

CHAPTER 12

JOINT PARTICIPATION AGREEMENTS/UTILITY WORK BY HIGHWAY CONTRACTOR'S AGREEMENT (UWHCA)

12.1 PURPOSE

This procedure ~~establishes~~ outlines the District Final Estimates Office (DFEO) personnel's responsibility with the different entities known as the Utility Agency Owners (UAOs) that do business with the Department. To avoid duplication of text, this procedure will refer you to the necessary websites for the appropriate information on paid off status, refunds, review and approval of a Tentative Acceptance Agreement (TAA), etc. between these UAOs and the Department. ~~review and approval of a Tentative Acceptance Agreement to refund a Utility Agency Owner (UAO) for overestimated funds on locally funded Joint Participation Agreement (JPA) utility projects. The procedure describes the steps that must be followed in order to process the Tentative Acceptance Agreement.~~

12.2 AUTHORITY

Section 339.135 (6) (a), Florida Statutes (F.S.)

12.3 DEFINITIONS

Tentative Acceptance Agreement (TAA): An agreement to partially refund a Utility Agency Owner for an over estimated deposit on a utility project.

Non PTO: Non Public Transportation Office.

Boilerplate Language: Standard pre-approved financial provision language.

12.3 REFERENCES

Procedure No. 350-020-305e Partial Utility Refund/ Tentative Acceptance Agreement (TAA), Office of Comptroller.

Procedure No. 350-020-301a Financial Provisions For Joint Participation Agreements (Non PTO) Office of Comptroller.

1
2 Procedure ~~No. 350-020-300~~ Locally Funded Agreements (Non PTO) Joint Participation
3 Agreement-Financial Provisions and Processing- Office of Comptroller.

4
5 Local Funded Agreements Handbook – Office of Comptroller.

6
7 Procedure No. 700-050-005 Final Estimates Review & Administration Manual, ~~2000 Edition~~
8 and

9
10 Procedure No. 700-050-010 the Final Estimates Preparation & Documentation Manual ~~;~~
11 1999 Edition, 700-050-005 & 700-050-010.- Construction Office- Final Estimates.

12.4 SCOPE

15 This procedure will be used by Construction, Final Estimates, Office of Comptroller (~~OOO~~),
16 General Accounting Office (OOO-GAO), and UAO personnel who are charged with the
17 responsibility of documenting and verifying tentative final pay quantities related to the
18 locally funded JPA utility project and processing appropriate documentation to determine if
19 a ~~to~~ refund ~~from~~ any excess funds on deposit from the UAO ~~is warranted~~.

12.5 BACKGROUND

21 In order to expedite construction projects, the Department may let utility ~~y~~ projects with
22 the Construction Contractor's ~~C~~contract. By statute (section 339.135 (6) (a) F.S.),
23 UAO's are required to deposit their share of the cost of doing the utility work prior to
24 awarding the ~~C~~contract. Historically, refunds of any excess deposit (deposited amount
25 less recorded costs of the utility work including allowances) to the UAO utility did not
26 usually occur until completion of the entire ~~e~~Construction ~~C~~contract (longer in duration
27 than the time required for the utility work). This procedure will refer you to the proper
28 links to ~~establishe~~establishes the necessary steps to follow, ~~to and to~~ allow the refund of
29 the utility participant's portion of any excess deposit before completion of the entire
30 ~~C~~onstruction ~~C~~contract.

12.6 GENERAL INFORMATION

32 Prior to 2001, all utility agreements were labeled Joint Participation Agreements (JPA).
33 Today, JPA's are stand-alone Contracts between the Department and another entity.
34 Pursuant to these JPA's, the Department will reimburse the participant for the work the
35 participant performed. TAA's will not be submitted for the completion of a JPA. Use the
36 standard financial provisions to reimburse the participant for the work the participant
37 performs. JPA's are to be processed in accordance to the **Contract Funds Approval**

1 Manual and the *Disbursement Operations Manual*. Any reimbursement agreement
2 drafted without the standards financial provisions from Office of Comptroller, Procedure
3 No. 350-020-301 – *Financial Provisions for Joint Participation Agreements (Non PTO)*
4 shall be considered a modified agreement. All modified agreements must be submitted to
5 the Department’s Comptroller or designee for approval.

