola	AN275	41267815801	$87,429.83	Sidewalks	INCORRECT DATES OF SERVICE ON CIT
3	City of Freeport	ANH26	41267925801	$4,000.00	Sidewalks	FEDERAL PARTICIPATION NOT INDICATED ON CIT
3	Bay County	AOJ81	41924515801	$57,500.00	Pavement	INCORRECT DATES OF SERVICE ON CIT
5	City of Ormond Beach	AO279	41698015801	$75,796.96	Sidewalk Construction	No FDOT Project Manager Signature on LAP Invoice Transmittal
7	City of Tampa	AH296	25780955801	$2,192,679.66	Reconstruction	INCORRECT DATES OF SERVICE ON CIT
7	Hillsborough County	AM607	40821415801	$192,505.50	Access Improvement	FEDERAL PARTICIPATION NOT INDICATED ON CIT
7						INCORRECT DATES OF SERVICE ON CIT
7	Pinellas Park	ANQ52	41145715801	$432,728.10	Drainage Improvement	INCORRECT DATES OF SERVICE ON CIT

***Specific Findings*:** Supporting documents were incomplete or missing from files. It is important to obtain adequate documentation prior to invoice payment to provide reasonable assurance the costs submitted represent a fair and equitable value for services performed. Incomplete documentation indicates a lack of adequate review. Specifically,

- The "Date Goods/Services Received" field was incorrect on 11 CIT documents. This appears to be a systemic problem in that of the four districts, three

incorrectly used the dates of the LAP agreement as the date that goods/services were received on all CIT's associated with the project. Conversations with David Williams, Central Office Comptroller's Office, verified that the date should be the date that goods/services are received. Using the dates of the LAP agreement indicate that Notices to Proceed were issued after work began.

- There was no documentation of DOT or CEI approval of work on an invoice.
- Federal Participation was not annotated on the CIT.
- A LAP Invoice Transmittal lacked an FDOT Project Manager signature.
- Supporting documentation for one invoice was missing from District files. The local agency provided the documentation to the District for the reviewer's verification.

It is suggested that FDOT should ensure personnel preparing and approving payments are aware of the proper procedures for processing payments to minimize the occurrence of administrative errors. FDOT should continue to closely monitor its invoicing procedures to minimize the occurrence of administrative errors. FDOT should ensure supporting documentation is forwarded from local agencies and reviewed by the appropriate personnel prior to payment of invoice.

***Specific Findings*:** Proper financial and reimbursement processes were not adequately followed. Two contracts were executed using Advance Project Reimbursement agreement which allows local agencies to proceed with construction projects with reimbursement being authorized in a subsequent fiscal year. However, on two occasions, local agencies submitted invoices prior to the authorized fiscal year. These invoices were returned. The District LAP Coordinator indicated that local agencies have difficulty understanding that the State's fiscal year is different from their fiscal year. In addition, a Notice to Proceed was issued prior to the LAP agreement execution. However, the agency was notified of the error and work did not proceed until the agreement was executed and a second Notice to Proceed was executed.

It is recommended that FDOT should continue to closely monitor its reimbursement procedures and return incorrect invoices to local agencies for correction to minimize the occurrence of administrative errors. FDOT should reiterate to local agencies their responsibility to hold invoices until the authorized period as required in the Advance Project Reimbursement Agreement. FDOT should continue to document and maintain any exceptional occurrences. FDOT should continue to document and maintain any exceptional occurrences.

BEST PRACTICES FOR LAP

As part of the general review of LAP state-of-the-practice, activities or processes used by FDOT and local agencies that served to enhance the program were captured as best practices. The best practices identified are presented categorically as follows:

<u>Organizational</u>:

The LAP Coordinator in FDOT Central Office is commended for its proactive approach to addressing issues and implementing improvements to the LAP through weekly communication and frequent meetings with the Districts and FHWA.

The dedication of so many FDOT District 5 and District 7 staff to the program (8 employees closely affiliated with LAP) contributes to the completeness of contract documents and success in administering the program in these two Districts. For example, in District 5 the Environmental Coordinator approves and assigns programmatics and environmental Class of Action documents. The Environmental Administrator then reviews or assigns another FDOT EMO Environmental Scientist to review environmental documents prepared for LAP projects. The LAP project managers from design and construction are involved at this early stage.

Another best practice organizationally is the consistent response and upper-level support of the LAP by District 7 Secretary and Directors.

The organizational structure used by Hillsborough County houses design, construction, and project development all under the same unit, which has the effect of improved efficiency and communication for LAP.

Although the engineering unit at City of Clearwater is small, they have strived to develop an excellent working relationship with FDOT and with consultants through efficient communication when it comes to the LAP.

The City of Ormond Beach assigns a city project manager to every LAP project. Some of the responsibilities of the project managers include evaluating all designs produced for technical proficiency and ordering design revisions; monitoring the number of change orders, engineering errors, and timeliness of permits; and documenting problems during construction phase.

