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**Accelerating the Project Delivery Process
APWA Recommendations**

1. Barrier to Accelerated Project Delivery:

A project becomes “federalized” when any amount of federal funding is used for the project, regardless of the total amount of federal funding utilized. All federal requirements apply to the “federalized” project, regardless of the size of the project (hundreds of thousands of dollars or hundreds of millions of dollars).

Recommendation:

State and local projects which receive or may receive less than \$5,000,000 or 25 percent, whichever is greater, of the total project funding from federal sources should be exempt from federal laws and regulations, provided such projects follow all applicable state and local laws and regulations, including laws and regulations applicable to protection of the environment and right-of-way acquisition. Furthermore, state or local projects do not become subject to federal laws and regulations (“federalized”) until such time as FHWA or the Federal Transportation Administration (FTA) notifies the affected State Transportation Agency (STA) or governmental agency that the project has been approved to receive federal funding; prior work by the state or local government is to be acceptable to federal agencies, provided the work followed applicable state and local regulations.

2. Barrier to Accelerated Project Delivery:

The environmental review and permitting process is a major contributing factor (perhaps the largest) to delays in transportation project implementation. Current federal and state agency interpretations of the National Environmental Policy Act (NEPA) process are confusing, and NEPA is often applied too stringently by these agencies, resulting in excessive delays with resultant increased costs.

Recommendation:

Without compromising environmental protection or opportunities for public input, simplify the NEPA legislative language and applicable federal regulations to provide clear guidance, make the process outcome-based, provide for a national clearinghouse submittal of NEPA documents, streamline the process, allow greater opportunity for and more definitive guidance on qualifying projects as programmatic Categorical Exclusions, reduce documentation (paperwork)

requirements, allow for greater, less burdensome delegation of FHWA's environmental authority to states, and increase authority for states and US Department of Transportation (US DOT) to use programmatic approaches for environmental compliance.

3. Barrier to Accelerated Project Delivery:

When federal funds are used on a roadway facility, there is confusion on the limits of the roadway on which federal requirements are applicable and for what length of time the requirements are applicable.

Recommendation:

Provide clarity that federal requirements apply only to the project phases (planning, design, right-of-way, and construction) for which federal funds are used, for the identifiable segment length (project limits) of the project and only until completion of the phase receiving federal funds or when the federal and local match funding is expended.

4. Barrier to Accelerated Project Delivery:

State and local governments are not allowed to utilize existing general engineering consultant contracts (where design and Construction Engineering and Inspection (CEI) consultants have been selected through a Qualification Based Selection (QBS) process, similar to the federal Brooks Act) to provide professional engineering services on federally funded project phases, and are required to conduct a separate and distinct selection process for the specific federally funded project phase. This action generally requires four to six months additional time to engage a consultant.

Recommendation:

Allow state and local governments (including Metropolitan Planning Organizations (MPOs)) to utilize general engineering consulting contracts for provision of professional engineering services on federally funded projects, when the consultant selection has been performed in accordance with state law or local ordinance or rule similar to the federal Brooks Act.

5. Barrier to Accelerated Project Delivery:

Many local governments are not knowledgeable in applying for federal funding for local projects and implementing federally funded projects.

Recommendation:

Require all State Transportation Agencies to have dedicated offices and staff for the sole purposes of preparing guidelines, training, and assisting local governments in applying for federal and state funding and implementing federal and state funded projects.

6. Barrier to Accelerated Project Delivery:

Federal permitting agencies do not have a required response time for commenting on permit applications or issuing permits.

Recommendation:

Require all federal permitting agencies to identify additional required information, advise that no permit is required, or issue a permit within 60 calendar days of a permit application for transportation projects.

7. Barrier to Accelerated Project Delivery:

Conflicts between federal, state and local Disadvantaged Business Enterprise (DBE) regulations and requirements can create significant obstacles for project execution.

Recommendation:

Allow local agencies to comply with their USDOT agency approved DBE goals in lieu of a STA's DBE program, provided the local agency elects to do so by advising the granting agency of its election in writing.

8. Barrier to Accelerated Project Delivery:

Requiring the person in Responsible Charge of a federally funded local project must be an employee of the local agency.

Recommendation:

Provide that the person in Responsible Charge of a federally funded local project may be an employee or an agent engaged by the local agency.

9. Barrier to Accelerated Project Delivery:

Conflicts in federal agency interpretations of federal requirements.

Recommendation:

Designate a lead federal agency for all transportation projects, which has the responsibility and authority to interpret and monitor all federal regulations for the specified type of transportation project, e.g., designate FHWA as the lead federal agency to interpret all federal regulations regarding highways and bridges.

10. Barrier to Accelerated Project Delivery:

Small local projects, such as sidewalks, require both state and federal oversight, adding unnecessary time and expense.

Recommendation:

Consider a model similar to the US Department of Housing and Urban Development's (HUD) Community Development Block Grant program, where federal funds are granted directly to the local governments. Compliance with federal requirements is necessary and subject to audit, but the local agencies are trusted to carry out the program effectively.

Incentivize states to propose and implement processes that facilitate expedited project delivery at the local level.

11. Barrier to Accelerated Project Delivery:

State and local governments are not allowed to use state or local funded work efforts, performed prior to award of federal funding, as a match for federal funding.

Recommendation:

Allow state and local government funded work efforts for project planning, environmental review, design and right-of-way, performed prior to award of federal funding, to be used as match for federal funding on the project.