multi-modal clear-span crossing of the Little Miami River (including roadway, rail transit and bikeway) and multi-modal transit hubs at US 50 and Newtown Road. Total length is about six miles. Alternatives to be further evaluated in Tier 2 include (1) taking no action; (2) various interchange configuration options for US 50/Red Bank Road/SR 32; and (3) several alternatives and combinations of alternatives through the Little Miami River floodplain and Newtown.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State and local agencies and to private organizations and citizens who previously expressed or are known to have an interest in the project. Public meetings and a public hearing will be held in the project area. Public notice will be given of the time and place of the meetings and hearing. A draft of the Tier 2 EIS will be available for public and agency review and comment prior to the public hearing.

To ensure that the full range of issues related to this proposed action is identified and addressed, comments and suggestions are invited from all interested parties. Comments and questions concerning the proposed action should be directed to the FHWA at the address provided above.

Catalog of Federal Domestic Assistance Number and Title: FHWA 20.205 Highway Planning and Construction (A, B)

Authority: 23 U.S.C. 315; 49 CFR 1.48.

Issued on: April 30, 2012.

Laura S. Leffler,

Division Administrator, Federal Highway Administration, Columbus, Ohio.

[FR Doc. 2012–11145 Filed 5–8–12; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[FHWA Docket No. FHWA–2012–0005]

Surface Transportation Project Delivery Pilot Program; Caltrans Audit Report

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final report.

SUMMARY: Section 6005 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU) established the Surface Transportation Project Delivery Pilot Program, codified at 23 U.S.C. 327. To ensure compliance by each State participating in the Pilot Program, 23 U.S.C. 327(g) mandates semiannual audits during each of the first 2 years of State participation. This final report presents the findings from the sixth FHWA audit of the California Department of Transportation (Caltrans) under the pilot program.

FOR FURTHER INFORMATION CONTACT: Ms. Ruth Rentch, Office of Project Development and Environmental Review, (202)–366–2034, *Ruth.Rentch@dot.gov*, or Mr. Michael Harkins, Office of the Chief Counsel, (202) 366–4928, *Michael.Harkins@dot.gov*, Federal Highway Administration, Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590. Office hours are from 8:00 a.m. to 4:30 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

This document, the notice and request for comment, and all comments received may be viewed online through the Federal eRulemaking portal at: *http://www.regulations.gov.* Electronic submission and retrieval help and guidelines are available on the Web site. It is available 24 hours each day, 366 days this year. Please follow the instructions. An electronic copy of this notice may be downloaded from the Office of the Federal Register's home page at *http://www.archives.gov* and the Government Printing Office's Web site at *http://www.access.gpo.gov.*

Background

Section 6005 of SAFETEA–LU (codified at 23 U.S.C. 327) established a pilot program to allow up to five States to assume the Secretary of Transportation's responsibilities for environmental review, consultation, or other actions under any Federal environmental law pertaining to the review or approval of highway projects. In order to be selected for the pilot program, a State must submit an application to the Secretary.

On June 29, 2007, Caltrans and FHWA entered into a Memorandum of Understanding (MOU) that established the assignments to and assumptions of responsibility to Caltrans. Under the MOU, Caltrans assumed the majority of FHWA's responsibilities under the National Environmental Policy Act, as well as the FHWA's responsibilities under other Federal environmental laws for most highway projects in California.

To ensure compliance by each State participating in the Pilot Program, 23 U.S.C. 327(g) requires the Secretary to conduct semiannual audits during each of the first 2 years of State participation; and annual audits during each subsequent year of State participation. The results of each audit must be presented in the form of an audit report and be made available for public comment. The FHWA solicited comments on the sixth audit report in a **Federal Register** Notice published on February 22, 2012, at 77 FR 10599. The FHWA received one comment from Caltrans. This notice provides the final draft of the sixth FHWA audit report for Caltrans under the pilot program.

Authority: Section 6005 of Public Law 109–59; 23 U.S.C. 315 and 327; 49 CFR 1.48.

Dated: Issued on: April 26, 2012.

Victor M. Mendez,

Administrator.