Program Management:
FDOT District 5 has instituted a comprehensive system for program management. Starting with design findings, FDOT asks for an official response back from the local agency on how they resolved issues with design errors. FDOT LAP staff typically follows up via emails, conference calls, or in quarterly meetings with project managers from the local agency. District 5 has noted that local agency attendance at quarterly meetings varies per agency, but generally find them well-attended especially from the counties in District 5. When local agency staff cannot attend the meetings, they will sometimes send project consultants rather than skip entirely. If local agencies have been non-responsive during past LAP projects, its performance is taken into consideration as to whether they can handle future projects. Additionally, FDOT observes the performance of consultants who are working on LAP projects. For example at LAP in-take meetings, the FDOT team considers the local agency's current and future workload, past performance history, and responsiveness to issues that are identified. FDOT will stop projects if an agency isn't responding to issues appropriately and District 5 management supports the threat to pull funding from local agencies, but

this situation has not yet presented itself. In fact, District 5 management proactively stays aware of monitoring activity outcomes through production meetings and lists provided by LAP staff.

FDOT District 7 is in the process of developing a database which contributes to another best practice for the LAP in Florida. The database incorporates data from many aspects of the LAP such as invoices, phase submittals, the LAP agreement, encumbrances, authorization, permits, plan review dates (at 30, 60, 90%), awarded contract dates, and certifications. Both the design and construction phases are entered and retained in the system. The system may also be added as a link to FDOT's LAP website so that local agencies can view the status of their projects in real time. The database system will eventually have built-in form letters that are automatically generated when project expiration dates are impending and will also provide live updates from the invoicing system (captured from Work Program office).

Training to Support LAP:
A best practice in terms of training was found in FDOT District 7. The LAP Administrator has hosted local agencies to the FDOT EEO/DBE workshops starting in May 2005 and continuing through the present time. The training was coordinated with the District's construction compliance section to cover EEO, DBE, Davis-Bacon, Title VI, and even included CEI and Contractors doing some of the presentations. In addition, District 7 has provided training to local agencies on multiple other subjects over the past few years.

Project Management:
FDOT District 7 has an exemplary system in place for tracking the status of the construction phase for LAP projects. The local agency sends a draft invoice to the LAP Administrator for approval. After construction is completed, one of the five FDOT project managers takes the opportunity to look at the project and then alert the LAP Administrator to ask the local agency to submit a real invoice. The construction office keeps a file on each LAP project and they are responsible for signing and approving construction invoices. In fact, a few employees from Construction are assigned to various specific counties, so they can serve as local agency liaisons. In addition, a policy was developed at the District-level to address coordination and inspection of LAP projects.

FDOT District 1 also has devised a project management system that utilizes project tracking sheets. The LAP Project Tracking Sheets are an excellent way to document status and history of a LAP project.

Hillsborough County has worked to perfect a project management system to use for LAP. Quantity items for LAP projects are entered on weekly basis into an ACCESS database, which includes a "line item summary" which is produced in a standardized format. The summary is then previewed and certified by the county's assigned Project Manager.

Project Scoping:
Bay County has implemented a comprehensive system that gathers a great deal of input from the public prior to their defining project scopes for the county road network.

Project File Organization:
Three local agencies have incorporated a system for detailed file organization, which is a best practice for other local agencies to consider. Bay County adopted standardization for LAP construction projects by using FDOT's official form for inspections. In addition, they pre-video each of the LAP project locations and retain a plethora of photos for each project. The City of Lakeland Department of Public Works produces a complete contract file for each LAP project that contains before/after project photos and both as-planned and as-built aerial photos. Collier County keeps very detailed daily inspection reports on standardized documents, along with a complete photolog that chronicles construction at the site from beginning to end of project.

In FDOT Districts 5 and 7, the administrative, financial, and construction files were well-organized and any requested information was readily available.

Quality Assurance:
FDOT District 5 has set up a system for performing a perfunctory level of quality assurance (QA). It starts with construction staff tracking the status of LAP projects via email, phone calls to local agency, and by keeping aware of the expiration date of the LAP agreement. Construction managers inspect every single LAP project in their district. The inspections are on foot (as opposed to windshield inspections) and are ADA intensive. The process works as such: FDOT calls and asks if the local agency is ready to do final walkthrough on a project or local agency engineer will call FDOT to schedule the final inspection. Then the FDOT construction project manager performs the final inspection along with Contractor and local agency. Any punchlist items are identified and once they are completed, FDOT inspects the project once more prior to signing final acceptance. Because of this QA system initiated by District 5 staff, extensions are typically unnecessary for LAP projects.

DeSoto County includes a quality control (QC) plan and verification/assurance procedures for geotechnical testing of materials included in LAP projects in the contract. In Volusia County, county inspectors are trained at FDOT State Materials Office courses for field testing. County project engineers "pop-in" inspect consultant testing labs as per open-access agreements set up as part of the lab contract. They also watch consultant personnel while they are running materials tests in order to review the process.

