

CHAPTER 13

SPECIAL REQUIREMENTS FOR FEDERALLY FUNDED PROJECTS

Consultant contracts are eligible for federal-aid participation where federal requirements are followed, and costs may be allocable to a particular federal-aid project. This section prescribes requirements necessary for conformance with 23 U.S.C. 112(b)(2)- Contracting for Engineering and Design Services; 23 CFR 172- Procurement, Management, and Administration of Engineering and Design Related Services; and the process which will be followed when federal funds are to be requested.

In fulfillment of federal regulations, Central Office Procurement shall be responsible for maintaining **Topic No. 375-030-002, Professional Services Procurement Manual**, which constitutes the standard operating requirements, instructions and processes for professional services contract procurement.

13.1 OVERSIGHT CLASSIFICATION

13.1.1 PROJECTS OF DIVISION INTEREST (PoDI)

The Projects of Division Interest (PoDI) are those projects that have an identified elevated risk, contain elements of higher risk, or present a meaningful opportunity for FHWA involvement to enhance meeting program or project objectives. Project selection for PoDI is completed for each performance year (June 1 to May 31) and stewardship and oversight activities are directed toward addressing identified risks. Identification of these projects allows Federal Highway Divisions to concentrate resources on project phases or areas that add the most value on important projects to the Division. PoDI projects could include projects either on or off the National Highway System. PoDIs may also be either State DOT administered projects or LAP-administered projects.

FHWA provides Central Office Procurement with a copy of a concise PoDI list, which includes all PoDIs and the activities that will be conducted as part of the focus oversight. The plan identifies which projects may include oversight in the consultant program area.

For the aforementioned FHWA PoDI projects, the District Project Manager should consult with the appropriate FHWA Transportation Engineer, or Technical Specialists, to discuss the PoDI plan activities pertaining to the Consultant Program Area. As a minimum, a draft scope of services, in-house cost estimate, and RFP (when applicable) will be reviewed. A cost estimate for this purpose will be completed using in-house staff hour estimates prepared by the Project Manager. Concurrent with submittal of the final cost estimate and draft contract to FHWA, a funding request will be made through the District Federal-Aid Coordinator. The professional services acquisition process may proceed up through contract execution prior to receipt of the FHWA Electronic Signature Authorization/Modification Document, but a notice to proceed will not be issued until approval is received from FHWA. Approval for oversight contracts shall be maintained by PSU in the electronic contract file.

FHWA reviews and approves all Consultant contracts where a Consultant performs in a management support role. Management support role means performing engineering management services or program or project administration role on behalf of the Department.

13.1.2 OVERSIGHT OF PLANNING CONTRACTS

The State Planning and Research (SPR) is the work program outlining use of federal highway planning (HP) funds for each fiscal year. The SPR is coordinated through the Department's Office of Policy Planning (OPP) and is submitted by OPP to FHWA for approval for the upcoming fiscal year, by June 15th. Amendments to the SPR may be submitted throughout the fiscal year. Please refer to the [SPR and FHWA Reviews SharePoint](#) for additional information.

Scopes of work do not need to be submitted by OPP's SPR Coordinator to FHWA for additional review unless specifically identified in the SPR Work Program Approval letter. If the scope of work changes from the activity described in the SPR Work Program spreadsheet, then an additional SPR Amendment will be required from OPP's SPR Coordinator prior to authorizing federal funds. The updated task description will be sent with the SPR Amendment for FHWA review. As long as the activity provides the details outlined in the draft consultant procedures, no further FHWA review of the scope is necessary.

Prior to beginning procurement of a planning contract, the Project Manager must determine if HP funds will be or may be used for the proposed scope of services. If HP funds will be or may be used, then the Project Manager must ensure that the scope of services complies with allowable activities described in federal code **23 U.S.C. 134 Metropolitan Transportation Planning; 23 U.S.C.135 Statewide and Nonmetropolitan Transportation Planning, and 23 U.S.C. 420 Planning and Research Program Administration.**

For project-specific contracts utilizing HP funds:

The Project Manager must ensure that the project is eligible for HP funding, included in the Approved SPR, and consistent with the project's Activity Description, Financial Project, and funding amount.

The Project Manager must then request Department approval of the scope of services by uploading the draft scope of services to the [SPR and FHWA Reviews SharePoint](#) site, for review by Strategic Development Finance and Administrative Services Team. As part of the review, additional instructions regarding submittal of the scope of services to the FHWA Transportation Planning Specialist may be provided, as applicable.

The Strategic Development Finance and Administrative Services Team will provide an internal reference number. The internal reference number shall be maintained by the Professional Services Unit (PSU) in the contract electronic file.

After approval for eligibility and consistency with the SPR, the Project Manager may route the draft scope of services to PSU for advertisement. No additional reviews of the contract scope will be performed by FHWA prior to contract execution.

For task assignment contracts that are anticipated to utilize HP funds:

The Project Manager must request approval of the task assignment contract scope of services by uploading the draft scope of services to the Department's [SPR and FHWA Reviews SharePoint](#) site, for review by the Strategic Development Finance and Administrative Services Team. As part of the review, additional instructions regarding submittal of the scope of services to the FHWA Transportation Planning Specialist may be provided, as applicable.