6
7 See Procedure No. 350-020-301 *Financial Provisions for Joint Participation*
8 *Agreements (Non PTO)* for modifications to standard financial provisions, submittals, etc.

9
10 Refer to the current website for the JPA Procedure No. 350-020-301

11
12 [http://ombnet.dot.state.fl.us/procedures/proceduresbynumber.asp?type=procedure&index=](http://ombnet.dot.state.fl.us/procedures/proceduresbynumber.asp?type=procedure&index=3)
13 3

14 15 12.6.1 Locally Funded Agreement (LFA):

16
17 There are many types of JPA’s that are available: An LFA is a type of
18 a JPA. (If the Department receives an estimated amount of money
19 from the participant prior to work, it is an LFA. If money is not received
20 from the participant, it is not considered an LFA). The OOC-GAO LFA
21 Section only processes LFAs.

22
23 On LFA’s, local funds are deposited with the Department in order to
24 fund the project specified in the agreement, and because LFA
25 projects are essential to the production of the Department’s Work
26 Program; financial provisions in the agreement establish criteria
27 (boilerplate language) for the deposit and maintenance of the funds to
28 be used for the project.

29
30 TAA’s are used only when the UAO contacts the District, and asks to
31 be partially refunded. After receipt of all the necessary documentation,
32 a review will be performed by the District Final Estimates Manager
33 (DFEM) in accordance with the Review & Administration Manual (R &
34 AM). The Department’s DFEM should then sign the TAA and forward
35 the agreement and a copy of the latest progress estimate to the
36 Department’s District Utility Office (DUO). After the DUO’s review, the
37 original TAA with a cover letter and the copy of the progress estimate
38 is then sent to the Office of Comptroller – GAO LFA Section. For
39 further information, see *Partial Utility Refund/TAA – Procedure No.*
40 *350-020-305e* at:

41
42 <http://ombnet.dot.state.fl.us/procedures/proceduresbynumber.asp?typ>

1 [e=procedure&index=3](#)

2
3 **See Procedure No. 350-020-300 - Locally Funded Agreements**
4 **(Non PTO) Financial Provisions and Processing** for guidance on
5 how to process an LFA at:

6
7 <http://ombnet.dot.state.fl.us/procedures/proceduresbynumber.asp?typ>
8 [e=procedure&index=3.](#)

9
10 **Note:** It is also recommended that you refer to the **LFA Handbook**. This handbook
11 goes into detail explanations on LFAs, it provides you with the necessary contact
12 persons for questions, and provides the necessary forms needed, and more. The link
13 is: <http://infonet.dot.state.fl.us/officeofcomptroller/>; Click on General Accounting, then
14 scroll down to LFA, then click on Handbook.

15
16 The Districts are advised to contact their District JPA-LFA Coordinator for any
17 information before they contact the DOT Office of Comptroller.

18
19
20 ~~—JPAs are legal agreements between the DOT and other governmental entities, utility~~
21 ~~companies in which the parties involved agree to share the cost of construction on a~~
22 ~~project that is of mutual benefit. The construction encompassed by such~~
23 ~~agreements will usually be part of the larger State contract and will be accomplished~~
24 ~~under the direction of Department personnel.~~

25 ~~The most equitable settlement of this type agreement can only be attained if the~~
26 ~~responsible Design Section furnishes construction plans which clearly reflect the intent of~~
27 ~~the agreement. First, a set of plans which show the work originally anticipated by the~~
28 ~~Department should be prepared. A second set should then be prepared showing the~~
29 ~~change in scope precipitated by the JPA. The project personnel will then be able to~~
30 ~~prepare the final estimate breakdown, if the field records are kept in accordance with these~~
31 ~~procedures.~~