FDOT District 1 has recognized the importance and complexity of the LAP and is making strides to improve their administration of the program by hiring General Engineering Consultants (GEC) to assist in performing inspections, coordinating environmental and permitting activities, and performing design reviews. In addition, the District 1 Construction Office (in collaboration with LAP Administrators) recently started randomly selecting off-SHS system LAP projects to perform Quality Assurance Reviews

on. This shows the increased effort for oversight of the finished project and they have committed to continue and expand this effort through the addition of the GEC after July 2007.

OVERALL FINDINGS AND RECOMMENDATIONS

The overall findings from the process review are primarily focused on staffing and consistency in the administration and oversight of the LAP.

Finding 1: *The review indicated that without a sufficient level of FDOT staff dedicated to the LAP, increased deficiencies in administering the program can result.* Interviews with both Central Office and District staff revealed that the workload associated with administering LAP is considerably significant for only one or two people. Results from the past and this current process review indicated that a need exists for FDOT to apply consistency in staffing the administration and oversight of the LAP among FDOT District Offices. Likewise, local agencies evaluated were not found to be consistent in the areas of compliance with federal aid contract requirements for LAP projects, pay records, and consultant contracts.

Recommendation 1: *Although the review team is not making a direct recommendation that FDOT must provide additional staff to administer the LAP, this issue needs to be considered when addressing how FDOT should tackle the need for improved consistency in administration and oversight of the program.* Improved oversight might also be achieved through standardizing documents (e.g., boilerplate language for different types of contracts, standard guidance for materials quality assurance for off-SHS projects, standard guidance on use of different specifications on off-SHS projects, etc.), bidding practices, and producing other critical forms (e.g., labor interview forms, payroll certifications, etc.) for local agencies to utilize as part of the LAP program. The FDOT Office of Inspector General 2006-2007 audits also pointed to a need for standardizing documents, bidding practices, and other forms for local agencies to utilize as part of the LAP program. Providing local agencies with certain standardized documentation, guidance, and examples can help to preserve the integrity of the LAP. FDOT should document official department approval of cost effectiveness findings submitted by Local Agencies for use of in-house forces so the actual project cost savings by utilizing force account is documented at FDOT.

Finding 2: *It was observed that not all FDOT districts are providing the same level of quality assurance of the various phases of LAP projects.* The level of local agency oversight of the project development phase is largely thorough and consistently applied for LAP projects. However, in some Districts there are occasions when local road (off-SHS) projects receive no review from either FDOT District Design or Construction staff.

Recommendation 2: *FDOT should establish a consistent and effective quality assurance (QA) process that would be incorporated district-wide.* It is critical that FDOT Construction staff be part of this process, as they are for any routine state-administered projects. FDOT District staff should increase their knowledge of how the local agencies in their districts operate in terms of quality verification and project development. This exercise would lead to a consistent understanding of how to help local agencies develop better QC/QA

techniques and oversight for LAP. Although a couple of districts have incorporated some level of quality assurance (QA) on construction projects, a consistent and effective QA process should be incorporated district-wide. It is critical that District construction office staff be part of this process, as they are for any routine state-administered projects. FHWA also has a responsibility to provide clearer guidance through FDOT to local agencies in terms of expectations for the level of quality assurance for off-SHS (local network) projects.

Finding 3: *Not all FDOT districts are providing periodic inspections or quality assurance reviews of local agency construction activities on off-SHS projects*. FDOT district staff cited limited staff and lack of time as the reason for inconsistent application of construction oversight. At the local agency level, quality control provided during the construction phase of LAP projects focuses primarily on inspection and the majority of locals rely completely on consultants for quality verification. Only two of the 14 local agencies interviewed routinely perform some level of quality assurance on materials being used as part of their projects.

Recommendation 3: *FDOT should consistently document any inspections or quality assurance reviews conducted by engineers during the life of a LAP project.* This applies to both projects on the State Highway System (SHS) and off-SHS. Copies of Local Agency construction contract files should be housed at the LAP Administrators office in the District. FDOT should consistently document "windshield" inspections done by engineers during the life of a LAP project (both SHS and off-SHS) and insert it into the project file, even if it is a simple one-page table format. In addition, any quality assurance reviews done by District Construction Office/LAP project manager/consultant staff should be documented on any off-SHS LAP projects and kept in the project file. Another area of improvement for local agencies relates to the level of quality assurance (QA) checks on LAP projects, particularly for materials sampling and testing. There are simple ways to independently assess the quality of geotechnical consultant labs, such as spot-observing technicians running different tests or requesting the lab manager show the latest calibration records on a particular testing machine.

Finding 4: *FDOT and Local Agencies indicated that a need exists to better educate the local agencies on federal aid requirements*. This idea stems from the demonstrated instances of non-compliance with Buy America, FHWA 1273, Americans with Disabilities Act, or other contract administration issues. Additionally, the local agencies have cited and demonstrated a need to better understand NEPA requirements, especially as they relate to "earmark" projects.

