

## Chapter 6. Billing/Eligibility/Records - Contents

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## Chapter 6. Billing/Eligibility/Records

### 6.1 Progress Billing

All progress billings shall be submitted to the Georgia Department of Transportation (GDOT) Project Manager by the LG in accordance with the terms of the LG agreement and GDOT. When right of way acquisition is applicable to a LG Let project it is the responsibility of the LG to follow the *Acquisition Guide for Local Public Agencies and Sponsors* manual. The *Acquisition Guide for Local Public Agencies and Sponsors* manual provides the requirements for LG invoice for right of way.

**NOTE: All accrued cost incurred prior to FHWA Federal-aid approval and authorization is ineligible for Federal aid and become the liability of the LG.**

The execution of the LG Qualification Certification Agreement or any subsequent agreements between the GDOT and LG does not constitute approval of Federal funds. All FHWA Federal-aid eligible cost start after the FHWA Georgia Division signs and executes authorization then notifies GDOT. FHWA authorization will remain in effect but is subject to withdrawal for all or any part of a LG Administered Project found not to be in compliance with the Federal-aid laws, procedures or regulations.

GDOT assigns a contract number for all Federal aid construction projects. This contract number identifies the project contractor to the Federal Project Number; STIP Project Number and PEOPLE SOFT Accounting numbers. The LG will include the GDOT contract number on all correspondence, invoices or other transmittals in addition to the STIP Federal aid project number.

### 6.2 Invoicing Procedures

After GDOT has fully executed all applicable agreements with the LG, then work may begin on the project. Any work that is performed before the FHWA official authorization date does not qualify for reimbursement.

Progress invoices are submitted as follows:

1. The LG begins work on the first phase of the project.
2. The LG submits a request for accrued cost payment to the GDOT in accordance with applicable agreements. The LG will indicate on each request the total accrued cost paid and the amount of accrued cost paid as the LG non-Federal share match.
3. Reimbursement requests are processed by GDOT using standard procedures. The LG will be paid the Federal-aid share of accrued cost invoiced.

### 6.3 Invoice Numbering and Timing of Submittal

Progress billings will be numbered sequentially and submitted not more than once per month.

If the billing is prepared properly, payment should normally be received within 30 calendar days from the date the invoice is received in GDOT contracts payable office. This is in accordance with the Federal Acquisition Regulation (FAR) 32.9 Prompt Payment.

If payment is not received within this time, the LG should contact GDOT.

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## 6.4 Identification of Participating and Non-participating on Invoice

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After FHWA project funding authorization is approved costs are eligible for FHWA participation if claimed in accordance and compliance with Title 23 United States Code (USC), 23 Code of Federal Regulations (CFR) and Office of Management and Budget (OMB) Circular A-87.

The costs must be applied directly for the benefit of the project being charged, i.e., labor and materials are charge directly to the project.

### Participating Functions:

**Preliminary Engineering:** FHWA preliminary engineering (PE) funding approval authorization date begins Federal PE eligibility. PE work of locating and designing, conducting environmental activities, making surveys and maps, sinking test holes, making foundation investigations, preparing plans, specifications and estimates, centerline, right-of-way plan preparation and other related preliminary work and incidental construction staking, to the extent such staking is necessary to review construction plans, and related general engineering preparatory to the letting of a contract for construction. The work may include traffic counts, studies undertaken to determine traffic demands, holding of public meetings and public hearings, mitigation, and permitting costs as well.

These engineering costs are generally incurred prior to the date of construction, PS&E approval or the date construction plan changes are completed prior to the beginning of construction. The date of contract award is the cutoff for charging to preliminary engineering.

