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DATE: December 27, 2022

SUBJECT: Publication 93
Policy and Procedures for the Administration
Of Consultant Agreements
2022 Edition

TO: District Executives

FROM: Christine Spangler, P.E., Director *for*
Bureau of Design and Delivery

The Bureau of Design and Delivery's Contract Management Division is releasing the 2022 Edition of Policy and Procedures for the Administration of Consultant Agreements (Publication 93). This edition incorporates and, therefore, supersedes the following Strike Off Letter and Clearance Transmittal and editorial revisions documented in the attached table of changes:

- SOL 430-22-02
- H-22-039

The attached matrix lists the substantial revisions made to Publication 93.

The 2022 Edition of Publication 93 will be available in electronic format (.pdf) in the <P:\penndot shared\Bureau of Design\Design Services Division\Consultant Agreement Section\Publications>. The 2022 Edition of Publication 93 will also be available on the PennDOT website, Publication and Forms.

Comments or questions concerning this edition may be directed to Ms. Michele L. Harter, P.E., Chief, Contract Management Division, Bureau of Design and Delivery, at 717-783-9457 or email at micharter@pa.gov.

Attachment

430/MLH

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Highway Administration Bureau Directors
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Substantial Revisions			
Publication 93 (2022)			
Policy and Procedures for the Administration of Consultant Agreements			
Chapter 1 - Consultant Requirements			
Section	Sub section	Title	Comment
Chapter 1.1		Introduction	No Change *
Chapter 1.2	1.2.1	Consultant Registration Process	Updated link to ECMS website *
	1.2.2	Municipality Registration Process	Updated link to ECMS website *
Chapter 1.3		Consultant Quality Plan	No Change *
Chapter 1.4		Certificate of Authority to Do Business	No Change *
Chapter 1.5		Engineering Involvement Restrictions	CMD - 5/6/2021 emails from and to MLH - conflict of interest clarification
	1.5.1	Construction Inspection	No Change *
Chapter 1.6		Conflict of Interest	No Change *
Chapter 1.7		Adverse Interest Act	No Change *

Chapter 2 – Selection Process Procedures

Section	Sub section	Title	Comment
Chapter 2.1	2.1.1	Normal Selection Procedures	No Change *
	2.1.2	Modified Selection Procedures	No Change *
Chapter 2.2		Identifying Need for Consultant Services	No Change *
	2.2.1	Right-of-Way Acquisition Services	No Change *
	2.2.2	Photogrammetry Services	No Change *
	2.2.3	Consultant Management Project Manager (CMPM) and Review Assistance Information	No Change *
	2.2.4	Construction Management Support Service	No Change *
	2.2.5	Consultant Inspection	No Change *
	2.2.6	Highway Construction Design Professional Services Matrix	No Change *
Chapter 2.3	2.3.1	ECMS Setup	No Change *
	2.3.2	Planned Project	No Change *
	2.3.3	Advertisement	CMD- 11/16/2021 MA email CI ad criteria improvement
	2.3.4	Agreement Clarification Forums	No Change *
Chapter 2.4		Statement of Interest (SOI)	No Change *
	2.4.1	Disqualification of a SOI	No Change *
Chapter 2.5	2.5.1	Scope of Work (SOW)	No Change *
	2.5.2	Department Estimate	No Change *
Chapter 2.6		IO Generates Shortlist	No Change *
Chapter 2.7		Technical Proposal	No Change *
	2.7.1	Project Specific Quality Assurance/Quality Control (QA/QC) Plan	No Change *
	2.7.2	Worker Protection and Investment Certification	CMD & OCC- Added this section per Exec Order 2021-06 & 5/17/2022 MLH MA & BB emails
Chapter 2.8		IO Generates Final Ranking	No Change *
	2.8.1	IO Consultant Selection Committee	No Change *
	2.8.2	Normal Selection Procedures	No Change *
	2.8.3	Modified Selection Procedures	No Change *
	2.8.4	Final Ranking Process	No Change *
	2.8.5	Submission Deadlines	No Change *
	2.8.6	Ranking Multiple Advertisements	No Change *
Chapter 2.9	2.9.1	CO Approval Committee	No Change *
	2.9.2	CO Approval Committee Acts on District Ranking	No Change *
Chapter 2.10	2.10.1	Scope Clarification Meeting	No Change *
	2.10.2	Finalizing Tech Proposal	No Change *
	2.10.3	IO Review/Evaluate Technical Proposal	No Change *
	2.10.4	Price Proposal	No Change *
Chapter 2.11		Evaluating and Negotiating Engineering Agreements	No Change *
Chapter 2.12		Legal Agreement Created	No Change *
	2.12.1	Fiscal Documents	No Change *
Chapter 2.13		Consultant, Deputy Secretary, Chief Counsel, Comptroller Approve Legal Agreement	No Change *
	2.13.1	Consultant	No Change *
	2.13.2	Commonwealth Contractor Responsibility Program (CCRP)	No Change *
	2.13.3	Comptroller	No Change *
Chapter 2.14		PennDOT Executes Agreement	No Change *
Chapter 2.15		IO Issues NTP	No Change *