Surface Transportation Project Delivery Pilot Program Federal Highway Administration Audit of California Department of Transportation October 17–21, 2011

Overall Audit Opinion

Based on the information reviewed, it is the Federal Highway Administration (FHWA) audit team's opinion that as of October 21, 2011, the California Department of Transportation (Caltrans) continued to make progress toward meeting all responsibilities assumed under the Surface Transportation Project Delivery Pilot Program (Pilot Program), as specified in the Memorandum of Understanding (MOU) [1] with FHWA and in Caltrans' Application for Assumption (Application).

The FHWA commends Caltrans for its implementation of corrective actions in response to previous FHWA audit report findings. The FHWA also observed that Caltrans continued to identify and implement on a statewide Pilot Program basis best practices in use at individual Caltrans Districts (Districts).

With the completion of FHWA's sixth audit, Caltrans has now operated under the Pilot Program for 4 years. In compliance with the time specifications for the required audits, FHWA completed four semiannual audits in the first 2 years of State participation and is now conducting the annual audit cycle, which began with the fifth audit in July 2010 and includes this sixth audit in October 2011. Collectively, the FHWA audits have included on-site audits to Caltrans headquarters offices, 10 of the 12 Caltrans Districts, and to the Caltrans Regional Offices supporting the remaining 2 Districts. The audit team continues to identify significant differences across the Districts in terms of implementing Pilot Program policies, procedures, and responsibilities. Examples of such differences include: resource availability and allocation; methods of implementation; methods of process evaluation and improvement; and levels of progress in meeting all assumed

[1] Caltrans MOU between FHWA and Caltrans available at: *http://environment.fhwa.dot.gov/strmlng/safe_cdot_pilot.asp.*

responsibilities. It is the audit team's opinion that the highly decentralized nature of operations across Districts continues to be a major contributing factor to the variations observed in the Pilot Program. As a result of this organizational structure, Caltrans Headquarters must provide clear, consistent, and ongoing oversight over Districts' implementation and operation of the Pilot Program responsibilities. Implementation of a robust oversight program will help foster the exchange of information and the sharing of best practices and resources between Districts and will put the entire organization in a better position to more fully implement all assumed responsibilities and meet all Pilot Program commitments.

Due to the multiyear timeframes associated with most complex and controversial projects, the full lifecycle of the environmental review aspect of project development (proceeding from initiation of environmental studies and concluding with the issuance of a Record of Decision (ROD) or equivalent decision document) has yet to be realized within the Pilot Program to date. Caltrans continues to gain experience in understanding the resource requirements and processes necessary to administer its Program. It is the audit team's opinion that Caltrans needs to continue to refine its approaches and use of resources to meet all Pilot Program commitments, especially given the increasing resource demands associated with managing ever-more complex and controversial projects under the Pilot Program under recent resource constraints.

Requirement for Transition Plan

The Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU) Section 6005(a) established the Pilot Program, codified at 23 U.S.C. 327. Under the provisions of 23 U.S.C 327(i)(1), as enacted in SAFETEA–LU, ''the program shall terminate on the date that is 6 years after the date of enactment of this section,'' which was August 10, 2011. However, section 2203(c) of the Surface Transportation Extension Act of 2010, Part II, Public Law 111–322, amended 23 U.S.C 327(i)(1) to require the Pilot Program to terminate 7 years after the date of the enactment of SAFETEA–LU or August 10, 2012. The MOU between FHWA and Caltrans was amended August 8, 2011, to include this new date and to update related provisions. Specifically, the provisions in the amended MOU provide that Caltrans and FHWA must jointly ''develop a plan to transition the responsibilities that Caltrans has assumed back to the FHWA so as to minimize disruption to the project, minimize confusion to the public, minimize burdens to other affected Federal, State, and local agencies...'' The amended MOU further provides that the transition plan must be completed and approved by both Caltrans and FHWA no later than March 10, 2012.

Effective Practices

The FHWA audit team observed the following effective practices during the sixth audit:

1. The creation of a statewide Community Impacts working team that holds monthly calls to share Community Impact Assessment (CIA) and Environmental Justice information. Caltrans has also developed new CIA guidance.

