

Subject: Lump Sum CCEI Contract Modifications

The Department issued the first LSCCEI contract in June of 2003 and currently the Department has executed over 50 LSCCEI contracts. The FHWA's preliminary review of LSCCEI contracts has resulted in concerns primarily with the negotiated estimate of manpower for LSCCEI contracts and methods for adjustments during the contract if changes are necessary.

To address the pre-award negotiation issues, the Department's CEI Managers have been tasked to develop staff hour estimates for the standard CEI scope. The development of the staff hour estimates should provide more consistent negotiations throughout the state and help the CEI project managers to tighten/improve negotiations. It needs to be understood that the services which the Department and CCEI are negotiating is the administration of the construction contract(s) pursuant to FDOT policies and procedures. Having said this, it needs to be understood that the negotiations should focus on the performance of the contract administration and not as much on the CCEI individuals or positions used by the CCEI to perform those services.

The purpose of this memo is to provide additional guidance regarding when or if the renegotiation of a LSCCEI contract is warranted and is intended to supplement already existing LSCCEI Guidelines. While not all circumstances can be anticipated ahead of time or covered in this memo, the basic philosophy regarding the need to renegotiate can be stated as follows. If the scope of the original contract changes then the contract must be analyzed to determine whether or not renegotiation is warranted.

The following guidance is given to clarify conditions that warrant renegotiation consideration. While this may appear obvious, there were some opinions voiced previously that since the contracts were lump sum there was no option to renegotiate. This is not the case.

The LSCCEI contract should be reviewed to determine if it should be renegotiated if the initial scope has multiple construction projects and one or more projects are deleted or changed. Grouped projects included in a LSCCEI contract per the existing guidelines should have individual projects negotiated separately and then the LSCCEI contract represent the summation of all of the individual projects. The negotiations for a LSCCEI contract, as with any CCEI contract, are based on certain assumptions about the construction project(s) on which the CCEI services will be provided. If the negotiated contract for LSCCEI services anticipates the need for a particular staffing level and the contractor's approach to the construction of the project changes from the assumptions used during CCEI contract negotiations, the contract should be reviewed to determine if it should be renegotiated.

If the analysis of the LSCCEI contract based on changes noted above differs significantly, as defined in the LSCCEI guidelines, from the original estimate, the contract should be renegotiated. A list of the LSCCEI contracts can be found on the

Department's State Construction Office website, located under the technical topic "Consultant CEI Issues" or by clicking on the following link:

<http://www.dot.state.fl.us/construction/DesignBuild/Consultant%20CEI/LumpSum/LumpSumCCEIContracts.pdf>

Also, as a reminder, prior FHWA approval is required for all LSCCEI contracts having federal funds. FHWA approval is not required for State Funded contracts that meet the LSCCEI statewide guidelines.

If there are any questions, please contact Stefanie Maxwell at 850-414-4314.