Recommendation 4: *Training on federal aid requirements and the National Environmental Policy Act (NEPA) should be included as part of the local agency certification process* for the local agency Responsible Charge, or their designated consultant if the local agency does not have an engineering unit. One approach may be to have a system which requires the local agency, as part of their LAP agreement with FDOT, to demonstrate that they have participated in the approved-training within the past one to two years. Both local agency and FDOT engineers involved in the LAP should familiarize themselves with basic materials sampling and testing, along with best practices for quality assurance techniques, in order to apply the appropriate level of quality assurance and construction inspection. FHWA should work with FDOT to further revise the State LAP Manual

and make a concerted effort to have the existing Standing Committee become more active in providing direction to the LAP program. It is recommended that the Standing Committee include some representatives from local agencies or to have them serve as an auxiliary advisory group. In addition, FHWA should formulate an approach for LAP Program training of FDOT and local agencies, both as on-site training and web-based training. Topics should include quality assurance, standardized bidding practices/documentation, contract administration requirements for LAP, NEPA process, construction oversight, emergency relief program, recordkeeping, fiscal administration, etc. – all the areas that would be covered in the proposed national LAP manual.

The findings of the billing portion of the review were administrative in nature and have no material effect on FDOT overall performance. Based on this review, FHWA can place a reasonable level of reliance on the State's internal controls, and has determined that local agency billings are accurately and properly reimbursed and are supportable with sufficient documentation. It is believed that implementing the recommendations below will result in more comprehensive procedures and financial management oversight.

Finding 5: *Supporting documents were incomplete or missing from files.* It is important to obtain adequate documentation prior to invoice payment to provide reasonable assurance the costs submitted represent a fair and equitable value for services performed. Incomplete documentation indicates a lack of adequate review.

Recommendation 5: *The FDOT should ensure personnel preparing and approving payments are aware of the proper procedures for processing payments to minimize the occurrence of administrative errors.* Actions include closely monitoring invoicing procedures and ensuring supporting documentation is forwarded by local agencies with payment requests.

Finding 6: *Reimbursement processes were not properly followed.*

Recommendation 6: *FDOT should continue to closely monitor its reimbursement procedures.* Incorrect invoices should be returned to local agencies for correction to minimize the occurrence of administrative errors and reiterate to local agencies their invoicing responsibilities. In addition, FDOT should continue to document and maintain any exceptional occurrences.

Overall Conclusion

FHWA considers issues within the FDOT Local Agency Program to be high risk, especially in the development of construction contract documents and level of quality assurance. Based on the process reviews conducted thus far by FHWA, it appears that there is a need by FDOT and FHWA to add guidance for the LAP program in the arena of construction oversight and materials quality assurance, particularly for local roads (i.e., off-State Highway System routes). The question remains however as to what level and amount of regulations would be feasible and appropriate. The FHWA Florida

Division will continue to monitor the program through the two-phase process review proposed for Fiscal Year 2008.

Staffing of the LAP program has been cited as an area of concern by FDOT district staff, FDOT central office staff, and some local agency representatives. Although the review team did not find anything grossly in error in the administration of the program, there are several areas that require attention but may be difficult to address with the way LAP is currently structured within FDOT.

The findings of this process review have been shared with the National LPA Oversight Coordinator at FHWA Headquarters in Washington, D.C. It is important to note that the findings of this review are consistent with those reported from the national LAP review conducted in 2006.

The review team appreciates the excellent cooperation of all the FDOT staff in providing organized files, dedicating significant time to interviews and interfacing with the team, and for organizing meetings between FHWA and several local agencies. The team also recognizes the assistance of the FDOT OIG in helping to set up site visit dates, assisting in generating review documents, and other details. FHWA looks forward to continuing to strengthen the relationship between FDOT and FHWA Florida Division by joining together in exercises such as this review which seek to improve the process of delivering safe and efficient transportation to the traveling public.

APPENDIX A

LAP Projects Selected For File Review Sample

District 1 Projects – 2 Force Account projects

FDOT PROJECT #	ROUTE	WORK	PROJECT COST	On SHS/Off SHS.
195416-3	SR 84	resurfacing	$138,556	**on**
404360-1	Collier	pave shoulders	$569,035	off (Collier County)
408091-1	Hendry Cnty	sidewalk	$300,000	**on**
410270-1	CR 92A (Goodland Dr)	bike lane/trail	$97,500	off (City of Marco Island)
411767-1	Burnt Store Rd	pave shoulders	$500,000	off (Charlotte County)
411775-1	Polk Cntywide	sidewalk	$65,000	off (City of Lakeland)
Additional project for File Review only:				
415545-1	Pathways at various locations	Bike Path	$437,500	off (Collier County)
198507-1	Turner Av - Roan St to SR 70	Bike Path	$89,864	off (DeSoto County)

