

# Compliance Assessment Program PY14

## Summary of Results

October 9, 2014



Compiled by: Steve Pyburn, PE,  
Construction Program Manager

This paper summarizes results of the Compliance Assessment Program (CAP) in the California Division for Performance Year 2014 (PY14). The purpose of the CAP is to provide reasonable assurance that Federal-aid highway construction projects are in compliance with key federal requirements. This report includes data compiled for the Core Guide, the Contract Administration Guide, and the Finance Guide. For these guides, there is a summary of issues that did not have at least 75 percent compliance<sup>1</sup>, a table that indicates compliance for each question, and a graphical comparison of the answers for each question.

### Core Guide Results

The Core Guide was used to assess overall compliance with a number of general federal requirements. Table 1 summarizes the questions on that guide, as well as rates of compliance. Below is a summary of requirements that did not achieve at least 75% compliance for either state or locally administered projects.

#### State Projects

The reviews on state-administered projects show very good compliance with the Federal-aid requirements evaluated by the Core Guide.

#### Local Agency Projects

*Question 4: Are all required Form FHWA-1273 contract provisions physically incorporated into the construction contract?* Compliance by local agencies on this requirement was 13%. It has been found that Caltrans' *Local Assistance Program Manual (LAPM)* does not clearly indicate the Form-1273 must be physically attached to the signed construction contract (not incorporated by reference). As such, an activity has been added to the Division Unit Plan to work with Caltrans to revise the LAPM.

*Question 8: Did the successful bidder make a commitment or good faith effort to meet the specified Disadvantaged Business Enterprise (DBE) contract goal prior to award?* Compliance by local agencies on this requirement was 74%. On twelve local agency projects, the contractor did not meet the DBE goal and submitted a GFE, and of these twelve GFE's, ten were found to be inadequate. In September 2014, Caltrans implemented new procedures to improve its oversight of LPA's GFE decisions. Under this new process, construction contracts greater than \$2 million, and consultant contracts greater than \$500,000, the LPA will have Caltrans Division of Local Assistance review and provide feedback on its GFE decision prior to awarding the contract.

---

<sup>1</sup> Compliance is defined as the number of "Yes" answers divided by the total number of "Yes" and "No" answers.

