

# Congestion Mitigation and Air Quality Program Implementation: Project Manager's Guide

(Final Version 8/29/06)



## Table of Contents

<b>INTRODUCTION</b>	<b>3</b>
<b>OVERALL PROJECT IMPLEMENTATION</b>	<b>4</b>
<b>PROJECT AWARD/AGREEMENT</b>	<b>5</b>
<b>AUTHORIZATION FOR PRELIMINARY ENGINEERING</b>	<b>6</b>
<b>ENVIRONMENTAL DOCUMENTATION</b>	<b>7</b>
<b>CONSULTANT ACQUISITION</b>	<b>9</b>
<b>DESIGN PHASE</b>	<b>12</b>
<b>ROW AUTHORIZATION</b>	<b>13</b>
<b>ROW (PROPERTY RIGHTS) ACQUISITION</b>	<b>14</b>
<b>RIGHT-OF-WAY CERTIFICATION</b>	<b>15</b>
<b>CONSTRUCTION AUTHORIZATION</b>	<b>16</b>
<b>CONSTRUCTION CONTRACTOR ACQUISITION</b>	<b>17</b>
<b>PROJECT CLOSE-OUT</b>	<b>20</b>
<b>APPENDIX A (SAMPLE "CONCURRENCE IN AWARD" REQUEST &amp; RESPONSE)</b>	<b>22</b>
<b>APPENDIX B (SAMPLE RESOLUTION LANGUAGE)</b>	<b>24</b>
<b>APPENDIX C (CERTIFICATION STATEMENT)</b>	<b>25</b>

## Introduction

The primary purpose of this guide is to assist North Carolina Department of Transportation (NCDOT) and local community staff in implementing Congestion Mitigation and Air Quality (CMAQ) projects awarded by the NCDOT Board of Transportation (BOT). Since the CMAQ program is funded by the Federal Highway Administration (FHWA), all CMAQ projects must follow Federal laws and regulations.

**Note: Some CMAQ projects are administered by the Federal Transit Administration (FTA). This document only applies to CMAQ projects administered by the FHWA.**

**Note: FHWA approval of environmental documents does not obviate the need to obtain other Federal, State or local permits, approvals or authorizations required by law.**

This guide will be updated periodically as new information is received and more efficient procedures are established. Because of the fluid nature of this guide, funding recipients should always refer to the terms of their CMAQ Agreement.

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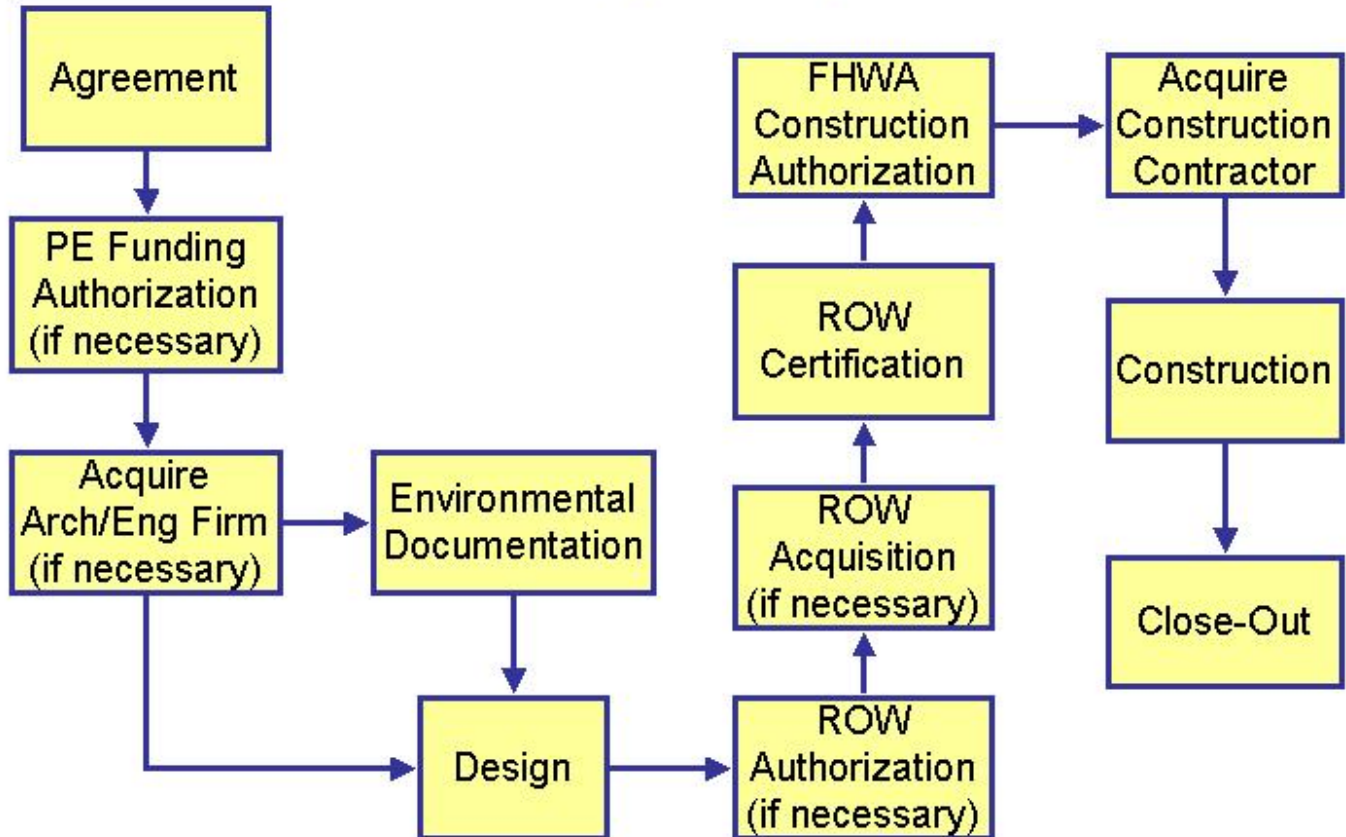
### FHWA Contact

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## Overall Project Implementation

The following flowchart provides an overview of the primary activities involved in project implementation. Each activity is discussed in detail throughout other sections of this guide.

## Overall Project Implementation



Draft Date:4/4/06

## Project Award/Agreement

**NCDOT Applicability:**

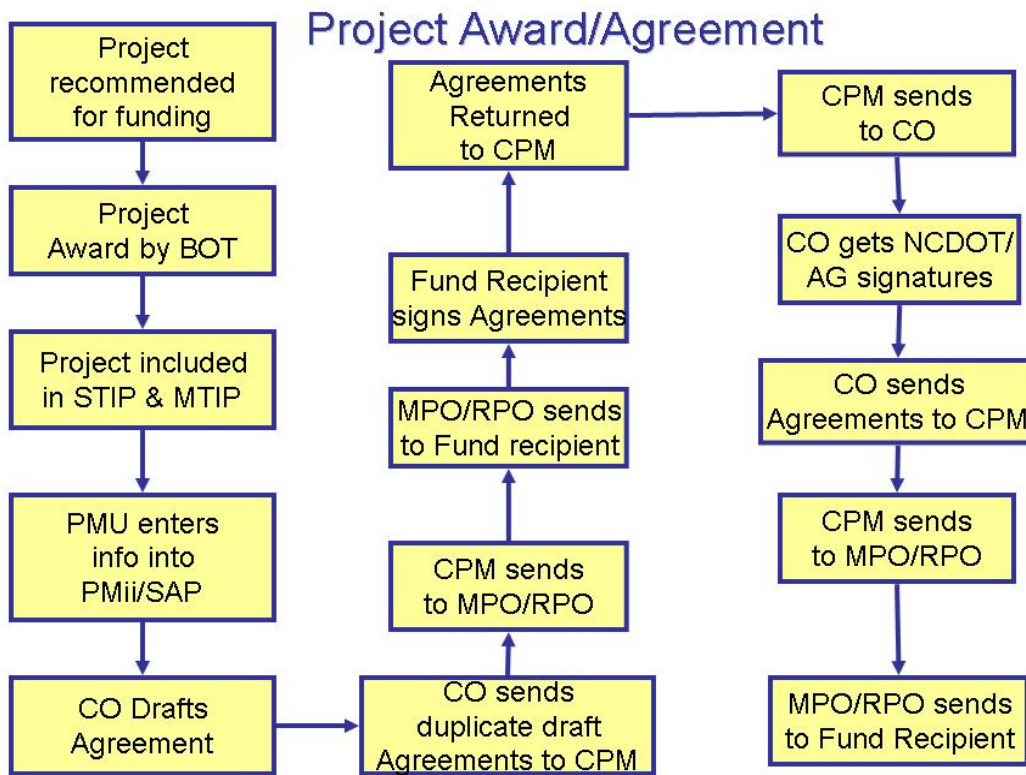
- **Applicable only when funding is awarded to third party (an entity other than NCDOT).**

**Fund Recipient Applicability:**

- **Applicable only when receiving funding from NCDOT.**

A project is initiated through an award by the NCDOT BOT. Upon inclusion in the Statewide Transportation Improvement Program (STIP), the NCDOT Contract Officer (CO) initiates the development of an Agreement between the NCDOT and the fund recipient(s) outlining the conditions of the award. The CO sends the draft agreement to the CPM, who sends it to the MPO/RPO, who then sends it to the fund recipient for signatures. The fund recipient sends the agreement back to the CPM, who sends it to the CO, who then obtains signatures from the NCDOT State Highway Administrator and the State Attorney General. Once these signatures have been obtained, the CO sends the executed agreement to the CPM, who then provides a copy to the fund recipient.