2. Improved level of consistency in implementing processes and documenting information, largely due to the use of the Standard Environmental Reference (SER) and templates.

3. Improved Section 4(f) de minimis letters to the officials with jurisdiction, with good examples from local agencies in District 4.

4. Increased access to training, including the availability of on-demand training, PowerPoint, Webinars and videoconferencing.

5. Complete and well-organized project files in District 10.

6. Assumptions and Risk statements included in early project development/scoping that list possible consequences, effects and costs of not complying with all environmental requirements and procedures.

7. Caltrans' *Standard Specifications for Construction 2010* (recently released) requires environmental stewardship to be included in all construction contracts, which should aid in environmental mitigation implementation.

8. The new Caltrans Standard Tracking and Exchange Vehicle for Environmental Systems (STEVE) supports tracking of the environmental review process and sharing of project status across project teams and includes an internal dispute resolution process.

Background

The Pilot Program allows the Secretary of Transportation (Secretary) to assign, and the State to assume, the Secretary's responsibilities under the National Environmental Policy Act (NEPA) for one or more highway projects. Upon assigning NEPA responsibilities, the Secretary may further assign to the State all or part of the Secretary's responsibilities for environmental review, consultation, or other action required under any Federal environmental law pertaining to the review of a specific highway project. When a State assumes the Secretary's responsibilities under this program, the State becomes solely responsible and is liable for carrying out the responsibilities it has assumed, in lieu of the FHWA.

To ensure compliance by each State participating in the Pilot Program, 23 U.S.C. 327(g) mandates that FHWA, on behalf of the Secretary, conduct semiannual audits during each of the first 2 years of State participation; and annual audits during each subsequent year of State participation. The focus of the FHWA audit process is four-fold: (1) To assess a Pilot State's compliance with the required MOU and applicable Federal laws and policies; (2) to collect information needed to evaluate the success of the Pilot Program; (3) to evaluate Pilot State progress in meeting its performance measures; and (4) to collect information for use in the Secretary's annual Report to Congress on the administration of the Pilot Program. Additionally, 23 U.S.C. 327(g) requires FHWA to present the results of each audit in the form of an audit report published in the **Federal Register**. This audit report must be made available for public comment, and FHWA must respond to public comments received no later than 60 days after the date on which the period for public comment closes.

Scope of the Audit

This is the sixth FHWA audit of Caltrans participation in the Pilot Program. The on-site portion of the audit was conducted in California from October 17 through October 21, 2011. As required in SAFETEA–LU, each FHWA audit must assess compliance with the roles and responsibilities assumed by the Pilot State in the MOU. The audit also includes recommendations to assist Caltrans in successful participation in the Pilot Program.

Prior to the on-site audit, FHWA completed telephone interviews with Federal resource agency staff at the U.S. Army Corps of Engineers, the U.S. Fish and Wildlife Service (FWS), the National Park Service, the National Oceanic and Atmospheric Administration, the Advisory Council on Historic Preservation, and the Environmental Protection Agency. The on-site audit included visits to the Caltrans Offices in District 2 (Redding), District 3/North Region (Marysville), District 4 (Oakland), District 6 (Fresno), District 10 (Stockton), and Headquarters (Sacramento).

This report documents findings within the scope of the audit as of the completion date of the on-site audit on October 21, 2011.

Audit Process and Implementation

The intent of each FHWA audit completed under the Pilot Program is to ensure that the Pilot State complies with the commitments in its MOU with FHWA. The FHWA does not evaluate specific project-related decisions made by the State; these decisions are the sole responsibility of the Pilot State. However, the FHWA audit scope does include the review of the processes and procedures (including documentation) used by the Pilot State to reach project decisions in compliance with MOU Section 3.2.

In addition, Caltrans committed in its Application (incorporated by reference in MOU Section 1.1.2) to implement specific processes to strengthen its environmental procedures in order to assume the responsibilities assigned by FHWA under the Pilot Program. The FHWA audits review how Caltrans is meeting each commitment and assess Pilot Program performance in the core areas specified in the Scope of the Audit section of this report.