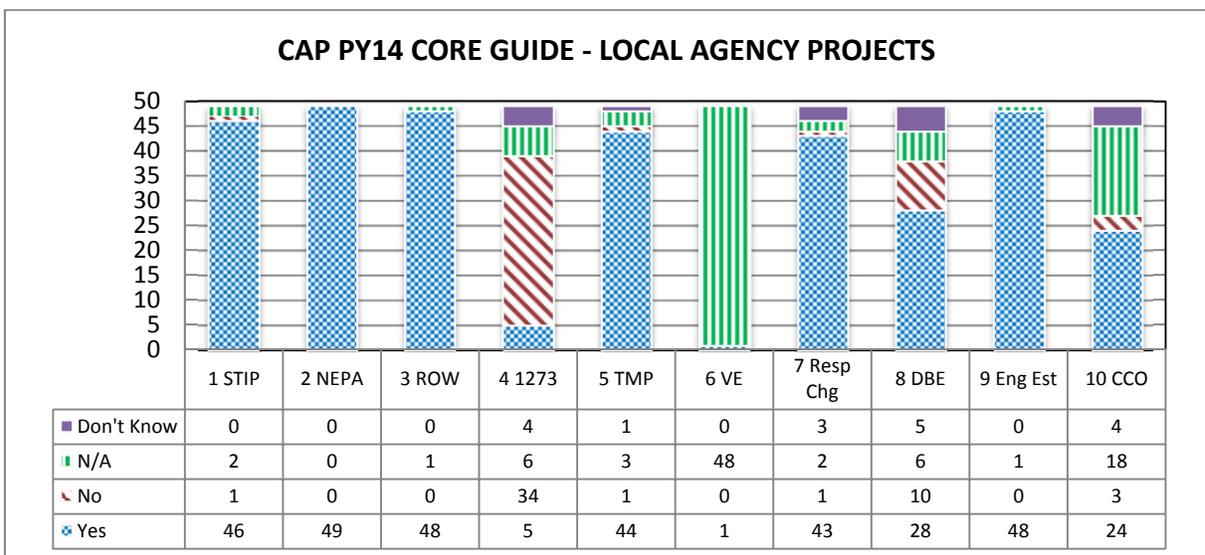
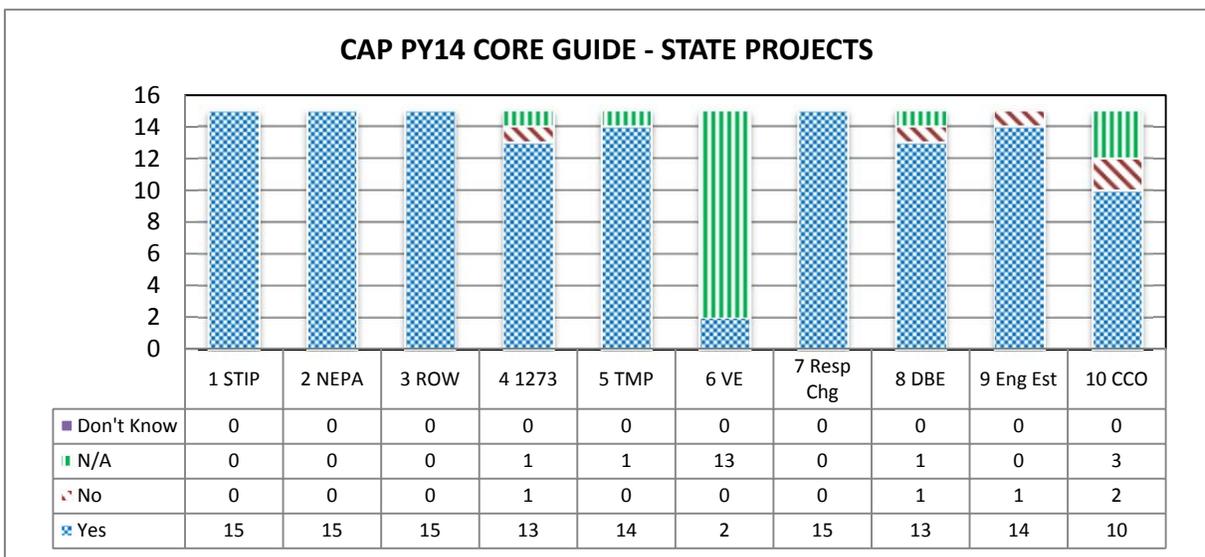
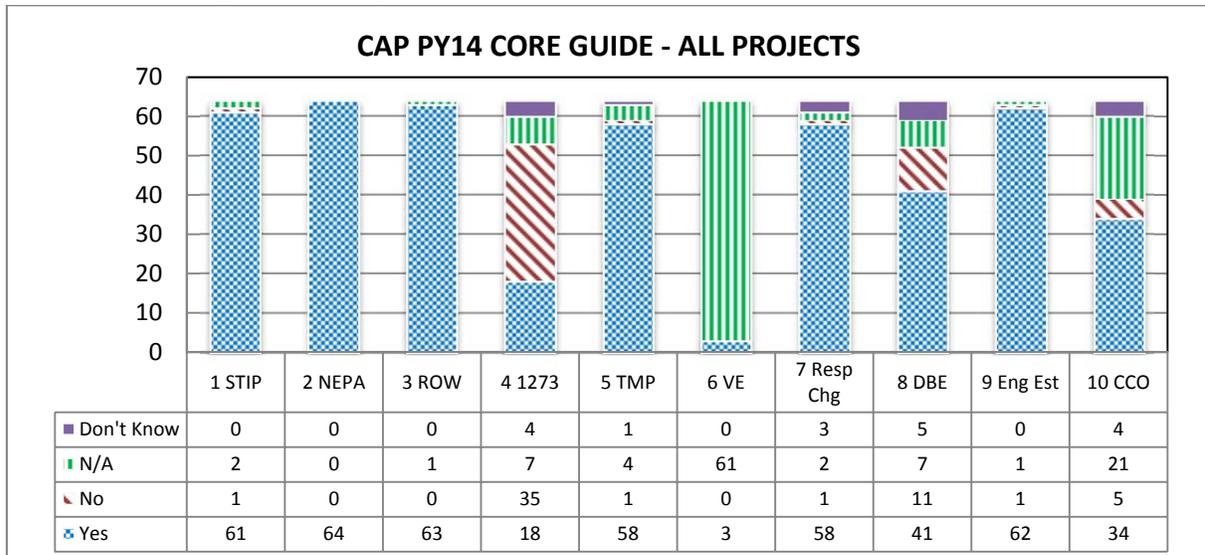