Note: if the project is within a Metropolitan Planning Organization (MPO) area, then the project must also be included in the MPO's TIP (MTIP).



Draft Date: 8/24/06

## Authorization for Preliminary Engineering

### NCDOT Applicability:

- Applicable only when fund recipient desires reimbursement for PE expenses.

### Fund Recipient Applicability:

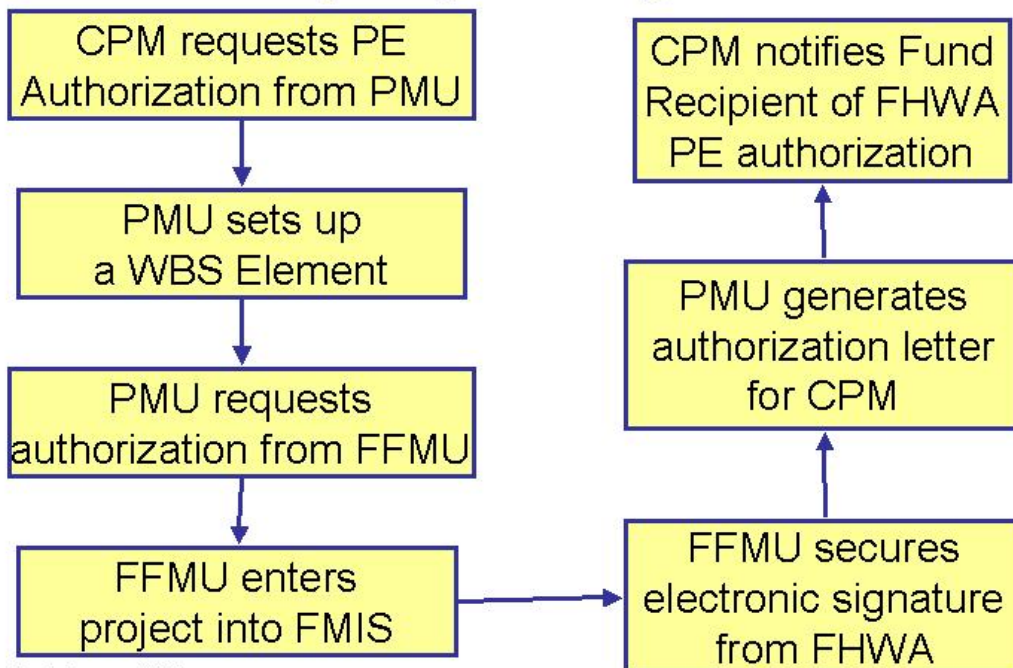
- Applicable only when PE expenses are to be reimbursed by NCDOT.

Authorization for Preliminary Engineering (PE) expenses must be obtained from the FHWA prior to contracting for or incurring any PE expenses. PE activities include items such as environmental documentation, design and preliminary hazardous waste testing.

Upon execution of the CMAQ Agreement, the CPM initiates the request for PE authorization. Typically, the CPM requests PE authorization for all projects that need or appear to need the PE phase (since some projects do not specifically include PE in the application). In some cases, PE authorization is not requested. In other cases, PE may be the only phase of activity. PE also may not be requested if the award recipient assumes full local funding responsibility for PE activities. When reimbursement for PE is identified, PE is set up through the NCDOT Project Management Unit (PMU) as a Work Breakdown Structure (WBS) Element and the NCDOT Federal Funds Management Unit (FFMU) through the FHWA's Fiscal Management Information System (FMIS).

Note: If PE was authorized and funds are not needed, then the PE funds can be rolled over into subsequent phases (ROW, Construction). The CPM should notify the PMU to modify PE funds when requesting the next phase of project authorization (ROW and/or Construction).

## Preliminary Engineering Authorization



Draft Date: 4/406

## Environmental Documentation

### **NCDOT Applicability:**

- **Applicable for all CMAQ projects.**

### **Fund Recipient Applicability:**

- **Applicable for all CMAQ projects.**

The National Environmental Policy Act of 1969 (NEPA) requires Federal agencies to use an interdisciplinary approach in planning and decision-making for actions that will have an impact on the environment. This Act established the Council on Environmental Quality (CEQ) and required that every recommendation for major Federal actions include a discussion of the environmental impact of the proposed action.

### **Types of Environmental Documentation**

The CEQ developed regulations for implementing the provisions of NEPA (40 CFR Parts 1500-1508) were made mandatory for all Federal agencies in 1977. These regulations established the types of environmental documents to be prepared for Federal projects, including highway projects. The types of documents defined by the CEQ regulations include:

- Environmental Impact Statement (EIS) & Record Of Decision (ROD);
- Environmental Assessment (EA) & Finding Of No Significant Impact (FONSI); and
- Categorical Exclusion (CE).

### **Categorical Exclusions**

The CEQ guidelines define a categorical exclusion as a category of actions that do not individually or cumulatively have a significant effect on the environment. A categorical exclusion document is prepared in order to demonstrate that a proposed action will not have a significant impact on the environment.

FHWA and NCDOT have determined that CMAQ activities normally should qualify as Categorical Exclusions. See: [http://www.fhwa.dot.gov/ncdiv/docs/doc\\_ce.htm](http://www.fhwa.dot.gov/ncdiv/docs/doc_ce.htm) for "Documentation Requirements and Approval Procedures of Federal-Aid Projects Classified as Categorical Exclusions." Non-construction activities are classified as Type 1 activities and are pre-approved by FHWA, requiring no further environmental documentation.

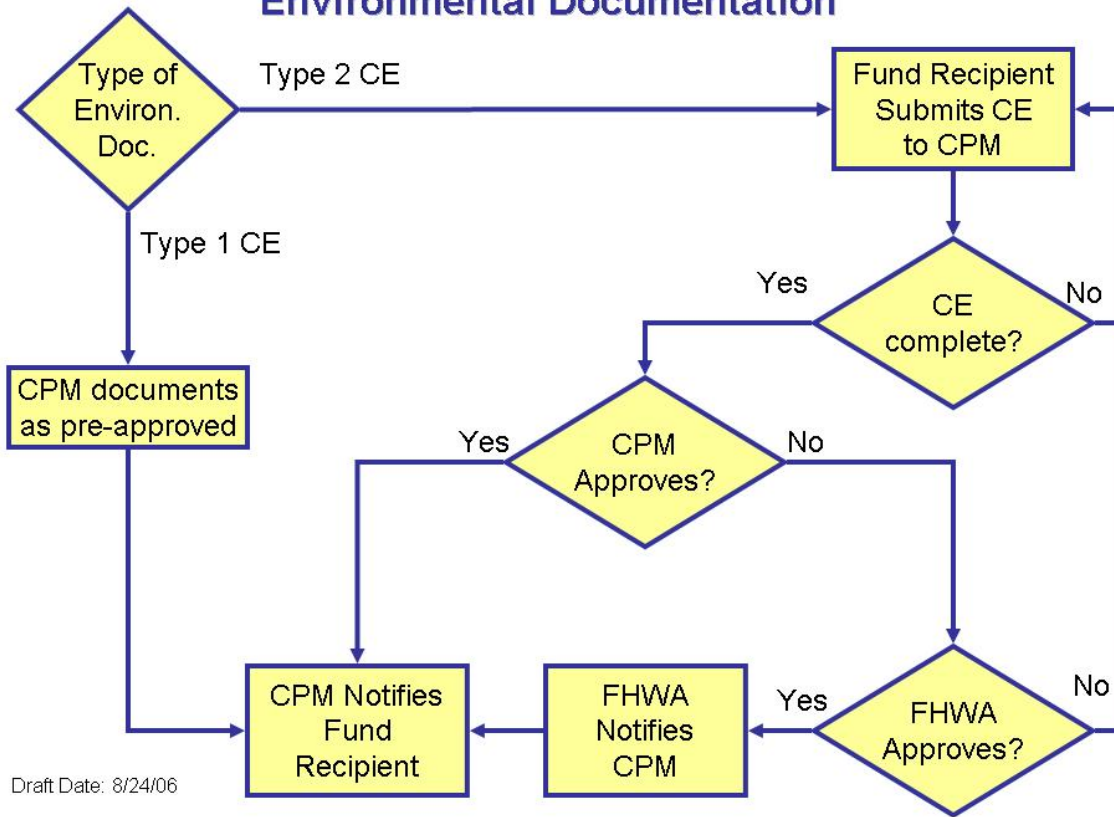
**For purposes of the CMAQ program, the basic assumption is that implementation of CMAQ projects will not involve significant impacts, and therefore a CE is the appropriate type of environmental document.** In the event a significant environmental issue is raised during the course of the environmental investigation, FHWA will determine the appropriate level of environmental documentation required.

