

Consultant Selection Independent Cost Estimate Peer Exchange
February 16th-17th, 2017

This report is a short summary of the entitled Peer Exchange. In the following you will be able to quickly read through the high points of the Exchange. For more detail and to go through the presentations presented at the Exchange. Please go into each presenters PowerPoint presentation, and if you would still like more information, all contact information is provided below or within the PowerPoint.

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The following offers a very short recap of each presentation. For additional information on any particular topic or area go to the presentation posted on this website.

1. Regulatory Requirements presented by John McAvoy.

23 CFR 172

Procurement, Management, and Administration of Engineering and Design Related Services

- Governs the procurement, management, and administration of consultant contracts for professional services that are:
 - Directly related to construction contract, AND
 - Reimbursed with Federal-aid Highway Program (FAHP) funds
- Updated Final Rule published in the Federal Register May 2015
 - Became effective in June 2015
 - Gave contracting agencies 12 months to update policies and procedures

23 CFR 172.5(c)

The contracting agency shall prepare written policies that address ... preparing an independent agency estimate for use in negotiation with the selected consultant.

23 CFR 172.7(a)(1)(v)

Prior to receipt or review of the consultant's cost proposal, the contracting agency shall prepare a detailed independent estimate with an appropriate breakdown of labor hours, classifications of labor, other direct costs, and fixed fee.

No corresponding State regulation

2. FLDOT presentation by Rob Quigley.

This States process has many Best Management Practices (BMP) and is a Lead State in meeting 23CFR172 requirements. FLDOT has developed and maintains a database of task staff hour requirements which is updated regularly and based on healthy partnership with Consultant Industry. Spreadsheet with staff hours (negotiated) is connected with staff categories and wage rates to it will calculate fee. The Procurement office sets the wage ranges for each work class, the consultants need to select an hourly rate within that range. Specific work class hours are not calculated independently but are negotiated from the consultant submittal. FLDOT has very good interaction and relationships internally so there is good buy in on their CSICE policies. They have also partnered very successfully with external consultant industry which contributes significantly to the success of their program.

3. WSDOT presentation by Meg Blau and Sheril MacKenzie.

WSDOT has a 5 step goal process, nicely establishes the principals desired in their consultant selection process. They have a process to determine the most appropriate contract time or project delivery method, this is a good policy. HQ negotiates task categories wage rate ranges for every consultant. These are then used for every negotiated hourly fee contract. Cost plus fixed fee and Lump sum uses actual fees. Fixed fee is a weighted calculation of 5 groups; this is negotiated between the agency and consultant. Consultant selected and State negotiates final scope and then the consultant creates a cost spreadsheets (State form) into which hours are entered into and the hours are negotiated. WSDOT process involves the consultants to a high degree, with much flexibility and ability to update after a signed contract, for overhead rate, pay raises, changes to work, added work, etc. After consultant develops and returns the form, all parties have about 2 weeks to enter their hourly estimates, and then it takes a day to negotiate the final hours. WSDOT was 1 of 10 states selected to pilot the Safe Harbor program for new consultants to establish an overhead rate. A fee (between 17 and 35% of direct labor cost only) is then negotiated. After negotiations, consultant submits form with agreed to hours, fees, and rates, and WSDOT project office checks it, negotiates any further changes, and ultimately approves.

4. FLH presentation by Mike Traffalis.

As a direct federal procurement agency they are unique in what regulations apply to them, and how they apply them. Process is highly driven by being within budget; budget increases require a Contracting Officer approval. Process is rigorous which drives accountability which is good, but also difficult which can cause time delays and bureaucracy. They have their process very well documented and are on line available for everyone internally, and will eventually be

available to external folks. Many well developed forms. The forms and the documented process drive consistency across the agency. FLH completes work for other agencies with a match, and works with other federal agencies such as BLM, and USFWS. A BMP is the high level of accountability for the funds and to be effective and efficient with their use. IDIQ contracts are set for 5 years with inflation factors allowed. RFP goes out, contractors are selected then overhead rates and work group wage rates are negotiated before an actual contract. PM fills out the spread sheet with the WBS and work groups and the hours in each. Then this is approved by the Contracting officer before negotiating with consultant.