Chapter 3 – Selection Process Reference Material

Section	Sub section	Title	Comment
Chapter 3.1		Introduction	No Change *
Chapter 3.2	3.2.1	Project Specific Agreement	No Change *
	3.2.2	Open End Agreement	SOL 430-22-02 re OE Capacity increase
Chapter 3.3	3.3.1	3.3.1 – Introduction	No Change *
	3.3.2	Sole Source Selection Procedures	No Change *
	3.3.3	Emergency Selection Procedures	No Change *
Chapter 3.4	3.4.1	Considerations for Shortlisting/Final Ranking Consultants	No Change *
	3.4.2	Documenting Selection Process	No Change *
	3.4.3	Conduct Oral Presentations	No Change *
	3.4.4	Debriefing	No Change *
Chapter 3.5		Method of Payment	No Change *
	3.5.1	Cost Plus Fixed Fee Method	No Change *
	3.5.2	Lump Sum Method	No Change *
	3.5.3	Cost Per Unit of Work Method	No Change *
	3.5.4	Specific Rate of Compensation Method	No Change *
		Specific Rate of Compensation - Construction Inspection	No Change *
Chapter 3.6	3.6.1	Introduction	No Change *
		Pre-Award Evaluation	No Change *
	3.6.2	Payroll	No Change *
	3.6.3	Overhead Rate	No Change *
	3.6.4	Fixed Fee or Profit	No Change *
	3.6.5	Escalation	No Change *
	3.6.6	Direct Costs Other than Payroll	No Change *
	3.6.7	Direct Costs of Services and Work by Others	BCM 10/6/2022 email regarding sub surface drilling threshold update *
	3.6.8	Total Budget Amount per Method of Payment per Categories	No Change *
	3.6.9	Review for DBE Goal Compliance	No Change *
	3.6.10	Project Schedule	CMD- 11/09/2021 MA email - clarifying words added to OE WO Ext sub-section; 4/11/2022 MA email - added" ..Non -Project Specific
Chapter 3.7	3.7.1	Introduction	No Change *
	3.7.2	Scope Clarification Meetings	No Change *
	3.7.3	Staff Hour Estimating Guide	No Change *
	3.7.4	Negotiation Meetings	No Change *
	3.7.5	Training	No Change *
	3.7.6	Negotiation Responsibility	No Change *

Chapter 4 – Administration of Consultant Agreement Process

Section	Sub section	Title	Comment
Chapter 4.1		Introduction	No Change *
	4.1.1	PennDOT Conflict of Interest	No Change *
Chapter 4.2		Responsibilities of the IO's Project Manager	No Change *
	4.2.1	Managing Consultants	No Change *
	4.2.2	Construction Project Manager	No Change *
Chapter 4.3	4.3	Construction Inspection Agreements	No Change *
	4.3.1	Substitutes	No Change *
	4.3.2	Wage Rate Approvals	No Change *
	4.3.3	Process Control	No Change *
	4.3.4	Consultant Inspection Compliance Process	No Change *
	4.3.5	Invoicing	No Change *
Chapter 4.4		Supplementing Consultant Agreements	4/11/2022 MA email - replace OCC reference with Deputy Secretary for Highway Administration or designee
	4.4.1	Types of Supplements	4/11/2022 MA email - Changes in Scope of Work - revise reference from Section 5.6 to Section 5.7
	4.4.2	Normal Supplement	No Change *
	4.4.3	Open End Time Extension Supplement	No Change *
	4.4.4	Administrative (No Cost) Supplement	No Change *
	4.4.5	No-Fee Supplement	No Change *
	4.4.6	Express Supplement (No-Fee)	No Change *
Chapter 4.5	4.5	Work Order	No Change *
	4.5.1	Engineering District Work Order Quality Control Reviewer	No Change *
	4.5.2	Initiate the Work Order	No Change *
	4.5.3	Multiple Work Orders on Multiple Non-Project Specific Open-End (NPS-OE) Agreements Advertised Under One Advertisement	No Change *
	4.5.4	Cost Plus Fixed Fee Method of Payment Functioning like a Specific Rate of Compensation	No Change *
	4.5.5	Funding	No Change *
	4.5.6	CMS Quality Assurance (QA) Review	No Change *
	4.5.7	Start Work	No Change *
	4.5.8	Statewide Open End Agreements	No Change *
	4.5.9	Processing a Work Order Closeout Amendment	No Change *
	4.5.10	Scope of Work for Design Review Work Orders	No Change *
	4.5.11	Work Orders for Assignments on Various Small Projects	No Change *
	4.5.12	Work Order Amendment	No Change *
	4.5.13	Advanced Notice to Proceed (ANTP)	No Change *
Chapter 4.6	4.6.1	Program Management Committee Approval	No Change *
	4.6.2	SAP Encumbrance	No Change *
	4.6.3	Invoice	No Change *
	4.6.4	Overhead Adjustment Invoice	No Change *
	4.6.5	Agreement Closeout	No Change *
	4.6.6	Certificate of Completion (Federally Funded Parts only)	No Change *
	4.6.7	Consultant Evaluations	No Change *
	4.6.8	Semi Annual Invoice Audit	No Change *
	4.6.7	Consultant Evaluations	No Change *