The fund recipient will complete the CE form and submit it to the CPM. The CPM will review the CE form for completeness. If complete, the CPM will determine whether the CPM can approve the CE or whether FHWA needs to approve the CE form. FHWA will need to be involved if there are any "boxes" checked on the CE form. Once approval of the CE form (either by the CPM or by FHWA) occurs, the CPM will provide a signed copy to the fund recipient.

Notes:

- Ideally, the environmental document is approved before the fund recipient incurs reimbursable costs in order to protect the reimbursement eligibility. For example, if a fund recipient starts incurring design costs but the environmental documentation discovers an issue that prevents the project from being completed, then the fund recipient would not be reimbursed for the design expenses already incurred.
- If the environmental document approval date is more than one year old when the next FHWA authorization (either ROW or construction) is requested, a written consultation (by NCDOT) of the environmental document will be required. A written consultation can be either a note to the file that the environmental document has been reviewed and conditions have not changed or it could be a revised Categorical Exclusion if conditions have changed.

### Environmental Documentation



Draft Date: 8/24/06



## Consultant Acquisition

### NCDOT Applicability:

- **Applicable only when fund recipient needs to acquire a consultant AND desires reimbursement for PE (consultant) expenses.**

### Fund Recipient Applicability:

- **Applicable only when PE (consultant) expenses are to be reimbursed by NCDOT.**

In most cases, the fund recipient will need to undertake architectural/engineering (A/E) services in order to develop a set of construction plans. The agreement must include PE as a reimbursable cost in order for the fund recipient to receive reimbursement for these costs.

Procurement of Architectural/Engineering services is generally governed at the federal level by 23 United States Code (USC) 112, 40 USC 541-544 (known as the “Brooks Act”) [www4.law.cornell.edu/uscode/](http://www4.law.cornell.edu/uscode/) and 23 Code of Federal Regulations (CFR) 172.5 [www.gpoaccess.gov/cfr/index.html](http://www.gpoaccess.gov/cfr/index.html). The Brooks Act requires that consultant contracts for engineering and design related services financed with Federal-aid highway funds must result from negotiations utilizing qualifications-based selection procedures. Qualifications-based selection procedures do not consider costs as a selection factor. At the state-level, the following regulations apply: NCGS 136.28.1(f) and NCGS 143.64.31-33.

The NCDOT External Audit Branch (EAB) will assist the CPM in reviewing qualifications and rates of proposed professional services contracts.

One of four scenarios is likely to occur when procuring such services:

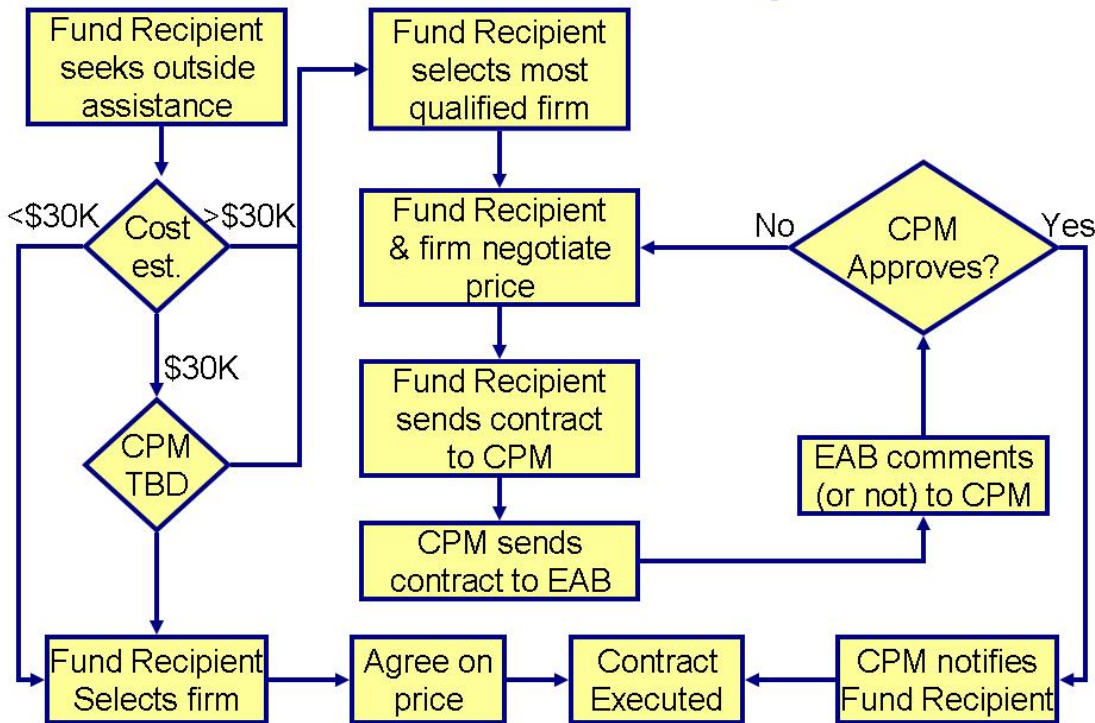
- **The A/E services can be done “in-house” by the fund recipient**--there is no need for outside consultant services.
- **The A/E services can be done by NCDOT staff**--there is no need for outside consultant services. NCDOT staff can charge their time to the WBS Element.
- **The A/E services can be done by a consultant on retainer for professional services for the award recipient:**
  - If the professional services contract for the project is estimated to cost less than \$30,000, the fund recipient may exempt (in writing) the contract from the requirements of NCGS 143.64 (freeing the fund recipient from complying with this NCGS article and thus allowing the fund recipient to acquire these services without NCDOT involvement). Otherwise, the fund recipient should comply with the NCDOT “Updated Policies and Procedures for Major Professional or Specialized Services Contracts”:  
[www.ncdot.org/doh/preconstruct/highway/roadway/eng\\_coord/consultant/rules.pdf](http://www.ncdot.org/doh/preconstruct/highway/roadway/eng_coord/consultant/rules.pdf)
  - If the professional services contract for the project is estimated to cost >\$30,000 the fund recipient should comply with the NCDOT “Updated Policies and Procedures for Major Professional or Specialized Services Contracts”:  
[www.ncdot.org/doh/preconstruct/highway/roadway/eng\\_coord/consultant/rules.pdf](http://www.ncdot.org/doh/preconstruct/highway/roadway/eng_coord/consultant/rules.pdf). NCDOT will review and approve the negotiated contract prior to execution.
  - If the professional services contract for the project is estimated to cost exactly \$30,000, the CPM will decide the method of acquisition.

- **The A/E services are to be contracted to an outside firm**
  - If the professional services contract for the project is estimated to cost less than \$30,000, the fund recipient may exempt (in writing) the contract from the requirements of NCGS 143.64 (freeing the fund recipient from complying with this NCGS article and thus allowing the fund recipient to select a firm and acquire services without NCDOT involvement). Otherwise, the fund recipient should comply with the NCDOT “Updated Policies and Procedures for Major Professional or Specialized Services Contracts”:  
[www.ncdot.org/doh/preconstruct/highway/roadway/eng\\_coord/consultant/rules.pdf](http://www.ncdot.org/doh/preconstruct/highway/roadway/eng_coord/consultant/rules.pdf)
  - If the professional services contract for the project is estimated to cost >\$30,000 the fund recipient should comply with the NCDOT “Updated Policies and Procedures for Major Professional or Specialized Services Contracts”:  
[www.ncdot.org/doh/preconstruct/highway/roadway/eng\\_coord/consultant/rules.pdf](http://www.ncdot.org/doh/preconstruct/highway/roadway/eng_coord/consultant/rules.pdf).  
NCDOT will review and approve the negotiated contract prior to execution.
  - If the professional services contract for the project is estimated to cost exactly \$30,000, the CPM will decide the method of acquisition.