The Caltrans' Pilot Program commitments address:

- Organization and Procedures under the Pilot Program
- Expanded Quality Control Procedures
- Independent Environmental Decisionmaking
- Determining the NEPA Class of Action
- Consultation and Coordination with Resource Agencies
- Issue Identification and Conflict Resolution Procedures
- Record Keeping and Retention
- Expanded Internal Monitoring and Process Reviews
- Performance Measures to Assess the Pilot Program

- Training to Implement the Pilot Program
- Legal Sufficiency Review.

The FHWA team for the sixth audit included representatives from the following offices or agencies:

- FHWA Office of Project Development and Environmental Review
- FHWA Office of the Chief Counsel
- FHWA Alaska Division Office
- FHWA Resource Center Environmental Team
- Volpe National Transportation Systems Center
- U.S. FWS.

During the onsite audit, the audit team interviewed more than 60 staff from 5 Caltrans District and headquarters offices. The audit team also reviewed project files and records for over 55 projects managed by Caltrans under the Pilot Program.

The FHWA acknowledges that Caltrans identified specific issues during its sixth self-assessment performed under the Pilot Program (required by MOU section 8.2.6), and is working on corrective actions to address the identified issues. Some issues described in the Caltrans self-assessment may overlap with FHWA findings identified in this audit report.

In accordance with MOU Section 11.4.1, FHWA provided Caltrans with a 30-day comment period to review this draft audit report. The FHWA reviewed comments received from Caltrans and revised sections of the draft report, where appropriate, prior to publishing it in the **Federal Register** for public comment.

Limitations of the Audit

The conclusions presented in this report are opinions based upon interviews of selected persons knowledgeable about past and current activities related to the execution of the Pilot Program at Caltrans, and a review of selected documents over a limited time period. The FHWA audit team's ability to conduct each audit and make determinations of Caltrans' compliance with assumed responsibilities and commitments under the Pilot Program has been further limited by the following:

- Select Districts visited by FHWA audit team. The FHWA audit team has not visited each District during the audit process. Each audit (including this audit) has consisted of visits to Districts with significant activity under the Pilot.
- Caltrans staff availability during audits. Some Caltrans staff selected to be interviewed by the audit team were out of the office and unavailable to participate in the onsite audit, including participation in scheduled interviews, despite Caltrans having been notified ahead of time. This limited the extent of information gathering.
- Limited scope of Pilot Program project development activity. Caltrans has not operated under the Pilot Program for a sufficient period of time to manage the full lifecycle of most Environmental Impact Statements (EIS) and other complex environmental documents. Therefore, FHWA is not yet able to fully determine how Caltrans will comply with its responsibilities assumed under the Pilot Program for these project situations.
- Insufficient data to determine time savings reported by Caltrans in the completion of environmental documents. Due to the relatively short period of time that the Pilot Program has been in place, Caltrans has not completed the environmental process for a sufficient number of projects of varying complexities to adequately support a determination on the potential time savings resulting from participation in the Pilot Program.
- Continued errors in the quarterly reports. As has been the case in every audit, the quarterly reports prepared by Caltrans listing environmental approvals and decisions made under the Pilot Program continue to contain omissions and errors. It is difficult for FHWA to exercise full oversight on Pilot Program projects without a complete accounting of all NEPA documents produced under the Pilot.

Status of Findings Since the Last Audit (July 2010)

As part of the sixth audit, FHWA evaluated the corrective actions implemented by Caltrans in response to the ''Deficient'' and ''Needs Improvement'' findings in the fifth FHWA audit report.

Deficient audit finding status:

1. Quarterly Reports—The quarterly reports Caltrans provided to FHWA under MOU Section 8.2.7 continued to include inaccuracies related to environmental document approvals and decisions made under the Pilot Program. The audit team acknowledges that Caltrans has recently implemented the STEVE environmental database system on a statewide basis to assist in the development of a comprehensive database of environmental projects and milestones.

2. Section 4(f) Documentation—As noted in the past two audits, inconsistencies in Section 4(f) compliance and documentation have been observed by the audit team. The FHWA acknowledges that Caltrans continues to provide Section 4(f) training and assistance to the Districts to improve the understanding of the Section 4(f) statute and regulations. However, training implementation is inconsistent with staff implementing Section 4(f) across Districts.

