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NYSDOT

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**Chapter 15 - Administer Construction Contracts**  
**Internal Procedures for Locally Administered Federal Aid Projects**

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# CHAPTER 15

  

# ADMINISTER CONSTRUCTION CONTRACTS



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**Internal Procedures for Locally Administered Federal Aid Projects**

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## **Chapter 15 - Administer Construction Contracts**

### **Internal Procedures for Locally Administered Federal Aid Projects**

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#### **15.1 INTRODUCTION**

This chapter provides guidance for the Department's involvement in the construction administration of Federally-aided locally let projects. As the representative for FHWA, the Department is responsible for verifying the Local Contract is constructed according to all Federal Requirements.

#### **15.2 CONSTRUCTION SUPERVISION**

##### **15.2.1 Pre-Construction Phase**

- ! The Region's Local Project Group assigns a Regional Local Project Liaison(RLPL) to the Locally Let Project. This person may be a Construction Supervisor, an Engineer-in-Charge, or someone from the Regional Local Planning Group. This choice is dependent on Regional Policy, previous experience with the locality, size of contract, time available, and experience of the locality with this contract type. This person should be the single point of contact for the Sponsor. This assignment should be made early in the concept of the contract to allow the RLPL to become familiar with the contract and to help resolve issues before the construction phase begins. The RLPL will be responsible for site visits and review of contract documents, such as change orders. The RLPL will also keep the Regional Local Project Group informed of the construction progress.
- ! The RLPL reviews the Sponsor's Management Plan (See Chapter 12), and other related documents. The RLPL must understand the scope of the involvement and commitments of the Department. Discrepancies must be resolved before the State/Local Agreement is finalized.

##### **15.2.2 Construction Phase**

###### **15.2.2.1 Pre-Construction Conference**

The RLPL may attend. This is dependent on Regional Policy, the scope of the contract and the Sponsor's experience. Purpose of attendance is to:

- Assure management plan is being carried out.
- Get idea of schedule so DOT can plan future visits i.e., if the Materials Bureau will need to be involved or critical portions may need more or some supervision, etc.
- Meet Contractor and inspection staff
- Describe RLPL's role of spot checking, verifying compliance and guidance on a limited basis.
- Provide guidance to the Sponsor, Inspector and Contractor regarding Federal Requirements

###### **15.2.2.2 Inspection**

The Department is required to provide assurance to FHWA that the Sponsor constructed the contract in accordance with Federal requirements. This does not mean the Department should staff the contract like a Department contract. The Sponsor is the responsible party, while the Department is responsible for a quality assurance role.



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The level of involvement by the Department for inspection should be proportioned to the size and scope of the contract. The sponsor's experience will also have an impact on the level of inspection. As a rule, FHWA expects the Department to provide more oversight for contracts on the National Highway System (NHS). Additionally, the Department recommends contracts on the State Highway System, and complex contracts off the NHS receive a higher level of involvement than the traditional local contract.

Generally, if the contract only involves the installation of some park benches or a bike path, a single inspection may be all that is necessary. If the contract is on the NHS, the State Highway System or a complex contract or a detailed reconstruction contract off the NHS several site visits may be necessary to verify the contract is being constructed in accordance with the State/Local Agreement. It should be noted again that site visits for Local let contracts do not require the same level of detail that is required for inspection of Department contracts. Factors such as previous experience with the contractor, an orderly office, or availability of documents can provide some insight concerning how much time should be expended for a site visit.

The Department is required to:

- Confirm construction is what we expected and approved per agreement. (The work that has been completed is eligible for Federal-aid.)
- Confirm the required contract provisions are included. (Wage rates, changed condition clauses, Buy America, etc.) These are the same provisions the Department must follow for federal-aid work.
- Observe level of quality of inspection and administration
- Verify basic compliance with specs used (safety, quality of work)
- Review record keeping procedures (quantity documentation, payments in accordance with contract, receipt of materials certifications, payrolls, EEO forms (Ch 13), etc.).
- Document number and level of sponsor or consultant staff.

A Site Visit Check List is provided at the end of the chapter as a guideline for inspections. It is not anticipated the entire form will be filled out and is to be used as a guide when completing an inspection. Please note, the inspection documentation compiled by the RLPL is documentation the Federal Reimbursement was spent appropriately.

#### **15.2.2.2.1 Non-Conformance in the Field**



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- Actions taken should be appropriate to level of problem. Minor issues should be resolved immediately at the site with the cooperation of the Resident Engineer. Example: inadequate measurement for payment purposes, inadequate amount of inspection.
- Serious problems should immediately be brought to the attention of the sponsor. Example: (imminent hazard to life, non-conformance to controlling contract dimension, serious material deficiency).
- Repeated problems should be documented and addressed with the Sponsor.
- Non-conformance issues that are not satisfactorily resolved may justify the withholding or forfeiture of Federal Aid. Issues of this magnitude should involve the Regional Director, the Sponsor, and Construction Division.

#### **15.2.2.2 Disputes (Contractor vs. Sponsor)**

The RLPL is not responsible for resolution of disputes between the Sponsor and the contractor. The RLPL should provide guidance to the Sponsor (i.e. interpretation of the required changed condition clauses) and must approve settlements containing change orders when required by the change order review criteria. All disputes must be settled before contract closeout to allow a means to provide payment if necessary. If the dispute is still unresolved, the contract may be closed out, and the issue can be submitted to the Court with appropriate jurisdiction.

### **15.3 CONTRACT DOCUMENTATION**

#### **15.3.1 Change Orders** (Except NYCDOT where special procedures apply.)

All change orders are to be reviewed by the RLPL regardless whether the project is on the NHS, prior to the start of work. This assures change orders requiring the RLPL's approval are processed correctly.