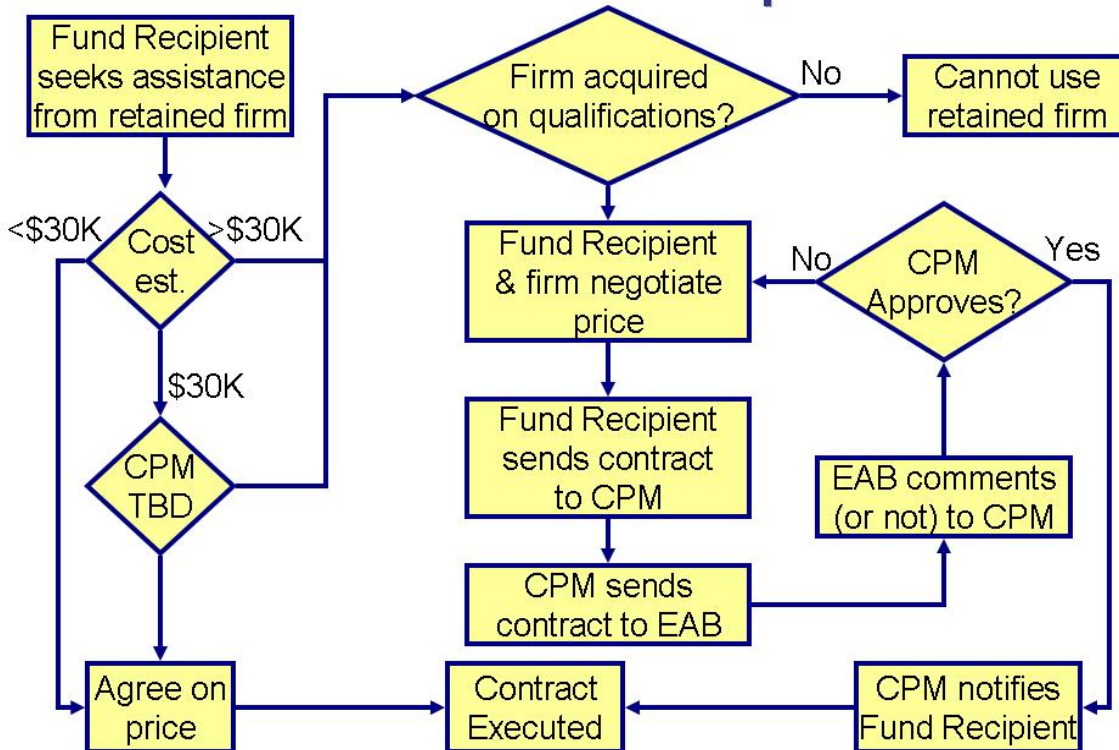
Notes:

1. When projects require the hiring of outside consulting firms at a cost >\$30,000, the proposed engineering contract submitted to NCDOT for review and approval should follow the guidelines at:  
[http://www.ncdot.org/doh/preconstruct/highway/roadway/eng\\_coord/consultant/eab-c64.doc](http://www.ncdot.org/doh/preconstruct/highway/roadway/eng_coord/consultant/eab-c64.doc). NCDOT will also review the salary rates and other costs proposed by consultants. Rates (other than salaries) can be found at:  
[http://www.ncdot.org/doh/preconstruct/highway/roadway/eng\\_coord/consultant/rates.pdf](http://www.ncdot.org/doh/preconstruct/highway/roadway/eng_coord/consultant/rates.pdf).
2. NCDOT maintains a list of pre-qualified firms (<https://apps.dot.state.nc.us/PEF/PublicView.html>). Award recipients are not required to select a firm only from this list. The list merely contains firms who have chosen to be pre-qualified. Pre-qualification is a requirement, however, for engineering contracts exceeding \$250,000 (\$30,000 for subgrantees (such as local governments receiving CMAQ funds)  
([http://www.ncdot.org/doh/preconstruct/highway/roadway/eng\\_coord/consultant/pefqual1.pdf](http://www.ncdot.org/doh/preconstruct/highway/roadway/eng_coord/consultant/pefqual1.pdf)).
3. NCDOT also maintains a listing of Disadvantaged Business Enterprise (DBE) consulting firms through their Civil Rights and Business Development Section <http://www.ncdot.org/business/ocr/dbe/certification.html>. Since the CMAQ program utilizes Federal funds, award recipients will need to consider DBE goals. The use of a DBE consulting firm counts towards the overall DBE goal.

## Outside Consultant Acquisition



## Retained Consultant Acquisition



## Design Phase

### NCDOT Applicability:

- **Applicable only when the project requires design work.**

### Fund Recipient Applicability:

- **Applicable only when the project requires design work.**

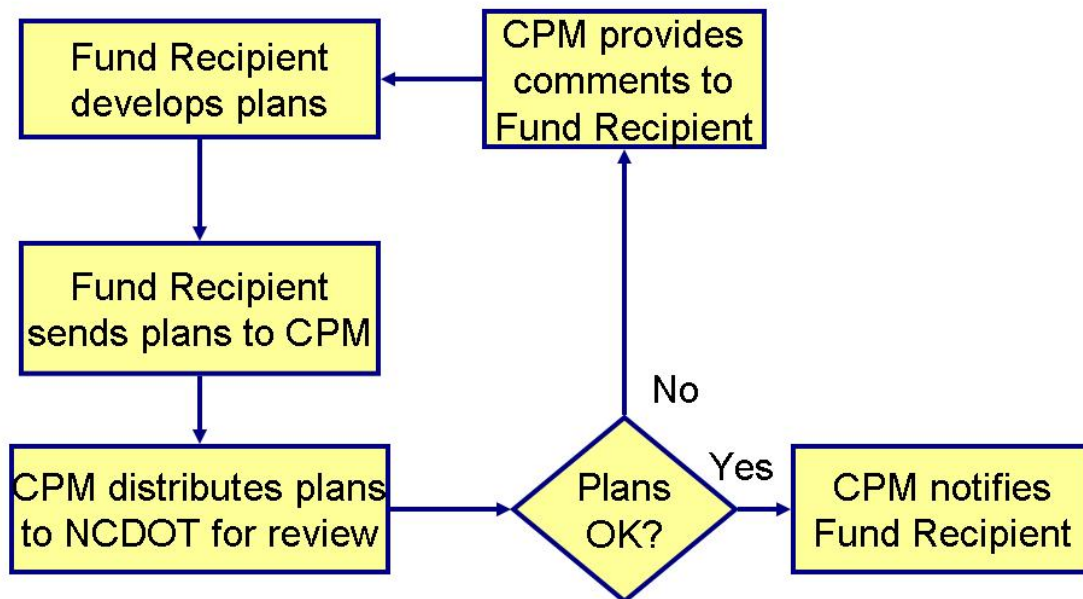
In most cases, the fund recipient will need to undertake architectural/engineering services in order to develop a set of construction plans. The agreement must include PE as a reimbursable cost in order to reimburse the fund recipient for these costs. All design plans must be consistent with Federal and state standards. The CPM will provide guidance on what standards are applicable. Examples of these include, but are not limited to:

- Americans With Disabilities Act ([www.access-board.gov/adaag/html/adaag.htm](http://www.access-board.gov/adaag/html/adaag.htm));
- NCDOT Roadway Standard Drawings and Standard Specifications (<http://www.ncdot.org/doh/preconstruct/highway/roadway/manuals/>);
- North Carolina Pedestrian Facilities Design Guidelines ([http://www.ncdot.org/transit/bicycle/projects/resources/projects\\_peddesign.html](http://www.ncdot.org/transit/bicycle/projects/resources/projects_peddesign.html)); and
- North Carolina Bicycle Facilities Planning and Design Guidelines ([http://www.ncdot.org/transit/bicycle/projects/resources/projects\\_facilitydesign.html](http://www.ncdot.org/transit/bicycle/projects/resources/projects_facilitydesign.html)).

For projects constructed within the state highway system right-of-way, an Encroachment Agreement will be necessary. Encroachment Agreements are handled through the relevant NCDOT Highway Divisions

([https://apps.dot.state.nc.us/srmu/directory/PDF\\_Report/ReportEngListing.aspx](https://apps.dot.state.nc.us/srmu/directory/PDF_Report/ReportEngListing.aspx)).