**Acquisition of Rights-of-Way:** The preparation of right-of-way plans; appraisal for parcels acquisition; review of appraisals; preparation for and trial of condemnation cases; management of properties acquired; furnishings of relocation advisory assistance; and other related labor expenses. No right-of-way acquisition activities will begin by the LG prior to both FHWA approval of NEPA document and FHWA right-of-way phase authorization. *NOTE: Violation of any of the requirements may jeopardize all or part of the project's eligibility for Federal funding. Violation of this requirement will result in the project being ineligible for Federal funding and the LG liable to reimburse the FHWA for all applicable ineligible accrued payments received for the project.*

**Construction Engineering:** The work of supervising construction activities, the inspection of construction and related mechanical aspects, e.g., staking necessary to review construction plans together with those staking activities necessary for the LG to control construction operations, testing materials incorporated into construction, checking shop draws, and measurements for and preparations of progress and final estimates. Construction engineering costs are generally incurred only after the approval of the PS&E, a contract number is issued, and also incurred prior to:

- A. The date of completion of the final contract pay estimates and its submission to the contractor;
- B. The final date of charges for required material testing; or
- C. The date of completion of the separation of contract cost by code type, location, etc., whichever is applicable to that portion of the construction engineering phase involved.

**Administrative Settlement Costs – Contract Claims:** Services related to the review and defense of claims against Federal aid projects.

**Miscellaneous Functions:** Costs incurred for other activities which are properly attributable to, and for the benefit of, Federal aid projects but are not assignable to any of the previously defined functions.

**Construction Costs Other Than Contractor Payments:** *NOTE: Violation of any of the requirements may jeopardize all or part of the project's eligibility for Federal funding. In addition, no project will be advertised for bids, nor will any project work be undertaken, and no materials will be purchased on any Federal-aid project prior to Construction Phase authorization from FHWA and GDOT. Violation of this requirement will result in the project being ineligible for Federal funding.*

- A. Royalty expenses for material furnished by the LPA that are used by the contractor.
- B. Temporary signs, traffic control labor, traffic control devices, and temporary illumination furnished by the LPA. The initial basic cost of traffic control devices purchased for use on the projects in an authorized participating cost.
- C. Work performed by local forces pertaining to the Federal aid project.

**Nonparticipating Functions:** Classifications of work ineligible for Federal participation:

**General Administration:** General Administration, supervision, and other unallowable overhead costs of the LG are those functions considered necessary for the management, supervision, and administrative control of a suitably equipped, staffed, and operational agency but are not expended directly to labor or materials within the termini of the project. Examples of such unallowable costs may include, but not limited to, the following types of personnel, related payroll benefit costs, and other administrative support services:

- A. Directors, Department Heads, Legal, Accounting, Budgeting, Personnel, and Procurement Units.
- B. Related clerical, secretarial, and other support services for officials and personnel listed immediately above.
- C. Management, supervision, and administration overhead costs incurred by other units of government of state, county, or city governmental organizations.

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## 6.5 Standards for Selected Items of Costs

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The following are standards for determining the allowable selected items of costs. In general, costs must be reasonable, necessary, and allocable to the specific project. The allowable selected items of cost are subject to the general policies and principles stated above.

- a. **Salaries and Wages:**
  1. Subject to appropriate authorization requirements, Federal funds may participate in the cost of salaries, wages, and related payroll expenses incurred for periods of time public employees are actively engaged, either directly or indirectly, in project related activities.
  2. Salaries, wages, and related payroll expenses of a LG for maintenance, general administration, supervision and other overhead are not eligible for reimbursement.

**b. Travel and Transportation:**

1. Federal funds may participate in the cost of commercial transportation, privately owned automobiles, and per diem or subsistence essential to the completion of the project and is performed in accordance with prescribed procedures.
2. Reimbursement may be made for use of privately owned automobiles and per diem or subsistence incurred in conformance with the established reimbursement policy of the local agency.

**c. Employee Leave and Holidays:**

1. A LPA may claim reimbursement for the costs of leave e.g., annual, sick, military, jury, etc., that is earned, accounted for, and used in accordance with established procedures. The cost of such leave must be a liability of the LPA, must be equitably distributed to all activities, and the pro rata costs distributed to a Federal aid project must be representative of the amount that is earned and accrued while working on the project.
2. Compensatory leave granted by a LPA in lieu of payment of overtime to eligible employees may be claimed for reimbursement if accrued and granted under established policies on a uniform basis. Such leave costs must meet the criteria discussed in paragraph (a) of this section.
3. Costs for other leave of a similar nature which may be peculiar to a specific LPA may also be reimbursed provided it meets the criteria set forth in paragraph (a) of this section.