**Table 1 Core Guide Questions and Summary of Responses**

Question	Compliance
1. Was the project included in the FHWA/FTA approved Statewide Transportation Improvement Program (STIP) prior to the date of authorization in FMIS?	All Projects: 98% State Projects: 100% Local Projects: 98%
2. Was the appropriate NEPA action completed prior to the date of authorization in FMIS, i.e. Record of Decision (ROD), Finding of No Significant Impact (FONSI), or Categorical Exclusion (CE) determination?	All Projects: 100% State Projects: 100% Local Projects: 100%
3. Did the State provide a statement regarding the status of all ROW, utility, and railroad work prior to the date of authorization in FMIS?	All Projects: 100% State Projects: 100% Local Projects: 100%
4. Are all required Form FHWA-1273 contract provisions physically incorporated into the construction contract?	All Projects: 34% State Projects: 93% Local Projects: 13%
5. Do the approved project plans and specifications include a Traffic Management Plan (TMP) or provisions for the Contractor to develop a plan?	All Projects: 98% State Projects: 100% Local Projects: 98%
6. Was a Value Engineering analysis conducted prior to the completion of the project's final design?	All Projects: 100% State Projects: 100% Local Projects: 100%
7. Is there a full time employed public employee in responsible charge for administering the project?	All Projects: 98% State Projects: 100% Local Projects: 98%
8. Did the successful bidder make a commitment or good faith effort to meet the specified Disadvantaged Business Enterprise (DBE) contract goal prior to award?	All Projects: 79% State Projects: 93% Local Projects: 74%
9. Was the State's request for obligation of federal funds supported by a documented cost estimate that is based on the best estimate of cost?	All Projects: 98% State Projects: 93% Local Projects: 100%
10. Based on a minimum review of one contract change order or extra work order, was a cost analysis performed and adequately documented for each negotiated change or extra work order?	All Projects: 87% State Projects: 83% Local Projects: 89%
Note: Compliance is defined as the number of "Yes" answers divided by the total number of "Yes" and "No" answers.	



### Core Guide Compliance Comparison





## Contract Administration Review Guide

The Contract Administration CAP Review Guide was used to assess compliance with specific requirements related to the execution of Federal-aid contracts. Table 2 summarizes the questions on the Contract Administration guide, as well as rates of compliance. Below is a summary of requirements that did not achieve at least 75% compliance for either state or locally administered projects

### State Projects

*Question 8: If a specific patented or proprietary material or product is included in the approved PS&E, did the State certify either that such patented or proprietary item is essential for synchronization with existing highway facilities, or that no equally suitable alternate exists?* State project compliance was 67%. However, it should be noted that there were only three State projects that had a patented or proprietary product. Three projects is not a large enough sample to draw a conclusion.