## Design



## ROW Authorization

### NCDOT Applicability:

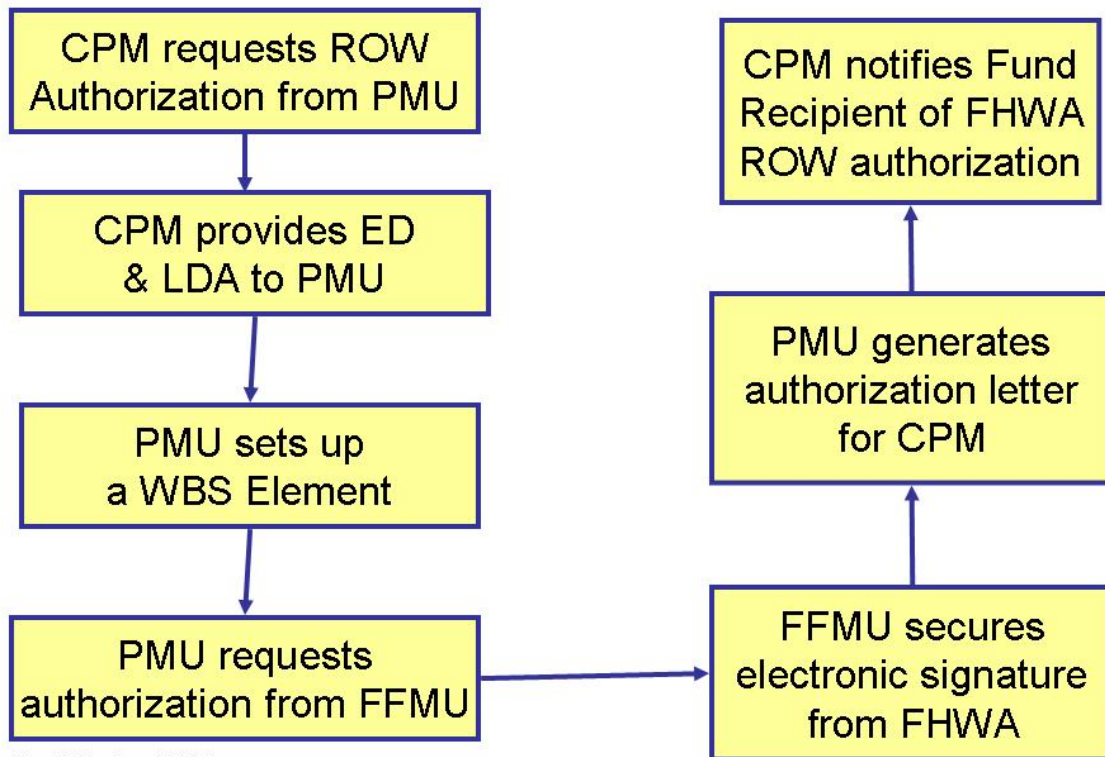
- Applicable only when Federal funding has been awarded for ROW acquisition.

### Fund Recipient Applicability:

- Applicable only when ROW expenses are to be reimbursed by NCDOT.

Some projects (e.g. rail-trail corridors) may involve the acquisition of ROW. If Federal funds are to be used for ROW acquisition, authorization must be secured from FHWA prior to any acquisition activities. The CPM should first verify that the ROW funds are programmed in the federal fiscal year of the NCDOT TIP in which the ROW authorization is desired, as well as in the local Metropolitan Planning Organization TIP (MTIP), if the project is within an MPO boundary. Then the CPM notifies the PMU of the need to obtain ROW authorization. In order for the PMU to request authorization from FHWA, the CPM will need to provide a copy of the Environmental Document (ED) and, if construction is to follow, a Location and Design Approval (LDA) memo/letter.

## ROW Authorization



Draft Date: 4/406

## ROW (Property Rights) Acquisition

### NCDOT Applicability:

- Applicable only when acquiring ROW.

### Fund Recipient Applicability:

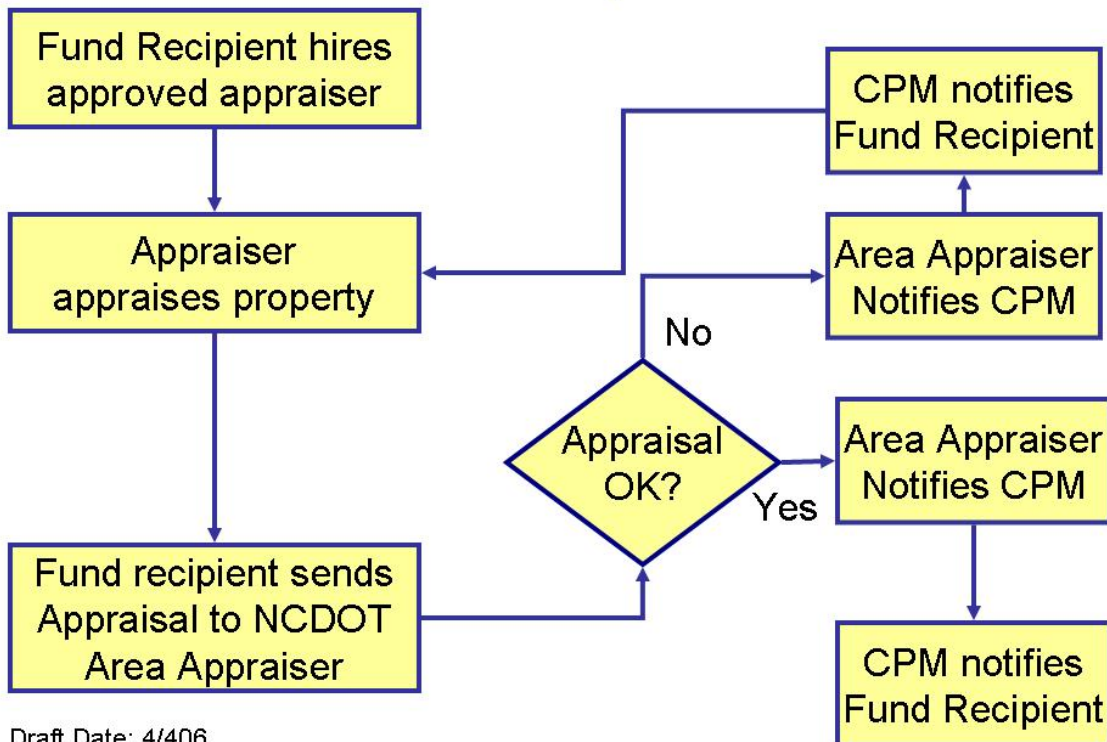
- Applicable only when acquiring ROW.

Acquisition of property rights (fee simple acquisition or easements) for Federally-funded projects is subject to the Uniform Relocation Assistance and Real Property Acquisition Policies Act (Uniform Act) regarding acquisition procedures and relocation assistance. **It is imperative that the fund recipient be familiar with this Act.**

Generally, the following sequence of events should occur:

- Fund recipient contacts the appropriate NCDOT Area Appraiser <http://www.ncdot.org/doh/preconstruct/row/contact/default.html> for guidance;
- Fund recipient obtains a list of approved appraisers (licensed in NC) from NCDOT;
- Fund recipient hires appraiser;
- Appraisal occurs;
- Area Appraiser approves appraisal; and
- Fund recipient makes offer for no less than appraised value.

## ROW Acquisition



Draft Date: 4/406

## Right-of-Way Certification

### NCDOT Applicability:

➤ Applicable only for projects involving ROW-related and/or construction-related activities.