3. Quality Assurance/Quality Control (QA/QC) Certification Process—Project file reviews completed during the sixth audit continued to identify incorrect and incomplete QC certification forms. Caltrans continues to address inadequacies in this process through staff-specific training when inconsistencies are identified, most notably during the self-assessment process.

Needs Improvement audit findings status:

1. Maintenance of Project and General Administrative Files—Caltrans has instituted specific procedures for maintaining project files in accordance with the Uniform Filing System and has provided training on these procedures. Inconsistencies in the application of these procedures, reported in previous audit findings, were also identified in this audit.

2. Performance Measure—FHWA recommended that Caltrans share with FHWA the specific agencies' rating information so that specific issues could be identified. Caltrans has provided this information to FHWA.

3. Coordination with Resource Agencies—Conversations with Federal resource agencies prior to the onsite audit indicated that relationships between the agencies and Caltrans are generally considered to be effective; however, the audit team noted an issue regarding insufficient information being initially submitted to the resource agencies.

4. Procedural and Substantive Requirements—There were identified instances of incomplete documentation regarding the Endangered Species Act Section 7 process. This was also an area of irregularities identified in the Caltrans Self Assessment. Section 7 compliance continues to be a topic addressed by the Biological Consultancy group and, included as part of the STEVE, there is an elevation process for Section 7 conflicts.

5. Re-evaluation Process—Project file reviews and staff interviews continue to indicate varying degrees of compliance with the re-evaluation process and procedures.

6. Section 4(f) Consistency Issue—Project file reviews and interviews with Caltrans staff confirmed continuing inconsistencies in the implementation of the Section 4(f) process as well as with a general understanding required in carrying out Section 4(f) provisions. The audit team does acknowledge that a Section 4(f) evaluation training on demand module was recently posted for use by Caltrans staff.

7. Training—As in past audits, the audit team observed inconsistencies in the use of tools to identify training needs, ensure training is received, and to track employees' training histories. The audit team also determined there was no method for employees to track completion of any online training available on the Caltrans Web site.

Findings Definitions

The FHWA audit team carefully examined Pilot Program areas to assess compliance in accordance with established criteria in the MOU and Application. The time period covered by this audit report is from the start of the Caltrans Pilot Program (July 1, 2007) through completion of the sixth onsite audit (October 21, 2011) with the focus of the audit on the most recent 15-month period. This report presents audit findings in three areas:

- *Compliant*—Audit verified that a process, procedure, or other component of the Pilot Program meets a stated commitment in the Application and/or MOU.
- *Needs Improvement*—Audit determined that a process, procedure or other component of the Pilot Program as specified in the Application and/or MOU is not fully implemented to achieve the stated commitment or the process or procedure implemented is not functioning at a level necessary to ensure the stated commitment is satisfied. Action is recommended to ensure success.
- *Deficient*—Audit was unable to verify if a process, procedure or other component of the Pilot Program met the stated commitment in the Application and/or MOU. Action is required to improve the process, procedure or other component prior to the next audit;

or

Audit determined that a process, procedure or other component of the Pilot Program did

not meet the stated commitment in the Application and/or MOU. Corrective action is required prior to the next audit.

or

Audit determined that for a past Needs Improvement finding, the rate of corrective action has not proceeded in a timely manner; is not on the path to timely resolution of the finding.

Summary of Findings—October 2011

Compliant

Caltrans was found to be compliant in meeting the requirements of the MOU for the key Pilot Program areas within the scope and the limitations of the audit, with the exceptions noted in the Deficient and Needs Improvement findings in this audit report set forth below.

Needs Improvement

(N1) *Training*—Inconsistent Level of Training for Staff—MOU Section 12.1.1 requires Caltrans to ensure that its staff is properly trained and that training will be provided ''in all appropriate areas with respect to the environmental responsibilities Caltrans has assumed.'' Section 4.2.2 of the MOU also requires that Caltrans maintain adequate staff capability to effectively carry out the responsibilities it has assumed.

