The Purpose, Need, & Benefits of Advance Construction as a Permanent Adjunct to the DOT&PF Funds Management Strategy

ABSTRACT: Advance Construction has been part of the Federal-aid highway program since 1956, but beginning with the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) the federal funds management tool was adjusted to further facilitate project delivery. The U.S. Department of Transportation's Federal Highways Administration (FHWA) has authority to allow States to spend appropriated state funds prior to those funds being eligible for federal reimbursement using the financial and funds management tool called Advance Construction (AC). The Department of Transportation & Public Facilities (DOT&PF) regularly utilizes both Planned AC, for flexibility provided in project delivery and fiscal constraint, and Managed AC, for bridging gaps in funds availability from federal apportionment and asychronous federal/state fiscal years.

Without the use of AC the Statewide Transportation Improvement Program (STIP) would stuggle to satisfy fiscal constraint requirements, the overall program size would be reduced due to lack of flexibility of federal funds, project delays would be more frequent, project costs would increase as construction seasons could be missed due to lack of available federal funds, and gaps in the availability of federal funds would result in delays in project contracting such as letting, bidding, and delivery at given points in the year, every year.

AC is a critical financing and funds management tool for DOT&PF to ensure smooth and efficient project delivery, maximizing flexibility that allows for a larger overall infrastructure program, and continuous project delivery throughout the year.

FHWA Advance Construction Background & Purpose

Title 23 & Code of Federal Regulations

Section 115 of Title 23, United States Code, permits FHWA to authorize States to use State appropriated funds on Federal-aid highway projects without requiring that Federal funds be eligible for reimbursement at the time the FHWA approves State spending on a project. Consistent with Alaska Constitution Article IX, Section 13, DOT&PF can only spend State funds within the limit of an appropriation by the Legislature.

Under Title 23, the State may proceed with advance construction using State funds under certain FHWA procedures and requirements and consistent with a FHWA project agreement. At any time the State may request that the project be converted to a Federal-aid project provided that sufficient Federal-aid funds and obligation authority are available. A State also may request a partial conversion where only a portion of the Federal share of project costs is obligated and reimbursed; and the remainder may be converted at a later time provided that funds and associated obligation authority are available. Only the amount converted to a Federal-aid project becomes an obligation of the Federal Government.

The Code of Federal Regulations (23 CFR 630.705) requires States proceeding with Federal-aid highway projects using State appropriated funds must comply with all Title 23 rules, regulations and requirements for those State funds to remain eligible for Federal reimbursement.

DOT&PF General AC Guidelines

DOT&PF uses federal AC authority for the Federal-aid eligible highway program. The Department manages this State funding and Federal reimbursement cash flow to limit or eliminate expenditures, converting projects in part or whole as expenditures begin.

- Obligation of State appropriated funds should not exceed 125% of the amount of federal reimbursement obligation forecasted for that year.
- At the end of each federal fiscal year, the federal AC financing balance will typically not exceed 50% of the federal funds amount specified above, without express permission of the Commissioner or their designee.
- Use of federal obligation authority for AC conversions for all projects will not exceed 50% of the official, estimated federal formula funds available for use during a state fiscal year, without express permission of the Commissioner or their designee.
- The accrued unbilled balance for Federal-aid highways projects should not exceed $50M without consultation

with the Department of Revenue and express permission of the Commissioner.

Details

- Federal AC financing may be used to finance multi-year projects (planned AC) to ensure Fiscal Constraint in the STIP.
- Federal AC financing may be used for temporary federal fund management (managed AC).
- Each project for which Federal AC financing is used must be authorized by FHWA prior to advertising for letting or expending any funds on the project.
- Monthly, but no less than quarterly, conversions of Federal AC financing to regular federal funding occurs to reduce accrued unbilled eligible costs for projects and programs. Interdivisional processes result in regular reporting of accrued unbilled balances, with requests to convert to full or partial Federal-aid projects.
- Overall Federal AC balances must be within the balances prescribed at the time of the final, approved, annual State Transportation Improvement Program (STIP) document.
- DOT&PF will not utilize additional advance construction that would exceed these Federal AC financing limits unless the Commissioner or their delegate, in consultation with the Director of Program Development, approves the increase in advance.
- If any forecast projects that these Federal AC financing limits will be exceeded, changes must be proposed to the Federal AC financing plan to bring it back into compliance by the beginning of the following STIP.

Table. 1 AC Year-End Balances, by type (in millions)

AC Type	FY16	FY17	FY18	FY19	FY20
Surface Transportation	$43.0	$75.7	$51.2	$64.8	$55.3
Highway Safety	$39.4	$28.9	$21.0	$64.4	$18.4
High-Risk Rural Road	$0.0	$0.1	$2.5	$1.5	$2.0
Rail-Highway Crossing	$0.0	$0.0	$0.0	$0.6	$0.1
National Highways	$169.3	$149.5	$163.5	$134.4	$198.6
Other AC	$26.5	$18.1	$6.8	$7.8	$12.6
Year End AC Balance	**$278.1**	**$272.4**	**$245.0**	**$273.4**	**$286.9**

AC, The Need & Benefits

Planned Advance Construction

Planned AC more closely matches actual reimbursements from FHWA when project expenditures occur on multi-year projects. Project expenditures occur by executing Federal AC conversions to regular federal funds at various times during the project's timeframe.

Benefits

1. Use of Federal AC financing allows executing a Federal AC agreement for the entire project, but delaying the use of regular federal funding until times that more closely match when actual expenditures occur. Expenditures occur throughout the project, using AC and converting it in part or whole as expenditures occur allow the State to neither obligate federal funds nor encumber large cash requirements.
2. The use of Federal AC frees up, on a one-time basis, federal funds in the first year of multi-year federal projects that otherwise would have been entirely committed to these projects. The STIP is required to include both Planned AC and conversions.
3. Planned AC maximizes the Departments ability to manage its large variety of federal funds, by freeing up federal obligation authority for use in the standard program, and limits exposure to an otherwise negative financial leveraging position.

Managed Advance Construction

Another use of Federal AC financing is "managed AC." The U.S. Congress has not been able to pass full year appropriations legislation prior to the start of a federal fiscal year for several years now. This results in receipt of only portions of the total amount of funding for a federal fiscal year, rather than the entire amount early in the year. Managed AC is typically not included in the STIP and does not have planned AC paybacks.

Benefits

1. Managed AC involves entering into Federal AC agreements in order to respond to unplanned events such as delays in actual receipt of federal funding during a federal fiscal year.
2. Federal AC financing bridges the gap in time between federal approval and federal obligation authority (funding). This would otherwise result in either a restricted program, or no program, from November through February (or when the full year appropriations are made available).
3. Because the federal fiscal year runs from October 1st to September 30th, and the state fiscal year runs from July 1st to June 30th, Federal AC financing can be used during the period of July through September for increased program flexibility to ensure all annual federal authority is used.