

District 4/ACEC FL Liaison Committee Meeting Notes
Friday, November 9, 2018 - 3:00 PM

1. Action Items from the July 2018 Meeting

None

2. Statewide Liaison Committee Activities

- a. *Consultant Grading – see Exhibit 3. The Department is working with a team of FDOT and consultants to update the consultant grading process. There have been a series of team meetings and recommended improvements are being developed. The goal is to streamline the process and increase scoring consistency across the districts with additional instruction on selecting appropriate grades. There has been discussion on implementing a half point option on the current 5-point grading scale to allow more granular scoring. The next meeting is scheduled for January 15, 2019.*
- b. *Job Classification Task Team – ACEC FL recommendations – Design Positions – see Exhibit 4. Discussion on the ACEC recommendation on the new PM categories. Not much information was available on how ACEC's proposed Project Manager position was defined (based on experience, post P.E. registration experience, qualifications?) Discussions on considering PM positions for PD&E, Planning projects where project managers are non-PE's. D4 PSU indicated that during negotiations with small firms, lower job classifications can be established using higher level staff at the average rates included in the Wage Rate Report. Refer to Page 6 of the Negotiations Handbook for details.*
- c. *3-D Plans – dormant D4 will continue to evaluate the benefits of using 3D design on a project by project basis and will implement the 3D design approach as appropriate.*
- d. *CEI Issues*
 - 1) *Certification requirements – requiring that inspectors and senior inspectors have all certifications listed on the scope. No longer an issue in D4.*
 - 2) *MOT Barrier Wall and Crash Cushions – Scott Gombar to discuss – There has been some improvements since the implementation.*
 - 3) *IMSA Level 1 – now requires signal technician - This requirement is for the signal technician not necessary for the inspectors.*

- 4) *FTBA Asphalt Task Team – ACEC has assembled a Task Team **Nothing has been reported.***
 - 5) *Hybrid Contracts – Inspection staff approvals, inspectors being sent home because of weather delays **Not a major concern in the District, may have been an isolated incident. It was also noted that FDOT is currently in process to revise in-house titles to align with the industry.***
- e. *DBE/SBE Subcommittee **Discussions on new PDA system. PSU invited a few firms for a first look of the new system before it gets implemented. It was noted that D4 executed 26 contracts in FY 18 with SBE firms.***
- 1) *The new PDA system will allow to track DBE and SBE commitment more accurately.*
 - 2) *Consultants to verify accuracy of their proposed commitments on the DBE/SBE Commitment form*
- f. *ACEC FL Transportation Conference – May 29-30, 2019 **It was noted that ACEC is currently looking at making changes to the format of the Secretary’s panel.***
- g. *Consultant Training for GEC Embedded Consultants – see Exhibit 8. **It was noted that the mandatory training required for the in-house consultants should be conducted as necessary. Consultant will pay for training of their staff.***
- h. *LOR Submission – new PDA system to be available May 2019 – see Exhibit 8.*
- i. *Project Interviews – **for all future Q&A’s an extra 10 minutes will be added for follow-up questions from the TRC staff. This time will be in addition to the current 45 minutes. Not implemented, yet. Implementation will take place with the release of the revised Acquisition of Professional Services procedure.***
- 1) *Department provides a board or flip chart, Consultants can start writing on the board or flip chart immediately*
 - 2) *Department provides markers*
- j. *Use of Field Office Rates – over 6 months at a facility.*
- k. *Administrative Cost Reimbursement – not reimbursable.*
- l. *Transportation Expo – June 3-5, 2019*

m. Next Regional Meeting – D4, D6, FTE (D6 to host –February 28, 2019). *Meeting rescheduled to February 28, 2019.*

3. New FDOT Issues:

a. Design

- 1) ACEC Awards (Notification process / opportunity for more Transportation Categories
It seems there is some confusion on the timing of annual meetings awards and the transportation Committee awards. D4 has requested to get those notifications and the categories ahead of time.
- 2) D4 Selection Committee *This is a public meeting. Anyone who would like to attend is welcome.*
- 3) FLUG – FDOT was not fully refunded for the cancellation of attendance due to travel restrictions *This issue was discussed and ACEC members will provide some clarification*
- 4) Calculating / negotiating the staff hour distribution percentage for companies w/ only PEs (D6 item at recent DDE/DCPME Meeting). *Need flexibility in identifying appropriate PE/Non-PE split based on project needs and firm resources. See discussion on item 2b above.*

b. Procurement

- 1) New Procurement Development Application (PDA) system: web-based process for submitting letters of response – *Implementation in December is moved to May 2019.*
- 2) Projects reserved under the Small Business Initiative – Prime and subconsultants need to be a small firm. If firms are not listed on the links below, need to attach a notarized affidavit to the response. Read note 7 of the advertisement pre-amble.
 - Professional Services Small firms:
<http://fdot.gov/procurement/InternetReports.shtm#qual>
 - Other (non-professional services):
http://www2.dot.state.fl.us/sasweb/cgi-bin/broker.exe?_service=default&_program=inetprog.db2.smbusform.scl
- 3) Selection from Expanded Letters of Response – Familiarize with the samples included on Note 4 of the advertisement: organizational charts, staff hours, CTQP print-outs and staffing chart. Do not include additional information. *Noted.*