All change orders must be consistent with the approved agreement, so as to avoid conflicts with previous permit approvals. Please note environmental issues are very sensitive.

#### **15.3.2 Time Extensions**

All time extensions are to be reviewed by the RLPL to be sure the extension does not conflict with the State/Local Agreement. Approval by the RLPL is only required for time extensions that extend into another construction season or impact the traveling public. A Supplemental Agreement must be processed if the extension conflicts with the original agreement.

#### **15.3.3 Subcontractor Approvals**

The sponsor is not required to provide the RLPL with a special certification to state they have verified eligibility. The sponsor is only required to provide assurance that the subcontractor's eligibility has been verified. This may be a note, memo, e-mail, etc.



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In general, the RLPL may want to verify the eligibility of the subcontractor (Chapter 14). Additionally, the RLPL should be prepared to assist the sponsor until they become familiar with this process.

#### **15.3.4 Uncompleted Work Agreements**

The decision to execute an uncompleted work agreement rests with the Sponsor. However, the RLPL should be notified of uncompleted work, to review for conformance to contract provisions, and assure sufficient money is withheld to assure completion of the work. The Sponsor may close-out their contract with the Contractor, but the State/Local Agreement must be kept open until all work is complete.

### **15.4 CONSTRUCTION CONTRACT CLOSEOUT**

#### **15.4.1 Final Inspection**

Final Inspection must be done by the Sponsor. For **Projects (or Segments) on the State Highway System or NHS** it is anticipated the RLPL will participate. For **Projects (or Segments) off the State Highway System or NHS**, the RLPL may participate depending on contract type, size, frequency and timeliness of previous visits, etc. If the RLPL does not participate in the Final Inspection, the RLPL is still responsible to perform a site visit to confirm the scope of the work matches the work performed.

#### **15.4.2 Final Acceptance**

The Final Acceptance procedure for a Local Contract does not require the same process as accepting a Department Contract. The final acceptance process consists of the Sponsor gathering all of the required documents identified in Chapter 17 **Sponsor's Responsibilities for Project Close-out** and transmitting the package to the RLPL. The RLPL then completes the tasks under **RLPL Close-out Responsibilities**.

#### **15.4.3 Closeout of State/Local Agreement**

Chapter 17 outlines the close-out process for the State/Local Agreement.

## LOCALLY ADMINISTERED FEDERAL AID PROJECT SITE VISIT CHECKLIST

<b><u>PROJECT</u></b>	<b><u>SCHEDULE</u></b>
Date: _____	Start Date: _____
Contract _____	Completion Date: _____
Number: _____	% Complete: _____
PIN: _____	% Time Elapsed: _____
Project Name: _____	Time Related _____
Region & _____	Provisions: _____
County: _____	Approved Schedule: _____
Inspection By: _____	Schedule Updates: _____
Contractor: _____	
EIC: _____	

<b><u>SAFETY</u></b> Approved Job Specific Safety Plan: <input type="checkbox"/> Tail Gate Meetings: <input type="checkbox"/> Dig Safely NY/Locator Used: <input type="checkbox"/> Underground Utilities: <input type="checkbox"/> Overhead Utilities: <input type="checkbox"/> Trenching Protection: <input type="checkbox"/> Fall Protection: <input type="checkbox"/> M&PT: <input type="checkbox"/> Project Signing: <input type="checkbox"/> Spotters: <input type="checkbox"/>	
<b><u>APPROVALS</u></b> Shop Drawings: <input type="checkbox"/> Lifting Plan: <input type="checkbox"/> Demo Plan: <input type="checkbox"/> Erection Plan: <input type="checkbox"/> Pre Pave Meeting: <input type="checkbox"/> Erosion Control Plan: <input type="checkbox"/> Pre Blast Meeting: <input type="checkbox"/> Welding Procedures: <input type="checkbox"/> Subcontractors: <input type="checkbox"/>	
<b><u>PAYMENTS</u></b> Advance Authorization of work: <input type="checkbox"/> Timely OOC: <input type="checkbox"/> Prompt Progress Payments: <input type="checkbox"/>	

<p><b><u>PROJECT RECORDS</u></b></p> <p>Diary: <input type="checkbox"/></p> <p>IR's: <input type="checkbox"/></p> <p>Materials Acceptance</p> <p>Records: <input type="checkbox"/></p> <p>Payrolls/Wage Rates: <input type="checkbox"/></p>	<hr/> <hr/> <hr/> <hr/> <hr/>
<p><b><u>INSPECTION CONCERNS</u></b></p> <p>Adequate Number of Inspectors: <input type="checkbox"/></p> <p>Inspectors Adequately Trained: <input type="checkbox"/></p> <p>Frequency of Inspections by EIC: <input type="checkbox"/></p> <p>Coordination of Work w/Contractor: <input type="checkbox"/></p> <p>Progress Meetings: <input type="checkbox"/></p>	<hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/>
<p><b><u>DESIGN ISSUES</u></b></p> <p>Omissions: <input type="checkbox"/></p> <p>Accuracy of Estimates: <input type="checkbox"/></p> <p>M&amp;PT/Traffic Control: <input type="checkbox"/></p> <p>Clarity: <input type="checkbox"/></p> <p>Staging: <input type="checkbox"/></p>	<hr/> <hr/> <hr/> <hr/> <hr/>
<p><b><u>CONSTRUCTION ISSUES</u></b></p> <p>Quality of Work: <input type="checkbox"/></p> <p>Rejected Work: <input type="checkbox"/></p> <p>Disputes: <input type="checkbox"/></p> <p>RR Issues: <input type="checkbox"/></p> <p>Utilities: <input type="checkbox"/></p>	<hr/> <hr/> <hr/> <hr/> <hr/>