The audit team found the following inconsistencies across the Districts regarding the level of needed trainings received by Caltrans staff:

(a) Several of the Section 4(f) District Points of Contact (POC) have very little, if any experience with writing or reviewing a Section 4(f) document and have had little training in Section 4(f). The audit team learned that the specific roles and responsibilities for the POCs had not yet been determined. Also, it has not been decided if there will be the formation of a working/peer group of these POCs or how they should proceed in becoming ''expert'' in this area;

(b) The audit team learned through interviews that the number and variety of available online, on-demand trainings have increased. However, the lack of a system to track those taking these trainings creates difficulties in identifying staff training needs;

(c) Interviews with staff reflected instances where staff had to cancel their attendance at trainings due to resource limitations, or schedule demands; and

(d) Interviews with staff indicated a large staff turnover in certain Districts. The loss of experienced staff increases the importance of the training needed for new employees, which is uncertain due to resource restrictions in these same Districts.

(N2) *Training*—Inconsistent Understanding of Required Processes—MOU Section 4.2.2 requires Caltrans to maintain adequate organizational and staff capacity to effectively carry out the responsibilities it has assumed under MOU Section 3. Good communication among all staff levels is essential for this to be accomplished. The following inconsistencies in lack of knowledge and inconsistent understanding were noted during interviews with Caltrans staff:

(a) Interviews with Caltrans staff in varying positions in three Districts revealed a lack of understanding of the FHWA fiscal constraint requirements and its relationship to NEPA documents;

(b) A majority of Caltrans staff members interviewed indicated that there is a lack of understanding of the definitions for the following Section 4(f) terms: Section 4(f) use; temporary occupancy; avoidance alternatives; least overall harm analysis; and constructive use of a Section 4(f) resource.

(c) Interviews with Caltrans staff reflected that there was a lack of understanding for determining a de minimis impact on a Section 4(f) resource;

(d) Several Caltrans staff members interviewed indicated a lack of knowledge regarding the identification of officials with jurisdiction over Section 4(f) resources; and

(e) Interviews with Caltrans District 4 staff reflected that there was a lack of communication among all staff concerning the District's new requirement to hold public hearings for all environmental assessments (EA).

(N3) *Air Quality Conformity Determinations*—Section 8.5.1 of the MOU and SER Chapter 38 require Caltrans staff to document the air quality conformity analysis for each project by submitting a request to FHWA for a formal conformity determination, as required by 23 U.S.C. 327(a)(2)(B)(ii)(I). The request for the conformity determination should be submitted to FHWA as soon as possible after the preferred alternative is identified. The FHWA conformity determination must be received before the final NEPA action is completed.

Through interviews and project file reviews, the audit team identified an EA that was approved without a project-level conformity determination letter from FHWA. This determination letter was later obtained from FHWA and a re-evaluation was performed by Caltrans and included in the project file.

Deficient

(D1) *Reports Listing Approvals and Decisions* (i.e., Quarterly Reports)—MOU Section 8.2.7 requires Caltrans to submit a report listing all Pilot Program approvals and decisions made with respect to responsibilities assumed under the MOU with FHWA (each quarter for the first 2 years and no less than every 6 months after the first 2 years). Caltrans has chosen to continue to provide quarterly reports to FHWA after the first 2 years. As was identified in every previous FHWA audit report, inaccurate project reporting was identified in this audit and it continues to be an ongoing issue affecting the quarterly report process.

Among the reporting errors identified in this audit were the omission of two completed decisions—one ROD and one Finding of No Significant Impact (FONSI).

The FHWA acknowledges that the STEVE has recently been implemented throughout the Districts, and Caltrans anticipates that this new system will improve the accuracy of information provided in the quarterly reports provided to FHWA.