32 ~~The Project Engineer (PE) must be notified of any JPAs at the preconstruction conference~~
33 ~~and furnished with a copy of the agreement. The District Utilities and/or Drainage Engineer~~
34 ~~will usually have knowledge of these documents. At this time the proper information should~~
35 ~~be coded into the Contract Reporting System (CRS).~~

36
37 ~~When the final settlement of these agreements is to be based on final measurements and~~
38 ~~bid prices, construction personnel shall adhere to the following format:~~

39
40 ~~(A) — Refer to JPA to identify the need for final measurements to be taken by construction~~

1 ~~or other parties.~~

2
3 ~~(B) The PE shall separate the measurements for the final quantities in accordance with~~
4 ~~the agreement, as delineated on the construction plans.~~

5
6 ~~(C) The summary of quantities will be separated in accordance with the JPA with~~
7 ~~extensions made of the final contract bid prices and then totaled. Actual bid~~
8 ~~prices must also be reflected against the original quantities when applicable~~
9 ~~and available, so that the actual difference, rather than the estimated~~
10 ~~difference, in cost may be obtained. This summary is submitted along with~~
11 ~~final plans to the District Final Estimates Office (DFEO).~~

12
13 ~~(D) Revised plan sheets are to be submitted and explanations made for all field~~
14 ~~revisions.~~

15
16 ~~The following steps must be followed to complete the Tentative Acceptance Agreement. If~~
17 ~~any of the parties noted below do not approve and sign the Tentative Acceptance~~
18 ~~Agreement for any reason, the agreement will be null and void. The disapproving party will~~
19 ~~document on the agreement, "NOT APPROVED" by the appropriate signature block and~~
20 ~~will forward the disapproved agreement to the PE, along with an explanation. The PE will~~
21 ~~send a copy to the UAO and will keep the original in the contract folder.~~

22
23 ~~Refunds of less than \$10,000.00 per JPA will not be processed under this procedure~~
24 ~~without written approval from the OOC.~~

25
26 ~~**12.6.1. Utility Participant**~~

27
28 ~~Ninety (90) days or more after completion of the JPA, the UAO may request a refund of a~~
29 ~~portion of the overage from the Department. The UAO will initiate their request by~~
30 ~~completing and signing the **Tentative Acceptance Agreement, Form #350-020-04**, and~~
31 ~~sending the form by way of transmittal letter to the PE, with a copy to the District Utility~~
32 ~~Engineer. The transmittal letter will include the following information relative to the request:~~

33
34 ~~Amount(s) Deposited: _____ \$~~
35 ~~—Deductions: _____~~
36 ~~Costs to date (Includes: CEA, MOT, MOB, etc.) _____ \$~~
37 ~~Cost Contingency (at 10% of Expenditures) _____ \$~~
38 ~~Unresolved Claims _____ \$~~
39 ~~Total Deductions _____ \$~~
40 ~~Estimated Amount that may be refunded: _____ \$~~

41
42 ~~Note: Any interest earned on account, if applicable, will be added to the refund amount~~

1 ~~when processed by the OOC.~~

2
3 ~~12.6.2. PE~~

4
5 ~~Upon completion and acceptance of the Utility work as called for in the locally funded JPA,~~
6 ~~the PE will determine if the tentative final cost to the UAO is less than the advanced~~
7 ~~payment on deposit with the Department. If the cost is determined to be less than the~~
8 ~~deposit, a portion of the excess deposit may be refunded to the UAO prior to final payment~~
9 ~~to the Contractor. The PE will verify the quantities in accordance with **Section 3.2 of the**~~
10 ~~**Construction Project Administration Manual (CPAM) No. 700-000-000,** and assure all~~
11 ~~unresolved claims and all outstanding supplemental agreements are listed on the UAO's~~
12 ~~transmittal letter. Once quantities are verified by the PE, he will sign the Tentative~~
13 ~~Acceptance Agreement that was received from the UAO and forward the Tentative~~
14 ~~Acceptance Agreement and a copy of the JPA contract with all supporting documentation~~
15 ~~to the District Final Estimates Engineer (DFEE) for review and approval.~~