4) *Revised language included in the RFP related to oral presentations (Section 8.1, item 3) “...e-mail a copy of the presentation containing the PowerPoint slides to the Procurement contact. This presentation must be e-mailed to the Procurement contact by the date/time of the presentation assigned to each firm....”*

c. *Construction*

1) *Discuss requirements for CEI’s to use bucket trucks to inspect signal mast arms.*

4. New Local ACEC FL Issues:

a. *CITS backed up several months (CEI contracts). Update: CITS is current. For any issues with the system, contact the District CITS Administrator. Her name and phone number are included in the CITS welcome page.*

b. *New D4 ACEC FL Committee Co-Chair*

5. General Discussion

a. *Traffic Control Plans implementation was discussed. CEI should have staff drive the project on a regular basis and make notes about the TCP being implemented correctly. CEI needs to field review any traffic shift immediately after implementation to confirm there are no issues with how the traffic reacts to the change and address any deficiencies.*

Consultant Grading Task Team Meeting

September 25, 2018, 4:00pm – 5:00pm

GoToMeeting:

<https://global.gotomeeting.com/join/250386645>

You can also dial in using your phone.

United States: +1 (571) 317-3122

Access Code: 250-386-645

(Audio PIN: Please enter PIN after joining the meeting)

MINUTES

1) Roll Call

PRESENT

ACEC LEAD: Paul Foley // paul.foley@kisingercampo.com

ACEC member: Joe Lauk (PGA – Districts 1 and 7) // joe2@patelgreene.com

ACEC member: Will Suero (HDR – Districts 4 and 6) // will.suero@hdrinc.com

FDOT LEAD: Rob Quigley // robert.quigley@dot.state.fl.us

FDOT D3: Kerrie Harrell // kerrie.harrell@dot.state.fl.us

FDOT D4: John Olson // john.olson@dot.state.fl.us

FDOT Consultant Grading: Sid Kamath // siddhartha.kamath@dot.state.fl.us

FDOT Procurement: Carla Perry // Carla.perry@dot.state.fl.us

FDOT Procurement: Bruce Lytle // bruce.lytle@dot.state.fl.us

FDOT CO: Brett Wood // brett.wood@dot.state.fl.us

FDOT CO: Alan El-Urfali // alan.el-urfali@dot.state.fl.us

NOT ONLINE

ACEC member: Michael Schwier (Mead & Hunt – D2 & 3) // michael.schwier@meadhunt.com

ACEC member: David Coleman (Inwood – D5 & Turnpike) // dcoleman@inwoodinc.com

ACEC member: Nina Sickler (District 2 & DBE Chair) // sicklern@pondco.com

FDOT D5: Suzanne Phillips // suzanne.phillips@dot.state.fl.us

FDOT D2: Ryan Asmus // ryan.asmus@dot.state.fl.us

FDOT CO: Greg Schiess // gregory.schiess@dot.state.fl.us

FDOT CO: Tom Andres // thomas.andres@dot.state.fl.us

FDOT Construction: Daniel Strickland // daniel.strickland@dot.state.fl.us

FDOT Procurement: Angela Matiyow // angela.matiyow@dot.state.fl.us

2) Introduction

- a. When he was leaving FDOT, Dan Scheer transferred leadership of this team to Rob Quigley. Rob mentioned that this meeting would help bring him up to speed.
- b. Rob reviewed the team objectives, team assignments and the clarified his understanding of the team's efforts to date, and the work left to be completed.
- c. Rob discussed his experience with the Schedule/Management evaluation, and said that the effort was to not only provide detailed grading criteria for each of the evaluation items, but to analyze each item and determine if everything was still necessary or if any items could be combined or eliminated. The effort resulted in a reduction of the items to be graded, and asked that the other sub teams look at their forms to see if any further consolidation or cleanup was needed.
- d. Rob had sent out the files which he found to be the latest, and asked each sub team to review to verify that and/or send him the most current file(s) for each sub team.

