

3 Policy

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3 Policy

3.1 OVERVIEW

3.1.1 Introduction

Drainage concerns are one of the most important aspects of highway design and construction. The purpose of this chapter is to outline specific policies which, when carried out, will provide an appropriate level of consideration of the many variables that influence drainage design.

3.1.2 Policy Versus Criteria

Policy and criteria statements are frequently closely related. Criteria are CDOT numerical or other specific guidance formulated in broad policy statements. For this design manual, the following definitions of policy and criteria will be used:

Policy is a definite course of action or method of action, selected to guide and determine present and future decisions. Only the Transportation Commission can set CDOT policy.

Design Criteria are the standards by which a policy is carried out or enacted. Thus, design criteria are required for design, while policy statements are not. *Standard Operating Procedure (SOP)* is a set of step-by-step instructions compiled by CDOT to help CDOT employees carry out complex routine operations to implement *Design Criteria*. *SOPs* aim to achieve efficiency, quality output and uniformity of performance, while reducing miscommunication and failure to comply with regulations.

The following is an example of a policy statement:

The designer will size the drainage structure to accommodate a flood compatible with the projected traffic volumes.

The design criteria for designing the structure might be:

In rural areas that experience 50-year recurrence interval flood discharges (Q_{50}) greater than or equal to 4,000 cfs, cross-drainage structures for two-lane roads shall be designed for a 50-year flood (exceedance probability of 2%); for areas that experience Q_{50} less than 4,000 cfs, the cross drainage structure shall be designed for a 25-year flood (exceedance probability of 4%).

3.2 GENERAL HYDRAULIC DESIGN POLICIES

3.2.1 General Policies

Hydrologic and hydraulic analyses utilized in the design process are based on current “standard engineering practice.” Engineering judgment governs the approach to be followed by a competent and prudent designer when evaluating, selecting, and approving a final design. The following policies are to be followed during the design process:

- It is the designer’s responsibility to provide an adequate drainage structure. The designer is not required to provide a structure that will handle all conceivable flood flows under all possible site conditions.
- The level of detail of design studies should be commensurate with the risk associated with the probable encroachment and with other economic, engineering, social, or environmental concerns.
- The design flood, and in some cases the overtopping flood, may serve as criteria for evaluating the adequacy of a proposed design. The overtopping flood is the smallest recurrence interval flood that will result in flow over the highway or other watershed boundary. The overtopping flood flow is the flow that overtops the highway or other watershed boundary limit. The design flood is the recurrence interval of the flood for which the drainage structure is sized to assure that no traffic interruption or significant damage will result. The overtopping flood and the design flood may vary widely depending on the grade, alignment, and classification of the road, and the characteristics of the water course and floodplain.
- The predicted value of the 100-year or base flood is the current engineering standard for evaluating flood hazards, and is the basis for regulating floodplains under the National Flood Insurance Program. The designer must make a professional judgment as to the degree of risk that is acceptable for the base flood on a case-by-case basis.
- The hydraulic performance curve of a drainage structure depicts the relationship between floodwater-stage elevation and flood-flow magnitudes and frequencies. The performance curve must include the 100-year flood. With the performance curve, the designer can evaluate the adequacy of the design for a range of flows and identify errors in the hydrologic estimating procedure. It is standard engineering practice to use the predicted value of the 100-year flood as the basis for evaluating flood hazards. However, flows larger than this value may be considered for complex, high-risk, or unusual cases that require special studies or risk analyses.

3.3 FEDERAL POLICIES

3.3.1 Introduction

The following section lists the federal legislation that contains the policies affecting drainage design and construction. This section gives the legislative reference, regulations reference, purpose, applicability, general procedures, and agency for coordination and consultation. For more detailed information about specific federal policies, the specific legislation should be consulted. Abbreviations are given in subsection 3.3.2.