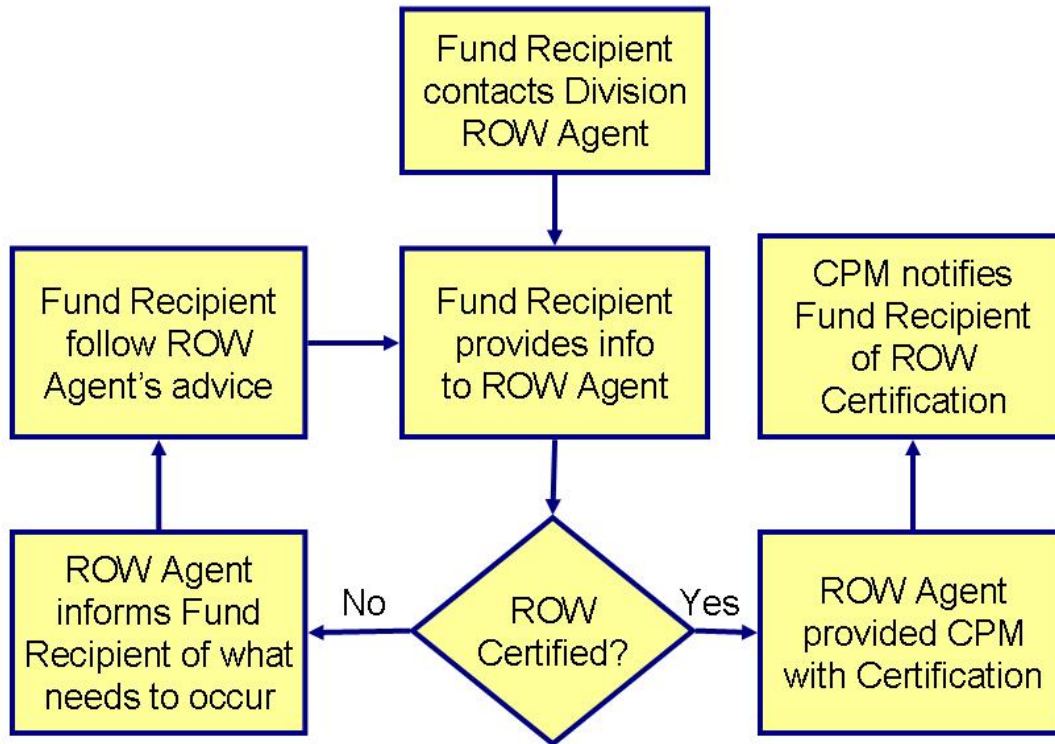
### Fund Recipient Applicability:

➤ Applicable only for projects involving ROW-related and/or construction-related activities.

Construction funding is contingent upon the existence of certifiable ROW. This is to ensure that funded projects have complete legal right to be on the property they are occupying. All projects involving ROW acquisition and/or construction must have a ROW Certification. ROW Certifications are performed by NCDOT Division ROW Agents

(<http://www.ncdot.org/doh/preconstruct/row/contact/default.html>). **It is the responsibility of the fund recipient to make contact with the Division ROW Agent.** When sufficient ROW exists, ROW Certification merely involves the Division ROW Agent confirming the public ROW. However, when there are parcels or easements needed to be acquired or where long-term leases are involved, the ROW cannot be certified until either all parcels are in public ownership, easements secured or leases executed.

## ROW Certification



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## Construction Authorization

### NCDOT Applicability:

- **Applicable only for projects involving construction-related activities.**

### Fund Recipient Applicability:

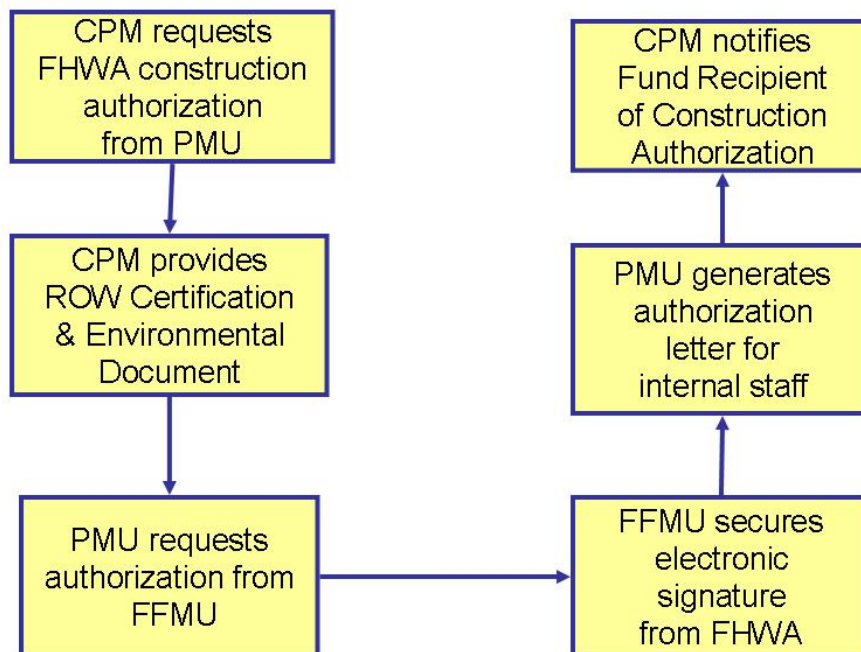
- **Applicable only for projects involving construction-related activities.**

The FHWA must authorize construction funding prior to any construction activities taking place. The CPM should first verify that the construction funds are in the federal fiscal year of the NCDOT STIP in which the construction authorization is desired, as well as in the local MTIP, if the project is within an MPO boundary. The CPM must then verify that the following tasks have been completed:

- ROW Certification;
- Approved Environmental Document (not more than one year old); and
- Final Plans, Specifications and Estimates (PS&E).

With these items, the CPM notifies the PMU of the need to obtain FHWA construction authorization. Copies of the ROW Certification and the Environmental Document must be provided to the PMU. The PMU then works with the Federal Funds Management Unit to obtain FHWA authorization for construction through FMIS.

## Construction Authorization



Draft Date: 4/4/06



## Construction Contractor Acquisition

### NCDOT Applicability:

- **Applicable only for projects involving construction-related activities.**

### Fund Recipient Applicability:

- **Applicable only for projects involving construction-related activities.**

In most cases, the fund recipient will need to hire a contractor to perform the construction. There are different procedures based on whether the project is “linked” to a Federal-aid highway as well as the value of the contract. “Linked” means that the project is within the ROW for a Federal-aid highway and/or the project is dependent upon the highway itself. An example of a “non-linked” project would be an off-street greenway. **The CPM will determine if a project is “linked”.** One of three scenarios is likely to occur:

- **Informal Bid:** The project is not located within a Federal-aid highway ROW and the contract is at least \$5,000 but less than \$300,000—fund recipients should follow the informal bid procedures required by North Carolina General Statutes (NCGS) 143-131 [www.ncga.state.nc.us/Statutes/Statutes.html](http://www.ncga.state.nc.us/Statutes/Statutes.html).

The "informal bid" process is generally defined as receiving at least three bids in writing, pursuant to a written request, without public advertising.

- **Formal Bid:** The project is not located within the highway ROW and the contract is equal to or greater than \$300,000—the fund recipient should follow the formal bid procedures required by NCGS 143-129.

The "formal bid" process is generally defined as the advertisement of the invitation to bid, at least one week before the time specified for the opening of the proposal in a newspaper having general circulation in such town or county. At least three bids must be received. If fewer than three bids are received, re-advertisement is required. When re-advertisement occurs, then a minimum of one bid is acceptable.

- **Competitive Bid:** The project is “linked” to a Federal-aid highway (regardless of cost)—the fund recipient should follow the competitive bid procedures required by 23 CFR 635A [www.access.gpo.gov/nara/cfr/cfr-table-search.html](http://www.access.gpo.gov/nara/cfr/cfr-table-search.html).

The "competitive bid" process is generally defined as the advertisement of the invitation to bid, at least three weeks before the time specified for the opening of the proposal in a newspaper having general circulation in such town or county.

### Special Provisions:

The award recipient will need to include special provisions, required by FHWA, in the bid proposal. FHWA has developed “Form FHWA-1273” as a convenient collection of the required contract provisions. This form should be included in all contracts:

<http://www.fhwa.dot.gov/programadmin/contracts/1273.htm>.

- [Required Contract Provisions](#) (Form FHWA-1273 items)
  - [General](#)
  - [Use of Local Hiring Preferences](#)
  - [Use of Convict Labor](#)
  - [Nondiscrimination](#)
  - [Nonsegregated Facilities](#)

- [Payment of Predetermined Minimum Wage](#)
- [Statements and Payrolls](#)
- [Record of Materials, Supplies, and Labor](#)
- [Subletting or Assigning the Contract](#)
- [Safety: Accident Prevention](#)
- [False Statements Concerning Highway Projects](#)
- [Implementation of the Clean Air Act and Federal Water Pollution Control Act](#)
- [Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion](#)
- [Certification Regarding the Use of Contract Funds for Lobbying](#)
- [Employment Preference for Appalachian Contracts](#)
- [Other Contract Provisions](#) (required but not on Form FHWA-1273)
  - [Buy America](#)
  - [Disadvantaged Business Enterprise](#)
  - [Indian Preference on Federal-aid Projects](#)
  - [Noncollusion Statement](#)
  - [On-the-Job Training](#)
  - [Standardized Changed Conditions Contract Clauses](#)

From NCDOT website:

- FHWA Form 1273: <http://www.ncdot.org/doh/construction/ps/contracts/Sp/Proposal-English/FA3.doc>
- Buy America:
- DBE
  - “zero” goal:
  - “other than zero” goal:
- Noncollusion Statement:
- Standardized Changed Conditions:

Not all special provisions are required for all construction contracts. Some special provisions are included if the project is located on a certain type of road (e.g. National Highway System) or if the value of the contract exceeds certain monetary thresholds. A matrix of special provisions can be found at: <http://www.fhwa.dot.gov/programadmin/contracts/tabover.htm>. The CPM will assist in determining which special provisions should be included in a particular construction contract.