Consultant Grading Task Team Meeting

September 25, 2018, 4:00pm – 5:00pm

- 3) Update on Sub Team Status
 - a. WT 3.0 (Roadway) – John Olson, David Coleman, Will Suero
- John and Will agreed to revisit the file to see if further consolidation could be done. Several suggestions were made.
 - b. WT 4.0 (Structures) – Tom Andres, Michael Schwier, David Coleman
- NO MEMBERS ONLINE / NO UPDATE
 - c. WT 5.0 (Bridge Inspection) – Tom Andres, Michael Schwier
- NO MEMBERS ONLINE / NO UPDATE
 - d. WT 7.0 (Traffic Operations) – Alan El-Urfali, Will Suero
- Will is going to send Alan the current file and they agreed to work on this evaluation.
 - e. WT 9.0 (Geotech) – Tom Andres, Michael Schwier - NO MEMBERS ONLINE / NO UPDATE
 - f. Schedule & Management – Rob Quigley, Paul Foley, Joe Lauk
- Rob mentioned the approach this sub team took to consolidate review items. Dan had made some comments in the file before he left so the team should review any outstanding comments, and look for any review items that may be transferred from other Work Types.
 - g. WT 8.0 (Surveying & Mapping) – Brett Wood, George Massey, David Coleman
- Brett mentioned that he had a District Surveyors meeting coming up and would solicit input from them as well as coordinate with the Sub Team.
 - h. Others? - Add 6.0 for ITS. Alan and Will agreed to work on this evaluation as well.
- 4) Open Discussion
 - a. Bruce noted that since the new Consultant Evaluation online system has been in place, there are 5x more evaluations being entered than were previously submitted manually.
 - b. Bruce mentioned that the ½ point increment grading has been successfully incorporated into System Test.
 - c. Bruce also mentioned that the Schedule and Management Evaluations are not Design specific and will need to accompany all Quality evaluations (except CE&I)...so the team should make sure the Schedule and Management evaluations are still generic enough to work with any Quality evaluation.
 - d. Rob asked if there would be any separation of the old grades vs the new incremental grades and Carla and Bruce confirmed that there would be no interruption in the grades since they are still on a 5-point scale.
 - e. Kerrie Harrell said she has asked Alaina Webb to take her place on the team.
- 5) Files / One Note
 - a. Rob asked the group if the OneNote was accessible to all team members. Although there have been a few issues in the past, however everyone seems to be getting the information, so the team agreed to continue with OneNote.
 - b. Rob transferred all of Dan's files to his OneNote and he will send the link to the team.
- 6) Action Items
 - a. Teams to review latest files and send to Rob.
 - b. Teams will continue to look for improvements and hold Sub Team meetings as necessary between
- 7) Meeting Schedule – The team agreed to continue meeting on a MONTHLY meeting schedule until the team objectives have been met. Rob will schedule future calls.

Purpose of Task Team:

Evaluate Job Classes defined in FDOT Negotiation Handbook and make recommendations to improve accuracy and applicability of categories and their descriptions. The scope of the current task team is limited to Job Classes associated with Design (does not include CEI and other non-Design positions).

Background:

The Job Classes identified in the FDOT Negotiation Handbook are utilized by FDOT Professional Services personnel to define the appropriate positions into which proposed consultant staff are to be grouped for a) development of position rates for the contract and b) comparison of consultants' rates to partially burdened historic rates for use in evaluating consultants' cost control factor of Operating Margin on a project by project basis. The FDOT Negotiation Handbook currently defines job classes primarily by degree, license, and years of post-registration experience. Feedback from the Consultant community indicates that other factors such as level of responsibility, complexity of technical experience, and application of 3D Design can significantly affect the staff rate structure of projects.

Objective:

The definition of Success for this task team would be:

- a) Staff Categories listed in Job Class Table better represent the grouping and compensation considerations utilized in Consultants' businesses
- b) FDOT obtains more accurate and consistent categories and historical wage data to compare Consultants' cost control efforts
- c) Cost Control factor of Operating Margin paid by FDOT better reflects the Consultants' true cost control efforts appropriate to the type of work (complex versus non-complex) and levels of staff (registered versus non-registered) needed for today's design practices (3D design).

Summary of Recommendations:

The Job Class Task Team identified 4 recommendations for consideration:

1. Add differentiation between Production/Technical staff compared to Management/Oversight personnel when assigning team members to Standard Job Classes in order to account for higher wage rates paid to staff with management responsibilities.
 - a. Approach: Refer to Organization Chart provided by Consultant (with Pre-proposal package or Expanded Letter of Interest) to identify staff with Enterprise, Technical/Discipline or Project-Level management responsibilities. Staff with management responsibilities would be assigned to Chief Engineer, Principal Engineer, or Project Manager job classes as appropriate. Technical / Production Engineers would be grouped in Senior Engineer or Engineer Job Classes.
2. Add 6 positions and remove 2 positions, resulting in a net addition of 4 Job Classes
 - a. Approach: Modify Standard Job Class table per changes identified on the table on the following page. The proposed changes address the differentiation between Management versus Production/Technical staff as well as provide additional tiers within Job Classes to align with varying levels of staff experience.
3. Consider Complexity of Project when comparing Partially Burdened Rates to develop Cost Control portion of Operating Margin.
 - a. Approach: When considering Complex versus Non-Complex: defined for the project utilizing table shown in Section 5 (Page 12) of the FDOT Negotiation Handbook. For projects defined as Complex, comparing the PM and Technical staff to 75th percentile may not be appropriate; and wage rates higher than 75th percentile for Complex projects should not adversely affect Cost Control factor of Operating Margin where individuals with special expertise are needed for the project and were presented by Consultant team as part of the selection process.
4. Consideration of Distribution of hours between Management versus Technical roles and/or distribution between Registered and Non-registered personnel. With the expansion of 3D design, the need for red-line drafters and CADD technicians is decreasing rapidly, as more highly trained personnel are needed for model development in design. The FDOT Negotiation Handbook identifies "Reasonableness of the proposed distribution of staffing for the project" as a consideration for development of the cost control efforts (Section 5, Page 11); however specific guidance is not provided, and Districts are approaching this element in a variety of ways.
 - a. Approach: Discuss with Liaison Committees the extent that distribution of hours between PE versus Non-PE, or Management versus Technical Staff is influencing fee negotiations and discuss at Relations Committee meeting as appropriate.