3.3.2 Abbreviations

The following are the abbreviations used in the descriptions of federal policies given below:

BIA - Bureau of Indian Affairs

BLM - Bureau of Land Management

CEQ - Council on Environmental Quality

CERCLA - Comprehensive Environmental Response, Compensation, and Liability Act

CFR - Code of Federal Regulations

CLOMR – Conditional Letter of Map Revision
 CLOMC – Conditional Letter of Map Change
 DOA - Department of the Army
 DOD - Department of Defense
 DOI - Department of the Interior
 DOT - Department of Transportation
 EPA - Environmental Protection Agency
 FEMA - Federal Emergency Management Agency
 FHPM - Federal-Aid Highway Program Manual
 FHWA - Federal Highway Administration
 FIFRA - Federal Insecticide, Fungicide, and Rodenticide Act
 FWPCA - Federal Water Pollution Control Act
 FWS - Fish and Wildlife Service
 HUD - Housing and Urban Development
 LOMC - Letter of Map Change
 LOMR – Letter of Map Revision
 MOA - Memorandum of Agreement
 NEPA - National Environmental Policy Act
 NFIP – National Flood Insurance Program
 NMFS - National Marine Fisheries Service
 NPS - National Park Service
 OCZM - Office of Coastal Zone Management
 P.L. - Public Law
 RCRA - Resource Conservation and Recovery Act
 SARA - Superfund Amendments and Reauthorization Act
 NRCS - Natural Resource Conservation Service (formerly Soil Conservation Service, SCS)
 SIP - State Implementation Plan
 TVA - Tennessee Valley Authority
 UMTA - Urban Mass Transportation Administration
 USC - United States Code
 USCE - U.S. Army Corps of Engineers
 USCG - U.S. Coast Guard
 USFS - U.S. Forest Service

3.3.3 Environmental Policies

FHWA sets forth the regulations under 23 CFR 650. CDOT is bound by these regulations.

1. National Environmental Policy Act: 42 USC 4321-4347 (P.L. 91-190 and 94-81). Reference - 23 CFR 770-772, 40 CFR 1500-1508, CEQ Regulations, Executive Order 11514 as amended by Executive Order 11991 on NEPA responsibilities.

Purpose. To consider environmental factors through a systematic, interdisciplinary approach before committing to a course of action.

Applicability. All highway projects.

General Procedures. Procedures set forth in CEQ regulations and 23 CFR 771.

Coordination. Appropriate federal, state, and local agencies.

2. Section 4(f) of the Department of Transportation Act: 23 USC 138, 49 USC 303 (P.L. 100-17,97-449, and 86-670), 23 CFR 771.135.

Purpose. To preserve publicly-owned parklands, waterfowl and wildlife refuges, and all historic areas.

Applicability. Significant publicly-owned parklands, recreation areas, wildlife and waterfowl refuges, and all significant historic sites, parts of which are used for a highway project.

General Procedures. Specific finding required: (1) the selected alternative must avoid protected areas, unless not feasible or prudent and, (2) must include all possible planning to minimize harm.

Coordination. DOI, DOA, HUD, state, or local agencies having jurisdiction, and State Historic Preservation Officer (for historic sites).

3. Economic, Social, and Environmental Effects: 23 USC 109(h) (P.L. 91- 605), 23 USC 128, 23 CFR 771.

Purpose. To assure that possible adverse, economic, social, and environmental effects of proposed highway projects and project locations are fully considered, and that final decisions on highway projects are made in the best interest of the overall public.

Applicability. Planning and development of proposed projects on any federal-aid system for which FHWA approves the plans, specifications, and estimates, or has the responsibility for approving a program.

General Procedures. (1) Identification of social, economic, and environmental effects; (2) consideration of alternate courses of action; (3) involvement of other agencies and the public; and, (4) systematic interdisciplinary approach. The report required by Section 128, on the consideration given to the social, economic and environmental impacts of the project, may serve as part of the NEPA compliance document.

Coordination. Appropriate federal, state, and local agencies.

4. Public Hearings: 23 USC 128, 23 CFR 771.111.

Purpose. To ensure adequate opportunity for public hearings on the social, economic and environmental effects of alternate proposed project locations and major design features, as well as the consistency of the project with local planning goals and objectives.

Applicability. Public hearings or opportunities for hearings are required for projects described in each state's public involvement procedures approved by FHWA.

General Procedures. Public hearings or opportunities for public hearings during the consideration of highway location and design proposals are conducted as described in the state's FHWA approved public involvement procedures. States must certify to FHWA that such hearings have been held, or the opportunity provided, and must submit a transcript of hearings to FHWA.

Coordination. Appropriate federal, state, and local agencies.