16
17 ~~12.6.3. DFEE~~

18
19 ~~After the plans and records are received, an audit will be performed by the DFEE in~~
20 ~~accordance with the **Final Estimates Review & Administration Manual, 2000 Edition**~~
21 ~~and the **Final Estimates Preparation & Documentation Manual, 1999 Edition, 700-050-**~~
22 ~~**005 & 700-050-010.** Once quantities and prices are verified the DFEE will approve and~~
23 ~~sign the Tentative Acceptance Agreement and forward the agreement and a copy of the~~
24 ~~latest tentative monthly estimate to the Contractor for approval, with a copy to the PE.~~

25
26 ~~12.6.4. Contractor~~

27
28 ~~The Contractor is responsible for verifying the quantities and amounts. If the Contractor~~
29 ~~agrees with the tentative monthly estimate of completion for this utility project, the~~
30 ~~Contractor will sign the Tentative Acceptance Agreement and forward the signed~~
31 ~~agreement to the PE.~~

32
33 ~~12.6.5. OOC~~

34
35 ~~The OOC may refund a portion of the overage of the UAO's deposit prior to final payment~~
36 ~~to the Contractor. The UAO may be refunded the total amount of deposits less appropriate~~
37 ~~deductions. Appropriate deductions are the tentative total amount of costs incurred to date~~
38 ~~plus ten percent (10%) of that amount. For example:~~
39 ~~The Department participation is limited to that difference between 110% of the official~~
40 ~~estimate and the contract bid amount for the utility work as per **Florida Statutes,**~~
41 ~~**337.403(1) (B).**~~
42

1 ~~Amount(s) deposited:~~
2 ~~(\$100,000 estimate plus 10% contingency;~~
3 ~~Plus additional deposits, if any) _____ \$ 110,000~~
4 ~~Interest earned to date* (if applicable) _____ 1,750~~
5 ~~_____ Total funds available: _____ \$ 111,750~~

6
7 ~~Deductions:~~
8 ~~Costs incurred to date _____ \$ 90,000~~
9 ~~Cost contingency (10% of costs~~
10 ~~_____ incurred to date) _____ 9,000~~
11 ~~Unresolved claims _____ 0~~
12 ~~_____ 99,000~~
13 ~~Amount that may be refunded: _____ \$ 12,750~~

14
15 ~~* _____ Eligibility for earning interest is described in the **Locally Funded Joint**~~
16 ~~**Participation Agreement Financial Provisions Procedure, No. 350-020-300.**~~

17
18 ~~After receipt of the Tentative Acceptance Agreement, the OOC will make a determination~~
19 ~~of whether to approve the partial refund. The determination will be based on the following:~~

- 20
21 ~~* _____ Past financial performance of the UAO requesting a refund.~~
22 ~~* _____ Amounts due from the UAO on other projects with the Department~~
23 ~~* _____ Percentage of completion of the Utility projects~~
24 ~~* _____ Outstanding supplemental agreements related to the utility project~~
25 ~~* _____ Amount on deposit with the Department~~
26 ~~* _____ Unresolved claims on this project~~

27
28 ~~Once the OOC has verified the items above, the OOC may approve a refund of a~~
29 ~~percentage of the excess deposit. If approved, the OOC will sign the Tentative Acceptance~~
30 ~~Agreement and process the partial refund.~~

31
32 ~~If the amount of the approved refund is different than the amount listed on the Tentative~~
33 ~~Acceptance Agreement, an explanation of the difference will be noted on the agreement. If~~
34 ~~not approved, the OOC will forward a letter to the UAO with an explanation for the~~
35 ~~disapproval. All parties that had previously approved the Tentative Acceptance Agreement~~
36 ~~will be copied on any of the above OOC's responses.~~