EXISTING		PROPOSED		Comments
Job Class	Years Post-Registration	Job Class	Years Post-Registration	
Chief Engineer	20+	Principal Engineer	20+	Enterprise Oversight - Resources and Team
Principal Engineer	15+	Chief Engineer 1	15+ (or 20+ - discuss with TC)	Technical Discipline Oversight
		Chief Engineer 2	25+	
Project Manager	5+	Project Manager 1	5+	
		Project Manager 2	10+	
		Project Manager 3	15+	
Senior Engineer	10+	Senior Engineer 1	10+	Production, NOT discipline lead
		Senior Engineer 2	20+	Production, NOT discipline lead
Senior Project Engineer	6+	delete	delete	See Engr 2 and Senior Engr 1
Engineer	PE, no exp	Engineer 1	0+	PE with 0+ years post-registration exp
		Engineer 2	5+	PE with 5+ yrs exp; Production level staff
Project Engineer	2+	delete	delete	Replaced with Engineer 1
[New]	N/A	Design Intern	Enrolled in BSCE	no EI, no Degree, College student in CE program

Engineering Intern	BSCE, EI	Engineering Intern	BSCE, EI	no change (Discuss with TC re: add BSCE, No EI)
Chief Designer	20+ yrs exp	Chief Designer	20+ yrs exp	no change
Senior Designer	10+ yrs exp	Senior Designer	10+ yrs exp	no change
Designer	5+ yrs exp	Designer	5+ yrs exp	no change
Designer - Associate	1-4 yrs exp	Designer - Associate	1-4 yrs exp	no change
Senior Eng Technician	8+ yrs exp	Senior Eng Technician	8+ yrs exp	no change
Engineering Technician	0 to 3 yrs exp	Engineering Technician	0 to 3 yrs exp	no change

Project Staff – Organizational Chart



EXISTING		<i>From Sample Org Chart, Job Class using Existing Definitions</i>
Job Class	Years Post-Registration	For this exercise, subtract 5 years from org chart # yrs to estimate post-registration yrs; for actual project would confirm through FBPE
Chief Engineer	20+	<i>Jan Williams, (Tony Charles), Andy Reichert, Michael Hayes, Julia Moes, Ron Wesley, Drew Foster, Nancy Sawyer, Richard Kelsey</i>
Principal Engineer	15+	<i>[None]</i>
Project Manager	5+	<i>Tony Charles [Tony qualifies as Chief, but as identified PM, PSU may put him this category even at 21 years Post-Registration experience]</i>
Senior Engineer	10+	<i>Tom Bentley, Rudy Palmer, Charlie Stowers, Alex Hinkle</i>
Senior Project Engineer	6+	<i>Lois Geller, Herbert Johnson</i>
Engineer	PE, no exp	
Project Engineer	2+	

Engineering Intern	BSCE, EI	
Chief Designer	20+ yrs exp	Terri Baker
Senior Designer	10+ yrs exp	
Designer	5+ yrs exp	
Designer - Associate	1-4 yrs exp	
Senior Eng Technician	8+ yrs exp	
Engineering Technician	0 to 3 yrs exp	

PROPOSED		<i>Comments</i>	<i>From Sample Org Chart, Job Class using Proposed Definitions</i> For this exercise, subtract 5 years from org chart # yrs to estimate post-registration yrs; for actual project would confirm through FBPE
Job Class	Years Post-Registration		
Principal Engineer	20+	<i>Enterprise Oversight - Resources and Team</i>	<i>Jan Williams</i>
Chief Engineer 1	15+	<i>Technical Discipline Oversight</i>	<i>Ron Wesley</i>
Chief Engineer 2	25+	<i>Technical Discipline Oversight</i>	<i>Andy Reichert, Michael Hayes, Drew Foster</i>
Project Manager 1	5+		
Project Manager 2	10+		
Project Manager 3	15+	<i>Only one PM per standard design project (GEC or other complex programs may differ)</i>	<i>Tony Charles</i>
Senior Engineer 1	10+	<i>Production, NOT discipline lead</i>	<i>Tom Bentley, Charlie Stowers, Alex Hinkle, Rudy Palmer</i>
Senior Engineer 2	20+	<i>Production, NOT discipline lead</i>	<i>Julia Moes, Richard Kelsey, Nancy Sawyer</i>
Engineer 1	0+	<i>PE with 0+ years post-registration exp</i>	
Engineer 2	5+	<i>PE with 5+ yrs exp; Production level staff</i>	<i>Lois Geller, Herbert Johnson</i>
Design Intern	Enrolled in BSCE	<i>no EI, no Degree, College student in CE program</i>	

Engineering Intern	BSCE, EI	no change
Chief Designer	20+ yrs exp	no change
Senior Designer	10+ yrs exp	no change
Designer	5+ yrs exp	no change
Designer - Associate	1-4 yrs exp	no change
Senior Eng Technician	8+ yrs exp	no change
Engineering Technician	0 to 3 yrs exp	no change

Terri Baker

Approved:

Effective:

Office: Procurement

Topic No.: 375-000-001

Department of Transportation

MANDATORY TRAINING FOR IN-HOUSE CONSULTANT/CONTRACTORS

AUTHORITY:

Sections 20.23(3)(a), and 334.048(3), Florida Statutes (F.S.)

REFERENCE:

Sections 110.105 (1), 110.1099, 110.235, 110.401, 110.403, 110.601, F.S.