(D2) *QA/QC Certification Process*—MOU Section 8.2.5 and SER Chapter 38 require Caltrans staff to review each environmental document in accordance with the policy memorandum titled, ''*Environmental Document Quality Control Program under the NEPA Pilot Program''* (July 2, 2007). As was identified in past audits, incomplete and incorrectly completed QC certification forms continued to be identified in this audit. During project file reviews by the audit team, the following instances of incomplete or incorrect QC certification forms were observed:

(a) Four Internal QC certification forms (for three projects) were completed and signed and dated by reviewers after the approval date of the document;

(b) One class of action determination form was signed on the same date that the document was approved;

(c) Five QC certification forms contained undated review signatures or the signatures were not obtained in the proper sequence in accordance with the Caltrans established QA/QC processes. This included four projects where external QC certification forms contained signatures that were obtained after the internal QC certification form signatures; and

(d) Five QC certification forms were missing the signatures of required reviewers.

(D3) *QA/QC Certification Process*—MOU Section 8.2.5 and SER Chapter 38 require Caltrans staff to review each environmental document in accordance with the policy memorandum titled, ''*Environmental Document Quality Control Program under the NEPA Pilot Program''* (July 2, 2007). The policy memorandum included the revision to the quality control program that includes the addition of a NEPA QC Review. The purpose of this review component is to ensure that the environmental document complies with FHWA policies and guidance and the requirements of all applicable Federal laws, executive orders, and regulations.

Interviews with Caltrans staff and project file reviews in one District indicated that a NEPA QC reviewer was directed by the Office Chief of Environmental Affairs and the District Director to sign the internal certification form without having reviewed the final version of the environmental document in order to meet the project schedule. The NEPA QC reviewer had noted in the project file that there were two items, previously identified to be addressed, that had not yet been addressed in the document that was signed.

Since the determination of this finding, the audit team and Caltrans have had several discussions concerning the finding. Additionally, Caltrans has provided additional information through a comment posted by them on the docket during the comment period of the draft audit report. An internal investigation has been completed by Caltrans Audits and Investigations staff concerning the reported circumstances in the finding. Caltrans has determined that the NEPA QC reviewer was not directed or instructed by the Office Chief of Environmental Review and/or the District Director to sign the internal certification form. They determined that the memo written by this QC reviewer was ''ambiguous'' and gave an inaccurate impression of events. The audit team

acknowledges that the situation cited in this finding has been resolved.

(D4) *Re-evaluation Process*—MOU Section 5.1 requires Caltrans to be subject to the same procedural and substantive requirements that apply to the U.S. Department of Transportation (DOT) in carrying out the responsibilities assumed under the Pilot Program. This includes the process and documentation for conducting NEPA re-evaluations to comply with 23 CFR 771.129. Additionally, SER Chapter 33 discusses revalidations and re-evaluations. As in past audits, project file reviews and staff interviews identified varying degrees of understanding of, and compliance with, these procedures and the improper use of reevaluation documentation to serve another project development purpose. Project file reviews identified the following inconsistencies with regards to re-evaluations:

(a) A re-evaluation is done to determine if the approved environmental document or the Categorical Exclusion (CE) designation remains valid. In the re-evaluation process, the original decision and analysis needs to be reviewed for its validity. A re-evaluation was used to increase the scope of the original EA/FONSI. The FHWA re-evaluation process does not accommodate such an approach. The supporting documentation and project files for this project were not available for review; and

(b) In a second project, the NEPA document was identified in the Quarterly Report as a re-evaluation. This project was identified as an intersection improvement that was to be added to a larger project, already under construction. The project file contained both re-evaluation forms and CE checklist forms. Under NEPA, the project should have been a stand-alone CE, as it was not a part of the original project.

(D5) *Section 4(f) Documentation*—MOU Section 5.1.1 affirms that Caltrans is subject to the same procedural and substantive requirements that apply to DOT in carrying out the responsibilities assumed under the Pilot Program. The SER Chapter 20, Section 4(f) and Related Requirements, sets forth procedures for documenting impacts to Section 4(f) properties in Caltrans-assigned environmental documents. As was also noted in the fourth and fifth FHWA audits of the Pilot Program, project file reviews and interviews with staff conducted during this audit identified inconsistencies with the implementation and documentation requirements for carrying out the Section 4(f) provisions.

In the case of Section 4(f) evaluations, the audit team found the following:

(a) Two of three evaluations did not contain a required Section 4(f) avoidance alternative analysis.

(b) Two of the three evaluations did not provide a required Least Overall Harm Analysis.

