

(i) Pro rata, with the authorization stating the Federal share as a specified percentage, or

(ii) Lump sum, with the authorization stating that Federal funds are limited to a specified dollar amount not to exceed the legal pro rata.

(2) The pro-rata or lump sum share may be adjusted before or shortly after contract award to reflect any substantive change in the bids received as compared to the SHA's estimated cost of the project at the time of FHWA authorization, provided that Federal funds are available.

(3) Federal participation is limited to the agreed Federal share of eligible costs incurred by the State, not to exceed the maximum permitted by enabling legislation.

(g) The State may contribute more than the normal non-Federal share of title 23, U.S.C., projects. In general, financing proposals that result in only minimal amounts of Federal funds in projects should be avoided unless they are based on sound project management decisions.

[61 FR 35632, July 8, 1996, as amended at 64 FR 71289, Dec. 21, 1999]

Subpart B—Plans, Specifications, and Estimates

SOURCE: 43 FR 58564, Dec. 15, 1978, unless otherwise noted.

§ 630.201 Purpose.

The purpose of this subpart is to prescribe Federal Highway Administration (FHWA) procedures relating to the preparation, submission, and approval of plans, specifications and estimates (PS&E), and supporting documents for Federal-aid projects.

§ 630.203 Applicability.

The provisions of this regulation apply to all highway construction projects financed in whole or in part with Federal-aid highway funds and to be undertaken by a State or political subdivision, except for projects carried out pursuant to 23 U.S.C. 117 relative to certification acceptance or a secondary road plan.

§ 630.205 Preparation, submission, and approval.

(a) The contents and number of copies of the PS&E assembly shall be determined by the FHWA.

(b) Plans and specifications shall describe the location and design features and the construction requirements in sufficient detail to facilitate the construction, the contract control and the estimation of construction costs of the project. The estimate shall reflect the anticipated cost of the project in sufficient detail to provide an initial prediction of the financial obligations to be incurred by the State and FHWA and to permit an effective review and comparison of the bids received.

(c) PS&E assemblies for Federal-aid highway projects shall be submitted to the FHWA for approval.

(d) The State highway agency (SHA) shall be advised of approval of the PS&E by the FHWA.

(e) No project or part thereof for actual construction shall be advertised for contract nor work commenced by force account until the PS&E has been approved by the FHWA and the SHA has been so notified.

Subpart C—Project Agreements

SOURCE: 62 FR 6872, Feb. 14, 1997, unless otherwise noted.

§ 630.301 Purpose.

The purpose of this subpart is to prescribe the procedures for the execution of the project agreement required by 23 U.S.C. 110(a) for Federal-aid projects, except for forest highway projects pursuant to 23 U.S.C. 204, and for non-highway public mass transit projects administered by the Federal Transit Administration.

§ 630.303 Preparation of agreement.

(a) The State highway agency (SHA) shall prepare a project agreement for each Federal-aid highway and FHWA planning and research project eligible for Federal-aid funding.

(b) The SHA may develop the project agreement in a format acceptable to both the SHA and the FHWA provided the following are included:

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(1) A description of the project location including State and project termini;

(2) The Federal-aid project number;

(3) The phases of work covered by the agreement along with the effective date of authorization for each phase;

(4) The total project cost and amount of Federal funds under agreement;

(5) A statement that the State accepts and will comply with the agreement provisions set forth in 23 CFR 630.307;

(6) A statement that the State stipulates that its signature on the project agreement constitutes the making of the certifications set forth in 23 CFR 630.307; and

(7) Signatures of officials from both the State and the FHWA and date executed.

(c) The project agreement may be combined with the project authorization required under 23 CFR part 630, subpart A.

(d) The SHA may use an electronic version of the agreement as provided by the FHWA.

(Approved by the Office of Management and Budget under control number 2125-0529)

§ 630.305 Modification of original agreement.

(a) When changes are needed to the original project agreement, a modification of agreement shall be prepared.

(b) The SHA may develop the modification of project agreement in a format acceptable to both the SHA and the FHWA provided the following are included:

(1) The Federal-aid project number and State;

(2) A sequential number identifying the modification;

(3) A reference to the date of the original project agreement to be modified;

(4) The original total project cost and the original amount of Federal funds under agreement;

(5) The revised total project cost and the revised amount of Federal funds under agreement;

(6) The reason for the modifications; and,

(7) Signatures of officials from both the State and the FHWA and date executed.

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(c) The SHA may use an electronic version of the modification of project agreement as provided by the FHWA.

§ 630.307 Agreement provisions.

(a) The State, through its highway agency, accepts and agrees to comply with the applicable terms and conditions set forth in title 23, United States Code, Highways, the regulations issued pursuant thereto, the policies and procedures promulgated by the FHWA relative to the designated project in which the FHWA authorized certain work to proceed, and all other applicable Federal laws and regulations.

(b) Federal funds obligated for the project must not exceed the amount agreed to on the project agreement, the balance of the estimated total cost being an obligation of the State. Such obligation of Federal funds extends only to project costs incurred by the State after the FHWA authorization to proceed with the project involving such costs.

(c) The State must stipulate that as a condition to payment of the Federal funds obligated, it accepts and will comply with the following applicable provisions:

(1) *Project for acquisition of rights-of-way.* In the event that actual construction of a road on this right-of-way is not undertaken by the close of the twentieth fiscal year following the fiscal year in which the project is authorized, the SHA will repay to the FHWA the sum or sums of Federal funds paid to the highway agency under the terms of the agreement.

(2) *Preliminary engineering project.* In the event that right-of-way acquisition for, or actual construction of, the road for which this preliminary engineering is undertaken is not started by the close of the tenth fiscal year following the fiscal year in which the project is authorized, the SHA will repay to the FHWA the sum or sums of Federal funds paid to the highway agency under the terms of the agreement.

(3) *Drug-free workplace certification.* By signing the project agreement, the SHA agrees to provide a drug-free workplace as required by 49 CFR part 29, subpart F. In signing the project agreement, the State is providing the certification required in appendix C to