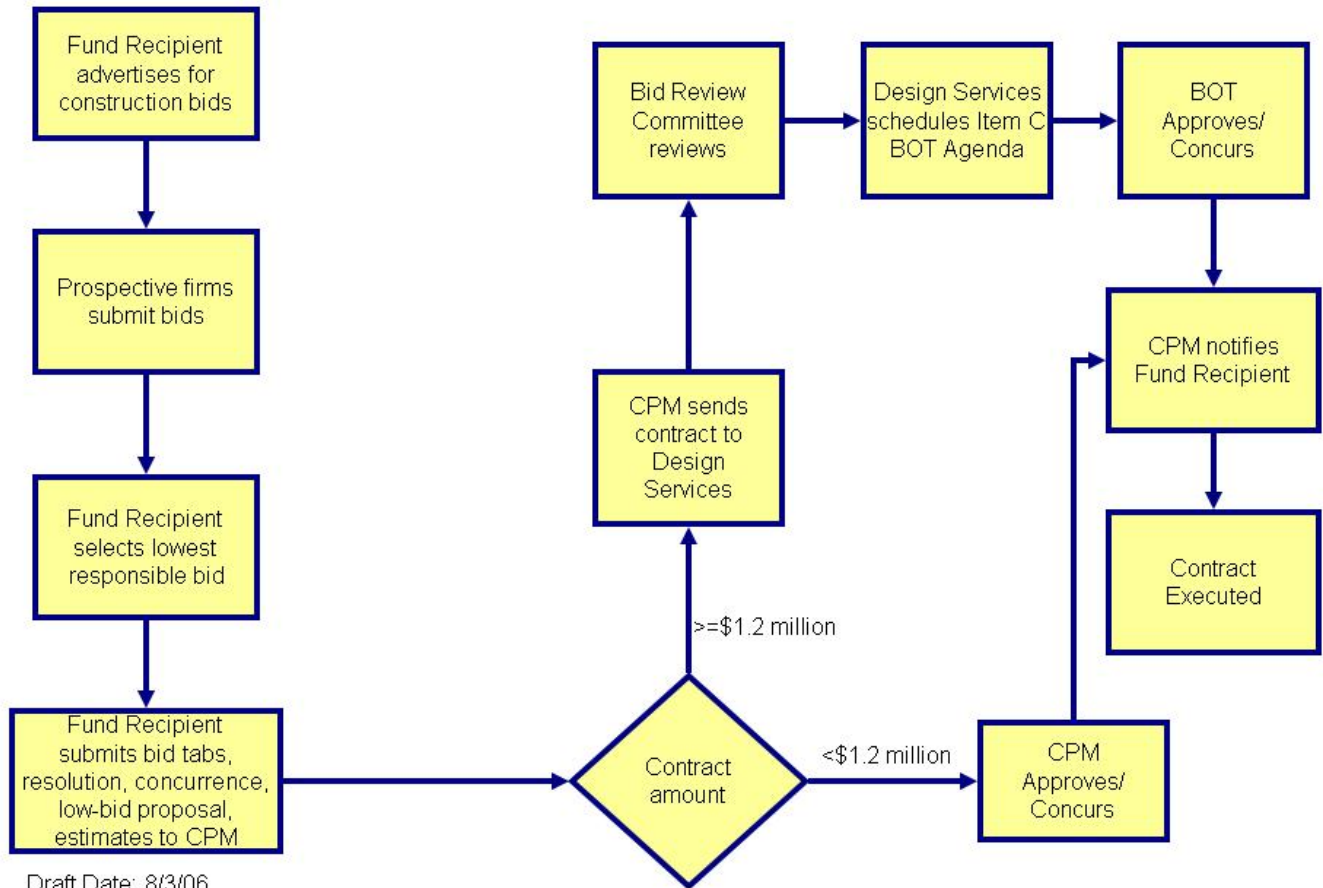
**FHWA construction authorization must occur prior to advertisement for bids.** When the fund recipient has gone through the bid process and has identified the lowest responsible, responsive bidder, the fund recipient will need to furnish the following items to the CPM:

- Letter to CPM requesting Concurrence in Award, including final engineer's estimates and bid tabulations (sample in Appendix A).
- Copy of the lowest responsible, responsive bidder's bid package.
- Resolution from governmental entity recommending award of the construction contract to the lowest responsible, responsive bidder, contingent upon NCDOT approval (sample in Appendix B).

Assuming these items are satisfactory, NCDOT will then “concur in the award” (sample in Appendix A). At this point, the fund recipient may sign the construction contract. The amount of the contract dictates who within NCDOT will concur in the award:

- Contract amount < \$1.2 million: CPM can concur in award; or
- Contract amount >= \$1.2 million: BOT must concur in award.

## Construction Contractor Acquisition



Draft Date: 8/3/06

## Project Close-Out

### **NCDOT Applicability:**

- **Applicable for all projects.**

### **Fund Recipient Applicability:**

- **Applicable for all projects.**

Upon completion of the construction activities, several tasks need to be accomplished before the project can be closed-out. These are:

- Final inspection;
- Final invoice;
- Audit; and
- Project close-out.

### **Final Inspection:**

There are several scenarios for this task, depending upon the location and type of project:

- **Projects within DOT ROW**--Highway Division staff inspects and "accepts" the project and notifies the CPM.
- **Projects within a city ROW**--Fund recipient's project manager notifies CPM of final inspection. DOT Highway Division staff may or may not be requested (CPM's discretion) to also inspect.
- **Projects involving structures**-- Fund recipient's project manager provides copy of the Certificate of Occupancy to the CPM.

### **Final Invoice:**

When the fund recipient submits the final invoice, an accompanying certification statement should be submitted (see Appendix C). Processing of the final invoice will not proceed without the certification statement. Upon completion of all financial matters, the CPM should notify the FFMU to close the project from further charges.

A single audit of the Federal funds needs to be performed by the fund recipient. The audit can be included in the fund recipient's annual audit or can be a stand-alone audit (fund recipient's discretion). Once the single audit has been received and expenditures have been reconciled, the CPM then closes the project.

### **Audit Requirements:**

Audit requirements are governed at the Federal level by OMB Circular A-133 and can be found at <http://www.whitehouse.gov/omb/circulars/>. Guidance on state auditing requirements is contained in NCGS Chapter 159-34 and can be found at [http://www.ncga.state.nc.us/Statutes/GeneralStatutes/HTML/BySection/Chapter\\_159/GS\\_159-34.html](http://www.ncga.state.nc.us/Statutes/GeneralStatutes/HTML/BySection/Chapter_159/GS_159-34.html). Since most CMAQ projects are awarded to units of local governments, local governments are bound by auditing requirements in NCGS which are more stringent than OMB Circular A-133.