**d. Social Security, Retirement, and Other Payroll Benefits:**

1. Federal funds may participate in allocable costs incurred for social security, retirement, group insurance premiums, and similar items applicable to salaries and wages of public employees engaged in work on Federal aid projects.
2. The costs for such benefits must be a liability of the LPA and must meet the criteria set forth in paragraph 1 of c above.

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**6.6 Utility Relocations, Adjustments, and Reimbursement**

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**A. Eligibility:**

1. When requested by the LPA, Federal funds may participate, at the pro rata share applicable, in an amount actually paid by the LPA for the costs of utility relocations. Federal participation is subject to the provisions of Chapter 645.103 of 23 CFR and may be under one of the following conditions:
  - a. The LPA certifies that the utility has the right of occupancy in its existing location because it holds the fee, an easement, or other real property interest, the damaging or taking of which is compensable in eminent domain;
  - b. The utility occupies privately or publicly owned land, including public road or street right of way, and the local authorizing such payment in conformance with the provisions of 23 U.S.C. 123; and/or

- c. The utility occupies publicly owned land, including public road and street right-of-way, and is owned by a public agency of political subdivision of the state, and is not required by law or agreement to move at its own expense, and the LPA certifies that it has the legal authority or obligation to make such payments.
- d. The LPA shall be advised by law that any local let project that will reimburse any utility/railroad company within the project limits will have the Buy America clause in the Contract between the locals and the Utility/Railroad Company. This is the case, even if the locals state they would use their own money for the relocation work. Not adhering to this Law will jeopardize the local's ability to receive federal-aid funds for the entire project. Before GDOT can certify any new project, this clause will have to be included in their contract if any reimbursable utility work occurs. GDOT will require a copy before certification can take place.

<http://www.dot.ga.gov/PS/Utilities>

<http://www.dot.ga.gov/PartnerSmart/utilities/Documents/Local%20Let%20White%20Paper.pdf>

<http://www.dot.ga.gov/PartnerSmart/utilities/Documents/BuyAmericaLanguageAndCertificate.pdf>

2. On projects where the LPA has the authority to participate in project costs, Federal funds may not participate in payments made by a political subdivision for relocation of utility facilities when state law prohibits the LPA from making payment for relocation of utility facilities. 23 CFR 645.107.
3. On projects where the LPA has the authority to participate in project costs, Federal funds may participate in payments made by a political subdivision for relocation of utility facilities when the LPA has certified that such payment is based upon the provisions of this part and does not violate the terms of a use and occupancy agreement, or legal contract, between the utility and the LPA.
4. Federal funds are not eligible to participate in any costs when the utility contributes or repays the LPA except for utilities owned by the political subdivision on projects that qualify under the provisions of 23 CFR 645.107, in which case the costs of the utility are considered to be the cost of the LPA.
5. The FHWA may deny Federal fund participation on any payments made by the LPA for the relocation of utility facilities when such payments do not constitute a suitable basis for Federal fund participation under the provisions of Title 23, U.S.C.
6. The rights of any public agency of political subdivision of a state under contract, franchise, or other instrument or agreement with the utility, pertaining to the utility's use and occupancy of publicly owned land, including public road and street right-of-way, shall be considered the rights of the LPA in the absence of state law to the contrary.
7. In lieu of the individual certifications required by paragraph (1) and (3), the LPA may file a statement with the FHWA setting forth the conditions under which the LPA will make payments for the relocation of utility facilities. The FHWA may approve Federal fund participation in utility relocations proposed by the LPA under the conditions of the statement when the FHWA has made an affirmative finding that such statement and

- conditions form a suitable basis for Federal fund participation under the provisions of 23 U.S.C. 123.
8. Federal funds may not participate in the cost of relocations of utility facilities made solely for the benefit or convenience of a utility, its contractor, or a highway contractor.
  9. When the advance installation of new utility facilities crossing or otherwise occupying the proposed right-of-way of planned highway project is underway, or scheduled to be underway, prior to the time such right-of-way is purchased by or under control of the LPA, arrangements should be made for such facilities to be installed in a manner that will meet the requirements of the planned highway project. Federal funds are eligible to participate in the additional cost incurred by the utility that are attributable to, and in accommodation of the highway project provided such costs are incurred subsequent to authorization of the work by the FHWA. Subject to the other provisions of this regulation, Federal participation may be approved under the foregoing circumstances when it is demonstrated that the action taken is necessary to protect the public interest and the adjustment of the facility is necessary by reason of the actual construction of the highway project.
  10. Federal funds are eligible to participate in the costs of preliminary engineering and allied services for utilities, the acquisition of replacement right-of-way for utilities, and the physical construction work associated with utility relocations. Such costs must be incurred by, or on behalf of, a utility after the FHWA has authorized the LPA to proceed in accordance with 23 CFR 630, subpart A, Federal-Aid Programs Approval, and Project Authorization.

