

Alaska Department of Transportation & Public Facilities

**Categorical Exclusion (CE)
Assignment Compliance Review
(23 U.S.C. 326)**

Corrective Action Plan

August 3, 2015

Revised August 31, 2015



INTRODUCTION

Purpose

The purpose of this Corrective Action Plan (CAP) is to address the specific findings outlined in the Federal Highway Administration (FHWA) May 2015 *Categorical Exclusion (CE) Assignment Compliance Review Final Report* (2015 Final Report). The report was a result of the FHWA Compliance Review per the *Memorandum of Understanding between Federal Highway Administration, Alaska Division and the Alaska Department of Transportation and Public Facilities, State Assumption of Responsibility for Categorical Exclusions* (6004 MOU), executed on September 20, 2012. In January 2015, the FHWA initiated this Compliance Review with interviews and project file reviews conducted in the FHWA Alaska Division Office. The Review Team completed interviews of staff of the FHWA Alaska Division Office, the DOT&PF Statewide Environmental Program Manager, and all three Regional Environmental Managers, either in person or by telephone. On February 11, 2015, FHWA submitted the draft report to DOT&PF for review and comment. DOT&PF provided draft report comments on March 10, 2015, and FHWA issued the 2015 Final Report on June 4, 2015.

Background

Under 23 U.S.C. 326, DOT&PF has assumed the Secretary of Transportation's authorities and responsibilities for determining if a transportation project qualifies for a Categorical Exclusion (CE), under 23 CFR 771.117. The 6004 MOU outlines the specific terms that describe the roles and responsibilities under the CE Assignment.

Stipulation IV(F)(5) of the original 6004 MOU, dated September 22, 2009, established that a CE Assignment Compliance Review in Alaska would take place at least every 12 months. FHWA conducted the first of those compliance reviews in March of 2010, the second in February and March of 2011, and the third in December of 2011.

The renewed 6004 MOU dated September 20, 2012 established that compliance reviews will occur at least every 18 months, with such reviews not occurring sooner than 12 months after written acceptance by FHWA of the State's CAP for the previous review. The intent of this CAP is to address the findings made by FHWA during the fourth compliance review of the State's assumption of environmental responsibilities under 23 U.S.C. 326.

2015 FINDINGS AND ASSOCIATED CORRECTIVE ACTIONS

FHWA defines a finding as "a statement pertaining to compliance with a regulation, statute, FHWA guidance, policy, or procedures, DOT&PF procedures, or the 326 MOU" (2015 FHWA Final Report, p. 11). One new finding resulted from the 2015 compliance review. There are no unresolved findings or observations from previous FHWA compliance reviews conducted under the original 6004 MOU.

FHWA Finding

One (1) project file reviewed contained a Project Information Document (PID) that did not provide sufficient evidence that the CE processing and other environmental responsibilities assigned under the MOU were completed. That PID form did not provide an environmental document approval date as specified in the Preconstruction Manual instructions for the PID. FHWA staff subsequently approved the ATP when it was inappropriate to do so. The cause of this finding may be a misunderstanding of what information is needed to complete the PID, as well as a misunderstanding on the part of FHWA ATP reviewers of what information is required for ATP approval. The effect is an increased risk to the State of violation of the terms of MOU Stipulation IIB(3)(c).

DOT&PF Corrective Actions

DOT&PF staff addressed potential deficiencies in the instructions for the PID contained in the Preconstruction Manual through revision of the PID and the PID instructions. These revisions became effective on August 1, 2015. In addition, training on the information requirements and instructions on filling out the PID is expected to be provided to DOT&PF environmental staff and FHWA ATP review staff by November 1, 2015. DOT&PF believes that these corrective actions will adequately address the finding made by FHWA concerning the potential for incorrectly completed PIDs.

2015 OBSERVATIONS AND ASSOCIATED CORRECTIVE ACTIONS

Observations are defined as circumstances where FHWA noted that a process or procedure may be improved. The 2015 FHWA Final Report listed six (6) specific observations. Five of the six observations will be addressed by the corrective actions outlined above for the finding listed in the report. The sixth observation pertains to the Review Team's recognition that MOU Stipulation II(B)(3)(c) is too broadly written. This observation will be addressed during the upcoming renewal of the 6004 MOU in September 2015.

CONCLUSION

DOT&PF staff in the SEO and in the regional offices continue to work together to improve the 6004 Program by collaboratively establishing policies, procedures, and processes that satisfy the requirements of NEPA and the 6004 MOU, while streamlining the environmental approval process and speeding project delivery. DOT&PF continues its commitment to working with FHWA to successfully implement the State's 6004 program.