District 3 Projects – No Force Account project

FDOT PROJECT #	ROUTE	WORK	PROJECT COST	On SHS/Off SHS.
412679-1	City of Freeport – Phs1	sidewalks	$203,509	**on**
412679-2	City of Freeport – Phs2	sidewalks	$238,524	**on**
408051-1	City of Parker	sidewalks	$532,791	off (City of Parker)
412678-1	Langley Ave	sidewalks	$541,968	off (City of Pensacola)
419245-1	CR-390 at Transmitter	pavement	$617,500	off (Bay County)

District 5 Projects – No Force Account project

FDOT PROJECT #	ROUTE	WORK	PROJECT COST	On SHS/Off SHS.
415469-1	Volusia County	pave shoulders	$711,399	off (Volusia County)
242183-1	Volusia County	instltn box culvert brdg	$563,000	off (Volusia County)
241001-2	City of Daytona	landscaping	$1,712,322	**on**
407160-1	Seminole County	resurfacing	$1,173,888	**on**
416980-1	City of Ormond	sidewalks	$157,500	off (City of Ormond Beach)

District 7 Projects – No Force Account project

FDOT PROJECT #	ROUTE	WORK	PROJECT COST	On SHS/Off SHS
255844-1	Tampa Water Dept	add lanes/reconstruct	$7,580,534	**on**
257809-5	City of Tampa – 40th St	reconstruction	$5,066,945	off (City of Tampa)
406539-1	City of Clearwater	bike path/trail	$3,395,787	off (City of Clearwater)
408214-1	Hillsborough County	access improvement	$348,744	off (Hillsborough County)
411457-1	Pinellas Park	drainage improvement	$11,448,300	**on** (City of Pinellas Park)
Additional project for File Review only:				
413045-1	Belleair Causeway CR183	bridge reconstruction	$33,728,000	off (Pinellas County)

APPENDIX B

FDOT Office of Inspector General
Report 07P-0002 Summary of Audit Findings

Stephanie C. Kopelousos
Secretary

Office of Inspector General

Cecil Bragg
Inspector General

September 17, 2007

Advisory Memorandum 07P-0002
Local Agency Program (LAP)

EXECUTIVE SUMMARY

The Office of the Inspector General (OIG), in conjunction with the Federal Highway Administration (FHWA), completed a review of the Local Agency Program (LAP). The FHWA focused on compliance with engineering and financial federal-aid requirements. The OIG review focused on the status of several concerns identified in a 2005 FHWA letter regarding LAP compliance and program administration activities. Also, we identified best practices in nine states and conducted a web-based survey of local agencies within Florida to identify opportunities for improvement.

Our review found the Department of Transportation (department) has strengthened overall LAP project administration and continues to make progress in addressing FHWA concerns. The State LAP Administrator initiated improvements including: 1) developing project compliance checklists of federal and state requirements, 2) updating the LAP manual in January 2007, and 3) sponsoring a LAP User Conference in February 2007. Planned improvements include developing a LAP Construction Oversight Plan and web-based training modules for LAP administration processes.

We identified two areas of non-compliance; checklist approval and quality assurance reviews. Although completed and approved checklists suggest compliance with federal-aid requirements, there was not sufficient documentation to support such compliance for several federal requirements. Checklist approval and certification is an important control function since the department's Federal-aid Management Office relies on the accuracy of these checklists to secure federal funding. Also, quality assurance reviews were not conducted as required by the LAP Manual.

To address these concerns, we made recommendations to help ensure program compliance and improve both efficiency and effectiveness. In addition, we identified best practices to strengthen overall LAP administrative activities. These include: 1) standardization of LAP contracts, agreements, and other related documents to improve the level of compliance with federal and state requirements; 2) standardization of project file contents, organization, and maintenance to support such compliance; 3) implementation and monitoring of long-range strategic planning to provide improved LAP administration activities; and 4) development and delivery of consistent and routine LAP training.

INTRODUCTION

Over a five-year period (2006-2010), the department expects to receive over $1 billion in federal-aid for LAP projects. These federal funds are used by local governmental agencies to improve mobility and safety, reduce congestion, and enhance and preserve existing infrastructure. While the department provides stewardship and oversight of these federal funds, it is also responsible for overseeing local agency compliance with state and federal requirements for LAP projects. Through 2010, a total of 832 LAP projects are included in the department's work program.

In July 2005, the FHWA sent a letter to the department identifying several concerns regarding the financial accountability of LAP projects. FHWA findings included: 1) contracts did not incorporate basic federal-aid requirements; 2) some contracts were not available in district offices; 3) plan and specification packages on State Highway System LAP projects were not approved; and 4) local agencies often used local agency specifications or a combination of local and department specifications without approval. In addition, FHWA required immediate implementation of the quality assurance process required in the LAP Manual to verify local agencies are following the requirements.

RESULTS OF REVIEW

As part of our assessment, we reviewed LAP project files in each of the seven district offices, identified best practices used in nine other states, and conducted a web-based survey of local agencies in Florida to determine whether current LAP administrative processes could be improved. Overall, the department has strengthened LAP project administration and continues to make progress in addressing FHWA concerns.

