

ATTACHMENT SIX

“Inactive” Federal Aid Project Authorizations

Background

The Federal Highway Administration (FHWA) defines an “inactive obligation” as a project with unexpended federal funding obligation against which no expenditures have been charged (to the federal funds) within certain timeframes. FHWA classifies inactive projects in one of three tiers based on the following criteria¹:

- (i) Projects inactive for the past 12 months with unexpended balances more than \$500,000,
- (ii) Projects inactive for the past 24 months with unexpended balances of \$50,000 to \$500,000, and
- (iii) Projects inactive for the past 36 months with unexpended balances less than \$50,000.

Ultimately, FHWA has the authority to revise obligations (or deobligate funds) if a state fails to take action, resulting in the loss of future federal funding for the project sponsor.

Inactive obligations appear to represent idle federal funding and, due to concerns regarding the federal deficit, are under increased scrutiny by FHWA and federal oversight agencies such as the Government Accountability Office (GAO) and FHWA Office of the Inspector General (OIG). As a result, the FHWA Arizona Division office has identified inactive obligations as one of the top 10 risks faced by the Arizona Division in FFY 11.

To address the issue, FHWA has established a national performance measure related to inactive obligations, of 4% or less. The stewardship agreement between FHWA and ADOT also establishes a state performance measure of 4% or less. In the last two federal fiscal years, Arizona has been unable to consistently meet this target. In FFY 10, the percentage in Arizona ranged from 4% to 6%. This represents approximately \$30 to \$50 million of federal obligation authority.

A review of Arizona's inactive projects has uncovered numerous reasons for the inactivity, with the primary issues being lack of notification of the completion of the project (both within ADOT and from local agencies), and lack of invoice for reimbursement from local agencies or other project partners.

Addressing Arizona's Inactive Obligations

Under federal law, ADOT is required to deobligate funding which is no longer needed for a project. In addition, the FHWA division office is required to work with the State to determine the validity of the amount obligated for each project. Therefore, ADOT is enacting a number of measures, in partnership with FHWA, to address Arizona's high inactive percentage:

- An ADOT employee has been charged with monthly analysis and follow-up on projects which are at risk of showing up on the inactive lists. Internal procedures are also being reviewed and updated to ensure projects are closed out and deobligated in a timely manner. ADOT and FHWA also meet on a periodic basis to review all inactive obligations.
- Joint Project Agreements (JPAs) on self-administered projects now contain provisions requiring local agencies to invoice ADOT for reimbursement within 90 days of paying for project goods or services. JPAs also are now sent to the finance manager/director for the local agencies to ensure those paying the bills are aware of the financial provisions in the agreement.
- Project and billing deadline provisions are being proposed for JPAs on federally funded projects which establish the following project deadlines:
 - **Begin work within 9 months of initial authorization** – Project sponsors need to begin invoicing for expenditures incurred on newly authorized projects within 9 months of initial

¹ 23 CFR Part 630.105(a)(5)

authorization. Projects which do not begin invoicing in this timeframe or provide sufficient justification regarding the delay and an expected project start date will be subject to deobligation after 12 months from the date of initial federal aid authorization.

- **Invoice at least once every 90 days during the project** – Once the project work begins, sponsors need to invoice for incurred expenditures no less than every 90 days. Projects which do not invoice in this timeframe or provide sufficient justification regarding the delay and an expected date on which activity will resume or an invoice will be provided will be subject to deobligation after 12 months from the date of the last invoice.
 - **Notify ADOT within 60 days of the completion** of federal aid projects – Since ADOT is required to deobligate unneeded funding within 90 days, local sponsors will need to provide written notification of the completion of a project within 60 days of completion (local projects may include a warranty for a year). This allows ADOT the remaining 30 days to process documents required for deobligation.
- Certification Acceptance (CA) procedures and contracts will also be revised to include project and billing deadlines.
 - Sponsors, their respective regional planning entity and ADOT project managers will be notified at least 30 days in advance of projects which appear to be turning inactive to enable any issues to be resolved in advance of the project appearing on the inactive list.
 - Upon completion of a project and payment of the final estimate, ADOT will deobligate excess federal funds if a final voucher cannot be processed within 90 days. Generally, federal funds can be reapplied at the time of final voucher if needed.