When a non-profit entity receives funding, a three-party agreement is generated which assigns the local government co-sponsor as the recipient of funds. In these cases it is assumed that the non-

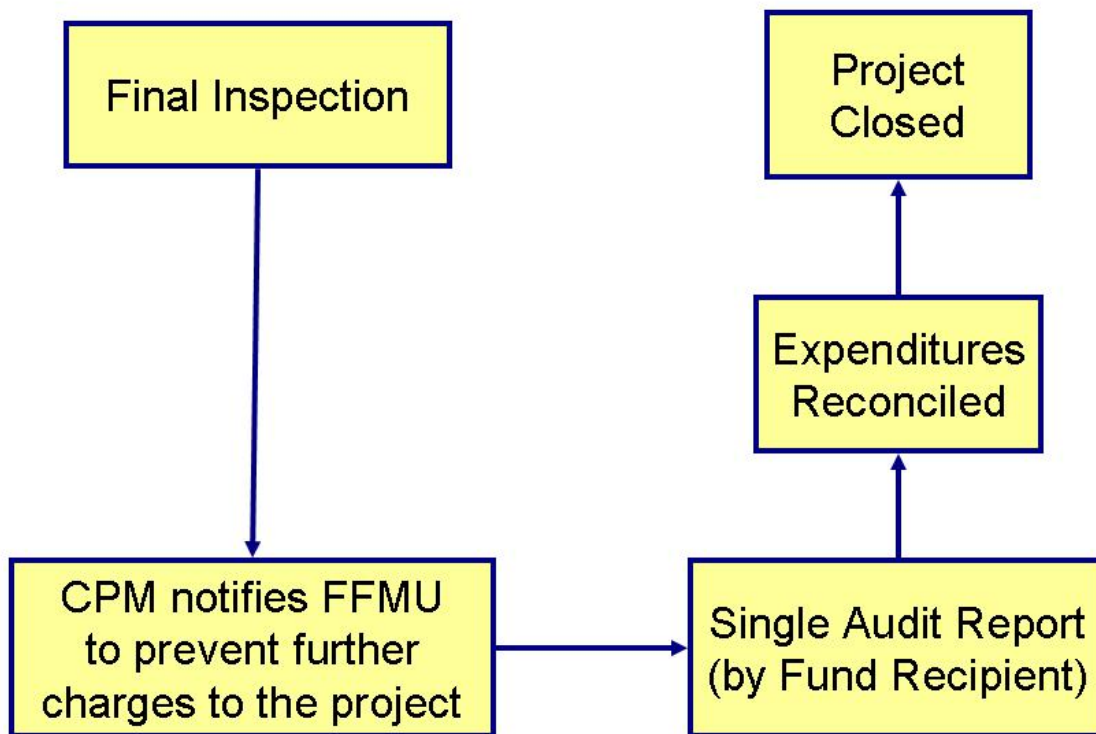
profit entity and the governmental co-sponsor have some type of arrangement for invoicing and reimbursement with the non-profit entity.

In the rare instance where a non-profit entity receives funding directly from NCDOT, NCGS 143-6.1 applies

([http://www.ncga.state.nc.us/Statutes/GeneralStatutes/HTML/BySection/Chapter\\_143/GS\\_143-6.1.html](http://www.ncga.state.nc.us/Statutes/GeneralStatutes/HTML/BySection/Chapter_143/GS_143-6.1.html)). This essentially states that fund recipients that expend less than \$300,000 of total state (including Federal flow-through) funds in a fiscal year must provide a sworn accounting of receipts and expenditures of the state funds. If the fund recipient expends an amount equal to or in excess of \$300,000 of total state (including Federal flow-through) funds in a fiscal year, then the fund recipient must file an annual financial statement.

Auditing of CMAQ awards can be folded into the local government's annual audit which is forwarded to NCDOT—a separate audit for the CMAQ award is generally not required, unless the fund recipient typically does not provide NCDOT with an annual audit.

## Close-Out



Draft Date: 4/4/06

## Appendix A (Sample "Concurrence in Award" Request & Response)

Subject: Request for Concurrence In Award  
**(insert name of project)**  
TIP #: **(X-XXXX)**  
Federal Aid # **XXXXXXX**

Dear **(insert name of NCDOT CMAQ Project Manager)**:

Enclosed are the following items:

- final engineer's estimates;
- bid tabulation sheets for the project; and
- a copy of the **(insert name of government)** resolution.

The final engineer's estimate is **(\$XXX,XXX.XX)**. The low bid was submitted by **(insert name of lowest responsible, responsive bidder)** in the total amount of **\$XXX,XXX.XX**. This bid was **(XX.X%)** **(indicate either "higher" or "lower")** than the final engineer's estimate. *[Note to award recipient: if the low bid is more than 10% higher than the final engineer's estimate, justification should be provided either as to why the estimate is low (e.g. current materials prices are higher than originally estimated) or why the bid should be accepted, rather than re-bid.]*

Accordingly, we have recommended that the **(insert name of fund recipient)** accept this bid and award the contract to **(insert name of lowest responsible, responsive bidder)** after NCDOT concurrence in award.

Bid Tabulations and percentages over/under the final engineer's estimates are as follows:

Name(s) of Bidders	Total	Difference*
<b>ABC Company</b>	<b>\$XXX,XXX.XX</b>	<b>-X.X%</b>
<b>XYZ Company</b>	<b>\$XXX,XXX.XX</b>	<b>+X.X%</b>

A Disadvantaged Business Enterprises goal was established at **(X%)** for this project and was **(indicate either "achieved" or "not achieved")** by the low bidder.

The contract date of availability shall be upon written notice to proceed and the completion date shall be **(insert number of calendar days)** calendar days after written notice to proceed. Liquidated damages shall be assessed at **(insert dollar amount)** per calendar day.

We have conducted an item-by-item review of the bids and have concluded that **(insert name of lowest responsible, responsive bidder)** has properly prepared its bid with no irregularities and no questionable prices.

We request that the NCDOT concur with our recommendation and with the **(insert name of government)** resolution to award the construction contract to the lowest responsible, responsive bidder— **(insert name of lowest responsible, responsive bidder)**.

Sincerely,

**(insert name of fund recipient project manager)**

SUBJECT: Concurrence in Award  
**[insert name of project]**  
TIP #: (X-XXXX)  
Federal Aid # XXXXXXX

Dear:

The NC Department of Transportation's Systems Planning Group concurs in the award for the above project to the low bidders as received and noted below.

**[insert name of Company/Contractor and dollar amount of contract]**

Before executing the construction contract, please ensure that the timeframe for construction aligns with the CMAQ Agreement executed on **[insert date of executed Agreement]**. The Agreement has a completion date of **[insert date of completion from Agreement]**. If necessary, please request an extension for this project from this office.

Once the contract is executed, please furnish two (2) copies of the contract and two (2) sets of plans to this office.

When requesting reimbursement from our office, please separate out payments made to DBE contractors on the invoices.

Sincerely,

NCDOT CMAQ Project Manager

## Appendix B (Sample Resolution Language)

*Note: in the case of a city or county awarding a construction contract, use this wording:*

RESOLUTION AUTHORIZING THE **[insert name of chief elected official]** TO EXECUTE ON BEHALF OF **[insert name of local government]** A CONTRACT AND ANY CHANGE ORDERS WITHIN THE BUDGETED AMOUNT WITH **[insert name of lowest responsible, responsive bidder]** FOR THE PROJECT KNOWN AS **[insert name of project]**.

WHEREAS, **[insert appropriate whereas clauses]**

NOW THEREFORE, BE IT RESOLVED BY THE **[insert name of local government]** THAT:  
The **[insert name of chief elected official]** of the **[insert name of local government]** is hereby authorized to execute on behalf of the **[insert name of local government]** the attached contract with **[insert name of lowest responsible, responsive bidder]** in the amount of **[insert cost of construction contract]** and any change orders within the budgeted amount for the **[insert name of project]**, contingent upon the North Carolina Department of Transportation concurring in the award.

Read, approved and adopted this \_\_\_\_\_ day of \_\_\_\_\_, 200X.

**[add signatures]**

*Note: in the case of a non-governmental entity awarding a construction contract, use this wording:*

RESOLUTION AUTHORIZING THE **[insert name of chief elected official]** TO CONCUR ON BEHALF OF THE **[insert name of local government]** WITH A CONTRACT AND ANY CHANGE ORDERS WITHIN THE BUDGETED AMOUNT WITH **[insert name of lowest responsible, responsive bidder]** FOR THE PROJECT KNOWN AS **[insert name of project]**.

WHEREAS, **[insert appropriate whereas clauses]**

NOW THEREFORE, BE IT RESOLVED BY THE **[insert name of local government]** THAT:

The **[insert name of chief elected official]** of the **[insert name of local government]** is hereby authorized to concur on behalf of the **[insert name of local government]** the attached contract with **[insert name of lowest responsible, responsive bidder]** in the amount of **[insert cost of construction contract]** and any change orders within the budgeted amount for the **[insert name of project]**, contingent upon the North Carolina Department of Transportation concurring in the award.

Read, approved and adopted this \_\_\_\_\_ day of \_\_\_\_\_, 200X.

**[add signatures]**



## Appendix C (Certification Statement)

TIP Project # **X-XXXX**  
Federal Aid # **XXXXXXXX**

The **[insert name of fund recipient]** hereby certifies that the administration, supervision and inspection of the CMAQ project has been completed and the project has been constructed as designed and approved. Any and all necessary federal and state documents attached to the bidding documents were incorporated into the contract language with the construction contractor and fully complied with.

(Signature) \_\_\_\_\_  
(Name and Title of Signatory)

\_\_\_\_\_  
Date