STATEMENT OF POLICY:

It is the policy of the Florida Department of Transportation (Department) to define training requirements for consultant/contractors stationed on a full or part-time basis in Department facilities.

SCOPE:

This procedure applies to all offices that utilize consultants/contractors to support the mission of the Department.

DEFINITIONS:

Consultant/Contractors: Any individual or firm hired by the Department to perform core and non-core activities as extension of Department staff. These individuals do not include Other Personnel Services (OPS) staff.

Computer Based Training (CBT): Training or professional development instruction delivered through a computer.

District: The nine sub-divisions of the Department to include Central Office, the seven Districts and the Turnpike Enterprise.

Mandatory Training: Knowledge or skill-related learning that is required for consultant/contractor positions stationed within Department facilities. All approved training sponsored by FDOT will be available through the official course catalog accessible on-line from the Department's Organizational Development Internet site.

Responsible Office: The program office is responsible for ensuring that consultant/contractor staff housed in their offices and/or facilities receive the mandatory training. The responsible office shall maintain the training self-certifications and/or training certificates within their office files, and monitor consultant/contractor staff to ensure compliance with training within 30 days of employment by the Department.

PROCEDURE:

Consultants/contractors represent a significant resource to the Department, enabling the agency to accomplish its mission of delivering a safe transportation system, and annually delivering the Work Program. As part of the effort to achieve this objective, the Department may allow consultants/contractors or other service providers to share Department office space for the contract duration on a full time or part-time basis. In order to ensure consultant staff are equipped with the necessary information to safely and ethically provide the necessary support activities, the Department has identified mandatory training to be performed by consultants/contractors. Evidence of this training must be provided within thirty (30) days of the start date for consultants/contractors working within the program office. Time spent by the consultant/contractor taking mandatory training referenced below may not be charged to the Department, and is not reimbursable on Department contracts.

MANDATORY TRAINING MATRIX FOR CONSULTANTS/CONTRACTORS:

Consultant Mandatory FDOT Training				
	Course #	Once	Annually	Every 3 Yrs.
FDOT Computer Security Awareness CBT (TRACK) (30 MIN)	CU-11-0613		√	
Defensive Driving (4 HR) *	ST-09-0228-a			√

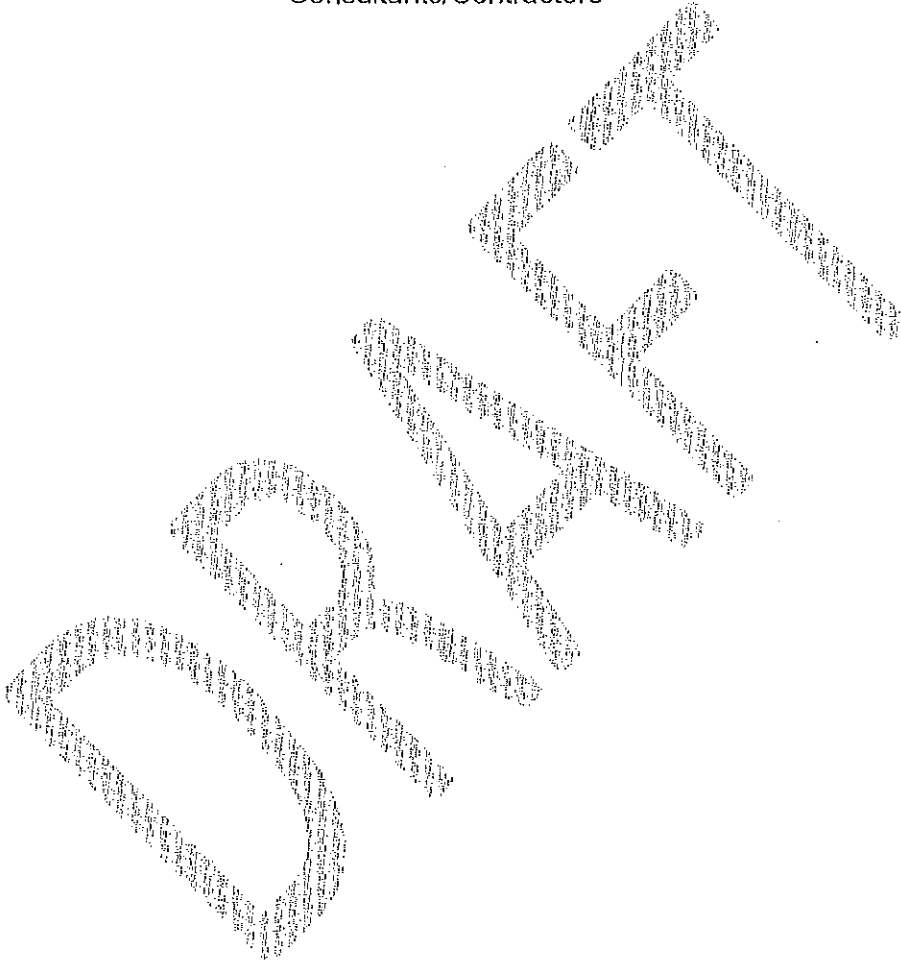
* Mandated for staff that require access to a FDOT vehicle.