Our review results cover three areas; oversight, communication and training. We made recommendations for improvement in each of these areas.

Oversight

Several improvements were developed by the State LAP Administrator which could strengthen overall LAP project administration. For example, in 2005, Administrative and Construction Checklists were created to improve compliance with federal and state requirements. A LAP Construction Oversight Plan is currently under review and a LAP Strategic Plan and Process Review Work Plan were created but not yet implemented.

At the district level, we found: 1) all project files we reviewed contained a checklist approved by the District and State LAP Administrators; 2) district offices were documenting the use of department and/or local agency specifications as required for all but one project; and 3) executed contracts were readily available in all but one district.

We also identified several district-specific best practices which improve LAP project administration activities. For example: 1) three districts used project tracking software

or spreadsheets for project monitoring; 2) files in two districts were well-organized and maintained; and 3) one district had written internal procedures detailing the LAP process.

The checklists certify compliance with state and federal-aid requirements and must be accurate. Documentation supporting these checklists was adequate for a majority of items reviewed. However, we found instances of insufficient documentation relating to Davis-Bacon wage rates, FHWA Form 1273 requirements, and Disadvantaged Business Enterprise (DBE) provisions. The districts' approval and State LAP Administrator's certification of checklists assure FHWA the department is in full compliance with federal-aid requirements. Since the department relies upon checklists to secure authorization of federal funds, it is essential that sufficient evidence be documented to support the district's approval and State LAP Administrator's certification of full compliance with state and federal requirements.

The LAP Manual contains procedures for Quality Assurance (QA) reviews. These reviews help determine if the local agency has the processes in place to comply with federal and state requirements. While the State and District LAP Administrators perform some QA activities, quality assurance reviews were not conducted in accordance with LAP manual procedures.

The State LAP Administrator developed a Local Agency Program Strategic Plan in January 2005. The plan identifies strategic goals and objectives and contains an action plan but does not contain implementation dates, scheduled activities, status information, or benchmarks.

To improve the department's oversight of LAP and certification of compliance to the FHWA, we recommend:

The District LAP Administrator indicate approval of checklist items only when compliance is supported by appropriate documentation received from the local agency. Also, we recommend the State LAP Administrator implement procedures which assure checklist accuracy prior to certification.

The State LAP Administrator create standardized LAP forms, such as bid specification packages and contract documents. Use of standardized documents will help ensure consistency and improve local agency compliance with state and federal requirements.

The District LAP Administrator conduct QA reviews in accordance with the LAP Manual. Also, we recommend the State LAP Administrator develop and implement quality assurance procedures for periodic review of the districts' LAP oversight process.

The State LAP Administrator develop a standard format for organizing documentation in LAP files. A well-documented LAP file is essential for effective monitoring of LAP projects. At a minimum, LAP files should include the LAP Agreement, construction

contract, documents supporting compliance with state and federal requirements, and project status.

The State LAP Administrator involve district and local agency representatives in the revision, implementation, and monitoring of the LAP long-range strategic plan.

Communication

Through coordinated efforts of district staff and the State LAP Administrator, the levels of communication have improved over the past two years. The department's Project Management Office maintains a website which includes the LAP homepage. The State LAP Administrator is responsible for providing program information and updates to this website. Also, an electronic LAP news update communicates general program information to local agencies.

District staff have frequent contact with local agencies by electronic mail and telephone and several districts conduct status meetings on a bi-monthly or quarterly basis. One district distributes a quarterly newsletter to local agencies, detailing information from experts regarding right-of-way, environment, and other pertinent issues. Our web-based survey of local agencies indicated approximately eighty-four percent of respondents are satisfied with the communication and assistance received from district staff. However, our survey also revealed infrequent use of the LAP website indicating marginal benefit.

In addition, in February 2007, the State LAP Administrator coordinated the department's first LAP User Conference which provided information relating to LAP administration activities. Over 400 individuals, representing 75 local agencies, department staff, and private sector employees attended the conference.

The State and District LAP Administrators work closely with local governmental agencies. However, our best practices survey indicates other states also focus on establishing relationships with professional organizations such as the County and State Boards of Engineers.

To help improve the current levels of communication we recommend:

The State LAP Administrator assess website contents and benchmark against other state LAP websites. To assist the State LAP Administrator, we have provided information about other state websites under separate cover. Once the website is updated, the State LAP Administrator should encourage local agency and district staff use.

The State and District LAP Administrators increase interaction with local government and professional organizations, including County and State Boards of Engineers to encourage exchange of LAP-related information.

Training

The State LAP Administrator developed a LAP Manual in 2005. This manual provides guidance to local agencies and district staff regarding LAP policies and procedures. The State LAP Administrator and district staff reviewed and finalized updates to the manual in January 2007.

Over the past two years, the State LAP Administrator and district staff provided periodic training on topics included in the LAP Manual. These topics included the LAP Agreement, and the use of Abbreviated, Administrative and Construction Checklists. Central Office staff are developing web-based LAP training modules for local agency and district office use.