5. Surface Transportation and Uniform Relocation Assistance Act of 1987: Section 123(f) Historic Bridges 23 U.S.C: 144(o) (P.L. 100-17).

Purpose. To complete an inventory of on- and off-system bridges in order to determine their historic significance; and, to encourage the rehabilitation, reuse, and preservation of historic bridges.

Applicability. Any bridge that is listed on, or eligible for listing on, the National Register of Historic Places.

General Procedures. (1) Identify on- and off-system historic bridges; (2) seek to preserve or reduce impact to historic bridges; and, (3) seek a recipient prior to demolition.

Coordination. State Historic Preservation Officer and Advisory Council on Historic Preservation.

6. Surface Transportation and Uniform Relocation Assistance Act of 1987: Section 130 Wildflowers, 23 USC 319(b) (P.L. 100-17), FHPM 6-2-5-1, 23 CFR 752.

Purpose. To encourage the use of native wildflowers in highway landscaping.

Applicability. Native wildflowers must be planted on any landscaping project undertaken on the federal-aid highway system.

General Procedures. At least 0.25% of funds expended on a landscaping project must be used to plant wildflowers on that project.

Coordination. Appropriate federal and state agencies.

3.3.4 Health Policies

1. Safe Drinking Water Act: 42 USC 300f- 300j-6 (P.L. 93-523 and 99-339), FHPM 6-7-3-3, 23 CFR 650, Subpart E, 40 CFR 141,149.

Purpose. To ensure public health and welfare through safe drinking water.

Applicability. (1) All public drinking water systems and reservoirs (including rest-area facilities); and, (2) actions which may have a significant impact on an aquifer or wellhead protection area which is the sole or principal drinking water source, as designated by the Federal Register process.

General Procedures. (1) Compliance with national primary drinking water regulations; (2) compliance with state wellhead-protection plans; and, (3) compliance with MOAs between EPA and FHWA covering specific sole-source aquifers.

Coordination. EPA and appropriate state agency.

3.3.5 Land and Water Usage

1. Wilderness Act: 16 USC 1131-1136, 36 CFR 251,293,43 CFR 19, 8560, 50 CFR 35.

Purpose. To preserve and protect wilderness areas in their natural condition for use and enjoyment by present and future generations.

Applicability. All lands designated by Congress as part of the wilderness system.

General Procedures. Apply for modification or adjustment of a wilderness boundary by either the Secretary of the Interior or Agriculture, as appropriate.

Coordination. Agriculture (USFS), DOI (FWS, NPS, BLM), and state agencies.

2. Wild and Scenic Rivers Act: 16 USC 1271-1287,36 CFR 251, 261, 43 CFR 8350.

Purpose. To preserve and protect wild and scenic rivers and their immediate environments for benefit of present and future generations.

Applicability. All projects that affect designated and potential wild, scenic, and recreational rivers, and their immediate environments.

General Procedures. Submit project plans and reports to the appropriate federal agency.

Coordination. DOI (NPS) and/or Agriculture (USFS), state agencies.

3. Land and Water Conservation Fund Act (Section 6(f)): 16 USC 4601-4 to 1-11 (P.L. 88-578).

Purpose. To preserve, develop, and assure the quality and quantity of outdoor recreation resources for present and future generations.

Applicability. All projects that impact recreational lands purchased or improved with land and water conservation funds.

General Procedures. The Secretary of the Interior must approve any conversion of property acquired or developed with assistance under this act to any use other than public, outdoor recreation.

Coordination. DOI, state agencies.

4. Executive Order 11990, Protection of Wetlands, DOT Order 5660.1A: 23 CFR 777.

Purpose. To avoid direct or indirect new construction in wetlands if a feasible alternative exists.

Applicability. Federally initiated, financed, or assisted construction and improvements in wetland areas or with significant impacts on wetlands.

General Procedures. Evaluate and mitigate impacts on wetlands. A specific finding is required in the final environmental document.

Coordination. DOI (FWS), EPA, USCE, NMFS, NRCS state agencies.

5. Emergency Wetlands Resources Act of 1986: 16 USC -3901 note (P.L. 99-645).

Purpose. To promote conservation of wetlands in the U.S. in order to maintain the public benefits they provide.

Applicability. All projects that may impact wetlands.