Once the contract draft scope is approved, the Strategic Development Finance and Administrative Services Team will provide a confirmation email. After approval of the contract scope for eligibility and consistency with the SPR, the Project Manager may route the draft scope of services to PSU for advertisement.

Prior to issuance of individual task work orders involving HP funds, the Project Manager must ensure the task work order scope aligns with the project's Activity Description, Financial Project, and funding amount in the approved SPR Work Program.

The Project Manager must then request approval of the task work order and cost estimate through the Department's [Strategic Development Task Work Order Reviews SharePoint](#) site. This applies to all task work orders using HP funds, whether the tasks are issued by Central Office or the District.

The Strategic Development Finance and Administrative Services Team will provide an internal reference number for the task work order. The internal reference number must be noted in the Project Manager's contract file and provided to the Federal Aid Management Office in the Office of Work Program and Budget. Approval must be received prior to encumbrance of funds and execution of the task work order.

After approval for consistency with the SPR, the Project Manager must route the task work order following their internal routing procedures as appropriate.

Federally funded planning contracts (including planning task assignment type contracts) are subject to a five-year term, \$5 million budgetary ceiling.

13.1.3 OVERSIGHT DELEGATED TO THE DEPARTMENT

Responsibilities for oversight are assumed by the Department for FHWA projects classified below:

- (A) Miscellaneous minor professional services contracts (also known as District-wides).
- (B) Other federally funded task assignment contacts (non-districtwides & non-planning). This would include groupings of professional service assignments for substantially similar activities, and continuing contracts for professional services.
- (C) Project specific contracts, unless those identified for focus oversight of consultant procurement per Section 13.1.1.
- (D) Right of way acquisition projects.
- (E) Planning contracts implementing tasks which have sufficient detail described in the UPWP or SPR Work Program.

The cost/time limitations for federally-funded miscellaneous minor professional services contracts (also known as District-wides) shall be \$1.5 million overall contract limit, \$300,000 per task assignment, and contract term of five years. No new task assignments on District-wides will be started after the five year term ends, with the exception of post design work/plans update, which would not be federally funded after the five year contract period. FHWA approval is not required to extend contracts beyond five years to complete task assignments previously authorized before the end of the five year limit. Chief Engineer or Chief Planner, as applicable. Proper justification for the extension must be kept on project file.

Other federally funded task assignment contracts are subject to the contract term limit of five years, and \$5 million budgetary ceiling. This includes groupings of professional service assignments for substantially similar activities, and continuing contracts for professional services. No new task assignments will be started after the five year term ends (with the exception of post design work/plans update, which would not be federally funded after the five year contract period). FHWA approval will not be required to extend contracts beyond five years to complete task assignments previously authorized before the five year limit. Chief Engineer or Chief Planner approval is required, as applicable. Proper justification for the extension must be kept on project file.

Project specific contracts are not subject to time or monetary thresholds.

Due to the recurring nature of the services, and in order to promote contract turnover and ensure open competition, bridge inspection contracts will be subject to a five year limit and \$5 million budgetary ceiling. This guidance does not apply to bridge inspections performed on asset maintenance contracts, which are not professional services.

Project specific contracts, where work is done as task assignments in order to facilitate design & post-design phase closure are not subject to the five year limit or any monetary thresholds.

For the aforementioned delegated contracts only, the Department provides an electronic copy of executed professional services contracts to FHWA.

On federally funded projects, Notice to Proceed (NTP) or authorization to start work must not be delivered to the consultant until the Department receives federal authorization of the contract. Copies of this authorization must be provided to the District PSU, and the Office of the Comptroller.

The Consultant must not commence work without an executed contract and funds approval in place.

13.2 CEI AND DESIGN CONTINUING CONTRACTS USED BY LOCAL AGENCY PROGRAM (LAP)

Districts may establish a dedicated continuing services task work order driven contract to be utilized exclusively for delivery of LAP projects, for CEI and Design. Contracts shall be procured by the District, in accordance with the procurement procedures referenced herein. Task work orders shall be issued for individual LAP projects, by the Department's Project Manager. The Department's Project Manager shall be responsible for maintaining the contract budget, ensuring task work orders amendments are timely and appropriately issued, approval and payment of invoices through CITS, and contract and task work order oversight. The local agencies shall be responsible for developing the task work order scope, and cost estimate, and shall be in responsible charge of the task services. The task work orders shall be administered in accordance with ***Procedure No. 525-010-300, Local Agency Program Manual***.

Continuing contracts for delivery of LAP projects must comply with Department Conflict of Interest policies.

13.3 FHWA MONITORING

FHWA will perform independent process reviews to evaluate the program. In accordance with federal requirements, and ***Procedure No. 700-000-005, FHWA-FDOT Stewardship and Oversight Agreement***, FHWA is required to approve the procedures to hire consultants using federal-aid funding. The approved procedures are required to be followed for both PoDI and state delegated federal-aid projects.

In support of this requirement, Central Office Procurement shall be responsible for a Quality Assurance Review (QAR) of a statistical sampling of professional services contracts, on a two-year cycle. An annual summary report of the QARs performed, including findings, will be submitted to FHWA with an action plan on how to correct any deficiencies noted. Representatives from FHWA shall be invited to all scheduled QARs with sufficient advance notice, to validate the FDOT QAR process.