Section	Sub section	Title	Comment
Chapter 5.1		Introduction	No Change *
Chapter 5.2		Confidentiality	No Change *
Chapter 5.3	5.3.1	Consultant Requirements	No Change *
	5.3.2	PennDOT Requirements	No Change *
Chapter 5.4			No Change *
	5.4.1	Good Faith Effort to Obtain DBE Participation	No Change *
	5.4.2	DBE Certification	No Change *
	5.4.3	Records of DBE Participation	No Change *
	5.4.4	Monitoring of DBE Consultants	No Change *
	5.4.5	DBE Good Faith Effort Attainment for Consultant Agreements	No Change *
Chapter 5.4	5.4.6	Evaluation of DBE Goal Attainment for Consultant Agreements	No Change *
	5.4.7	Good Faith Effort Sanctions	No Change *
	5.4.8	NAICS Codes with DBE Commitment Information	No Change *
	5.4.9	DBE Termination Notice Requirement	No Change *
Chapter 5.5		Stop Work Notification	No Change *
Chapter 5.6		Violation or Breach of Contract	No Change *
Chapter 5.7		Costs Incurred Outside the Legal Contract	No Change *
Chapter 5.8		Design Error Process	No Change *
Chapter 5.9		Indemnification	No Change *
Chapter 5.10		Insurance	No Change *

Chapter 6 – Administering Department Sponsored Agreements (Hard Copy)

Section	Sub section	Title	Comment
Chapter 6.1		Introduction	No Change *
Chapter 6.2		Reasons for Supplements	No Change *
Chapter 6.3		Guidelines for Supplements	No Change *
Chapter 6.4	6.4.1	Changes in the Scope of Work	No Change *
	6.4.2	Cost Overruns	No Change *
	6.4.3	Agreement Closeouts	No Change *
	6.4.4	Addition of Subconsultant	No Change *
	6.4.5	Combination of Scope Changes and Overruns	No Change *
	6.4.6	Transfer of Funds between Categories of Compensation	No Change *
Chapter 6.5		Specific Procedures – Supplemental Agreements	No Change *
Chapter 6.6		Specific Procedures – Work Orders	No Change *
Chapter 6.7	6.7.1	Billing Intervals	No Change *
	6.7.2	Estimated Progress Report	No Change *
	6.7.3	District Review	No Change *
	6.7.4	Invoice Processing	No Change *
	6.7.5	Prompt Payment of Subconsultant/ Subcontractor Invoices	No Change *
	6.7.6	Prompt Payment of Small Business Vendor Invoices	No Change *
	6.7.7	Policy Governing Payments of Interest Penalties	No Change *
	6.7.8	Eligibility	No Change *
	6.7.9	Invoice Processing	No Change *
	6.7.10	Penalties	No Change *