General Procedures. Preparation of a National Wetlands Priority Conservation Plan that provides priority with respect to federal and state acquisition and direction for the National Wetlands Inventory Project.

Coordination. FWS.

6. National Trails Systems Act: 16 USC 1241-1249, 36 CFR 251, 43 CFR 8350.

Purpose. To provide for outdoor recreation needs and encourage outdoor recreation.

Applicability. Projects affecting national recreational, scenic, or side trails designated by Congress, and lands through which such trails pass.

General Procedures. (1) Apply for right-of-way easement from the Secretary of Interior or Agriculture, as appropriate, and (2) ensure that potential trail properties are made available for use as recreational and scenic trails.

Coordination. DOI (NPS) or Agriculture (USFS).

7. Rivers and Harbors Act of 1899: 33 USC 401, et seq., as amended and supplemented, 23 CFR part 650, Subpart H, 33 CFR 114-115.

Purpose. Protection of navigable waters in the U.S.

Applicability. Any construction, obstruction, excavation or filling affecting navigable waters.

General Procedures. Obtain approval of plans for construction, dumping and dredging permits (Section 10), and bridge permits (Section 9).

Coordination. USCE, USCG, EPA, state agencies.

8. Federal Water Pollution Control Act (1972), as amended by the Clean Water Act (1977 & 1987): 33 USC 1251-1376 (P.L. 92-500,95-217, 100-4), DOT Order 5660.1A, FHWA Notices N5000.3 and N5000.4, FHPM 6-7-3-3, 23 CFR 650, Subpart B, E, 771, 33 CFR 209, 40 CFR 120, 122-125, 128-131, 133, 125-136, 148, 230-231.

Purpose. To restore and maintain the chemical, physical, and biological integrity of the nation's waters through prevention, reduction, and elimination of pollution.

Applicability. Any discharge of a pollutant into waters of the U.S.

General Procedures. (1) Obtain a permit for dredge or fill material from USCE or state agency, as appropriate (Section 404); (2) acquire permits for all other discharges from EPA or the appropriate state agency (Section 402); (3) water quality certification is required by the state water resource agency (Section 401); and, (4) all projects must be consistent with the state non-point-source pollution management program (Section 319).

Coordination. USCE, EPA, the designated state water quality control agency, and designated state non-point-source pollution agency.

9. Executive Order 11988, Floodplain Management, as amended by Executive Order 12148, DOT Order 5650.2: FHPM 6-7-3-2, 23 CFR 650, Subpart A, 771.

Purpose. To avoid long- and short-term adverse impacts associated with the occupancy and modification of floodplains, and restore and preserve the natural and beneficial values served by floodplains.

Applicability. All construction of federal or federal-aid buildings, structures, roads, or facilities that encroach upon or affect the base floodplain.

General Procedures. (1) Assessment of flood hazards, and, (2) a specific finding is required in the final environmental document.

Coordination. FEMA, state and local agencies.

10. National Flood Insurance Act: (P.L. 90-448), Flood Disaster Protection Act: (P.L. 93-234) 42 USC 4001-4128, DOT Order 5650.2, FHPM 6-7-3-2, 23 CFR 650, Subpart A, 771, 44 CFR 59-77.

Purpose. To identify flood-prone areas and provide insurance, and to require purchase of insurance for buildings in special flood-hazard areas.

Applicability. Any federally-assisted acquisition of a construction project in an area identified as having special flood hazards.

General Procedures. Avoid construction in, or perform design consistent with standards for FEMA-identified flood-hazard areas.

Coordination. FEMA, state and local agencies.

11. Water Bank Act: 16 USC (P.L. 91-559, 96-182), 7 CFR 752.

Purpose. To preserve, restore, and improve wetlands of the nation.

Applicability. Any agreements with landowners and operators in important migratory waterfowl nesting and breeding areas.

General Procedures. Apply procedures established for implementing Executive Order 11990.

Coordination. Secretary of Agriculture, Secretary of Interior.

12. Farmland Protection Policy Act of 1981: 7 USC 4201-4209 (P.L. 97-98, 99-198), 7 CFR 658.

Purpose. To minimize impacts to farmland and maximize compatibility with state and local farmland programs and policies.

Applicability. All projects that acquire right-of-way from farmland.