Additional Consultant Training				
Consultants may self-certify completion of the following courses as having been taken through their primary employer, or complete the below FDOT course, available as a CBT from the Organizational Development site.				
	Course #	Once	Annually	Every 3 Yrs.
Equal Employment Opportunity Training (CBT) (1 HR)	BT-01-0013			√
Fire Prevention Annual Training (CBT) (30 MIN)	ST-09-0057		√	
Zero Tolerance for Violence – Employee (CBT) (30 MIN)	BT-18-0045	√		

FORMS

The following forms are available in the Department's Forms Library:

- | | |
|------------|---|
| 375-040-39 | Certification of Acceptable Driving Record |
| 000-000-00 | Mandatory Training Certification Form for Consultants/Contractors |



MEMORANDUM

DATE: 9-17-12

Subject: Use of Field Office Rate for On-premises Consultant Employees

Projects involving consultant staff housed in FDOT facilities for an uninterrupted on-site project duration of 6 months or greater will utilize the field office overhead rate.

Field Office Overhead Rate:

Field office is defined as any office that the consultant or contractor specifically establishes or has furnished to them at or near the project site to be used exclusively for project purposes. The office may be a trailer, building, room or series of rooms, or workspace (cubicle, office, etc.) within any DOT owned or leased building, for the use of consultant personnel. If the proposed project requires the establishment of a field office, a separate overhead rate for the field office must be submitted. If the Consultant does not have an approved field office overhead rate which has been established through the prequalification process, a field office overhead rate should be prepared by the Consultant in accordance with the instructions contained in Chapter 5.6 of the AASHTO Uniform Audit & Accounting Guide (see Table 5-6, page 42).

Use of Field Office for non-CEI type projects: For contract negotiation purposes, a field office rate (labor and expenses) shall be applied when consultant staff is assigned in Department space for a minimum of six consecutive months. If the proposed project involves the use of DOT office space or equipment by consultants, the Department's policy on this issue, which is included as Attachment H, should be observed.

Please contact the Procurement Office, 414-4484, if there are any questions.

Brian A. Blanchard, P.E.
Assistant Secretary for Engineering & Operations

Select Year:

The 2018 Florida Statutes

Title XXXIII
REGULATION OF TRADE, COMMERCE,
INVESTMENTS, AND SOLICITATIONS

Chapter 558
CONSTRUCTION
DEFECTS

View Entire
Chapter

CHAPTER 558 CONSTRUCTION DEFECTS

- 558.001 Legislative findings and declaration.
- 558.002 Definitions.
- 558.003 Action; compliance.
- 558.0035 Design professionals; contractual limitation on liability.
- 558.004 Notice and opportunity to repair.
- 558.005 Contract provisions; application.

558.001 Legislative findings and declaration.—The Legislature finds that it is beneficial to have an alternative method to resolve construction disputes that would reduce the need for litigation as well as protect the rights of property owners. An effective alternative dispute resolution mechanism in certain construction defect matters should involve the claimant filing a notice of claim with the contractor, subcontractor, supplier, or design professional that the claimant asserts is responsible for the defect, and should provide the contractor, subcontractor, supplier, or design professional, and the insurer of the contractor, subcontractor, supplier, or design professional, with an opportunity to resolve the claim through confidential settlement negotiations without resort to further legal process.

History.—s. 1, ch. 2003-49; s. 1, ch. 2004-342; s. 1, ch. 2006-281; s. 1, ch. 2015-165.

558.002 Definitions.—As used in this chapter, the term:

- (1) “Action” means any civil action or arbitration proceeding for damages or indemnity asserting a claim for damage to or loss of real or personal property caused by an alleged construction defect, but does not include any administrative action or any civil action or arbitration proceeding asserting a claim for alleged personal injuries arising out of an alleged construction defect.
- (2) “Association” has the same meaning as in s. 718.103(2), s. 719.103(2), s. 720.301(9), or s. 723.075.
- (3) “Claimant” means a property owner, including a subsequent purchaser or association, who asserts a claim for damages against a contractor, subcontractor, supplier, or design professional concerning a construction defect or a subsequent owner who asserts a claim for indemnification for such damages. The term does not include a contractor, subcontractor, supplier, or design professional.
- (4) “Completion of a building or improvement” means issuance of a certificate of occupancy, whether temporary or otherwise, that allows for occupancy or use of the entire building or improvement, or an equivalent authorization issued by the governmental body having jurisdiction. In jurisdictions where no certificate of occupancy or equivalent authorization is issued, the term means

substantial completion of construction, finishing, and equipping of the building or improvement according to the plans and specifications.

(5) "Construction defect" means a deficiency in, or a deficiency arising out of, the design, specifications, surveying, planning, supervision, observation of construction, or construction, repair, alteration, or remodeling of real property resulting from:

- (a) Defective material, products, or components used in the construction or remodeling;
- (b) A violation of the applicable codes in effect at the time of construction or remodeling which gives rise to a cause of action pursuant to s. 553.84;
- (c) A failure of the design of real property to meet the applicable professional standards of care at the time of governmental approval; or
- (d) A failure to construct or remodel real property in accordance with accepted trade standards for good and workmanlike construction at the time of construction.

(6) "Contractor" means any person, as defined in s. 1.01, that is legally engaged in the business of designing, developing, constructing, manufacturing, repairing, or remodeling real property.