### Local Agency Projects

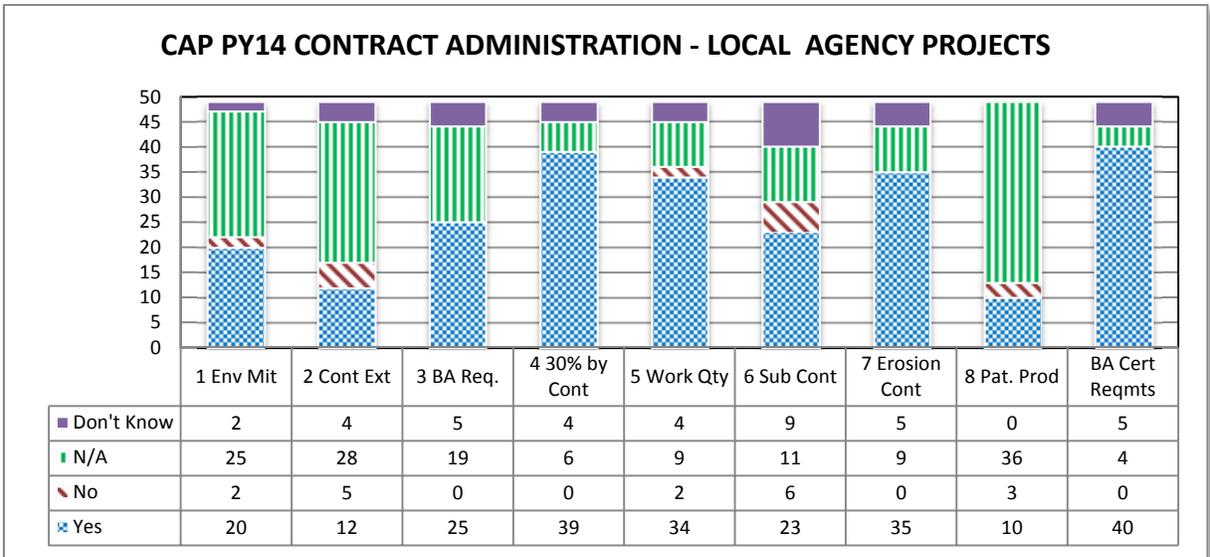
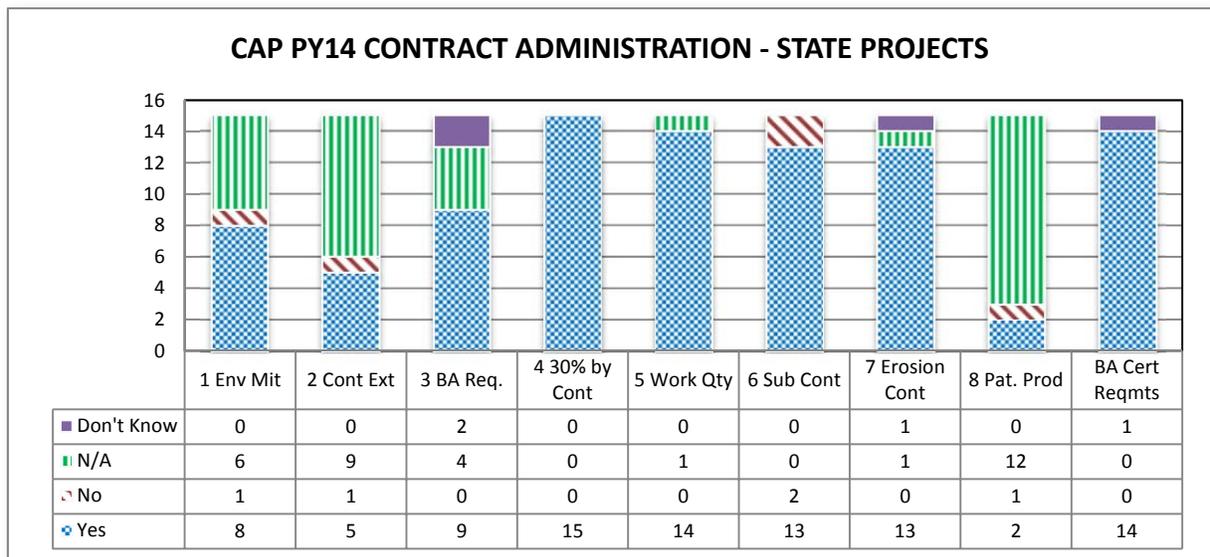
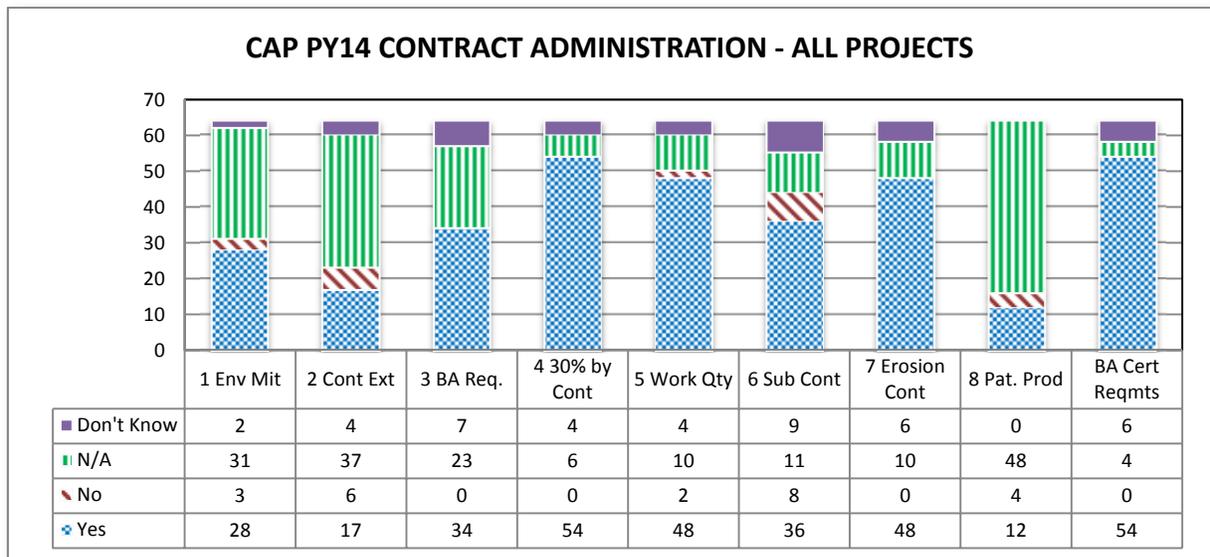
*Question 2: Based on a minimum review of one contract time extension request involving federal participation, is the contract time extension request fully justified and adequately documented?* LPA compliance was 71%. This may be due to requirements for time extensions to be “fully justified” and being “adequately documented” being somewhat subjective and reviewers have a different idea of adequate justification than the project engineer.