General Procedures. (1) Early coordination with the NRCS; (2) land evaluation and site assessment; and, (3) determination whether to proceed with farmland conversion, based on the severity of impacts and other environmental considerations.

Coordination. NRCS

13. Resource Conservation and Recovery Act of 1976 (RCRA), as amended: 42 USC 690, et seq. (P.L. 94-580, 98-616), 40 CFR 260-271.

Purpose. To protect human health and the environment, prohibit open dumping, manage solid waste, and regulate treatment, storage, transportation, and disposal of hazardous waste.

Applicability. Any project that acquires right-of-way containing a hazardous waste.

General Procedures. Coordinate remedial action with EPA or state agency.

Coordination. EPA or state agency approved by EPA, if any.

14. Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended: 42 USC 9601-9657 (P.L. 96-510), 40 CFR 300, 43 CFR 11. Superfund Amendments and Reauthorization Act of 1986 (SARA) (P.L. 99-499).

Purpose. To provide for liability, compensation, cleanup, and emergency response for hazardous substances released into the environment, and the cleanup of inactive hazardous waste disposal sites.

Applicability. Any project that might acquire right-of-way containing a hazardous substance.

General Procedures. (1) Avoid hazardous waste sites if possible; (2) review EPA lists of hazardous waste sites; (3) conduct field surveys and reviews of past and present land use; (4) contact appropriate officials if uncertainty exists; (5) if hazardous waste is present or suspected, coordinate with appropriate officials; and, (6) if hazardous waste is encountered during construction, stop the project until remedial action is developed and implemented.

Coordination. EPA or state agency approved by EPA, if any.

15. Endangered Species Act of 1973, as amended: 16 USC 1531-1543 (P.L. 93-205, 94-359,95-632, 96-159, 97-304), 7 CFR 355, 50 CFR 17, 23,25-29, 81,217, 222,225-227, 402,424,450-453.

Purpose. To conserve species of fish, wildlife and plants facing extinction.

Applicability. Any action likely to jeopardize the continued existence of threatened or endangered species, or result in modification or destruction of critical habitat.

General Procedures. Consult with the Secretary of the Interior or Commerce, as appropriate.

Coordination. DOI (FWS), Commerce (NMFS).

16. Fish and Wildlife Coordination Act: 16 USC 661-666c (P.L. 85-624, 89-72, 95-616).

Purpose. Conservation, maintenance, and management of wildlife resources.

Applicability. (1) Any project which involves impoundment (surface area of 10 acres or more), diversion, channel deepening, or other modification of a stream or other body of water; and, (2) transfer of property by federal agencies to state agencies for wildlife conservation purposes.

General Procedures. Coordinate early in project development with FWS and the state fish and wildlife agency.

Coordination. DOI (FWS), state fish and wildlife agencies.

3.4 STATE POLICIES

3.4.1 Access Control Code

The Access Control Code is based on the authority granted in CRS 1973, 43-2-147, as amended. On January 7, 1981, a revised code was submitted to the House and Senate Transportation Committees during the first regular session of the 53rd General Assembly. This revision allowed the Colorado Highway Commission to adopt the Code as a rule and regulation.

The purpose of the Code is to protect the public's health, safety and welfare. Any proposed development that applies for access to any state highway must be reviewed for adequate drainage design by the CDOT Hydraulics Engineer.

Colorado has statutory law or a natural-flow rule that places a natural easement or servitude upon the lower land for the drainage of surface water in its natural course. The natural flow of the water cannot be obstructed by the servient owner to the detriment of the dominant owner. The owner of the upper lands has an easement over lower lands for drainage of surface waters and natural drainage conditions can be altered by an upper land owner provided the water is not sent down in a manner or quantity to cause more harm than formerly. *Hankins v. Borland*, 163 Colo. 575, 431 P.2d 1007 (1967); *H. Gordon Howard v. Cactus Hill Ranch Company*, 529 P.2d 660 (1974); *Hoff v. Ehrlich*, 511 P.2d 523 (1973), *Ambrosio v. Perl-Mack Construction Company*, 143 Colo. 49, 351 P.2d 803 (1960).