(D6) *Statement Regarding Assumption of Responsibility*—MOU section 3.2.5 requires language regarding Caltrans' assumption of responsibility under 23 U.S.C. 327 be included on the cover page of each environmental document for all assumed Pilot Program projects. The audit teams' project file reviews found the following inconsistencies with this requirement:

(a) The cover page for one EA reviewed during the audit did not include this required statement;

(b) The cover page for one Final EIS had been modified from the language agreed to in the MOU; and

(c) The cover page for three California Environmental Quality Act only document contained the FHWA assumption statement, even though there was no FHWA involvement in this document.

Response to Comments and Finalization of Report

The FHWA received one comment from Caltrans during the 30-day comment period for the draft audit report. Caltrans submitted its comment regarding finding D3. Caltrans had been informed of this finding by the audit team through initial draft findings shared with them, as per the provisions of the MOU and then also through the draft audit report published in the **Federal Register** for the 30-day comment period. There have been several discussions between FHWA and Caltrans concerning the details of this finding. Since the audit team made and verified this finding, Caltrans has done its own internal investigation into the situation reported. Caltrans's investigation determined that the NEPA QC reviewer was not directed or instructed to by the Office Chief of Environmental Review and/or the District Director to sign the internal certification form. They determined that the memo written by this QC reviewer was ''ambiguous'' and gave an inaccurate impression of events.

Caltrans stated that they do not concur with the deficient finding and request that the finding be revised to reflect the situation they have determined to accurate from their investigations. The FHWA has revised finding D3 to address the Caltrans comment.

[FR Doc. 2012–11119 Filed 5–8–12; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

FTA Supplemental Fiscal Year 2012 Apportionments, Allocations, and Program Information

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice.

SUMMARY: The Federal Transit Administration (FTA) annually publishes one or more notices apportioning funds appropriated by law. In some cases, if less than a full year of funds is available, FTA publishes multiple partial apportionment notices. This notice is the second notice announcing partial apportionment for programs funded with Fiscal Year (FY) 2012 contract authority because the current authorization of FTA's programs provides contract authority for the period October 1, 2011 through June 30, 2012.

FOR FURTHER INFORMATION CONTACT: For general information about this notice contact Kimberly Sledge, Acting Director, Office of Transit Programs, at (202) 366–2053. Please contact the appropriate FTA regional office for any specific requests for information or technical assistance. A list of FTA regional offices and contact information is available on the FTA Web site at *http://www.fta.dot.gov.*

I. Overview

FTA's current authorization, the Safe, Accountable, Flexible, Efficient, Transportation Equity Act: A Legacy for Users (SAFETEA–LU), expired September 30, 2009. Since that time, Congress has enacted short-term extensions allowing FTA to continue its current programs. The Surface Transportation Extension Act of 2012, Public Law 112–102, continues the authorization of the Federal transit programs of the U.S. Department of Transportation (DOT) through June 30, 2012. It extends contract authority for the Formula and Bus Grants programs at approximately seventy-five percent of the FY 2011 levels until June 30 2012.

Additionally, FTA's full-year appropriations bill (Pub. L. 112–055, the Consolidated and Further Continuing Appropriations Act, 2012), hereinafter (''Appropriations Act, 2012'') was enacted in November 2011, giving FTA appropriated resources for all of FY 2012 for Administrative Expenses, Capital Investment Grants, and Research programs and grants to the Washington Metropolitan Area Transportation Authority. The Appropriations Act, 2012 also provides a full fiscal year obligation limitation on any contract authority that is made available to FTA programs funded from the Mass Transit Account of the Highway Trust Fund during this fiscal year.

On January 11, 2012, FTA published an apportionments notice that apportioned the FY 2012 authorized contract authority among potential program recipients based on contract authority that was available from October 1, 2011 through March 31, 2012 (see **Federal Register** Volume 77, No.7). That notice also provided relevant information about the FY 2012 funding available, program requirements, period of availability, prior year unobligated balances, and other related program information and highlights. A copy of that notice and accompanying tables can be found on the FTA Web site at *http://www.fta.dot.gov/apportionments.*