Chapter 7 – Third Party Federal Aid Agreements

Section	Sub section	Title	Comment
Section 7.1		Introduction	No Change *
Section 7.2	7.2.1	Documentation	No Change *
	7.2.2	Publication 93 Policy and Procedures	No Change *
Section 7.3	7.3.1	Types of Municipal Selection Processes	No Change *
Section 7.3	7.3.2	Determining Need for Municipal Consultant Services Determining Need for Municipal Engineer	No Change *
	7.3.3	Consultant Selection Procedure Approval	No Change *
	7.3.4	Municipality Solicits Consultants	No Change *
	7.3.5	Municipality Creates Municipal Project in ECMS	No Change *
	7.3.6	Municipality Advertises Agreement in ECMS	No Change *
	7.3.7	Municipal Engineer Advertisement Approval	No Change *
	7.3.8	Municipality Advertises for Municipal Engineer	No Change *
	7.3.9	Consultants Respond to Municipality Solicitation	No Change *
	7.3.10	Consultant Submit SOI's	No Change *
	7.3.11	Municipality Creates Scope of Work and Estimate in ECMS	No Change *
	7.3.12	Municipality Short Lists Three Consultants (Normal Process Only)	No Change *
	7.3.13	Consultants Create Technical Proposal	No Change *
	7.3.14	Municipality Final Ranks Consultant	No Change *
	7.3.15	Municipality submits Final Ranking to PennDOT for Approval	No Change *
	7.3.16	Municipality submits Final Ranking in ECMS	No Change *
	7.3.17	PennDOT Approves Selected Consultant in ECMS	No Change *
	7.3.18	Consultant Finalizes Technical Proposal and Submits Price	No Change *
	7.3.19	Municipality and District Review Submitted Proposals	No Change *
	7.3.20	CMD Evaluates and Negotiates the Price Proposal, Prepares Legal	No Change *
	7.3.21	Consultant Reviews and Signs Legal Agreement in ECMS	No Change *
	7.3.22	Municipality Executes Legal Agreement in ECMS	No Change *
	7.3.23	Municipality Issues NTP	No Change *
	Section 7.4		Managing the Consultant
Section 7.5	7.5.1	Municipal ECMS Agreements	No Change *
	7.5.2	Municipal Agreements Created Outside of ECMS	No Change *
Section 7.6		Invoicing	No Change *
Section 7.7		Closing out the Agreement	No Change *

* 2022 edition replaced "Bureau of Project Delivery" with Bureau of Design and Delivery, BDPD with BODD, "Contract Management Section" and CMS with "Contract Management Division" and CMD

Publication 93 Appendices

Appendix Document		Comment
1A	Request for Consideration for Engineering Involvement Restrictions	No Change
1B	Construction Inspection Quality Assurance Plan	No Change
2A	Justification to Use a Consultant	No Change
2B	Bureau of Human Resources Sample Memo	No Change
2C	Office of Administration Sample Memo	No Change
2D	Commonwealth Computer System Accounts User Agreement	No Change
2E	Review of Scope of Work	No Change
2F	CO Consultant Selection Committee Approval Process	No Change
2G	Review of Technical Proposal	No Change
2H	Consultant Selection Meeting Memo Sample	No Change
3A	Sole Source Fact Sheet and Checklist for Services	No Change
3B	Negotiation Position Memorandum (NPM)	No Change
3C	FHWA Order 4470.1A Appendix A	No Change
3D	PennDOT Executive Compensation Statement (PEC)	No Change
3E	DBE Monitoring Form	No Change
3F	Mutual Gains Negotiations	No Change
3G	Negotiation Engineer Delegation Sample Memo	No Change
3G	PennDOT Safe Harbor Overhead Rate Compliance Components	No Change
3H	Safe Harbor Overhead Rate Certification	No Change
4A	Process Control for Consultant Inspection Contract Issues	No Change
4B	Guidelines for Determining Fee or No Fee	No Change
4C	Express Supplement (No Fee) Process Flow	No Change
4D	Express Supplement (No Fee)(Authorization for Consultant Contract Work)	No Change
4E	Example Quality Control Certification for Express Supplement (No Fee)	No Change
4F	Procedures for Closing Out Electronic Parts/Work Orders	No Change

4G	Consultant Inspector Hours and Mileage Log	No Change
4H	Excerpt-"Managing Consultants" course Lesson 5	No Change
4I	Supplementing Consultant Agreements	No Change
4J	Advanced Notice to Proceed	Revised electronic signature sequence. (9/2022)
5A	Confidentiality Certification	No Change
5B	DBE Commercially Useful Function (CUF) Report	No Change
5C	Evaluation of Overall DBE Goal Attainment Notice	No Change
5D	Certificate of Insurance	No Change
6A	Supplemental Agreement Request	No Change
6B	Project Specific Work Order Request	No Change
7A	A Guide to Policy and Procedure for Consultant Selection	No Change
7B	Municipal Engineer Advertisement Example	No Change
7C	District Estimate Summary for Municipal Agreement	No Change
7D	Municipal Request for Supplemental Agreement	No Change
7E	Notice to Proceed Sample Letter	No Change
7F	Past Performance Report (Non CI)	No Change
7G	Past Performance Report - Construction Inspection	No Change
7H	Certificate of Completion	No Change
Worksheets		
Worksheet Document		Comment
A	Paper Price Proposal Submission Design n CI	No Change
B	Paper Price Proposal Submission NBIS	No Change