**Table 2 Contract Administration Questions and Summary of Responses**

Question	Compliance
1. Are mitigation measures stated as commitments in the environmental document and included in the approved plans and specification, being incorporated on the project?	All Projects: 90% State Projects: 89% Local Projects: 91%
2. Based on a minimum review of one contract time extension request involving federal participation, is the contract time extension request fully justified and adequately documented?	All Projects: 74% State Projects: 83% Local Projects: 71%
3. Based on a minimum review of one applicable pay item paid in one progress payment, did the State ensure that all steel or iron material manufacturing processes, including application of coatings, for that pay item occur in the United States as required under Buy America?	All Projects: 100% State Projects: 100% Local Projects: 100%
4. Is the percentage of work performed by the prime contractor greater than or equal to 30 percent of the total original contract price excluding identified specialty items?	All Projects: 100% State Projects: 100% Local Projects: 100%
5. Based on a minimum review of one applicable contract pay item paid in one progress payment, does the pay item’s source documentation upon which payment is based provide adequate assurance that completed work quantities are determined accurately and in accordance with the State’s statewide uniform procedures?	All Projects: 96% State Projects: 100% Local Projects: 94%
6. Based on a minimum review of one subcontract, has the State authorized in writing the subcontract, or has FHWA approved the State’s process for monitoring Contractor certification that each subcontract has a written agreement containing all the requirements and pertinent provisions of the prime contract?	All Projects: 82% State Projects: 87% Local Projects: 79%
7. Are erosion and sediment control measures and practices being monitored and maintained or revised to insure that they are fulfilling their intended function during the construction of the project?	All Projects: 100% State Projects: 100% Local Projects: 100%
8. If a specific patented or proprietary material or product is included in the approved PS&E, did the State certify either that such patented or proprietary item is essential for synchronization with existing highway facilities, or that no equally suitable alternate exists?	All Projects: 75% State Projects: 67% Local Projects: 77%
9. Do you understand requirements for certifying that iron and steel products that are subject to Buy America were manufactured in the US?	All Projects: 100% State Projects: 100% Local Projects: 100%
Note: Compliance is defined as the number of “Yes” answers divided by the total number of “Yes” and “No” answers.	



### Contract Administration Guide Compliance Comparison





## Finance Guide Results

The Finance Guide was used to assess overall compliance with a number of general financial requirements. Table 3 summarizes the questions on that guide, as well as rates of compliance. Below is a summary of requirements that did not achieve at least 75% compliance for either state or locally administered projects.

### State Projects

*Question 2: Has the Federal-aid share of eligible project costs in the project agreement or in subsequent amendments to the agreement remained unchanged?* State administered projects had 67% compliance. The Code of Federal Regulations (CFR) allows the percentage of Federal share to be revised under certain circumstances and the question does not seem to allow for those situations. For example, the federal share can be adjusted shortly after award of the contract. In addition, a number of projects reviewed that had a change in federal share included Toll Credit funding.

### Local Agency Projects

*Question 2: Has the Federal-aid share of eligible project costs in the project agreement or in subsequent amendments to the agreement remained unchanged?* LPA projects had a compliance rate of 63%. The Code of Federal Regulations (CFR) allows the percentage of Federal share to be revised under certain circumstances and the question does not seem to allow for those situations. For example, the federal share can be adjusted shortly after award of the contract. In addition, a number of projects reviewed that had a change in federal share included Toll Credit funding.

*Question 5, Indirect charge rate:* For locally administered projects, only 67% of the projects reviewed accrued indirect costs at the approved indirect cost rate. In some cases, the local agency had not approved an indirect cost rate at the time of the project review.

**Table 3 Finance Guide Questions and Summary of Responses**

Question	Compliance <sup>a</sup>
1. Are all eligible charges incurred after the date of construction authorization in FMIS?	All Projects: 100% State Projects: 100% Local Projects: 100%
2. Has the Federal-aid share of eligible project costs in the project agreement or in subsequent amendments to the agreement remained unchanged?	All Projects: 63% State Projects: 67% Local Projects: 63%
3. Have expenditures remained on the originally charged federal fund category?	All Projects: 100% State Projects: 100% Local Projects: 100%
4. Based on a review of one Federal-aid billing, were expenditures allocated to the appropriate Federal program fund category (program code) on multi-funded projects?	All Projects: 100% State Projects: 100% Local Projects: 100%
5. Were indirect charges incurred at the approved rate?	All Projects: 78% State Projects: 100% Local Projects: 67%
6. Based on review of one Federal-aid billing, were payroll, fleet, and equipment charges allocated properly to the project?	All Projects: 100% State Projects: 100% Local Projects: 100%



### Contract Administration Guide Compliance Comparison