3.4.2 CDOT Hydraulic Design

- Drainage structures shall be designed in accordance with the hydrological and hydraulic criteria and procedures as set forth in this manual.
- Hydrologic and hydraulic documentation shall be retained in the project plans or other permanent location at least until the drainage facility is totally replaced or modified as a result of a new drainage study.
- Final Hydraulic Design Reports shall be stamped and signed by the Engineer of Record. A copy of the Final Hydraulic Design Report shall be placed in CDOT ProjectWise and a copy sent to the CDOT Region Hydraulics Engineer.
- The basic hydraulic design data as defined in Chapter 4 - Documentation shall be included in the design documentation.
- Where discharge flow rates determined by FEMA exist, these flow rates must be used in the design of CDOT hydraulic structures; however, CDOT may perform independent hydrologic analysis and submit as part of a C/LOMC.
- On sites regulated by FEMA, CDOT shall provide hydrologic and hydraulic data to the local floodplain regulatory agency for their use and to accommodate updates to floodplain maps. Refer to Section 2.4 – National Flood Insurance Program for additional information on regulated floodplains.

3.4.3 Hydraulic Design Responsibility

In-House / Region Designs

Upon receipt of the field survey, the Project Manager must review the project for potential required drainage analysis and design. If drainage analysis and design are required, the Project Manager and the Hydraulics Engineer must confer on the project scope. The Hydraulics Engineer will estimate scheduling related to hydraulics design and establish the date the hydrology for the entire project will be completed. The Hydraulics Engineer will design the drainage components of structures, such as bridges, irrigation crossings, retaining walls, cutoff walls, storm drains and culverts. The Project Manager must provide necessary roadway data such as structure cross-sections, CAD files, Bridge Hydraulic Information Sheet, utility data, grading plans, and other necessary information to the Hydraulics Engineer as well as GIS data, LiDAR information, and other digital design and raster surfaces. The Hydraulics Engineer must provide the preliminary designs and hydraulic data to the Project Manager before the Field Inspection Review (FIR), and the final design and specifications prior to the Final Office Review (FOR).

Consultant Designs

Early in the project development process, the CDOT Project Manager must contact the Hydraulics Engineer and confer on the scope of necessary hydraulics work. If in-house staff are not available to do the required work, the CDOT Project Manager may acquire the services of an engineering consultant. The consultant engineer shall prepare a preliminary hydraulics report for submittal to the CDOT Project Manager or their designee prior to the FIR meeting. A final hydraulics report prepared by the consultant shall be submitted to the CDOT Project Manager prior to the FOR meeting for review and approval. A copy of the final hydraulic report stamped by a professional engineer licensed in the State of Colorado shall be submitted to the CDOT Hydraulics Engineer for future reference.

Sign-off on Plans and Specifications

The Hydraulics Engineer may choose to indicate approval and acceptance of plans and specifications on Form 1048a, Project Scoping/Clearance Record, for final hydraulic designs by either in-house or consultant designers. CDOT Form 1048a can be found on the CDOT Library web page at:

<https://www.codot.gov/library/forms/word-forms/cdot1048.doc/view>

Stamping of Plans

All in-house CDOT hydraulic designs shall be sealed in the record plan set by the Hydraulics Engineer. The Engineer of Record, a registered Professional Engineer within the State of Colorado, shall stamp hydraulic design plans, specifications and the final Hydraulic Design Report. Projects other than CDOT projects, such as off-system or local agency projects, shall follow the legal requirements for the project owner.

Off-System Designs

Off-system designs consist of projects that will eventually become CDOT property, that directly connect to CDOT property, or which have federal participation. For example, an off-system project may include a section of new road and related drainage improvements sponsored and constructed by a county, which becomes CDOT right-of-way upon completion. Early in the project design, the off-system Project Manager must contact the appropriate CDOT Region personnel where the construction is proposed to agree upon the scope of the project. The off-system Project Manager must coordinate submittal to CDOT of all hydrologic and hydraulic design data, permanent water quality design data, bridge data, and other data that may be of regulatory interest to CDOT, for CDOT review and comment.

3.5 MUNICIPAL POLICIES

If the municipal policy of a local agency affected by a project is more stringent than CDOT's, the more stringent policy shall be incorporated provided that all parties in that jurisdiction are required to build to that more stringent policy. The intent is to have consistent designs between jurisdictions within an area. If a benefit desired by a local jurisdiction cannot be justified for the roadway user in the opinion of CDOT, then the local jurisdiction or party will be required to participate in the cost.