(7) "Design professional" means a person, as defined in s. 1.01, licensed in this state as an architect, interior designer, landscape architect, engineer, surveyor, or geologist.

(8) "Real property" or "property" means land that is improved and the improvements on such land, including fixtures, manufactured housing, or mobile homes and excluding public transportation projects.

(9) "Service" means delivery by certified mail with a United States Postal Service record of evidence of delivery or attempted delivery to the last known address of the addressee, by hand delivery, or by delivery by any courier with written evidence of delivery.

(10) "Subcontractor" means a person, as defined in s. 1.01, who is a contractor who performs labor and supplies material on behalf of another contractor in the construction or remodeling of real property.

(11) "Supplier" means a person, as defined in s. 1.01, who provides only materials, equipment, or other supplies for the construction or remodeling of real property.

History.—s. 2, ch. 2003-49; s. 2, ch. 2004-342; s. 31, ch. 2004-345; s. 27, ch. 2004-353; s. 109, ch. 2005-2; s. 2, ch. 2006-281; s. 1, ch. 2009-203; s. 1, ch. 2013-28; s. 2, ch. 2015-165.

558.003 Action; compliance.—A claimant may not file an action subject to this chapter without first complying with the requirements of this chapter. If a claimant files an action alleging a construction defect without first complying with the requirements of this chapter, on timely motion by a party to the action the court shall stay the action, without prejudice, and the action may not proceed until the claimant has complied with such requirements. The notice requirement is not intended to interfere with an owner's ability to complete a project that has not been substantially completed. The notice is not required for a project that has not reached the stage of completion of the building or improvement.

History.—s. 3, ch. 2003-49; s. 3, ch. 2004-342; s. 2, ch. 2009-203.

558.0035 Design professionals; contractual limitation on liability.—

(1) A design professional employed by a business entity or an agent of the business entity is not individually liable for damages resulting from negligence occurring within the course and scope of a professional services contract if:

- (a) The contract is made between the business entity and a claimant or with another entity for the provision of professional services to the claimant;

Professional Services
Advertisement Response

Advertisement #: PS245

Response must be submitted by
09/30/2018 11:59 PM

Type of Works on this Advertisement

- 3.3 - Major Controlled Access Highway Design Major Minor
- 4.1.2 - Major Minor Bridge Design Major Minor

Under Utilized Work Group

- GROUP 2 - GROUP 2_(auto-desc)
- GROUP 4 - GROUP 4_(auto-desc)

1 Please enter the Prime Consultant Federal Employer Identification Number (FEIN). *
(No Dashes, Example: 981254511)

999888777

ADD

Don't have an FEIN?

Add Name Manually

Name	DBE*	Small Business*	Action
Prime Firm A	<input checked="" type="radio"/> No <input type="radio"/> Yes	<input checked="" type="radio"/> No <input type="radio"/> Yes	

2 All Subs on team must be entered. Please select all subs. (Click on 'ADD' after firm is selected)

(If there are no subs, skip this step)

SELECT
ADD

Don't have an FEIN?

Add Name Manually

Name	DBE*	Small Business*	Action
Sub Firm A	<input checked="" type="radio"/> No <input type="radio"/> Yes	<input checked="" type="radio"/> No <input type="radio"/> Yes	
Sub Firm B	<input checked="" type="radio"/> No <input type="radio"/> Yes	<input checked="" type="radio"/> No <input type="radio"/> Yes	

3 Please Identify Which Consultants are Performing Advertised Professional Services Work Types.

Major/Minor Work	Prime Firm A	Sub Firm A	Sub Firm B
3.3 - Major Controlled Access Highway Design	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.1.2 - Major Minor Bridge Design	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.2.1 - Major Major Bridge Design - Concrete	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

4 Upload Submittal Documents*

UPLOAD

Type	File	File Size	Action
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5 Submit This Response*

Who with this Firm should receive auto conformation of this submittal?

Contact Name

Contact Email

Confirm Email

SUBMIT

* DBE and Small Business radio buttons are auto-populated from FDOT systems.

Service Desk:

fdot.servicedesk@dot.state.fl.us ([mailto:fdot.servicedesk@dot.state.fl.us?subject=Consultant Evaluation \(CE\) Question](mailto:fdot.servicedesk@dot.state.fl.us?subject=Consultant%20Evaluation%20(CE)%20Question))

Script for Training Video

This short video will demonstrate how to submit a letter through the current advertisement webpage. As you can see we are on advertisement 19720 which is a district 7 CEI project with a major work type of 10.1 and minor work types including 8.1, 8.2, 10.3, and 10.4.

From this screen, you will click on the "submit response" button. This will take you to the consultant response page. On this page, you can confirm the advertisement number and response deadline (this response deadline is for demonstration purposes only). The header also includes the work types found in the ad

The first step is for the consultant to enter the 9-digit federal employer identification number with numbers only (no dashes or letters). You must know this number before you can submit a response. For this example, I've entered PDA Test Prime FEIN, which you can see here. After entering the number click the "add" button and the Consultant information will be displayed in the grid. Please note that the DBE and small business status are pulled from a different system and cannot be changed here. If the wrong FEIN number was entered, the consultant name and information displayed may be deleted by clicking the trash can icon, under the Action column. It's important to note that the "add name manually" button should not be used if the firm is prequalified.

