



# Arizona Department of Transportation

## Intermodal Transportation Division

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### Local Public Agency (LPA) Bulletin #1

#### *Self-Administration on Local Public Agency Projects*

Purpose: To give direction and clarification concerning Self-Administration (SA) on LPA projects.

In the Fall of 2011 the Federal Highway Administration (FHWA) and Arizona Department of Transportation (ADOT) performed a number of audits on LPA self-administered projects. These projects included: Local Government, Transportation Enhancement, Local Bridge and Local Highway Safety Improvement Program Projects. The audits reported on a number of concerns including: Conflict of Interest, lack of source documentation, missing Buy America Certifications, and unapproved LPA consultant procurement procedures. As a result of this audit, in at least one case, ADOT and the LPA will be asked to repay the federal funds. This has prompted the question as to whether local agencies have been given adequate guidance and training to self-administer federally funded projects using funding from FHWA. There is also concern that ADOT does not have in place a system to provide proper oversight and monitoring of the LPA SA program. To address these concerns, ADOT is implementing the following changes to the SA program.

#### ***Development Activities***

When federal aid funds are used in the development (design, environmental, and right of way) of an LPA project, the Arizona Department of Transportation (ADOT) is required to administer the project or to provide oversight of the process. When ADOT provides administration of the development process, ADOT will do so in accordance with the approved *Stewardship and Oversight Agreement* between ADOT and FHWA. Pursuant to 23 USC 106(c), only certain project-level actions and authorities can be delegated. These involve: design, plans, specifications, estimates, contract awards, and inspection of projects. However, actions under the following non-Title 23 authorities cannot be delegated: National Environmental Policy Act (excepted as permitted under Title 23); Uniform Relocation Assistance & Real Property Acquisitions Act; and Clean Air Act. Therefore, ADOT is unable to allow local oversight for right-of-way purchases and environmental clearances. ADOT may allow an LPA to self-administer the design elements of the project. In order to qualify for self-administration, an LPA must apply for and demonstrate its capability, experience, and resources to develop and administer approved activities for the given project in accordance with all applicable agency, state, federal, and tribal laws, regulations, and requirements. If the LPA uses a consultant to design the project, they must follow applicable ADOT and federal requirements to select a consultant (e.g., qualification-based selection process) or opt to request that ADOT Engineering Consultant Services select a consultant from the on-call list to obtain consultant services.

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### ***Pre-Construction and Construction Activities***

When federal aid funds are used in the construction of an LPA project, ADOT is required to administer the project or to provide oversight of the process. When ADOT provides construction administration they will do so in accordance with the approved *Stewardship and Oversight Agreement* between ADOT and FHWA.

*Pre-construction administration includes:*

- Review of design plans and specifications
- Review and approve all required clearances (environmental, right-of-way and utilities)
- Advertise for construction, open bids and award projects in accordance with state and federal regulations

*Construction administration includes:*

- Performing construction oversight as detailed in the ADOT construction manual to insure work conforms to the project plans and specifications
- Making Contractor monthly payments
- Approving supplemental agreements
- Perform required testing and ensure all materials have the needed certifications
- Completing final document and making final payment

Currently ADOT is not approving new local self-administration of construction projects. ADOT will be looking for opportunities to partner with local agencies to share the construction administration duties if there is a desire from the local agency. ADOT will soon begin developing an Oversight and Monitoring Program. Once the program is in place, ADOT will revisit the subject of self-administration of federal aid LPA projects.

In Summary, ADOT may allow an LPA to self-administer the design elements of a project if requirements are met. ADOT is unable to allow local oversight for right-of-way purchases and environmental clearances. ADOT is not approving new local self-administration of pre-construction and construction project phases.

ADOT understands that this is a change in the way business has been conducted in the past, but we believe that for Arizona to have a successful and compliant LPA program, these changes are needed. ADOT will continue to look for opportunities to improve the LPA process.