Four of the districts provided local agency training on topics such as Right-of-way, checklists, environmental issues, and the LAP Manual. During our review, district staff stated additional LAP training was needed for both local agencies and district staff, including Equal Employment Opportunity, DBE, invoice processing and project tracking information.

To help improve the compliance with and understanding of state and federal LAP requirements, we recommend:

The State LAP Administrator, in coordination with district LAP staff, conduct a training needs assessment with local agencies to identify training topics, develop consistent curriculum and provide routine LAP training.

ATTACHMENT 1 - Purpose, Scope, and Methodology

The **purpose** of this engagement was to assess the status of previous FHWA concerns and identify LAP practices and processes in other states which may strengthen LAP operational activities.

The **scope** of this engagement included a review of LAP files in the department's seven districts. The Turnpike Enterprise was not included since it does not participate in LAP.

Our **methodology** included the following:

- Reviewing applicable federal, state, and department laws, rules, and regulations;
- Interviewing the State and District LAP Administrators and selected staff;
- Sampling of active contract files to determine the adequacy of documentation and the extent of compliance with federal and state requirements;
- Interviewing LAP Administrators in other states to identify best practices; and
- Surveying local agencies to identify concerns or issues related to current LAP operations and any opportunities for improvement.

ATTACHMENT 2 - Engagement Team and Statement of Accordance

Engagement Team

Daniel Hixson, Staff Auditor
Myndi Smith, Staff Auditor
John Boone, Staff Auditor
Marnie Parry, CPA, Performance Audit Manager
Kristofer Sullivan, CIA, CISA, Information Technology Audit Manager
Carlos Mistry, CIA, CFE, Public Transportation and Utilities Manager
Joseph Maleszewski, CIA, CISA, Audit Director

Statement of Accordance

Sections 20.23 and 20.055, Florida Statutes, require the department's OIG to review, evaluate and report on policies, plans, procedures, accounting, financial and other operations of the Department and to recommend improvements.

This advisory service was conducted in accordance with applicable International Standards for the Professional Practice of Internal Auditing published by the Institute of Internal Auditors and Principles and Standards for Inspectors General published by the Association of Inspectors General.

ATTACHMENT 3 - Addressee and Distribution List

Lora Hollingsworth, Director, Office of Design
Dennis Filloon, State LAP Administrator

Copies Distributed to:

Stephanie C. Kopelousos, Secretary
Lowell Clary, Assistant Secretary for Finance and Administration
Kevin Thibault, Assistant Secretary for Engineering and Operations
Vacant, Assistant Secretary for Intermodal Systems Development
Attention: Cecile Del Moral
Ananth Prasad, Chief Engineer
David C. Gibbs, Division Administrator, FHWA
Lori S. Byrd, Office of Finance and Administration Director, FHWA
J. Chris Richter, Office of Engineering and Operations Manager, FHWA
Stephanie Gleason, Financial Manager, FHWA
Leslie McCarthy, Program Operations Engineer, FHWA

Stan Cann, District One Secretary
Carol Finn, Director, District One Transportation Support
Ed McKinney, District One Procurement Administrator
Michelle Peronto, District One LAP and Special Programs Coordinator
Charles Baldwin, District Two Secretary
Larry Parks, Director, District Two Transportation Support
Katrina Sadler, District Two LAP Coordinator
Jordan Green, District Two Public Transportation Manager
Larry Kelley, District Three Secretary
Tommy Barfield, Director, District Three Transportation Development
Keith Shores, District Three LAP Coordinator
James Wolf, District Four Secretary
Gerry O'Reilly, Director, District Four Transportation Development
Barbara Handrahan, District Four LAP Administrator
Noranne Downs, District Five Secretary
George Lovett, Director, District Five Production
Daniel McDermott, Senior Attorney, District Five
Tom Moscoso, District Five LAP Coordinator
John Martinez, District Six Secretary
Alice Bravo, District Six, Director of Transportation Development
Danny Iglesias, District Six LAP Coordinator
Donald Skelton, District Seven Secretary
Scott W. Collister, District Seven, Director of Transportation Development
Lawrence Taylor, District Seven JPA/LAP Administrator

APPENDIX C

LAP Process Review Checklist

General Questions
Reviewed By:
Date:
Contract Amount:
Federal-aid Project Number:
County:
Route:
State FM Number:
FDOT District:
Project Contract Reviewed during Phase I process review? Y/N:
Project on a Federal-aid Highway? Y/N:
Number of LAP projects that are in the construction phase:
Number of LAP projects (regardless of particular phase):
Project on National Highway System (NHS)? Y/N:
Project on Strategic Intermodal System (SIS) or State Highway System (SHS)? Y/N:
Project Description:
Was any of the construction phase work performed by Force Account? By whom? What type of work?:
Was a joint project agreement (JPA) between FDOT and local agency used? Y/N:

Local Agency:
Local Agency Certified? Y/N
Local Agency Certification Date:
Earmark for this Project? Y/N:
Status of Construction Phase (percentage complete time & money):
LAP Construction Checklist submitted for this project? Y/N:
Date of approved LAP construction checklist:
Construction Specs, Procedures, etc. agreed to:
FDOT Specifications? Y/N: If yes – which year:
Method of Construction (e.g., design-build, lump sum, alternative contract, etc.):
Who prepares and signs the FHWA-47 form for materials and labor?