For 99.0 non-standard projects, the "Add Name Manually" button should be used if the firm is not currently prequalified.

Step 2 allows entry for all sub-consultants. Again, the "select" button should be used for pre-qualified firms. "Add name manually" button should be used for non-pre-qualified firms.

We will proceed to enter the pre-qualified subconsultant firms for the minor work types. For this example, we will use PDA Test Sub A. After clicking the Select button, a pop-up window will appear, enter the name in the Vendor name box and click Search button. Vendor name will appear in the search results. Choose the appropriate vendor, and click the "Add Selected" button or double click on the entry. The pop-up window will close and you will return to the main screen.

Next, click the "Add" button to confirm your choice.

The vendor will display in the grid where you can see the name and the auto-populated DBE and small business status. These values are pre-populated by the system and cannot be changed by the user. This grid also has a trash icon under the action tab if information needs to be deleted.

For step 3 we will complete the grid by identifying which consultants are performing which advertised professional services work types.

On step 4, upload the Letter Submittal and other required documentation only. Multiple documents may be submitted by clicking the "Upload" button for each document.

For this submittal, we select "Upload" button. Select the appropriate file from your personal directory, then select Document Type from the dropdown. In this example, we are selecting Expanded letter from the dropdown.

LOR/LOQ Org charts are also included in the dropdown, and should be selected as applicable for the procurement selection method as referenced in the advertisement, then proceed to the reCaptcha by selecting the box for I'm not a robot.

Document, Filename, File size, will all appear in the grid. Please take note of file size. The Department will strictly enforce file size limits as noted in the advertisement or Request for Proposal (RFP).

For step 5, you will need to enter the contact name and contact email. You must confirm the contact email.

Click Submit once all information has been entered. You will receive a confirmation email that your letter was received by the department. In order to assure timeliness, the link will disappear once the deadline expires.

Impact of Implementation of restrictions on org charts/staffing charts/staff hour estimate charts:

The Consultant firm may elect to submit an organization chart OR staffing chart, not both. Examples of acceptable and unacceptable content for organization charts, staffing charts, staff hour estimate charts, and CTQP printouts are provided at [this link](#). Organization, staffing, or staff hour estimate charts containing extra narrative content (not in conformance with examples) will be deemed unacceptable, at the sole discretion of the Procurement Office, and will not be passed on to the Technical Review Committee for review and evaluation with the other submittals.

District	Org charts held back
1	8 firms would have been non-compliant on the org charts for Advertisement No. 19107 (CEI for US 41 Venice Bypass from Center Rd to Gulf Coast Blvd), so the procurement was restarted due to so many firms being non-compliant (this procurement started on 6/18/8). It was re-advertised and all were compliant on 2 nd response. On Advertisement No. 19117 (CEI for Highway & Bridge/Structural Design), 1 firm's staff hour chart was non-compliant & held back.
2	Three charts did not go to the TRCs.
3	0
4	Removed only one Organizational Chart. This was from project 19413 on 7/18/18
5	0
6	0
7	0
TPK	One org chart was held back on CEI procurement Advertisement No. 19815.
CO	0

Current Interview Guidance:

8.1 **INTERVIEW REQUIREMENTS:** The following guidelines will govern the interviews:

- (1) A predetermined list of questions will be asked of every consultant firm. These questions may be reviewed and discussed by the Consultant team members for 5 minutes before the interview. The Consultant firm remains in the same room as the TRC and Professional Services Unit (PSU) staff when reviewing the questions. The Consultant firm may not leave the room to review the questions. The five minutes for reviewing questions is not counted as part of the Interview time. Introductions of Consultant staff and Department staff are also not counted as part of the Interview time. Please keep introductions under 5 minutes. A maximum interview time limit of 45 minutes per shortlisted firm will be enforced. This time limit is inclusive of Consultant opening statement, Question and Answer (Q&A) and follow-up clarifying questions, and Consultant closing statement (only if time permits). PSU shall be timekeeper, and is responsible for ensuring the Consultant firm adheres to the time limit. Each Consultant firm may make an opening statement of approximately 5 minutes. The opening statement shall not be separately timed. Follow-up questions may be asked of a given Consultant

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firm, to clarify a Consultant's response to a standard question. Clarifying questions may necessarily vary between Consultant firms. If time permits, the Consultant is allowed 5 minutes for a closing statement. If the 45 minutes allocated for the Interview elapses before the closing statement is made, the Consultant firm is not permitted to give a closing statement.

Proposed Interview Guidance:

Draft Professional Services Procurement Procedure:

- (EG) Introductions of Consultant staff and Department staff are also not counted as part of the Interview time. Interviews are limited to forty-five (45) minutes total, inclusive of Consultant opening statement, and Questions and Answers (Q&A). Ten (10) minutes will be allowed after the 45 minute Interview for follow-up questions pertaining to the Consultant's responses and follow-up clarifying questions, and Consultant's closing statement. (closing statement is optional and only if time permits). PSU shall be timekeeper, and is responsible for ensuring the Consultant firm adheres to the stated 45-minute time limits. The Interview may conclude early if less time is actually required. Each Consultant firm may make an opening statement of approximately 5 minutes (opening statement is optional). The opening statement shall not be separately timed.