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### **6.7 Reimbursement of Railroad Work**

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Costs must be incurred in accordance with 23 CFR part 646 B and will be reimbursed in accordance with 23 CFR Part 140, subpart I, Reimbursement of Railroad Work.

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### **6.8 Audit Expense**

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The costs of financial audits are allowable provided that the audits were performed in accordance with the Single Audit Act, as implemented by Circular A-133 Audits of State, Local Governments and Non-profit organizations.

The LPA may use other state, local agencies, and Federal audit organizations as well as licensed or certified public accounting firms to augment its audit force. Audits of third party contract costs, and other audits providing assurance that a recipient has complied with FHWA regulations are all considered project related audits. These financial type audits are different from the Construction/Engineering Compliance Audits noted in Section 11.4.

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### **6.9 Other Allowable Costs Subject to FHWA Approval**

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Although some category of expenditures are not mentioned specifically in 23 CFR Part 140, "Reimbursement", as eligible for Federal participation, should the LPA wish to seek Federal participation, it is allowed to request approval from the FHWA prior to billing. The expenditures should relate to the Federal aid project and be well identified through proper documentation.





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## 6.10 Other Unallowable Costs

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Other unallowable costs include those costs identified in OMB Circular A-87.

- **Contributions and Donations:** Contributions and donations, including cash, property, and services, by governmental units to others, regardless of the recipient, are unallowable.
- **Entertainment:** Costs of entertainment, including amusement, diversion, and social activities and any costs directly associated with such costs (such as ticket to shows or sports events, meals, lodging, rentals, transportation, and gratuities) are unallowable.
- **Fine and Penalties:** Costs resulting from violations of or failure to comply with Federal, state, and local laws and regulations are unallowable.
- **Fund raising and investment management costs:** Costs of organized fund raising, including financial campaigns, solicitation of gifts and bequest are unallowable, regardless of purpose for which the funds are used.
- **Governor's Expenses:** The salaries and expenses of the office of the governor of a state or the chief executive of a political subdivision are unallowable.
- **Legislative Expenses:** Salaries and other expenses of the state legislative or similar LG bodies, such as county supervisors, city councils, school boards, etc., whether incurred for purposes of legislation or executive direction, are unallowable.
- **Bad Debt:** Any losses arising from uncollectible accounts and other claims, and related costs, are unallowable unless provided for in Federal program award regulations.
- **Under-recovery of Costs under Grant Agreements:** Any excess of cost over the Federal contribution under one grant agreement is unallowable under other grant agreements.
- **Contingencies:** Contributions to a contingency reserve or any similar provision made for events the occurrence of which cannot be foretold with certainty as to time, or intensity, or with an assurance of their happening, are unallowable.

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## 6.11 Final Records

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The Local Government must document the work performed on the contract. Documentation consists of field books, inspector's record of field tests, LPA engineer's and inspector's diaries, all invoices, weigh bills, truck measurements, quantity tickets, receiving reports, field office ledgers, mass diagrams, cross-sections, computer listing, work profiles, etc. All records will be subject to GDOT Compliance reviews and audits. Findings and exceptions must be addressed within 30 days.

Final records shall be retained in accordance with applicable State and Federal laws discussed in Chapter 11.

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## 6.12 Access to Records

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In accordance with 49 CFR Subtitle A 18.43 (e), the awarding agency and the Comptroller General of the United States, or any of their authorized representatives, shall have the right of access to any pertinent books, documents, papers, or other records of grantees and sub-grantees which are pertinent to the grant, in order to make audits, examinations, excerpts, and transcripts.

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