5. **King County and Seattle presentation by Trinh Truong and Jana Duran.**

FTA requires check lists which Seattle is finding somewhat useful in keeping on track. Project Planning focuses on project scope and costs and determining funding sources, and at this point requesting funds through grant applications etc., and federal funding sources. King County and Seattle partner quite a bit on mutually shared projects such as their rapid transit corridor. This partnership extends out to include sound transit and other service providers. King County refines the planning level scope of work and details it through construction; this is done by the PM. The PM uses this to develop the ICE. The PM distributes the SOW to technical staff to validate the work elements and to provide an estimate of hours for each task. The project budget is based on the ICE which uses a rolling database of the most current 5 years of wage rates per work category using the avg. for each work group. Procurement receives the actual wages from the consultant who has been selected to enter into a contract and reviews and approves the wages using the database and industry ranges as a guide for what is reasonable and acceptable. During RFP, a contract specialist develops a form based on the work groups from the ICE and places it on the website and consultant will access it and enter the hours. The PM also fills out this form with their estimate of hours. Seattle and King County are Certified Authorities so they can use their own approved processes (WSDOT approved) or use WSDOT processes. Non CA agencies would use WSDOT processes. Executives review and approve before finalizing contracts. During the final negotiations a review, update, and finalize the SOW is done between the PM and the selected consultant. King County has several very detailed forms for ICE, hours estimate and final fee which seem very details but would drive accountability and justification or clear demonstration for when additional hours or work groups are needed due to scope changes. King County has a task on contracts called urgent and unplanned, for work items that were unforeseen or for emergency instead of a management reserve, basically these are contingency items.

6. **MNDOT presentation by Valerie Svensson.**

When a decision is made to procure a consultant for project delivery work, as assessment is completed to determine the applicability of the Taxpayers Transportation Accountability Act (TTAA). The TTAA is a process that compares the MNDOT "in house estimate" for doing the work internally including direct costs and the state approved overhead rate. The overhead rate is reviewed and updated each year. They have the selected consultant develop an estimate for contracting out the work with the agency contract administration cost added and the estimates

are compared. The Agency is required to choose the lower cost delivery option unless the project is less than \$250k. For projects under \$250k they are not mandated to choose the lower of the two. For projects over \$250k a construction delay factor may be applied to the in house cost if internal resourcing issues would delay the project. Detailed estimates are rolled up onto a summary sheet and compared. Forms for consultants to fill out and for in-house are nicely detailed. Forms are used for both justifying using a consultant, and then for independent estimate and fee negotiation (based on an hours estimate). Use of P6 for a resource loaded schedule for programming. MNDOT evaluation in defining the lowest cost of the two estimates, State rarely uses Fed funds for preconstruction consultant services, and is not using them for match (and being aware of it) for construction cost FA, creates or promotes very efficient use of public funds. A good process if you can do it.

Summary of good policy or BMPs learned from the Exchange:

- a. When procuring a consultant using FA 23CFR172 must be followed, and the Brooks Act which means that an Independent estimate must be done. Should have appropriate level of detail for the complexity of the project; perhaps have a scalable process, with appropriate level of documentation. Just the right amount of detail, not too much, not too little.
- b. Have guiding 'principals or goals' that you'd like your process to provide.
- c. Resource loaded schedules, with WBS tied to scope, to develop cost from.
- d. Opportunity to address change such as scope increase throughout the process.
- e. Processes that drive accountability.
- f. Get scoping done early on, upfront planning. Drives better forecasting.
- g. Cooperation with the consultants and ACEC and good partnering.
- h. Break out hours per work classification.
- i. Pre-negotiate rates for each work group.
- j. Break down and negotiate hours for a milestone, then work on the next, instead of negotiating all at once. This is good for long term or very complicated contracts.
- k. Having all internal work groups involved in the process be involved in developing the process.
- l. Justification process for using consultant or complete internally. To neutralize making decision to use internal folks or consultant.
- m. Develop use of forms that are simple to use but effective, can drive consistency and accuracy.
- n. Database of work hours per work item capturing expertise.
- o. Processes that are as stream lined as possible to allow for maintaining schedule.
- p. Processes that support niche requirements such as LPA processes, Union requirements, and more than one source of federal funds, if these niches exist in your agency.
- q. Performance evaluation (a fed requirement) which will feed success on future consultant contracts.
- r. Enforce consultant quality control.

- s. Ohio shared that they have an electronic form and input/review system where consultants enter their proposal on line and it is reviewed and comments are kept and this entire document becomes part of the contract. These prevent renegotiation, and a basis for settling differences.
- t. Complete and accurate scopes of work, and having a current or completely updated scope of work was discussed a lot as being important to a successful hours estimate and fee negotiation
- u. When receiving funds from more than one federal agency choose the agency that you are more comfortable with, or the agency which most of the work pertains to (such as a rail project with FHWA funds being managed by FTA).
- v. Use of P6 (Primavera) resource loaded schedule for programming.