Construction Inspections
Has project been inspected? Y/N:
Who has conducted inspections [check all that apply]? Local agency, FDOT, district-wide consultant, FDOT district engineering staff, independent consultant, FHWA:
Qualifications of Inspector:
How often is project inspected? None, weekly, monthly, quarterly, other:
Inspection reports available? Y/N:
Where are inspection reports stored?
Process implemented for FDOT final inspection of LAP project? Y/N:
Is final inspection/final acceptance performed? Y/N:
Who performs the final inspection/acceptance?
FDOT final acceptance date:
Was project built in compliance with American Disability Act (ADA) requirements, if applicable? Y/N:

Program-level Materials QC/QA

Number of LAP projects with local agency personnel/FDOT performing verification sampling and testing:
Number of LAP projects where consultant personnel are performing verification sampling and testing? Project-specific, annual, on-call: what type of CEI contract?:
Number of LAP projects where contractor personnel are performing QC sampling and testing and local agency/FDOT personnel are performing verification sampling & testing:
Number of qualified local agency/FDOT technicians performing testing on LAP projects:
Number of qualified Consultant technicians performing testing on LAP projects:
Number of qualified Contractor technicians performing testing on LAP projects:
Number of local agency/FDOT temporary & new-hires performing testing on LAP projects:
Number of Consultant temporary & new hires performing testing on LAP projects:
Number of Contractor temporary & new hires performing testing on LAP projects:
Independent Assurance reviews conducted on local agency/FDOT personnel? Y/N:
Independent Assurance reviews conducted on Consultant personnel? Y/N:
Independent Assurance reviews conducted on Contractor personnel? Y/N:
Local agency certifies that all laboratory equipment used in the testing of materials has been calibrated? Y/N:
Expiry date for Materials Testing Technician certification? Y/N: If so, how many years:
FDOT materials certification testing? Y/N:

Project-level Materials QC/QA
Did local agency personnel/FDOT perform verification sampling and testing on this project? Y/N:
Did consultant personnel perform verification sampling and testing? Y/N Project-specific, annual, on-call: what type of CEI contract?:
Did contractor personnel perform QC sampling and testing and local agency/FDOT personnel are performing verification sampling & testing for this project? Y/N:
Did qualified local agency/FDOT technicians perform testing on this project? Y/N:
Did qualified Consultant technicians perform testing on this project? Y/N:
Did qualified Contractor technicians perform testing on this project? Y/N:
Was an Independent Assurance reviews conducted on this project? Y/N If so, was it by local agency, FDOT, consultant, or Contractor personnel?:
Were temporary & new-hires performing testing on this project? Y/N: If so, were they local agency, FDOT, consultant, or Contractor personnel?:
Was certified calibrated laboratory equipment used in the testing of materials for this project? Y/N/NA:
FDOT materials certification testing was done for materials used in this project? Y/N/NA:

Federal aid Contract Requirements

Contract awarded based on responsive low bid in accordance with 23 CFR 635 or based on FHWA approved alternative contracting method under SEP-14? Y/N:
Davis-Bacon Wage Rates paid by contractor and subcontractors or restitution made to achieve compliance? Y/N/NA:
Steel and iron products permanently incorporated into project in compliance with Buy America requirements? Y/N (applies to all federal-aid construction projects):
FHWA 1273 in contract or if not, did contractor happen to comply with all applicable FHWA 1273 requirements? Y/N:
All Patented/proprietary products approved by FHWA or FDOT with a public interest finding? Y/N/NA:
All owner force account work approved by FHWA or FDOT with a cost effectiveness/public interest finding? Y/N/NA:
Provision for conditions under which a change order is allowed included in bid document? Y/N:
Provision of procedures outlining the conditions under which a claim is allowed included in bid document? Y/N:
Approval letter obtained from FHWA for DBE program plan and DBE availability goal/special provisions included in bid document? Y/N:
Provision of contract language to prohibit use of convict-produced materials and labor included in bid document? Y/N:
FDOT reviewed local agency procedures for compliance with plans and specifications? Y/N:
Full time local agency employee in responsible charge of the project? Y/N:

<u>Project-level QA</u>
Subcontract utilized for this project? Y/N:
Subcontract approved by FDOT? Y/N:
LAP administrative checklist submitted for this project? Y/N:
Date of approved LAP administrative checklist:
LAP abbreviated checklist submitted for this project? Y/N:
Date of approved LAP abbreviated checklist:

<u>Pay Documentation</u>
Pay Documents? Y/N
Describe process for validation of payment quantities:
How often are pay quantities documented? Daily, weekly, monthly, quarterly, annually, other: