

Approved:



Department of Transportation

Effective: March 20, 2013

Office: Procurement

Topic No.: 375-030-002-k

ACQUISITION OF PROFESSIONAL SERVICES

PURPOSE:

This procedure defines the method used by the Florida Department of Transportation (Department) to acquire qualified professional architectural; engineering; landscape architectural; land surveying and mapping; planning; and right of way services.

AUTHORITY:

Sections 20.23(4)(a) and 334.048(3) Florida Statutes (F.S.)

SCOPE:

This procedure will apply to all professional service contracts, whether state or federally funded, unless otherwise excepted herein or in cases of a valid public emergency as certified by the Secretary.

REFERENCES:

23 Code of Federal Regulations (CFR), Part 172, Administration of Engineering and Design Related Service Contracts
23 United States Code (USC), Section 112(b), Contracting for Engineering and Design Services
40 USC, Sections 1101- 1104, Brooks Act
49 CFR, Part 18 Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments (Common Grant Rule)
49 CFR, Part 26, Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs
Federal Acquisition Regulation (FAR) Part 31, Contract Cost Principles and Procedures
Section 286.011, F.S., Public Meetings and Records, Public Inspection, Criminal and Civil Penalties
Section 287.017, F.S., Purchasing Categories, Threshold Amounts
Section 287.055, F.S., Acquisition of Professional Architectural, Engineering, Landscape Architectural, or Surveying and Mapping Services; Definitions; Procedures; Contingent Fees Prohibited; Penalties
Section 337.105, F.S., Qualifications of Professional Consultants and Other Providers of Contractual Services; Performance Bonds; and Audits of Indirect Costs

Section 337.106, F.S., Professional Service Providers; Requirement for Professional Liability Insurance

Section 337.107, F.S., Contracts for Right-of-Way Services

Section 337.1075, F.S., Contracts for Planning Services

Section 337.165, F.S., Contract Crime; Denial or Revocation of a Certificate of Qualification

Chapter 339, F.S., Transportation Finance and Planning

Rule Chapter 14-75, Florida Administrative Code (F.A.C.), Qualification, Selection and Performance Evaluation Requirements for Professional Consultants to Perform Work for DOT

Rule Chapter 14-78, F.A.C., Participation by Disadvantaged Business Enterprises

Federal-Aid Technical Bulletin No. 07-01, District-wide Consultant Selection Procedure Changes

Federal-Aid Technical Bulletin No. 10-06, Federalized Consultant Contracts that Have Previously Only Used State Funds

Federal-Aid Technical Bulletin No. 13-01, Construction Engineering Inspection Hybrid Contracts

DFS Contract and Grant Management User Guide:

http://www.myfloridacfo.com/aadir/bureau_audit.htm

Negotiation Handbook:

<http://www.dot.state.fl.us/procurement/Negotiations.shtm>

Policy No. 001-010-020, Ethics Policy

Policy No. 001-275-015, Disadvantaged Business Enterprise Utilization

Procedure No. 050-020-025, Records Management

Procedure No. 325-080-001, Acquiring Information Technology Resources

Procedure No. 350-050-005, Federal Project Authorizations

Procedure No. 001-375-025, Use of Department Space and Equipment by Outside Providers

Procedure No. 375-030-001, Professional Consultant Qualification

Procedure No. 375-030-004, Audit Process for Professional Services Consultants and Contracts

Procedure No. 375-030-006, Restrictions on Consultants' Eligibility to Compete for Department Contracts

Procedure No. 375-030-010, Amendments and Task Work Orders for Professional Services Agreements

Procedure No. 375-040-010, Consultant Marketing

Procedure No. 375-040-130, Emergency Procurement During Governor Declared Emergencies

Procedure No. 700-000-005, Federal-Aid Partnership Agreement

Procedure No. 350-090-310, Tangible Personal Property Procedure

1. DEFINITIONS

Affiliates: The term "affiliate" means a predecessor or successor of a contractor under

the same, or substantially the same, control or a group of business entities which are connected or associated so that one entity controls or has the power to control each of the other business entities. The term "affiliate" includes the officers, directors, executives, shareholders active in management, employees, and agents of the affiliate. The ownership by one business entity of a controlling interest in another business entity or a pooling of equipment or income among business entities shall be prima facie evidence that one business entity is an affiliate of another.

Automated Fee Proposal (AFP): The AFP is the uniform cost proposal tool established by the Department for submittal of cost proposal information. The AFP can be downloaded from the Procurement Office website:
<http://www.dot.state.fl.us/procurement/>

Business Development Initiative (BDI): The BDI Program objective is to provide more opportunities and support for small businesses to move from sub contracting and sub consulting to prime contracting and consulting roles. BDI reserves projects for competition by small businesses. Additional information on the BDI program is available on the Department's Equal Opportunity website:
<http://www.dot.state.fl.us/equalopportunityoffice/generalbdi1.shtm>

Conflict of Interest: Employees of the Department may not have any interest, financial or otherwise, direct or indirect; engage in any business transaction or professional activity; or accept any obligation of any kind which is in conflict with the proper conduct of their duties in the public interest.

Consultant Invoice Transmittal System (CITS): CITS is an Internet web based application that was developed to eliminate manual processing of paper invoices for professional services contracts. The system allows for the electronic generation and submittal of invoices via the internet which streamlines the review and approval process.

Disadvantaged Business Enterprise (DBE): The Department's DBE Program is authorized by the U.S. Department of Transportation. DBEs are defined and utilized in accordance with ***Department Policy No. 001- 275-015, Disadvantaged Business Enterprise Utilization***. DBE goals shall be achieved using race and gender neutral means. The Department encourages use of DBEs in all work types, to assist the Department with achieving its federal DBE utilization goal. No preference points will be given for DBE participation.

FDOT Florida Accountability Contract Tracking System (FACTS): FDOT FACTS is the Department's internal application used for updating the DFS state contract reporting system, known as DFS FACTS. Contract information and images must be updated in DFS FACTS within 30 days of a new contract being executed, or any major change made to a contract. Instructions on inputting contract information and uploading

contract images into FACTS are available on the Procurement Intranet site.

Letter of Response (LOR): The letter submittal by the Consultant firm in response to a standard project advertisement is known as the LOR. The Consultant must identify the resources available (or anticipated) for use on the project based on the types of work that are advertised.

Letter of Qualification: On each occasion when the Department requires professional engineering services that are not covered by a prequalified standard type of work, the advertisement for such services will require interested Consultants to submit a Letter of Qualification. **Letters of Qualification** are limited to two pages for these types of contracts. The content criteria for this letter will be listed in the project's advertisement. Each letter must contain a listing of key staff, anticipated subconsultants to be used, a work history of similar projects completed by the Consultant (including references and their telephone numbers), and an estimate of the Consultant's current workload or a forecast of the Consultant's ability to assign resources to the project, in addition to any other information requested in the specific project's advertisement. Consultants not prequalified with the Department are also required to provide proof of professional liability insurance or letter of credit, licenses and registrations in accordance with **Rule Chapter 14-75, F.A.C.** If contract fees are \$250,000 or greater, the Consultant is also required to submit an overhead audit performed in accordance with the Department's Reimbursement Rate Guidelines. A complete audit must be submitted by the advertisement response deadline. The overhead audit must be approved by the Department prior to contract selection.

Longlist: From the LOR or **Letters of Qualifications** received from Consultants in response to an advertisement, the Project Manager, Department designee, or a Technical Review Committee will prepare a longlist of the highest qualified Consultants to be further considered for shortlist. This longlist will contain a minimum of ten Consultants or all qualified responsive respondents if fewer than ten.

Minority Business Enterprise (MBE): The Office of Supplier Diversity (OSD) is responsible for certifying minority, women, and Florida veteran businesses on behalf of all state agencies and universities. MBE is a state program. In order to become certified by OSD as an MBE, a business must meet the eligibility criteria set forth in **Rule 60A-9, F.A.C.** Further, the business must register with Department of Management Services as a vendor, identify itself as a minority business, and submit supporting documentation to OSD for review.

Ordinal Ranking: Ordinal values (1, 2, 3, etc.) will be assigned by PSU to each Technical Review Committee member's technical evaluation scores. Ordinals will be used as a secondary ranking tool to determine if skewing of technical evaluation scores has occurred.

Professional Services Administrator (PSA): The Head of the Professional Services Unit located in each District. For the Central Office, the manager of the Professional Services Section will act as the PSA in addition to other duties. All requests for professional services will be channeled through the appropriate PSU. The Administrator or the Procurement Office Manager will be the Contracting Officer responsible for ensuring that the acquisition of these services is performed in accordance with these procedures, **Rule Chapter 14-75, F.A.C.** and **Chapter 287, F.S.**

Professional Services: In accordance with **Section 287.055(2)(d), F.S.**, “Professional services” means those services within the scope of the practice of architecture, professional engineering, landscape architecture, or registered surveying and mapping, or those services performed by any architect, professional engineer, landscape architect, or registered surveyor and mapper in connection with his or her professional employment or practice. **Sections 337.107** and **337.1075, F.S.**, also allow procurement of right of way services and planning services using the professional services procurement process. Professional services do not include road/bridge construction or maintenance services, design-build services, construction, renovation, repair, modification or demolition services of building or structures, commodities and/or contractual services pursuant to **Section 287.057, F.S.** Non-professional services will not be procured on a professional services contract unless they are incidental to, but necessary for accomplishing the professional services activities identified in the contract scope of services.

Professional Services Unit (PSU): An office, whether Central Office or District, that maintains Department staff responsible for the proper procurement of professional services in its program area.

Project: A project may include the following:

- (A) Professional services associated with a specifically identified project.
- (B) A grouping of professional service assignments for substantially similar activities where the grouping of assignments provides advantage to the Department because of the geographic proximity of the existing or proposed transportation facilities involved, or use of shared resources for multiple projects, or to allow multiple use of a single design concept. The advertisement for a contract for such a grouping will specify the geographical limits and other criteria for assignments and the period during which assignments may be made. Without the approval of an Assistant Secretary, the period of service may not exceed 5 years and total fee may not exceed \$5,000,000.
- (C) Miscellaneous minor professional services, performed on a task assignment basis. The total contract fee may not exceed \$1,500,000 and individual assignments may not exceed \$300,000. However, these limits may be exceeded

with unplanned cost increases. The period for new assignments will not exceed five years unless extended to complete assignments previously authorized or for post design services for assignments previously authorized.

- (D) Professional services provided to the Department on a continuing basis with no time limitation except that the contract will provide a termination clause. Continuing contracts for professional services will be restricted in use to services for projects which construction costs do not exceed \$2,000,000 each, or for each study activity when the fee for such professional service does not exceed \$200,000, or for work of a specified nature as outlined in the contract. Without the approval of the Secretary, the period for a continuing contract may not exceed 5 years and total fee may not exceed \$5,000,000.
- (E) Professional services of a General Consultant which include the administration, support and management of engineering; architectural; surveying; planning; or right of way acquisition, relocation, and property management activities. These activities may involve a number of different projects in the Work Program. A General Consultant may not be the Engineer of Record on a project where the fees for design services exceed \$200,000, nor may they be the Construction Engineering and Inspection (CEI) Consultant Engineer on a construction project where the construction costs exceed \$2,000,000. Without the approval of the Secretary, the contract time may not exceed five years. This type of contract is not eligible for federal funding participation. ***Work Program Instructions, Part III - Chapter 26: Project Costing*** provides direction for appropriate use of Work Program versus operating budget for District-wide and General Consultant contracts.

Project Manager and Project Engineer: (Project Manager is used throughout this procedure to mean Project Engineer when applicable.) This is a person in the Department who is responsible for the general administration of the professional service contracts and who coordinates activities between the Consultant and the Department, assuring that the Consultant provides the specified services at a satisfactory level of quality, in accordance with the terms and conditions of the contract. Additionally, the Project Manager will complete performance evaluations on the Consultant and will initiate necessary actions as the result of the Consultant's non-compliance with the terms and conditions of the contract.

Public Meetings/General Staff Meetings/Exempt Meetings: Any meeting of two or more members of a Technical Review Committee, advisory committee, or selection committee to discuss their evaluations, conduct deliberations, make recommendations, or take formal action is considered a public meeting and must be open to the public. Reasonable notice of all public meetings must be given prior to the event, and minutes of the meeting must be recorded and maintained in the formal procurement file. Public meeting requirements do not apply to individual decision makers (e.g., one TRC

member), fact finding with one TRC member, or general staff meetings. Meetings that are exempt from public meeting requirements do not require advertising and notice during the procurement process. A complete recording shall be made of any portion of an exempt meeting. No portion of the exempt meeting may be held off the record. It is recommended that the PSU purchase digital voice-recorders and an omni-directional microphone in order to facilitate the process of recording exempt meetings. Two recorders are recommended to be used during exempt meetings. The second recorder will serve as backup, in case the primary recorder malfunctions.

The following table shall be applied when assessing the status of professional services meetings:

Longlist/Technical Review Committee Meetings	Public Meeting
Shortlist Meeting- If the longlist and shortlist recommendations were developed by the Technical Review Committee, at least a quorum of the Technical Review Committee members shall be in attendance at the Selection Committee meeting, to confirm their recommendations to the Selection Committee. If the Project Manager independently developed the longlist and shortlist recommendations, the Project Manager shall attend the shortlist meeting to confirm their recommendations to the Selection Committee. A Technical Review Committee member/Project Manager may attend the Selection Committee meeting by phone when travel or other circumstances prevent in-person attendance.	Public Meeting
Scope of Services Meeting	Public Meeting
Oral Presentation	Exempt Meeting
Interview	Exempt Meeting
Technical Review Committee Meetings	Public Meeting
Selection Committee Meetings/Final Selection Meeting- At the minimum, a quorum of the Technical Review Committee members shall be in attendance at the Selection Committee meeting, to confirm the evaluations and scoring to the Selection Committee. A Technical Review Committee member may	Public Meeting

attend the Selection Committee meeting by phone when travel or other circumstances prevent in-person attendance.	
Negotiation Meetings	Public Meeting
Negotiation Strategy Meetings (held with internal staff only)	Exempt Meeting
Debriefing Meeting Following Shortlisting- (Should not occur until after 72 hr protest period has passed.) If debriefing is held with each Technical Review Committee member separately, it will not be held as a public meeting. If debriefing with all Technical Review Committee members present at one time, it should be held as a public meeting. No comparative comments allowed. No exempt documents may be provided to firms, including evaluation comments or LORs. Debriefing Meetings following shortlisting should only occur with non-shortlisted proposers. Consultant shall contact PSU to schedule debriefings. Debriefing with Selection Committee members shall be at the discretion of the Selection Committee members.	As a Public Meeting if all Technical Review Committee members present. Not as a Public Meeting if held with each Technical Review Committee member separately.
Debriefing Meetings with non-selected proposers following Final Selection (Should not occur until after 72 hr protest period has passed.) At this point in time, the firm can meet with all Technical Review Committee members at once or separately without being held as a public meeting. Consultant shall contact PSU to schedule debriefings. Debriefing with Selection Committee members shall be at the discretion of the Selection Committee members.	Not a Public Meeting

Selection Committee (Central Office): This Committee will make both shortlist and final selection decisions. At a minimum, this Committee will be composed of the appropriate Assistant Secretary or his or her designee, (who will serve as Chairperson), the appropriate Director, and the appropriate Office Head or other members appointed by the Chairperson. The Manager of the Procurement Office (or their designee) will serve as Recording Secretary at all meetings. Each voting member of the Committee may appoint an appropriate management level alternate. All Selection Committee members must sign a ***Conflict of Interest Certification Form***, which will be retained in

the contract file.

Selection Committee (District): This Committee will make both shortlist and final selection decisions. At a minimum, the District Selection Committee will be composed of three members: the District Secretary (who will serve as Chairperson), the appropriate Director, and at least one other Director or the appropriate Office Head or other members appointed by the District Secretary. The PSA (or their designee) will serve as Recording Secretary at all meetings. Each voting member of the Committee may appoint an appropriate management level alternate. At every Selection Committee meeting, all Selection Committee members must sign a ***Conflict of Interest Certification, Form No. 375-030-50***, copies of which will be retained by the PSU in the individual contract files.

Shortlist: The shortlist consists of no less than three Consultants chosen by a Selection Committee, from whom submittals shall be requested (Written Technical Proposals, Oral Presentations, Interviews, or Expanded LORs).

Technical Review Committee (TRC): A TRC (minimum of three members) will be assigned the responsibility to evaluate LORs, Letters of Qualification, Interviews, Oral Presentations, Expanded LORs, and/or Written Technical Proposals submitted by Consultants. The members of this Committee will be determined by the appropriate Director, or designee. The TRC shall consist of an odd number of members for professional services procurements. Members of the TRC shall be chosen based on their knowledge and expertise as it relates to the nature of the work requested, the complexity of the project, and the availability of personnel to timely review and evaluate submittals. When establishing the members of the TRC, consideration should be given for including technical experts for specialized work as follows:

- (A) For bridge design projects involving Category I Bridges, consideration shall be given to including the District Structures Design Engineer or their designee as a member of the TRC.
- (B) For bridge design projects involving Category II Bridges, consideration shall be given to including the State Structures Design Engineer or his/her designee as a member of the TRC.
- (C) For rail corridor projects, consideration shall be given to including the Public Transportation Manager (or the District Rail Corridor Manager), and the State Rail Officer or their designees as members of the TRC.
- (D) For projects involving right of way services, consideration shall be given to including the District Right of Way Manager or his/her designee as a member of the TRC.

- (E) If a significant portion of the work (greater than fifty percent) of the project involves specialized services, then inclusion of technical experts as described above is required.

The TRC's responsibilities shall include reviewing the scope of services document prior to evaluating or scoring of project submittals. An even number of evaluators is not permitted on professional services TRCs in order to prevent ordinal ranking ties. Consultant staff may not be members of the TRC. It is permissible for Consultants to serve as technical advisors to the TRC, however, no employee of a Consultant or its affiliate that is competing for a project may serve as a technical advisor for the same project. Participation by employees of other Florida governmental entities on a TRC is acceptable, as long as the Department participants are in the majority. Private citizens and members of special interest groups are not permitted to serve on TRCs. Standing committees may be established for broad types of work with the Project Manager for each project serving as the chairperson. No member of the TRC may serve on the Selection Committee for the same project. All TRC members must sign a **Conflict of Interest Certification, Form No. 375-030-50**, which will be maintained in the contract file by the PSU. The **Conflict of Interest Certification Form** is required to be completed and signed by the TRC members for every contract acquisition that they participate on, and maintained in the contract procurement file alongside other documentation related to a single contract procurement.

Type of Work - The Department has categorized the types of professional services it generally requires into standard types of work listed in **Rule 14-75.003, F.A.C.** These types of work are the basis for prequalifying Consultants. Additionally, each advertisement for professional services will indicate both the major and minor (if applicable) types of work to be requested. When considering Consultants for shortlisting, the Consultant or team of Consultants (listed in a LOR) must be qualified or have submitted a qualification package by the response due date, for all major types of work listed in an advertisement. Further, the major types of work will be the criteria used to generate computer reports for longlisting and/or shortlisting purposes. Minor types of work will be identified in advertisements so Consultants know in advance that either their firm or team will need to be qualified in these areas prior to final selection. It is not mandatory that Consultants indicate how minor types of work will be accomplished until the technical proposal stage of the selection process. However, if final ranking is made from the Expanded LORs per Section 3.7, the Consultant must indicate how minor types of work will be accomplished within the LOR.

2. ADVERTISEMENT

On an annual basis, immediately after development of the work plan, each district will enter the Consultant Acquisition Plan on the Procurement Office Marketing website (typically by February of each year). The Procurement Office will publish the Consultant Acquisition Plans on the Procurement Office website as advance notice of professional

services projects. Moreover, professional services projects should be noticed on the Planned Advertisements website at least 10 calendar days in advance of actual advertisement. Any deviations from this requirement require approval from the Secretary or an Assistant Secretary.

The Procurement Office will advertise, in accordance with Florida law and in a uniform and consistent manner, on each occasion when professional consulting services are required and the fee is in excess of the threshold amount of Category Two, **Section 287.017, F.S.**, except in the case of a valid public emergency, declared as such by the Department Secretary. The results of all shortlist and final selection meetings will also be advertised.

At a minimum, each advertisement will state the financial project (if known), name and description of the project, the District and County where the project is located, the major type(s) of work required, any minor types of work that are required for the project but not normally associated with the major type(s) of work, the estimated construction cost of the project or estimated contract amount (if applicable), how and where Consultants can respond, time frames for submittal of LOR, how respondents will be selected, and scheduled times and dates for shortlist and final selection and other public meetings. In addition, the advertisement will indicate whether the contract is considered a minor level contract, with an estimated fee less than \$250,000 for qualification purposes. When funding for a professional services contract has not been programmed at the time of advertisement, the contract advertisement must include a statement indicating "The State of Florida's performance and obligation to pay under this contract is contingent upon appropriation by the Legislature."

Contracts that are reserved for competition amongst small businesses through the Department's BDI program shall be identified as such in the contract advertisement (both Planned and Current). Candidate BDI projects must be approved by the Chief Engineer.

DBE under-utilized work types shall also be identified in the advertisement where applicable. PSU shall determine applicability by reviewing the Concentration of Subconsultant Awards Report, and the Prime Concentration Report. Both reports shall be run for the appropriate District, or Central Office. All work types with a DBE percentage of 30% or lower confirmed on both reports shall be advertised as under-utilized work types. No preference points shall be given to firms who utilize DBE subconsultants, regardless of the work type.

The minimum advertisement period will be 10 calendar days although a longer period may be utilized as needed. A scope of services or a project concept report will be provided with the advertisement except when waived by a District Director. The advertisement will require that all responses are submitted as attachments to e-mail and will specify a maximum file size. When final ranking is to be made from the LORs, the

advertisement will so indicate. LOR will be limited to two pages except when final ranking is to be made from the letters.

Where multiple Consultants are needed for projects with similar requirements (such as two district wide contracts for the same discipline), one advertisement and one selection process may be used where practical. The advertisement for such projects will include a statement that multiple contracts may be awarded.

Projects that do not conform to the types of work that are prequalified by the Department will be advertised in a manner that requires interested Consultants to submit a Letter of Qualification. The requirements of this letter (i.e., what is to be submitted, time frames, Letter of Qualification, etc.) will be determined by the Project Manager with assistance from the PSU.

Any Consultant or its' affiliate that developed the scope of services, the Request for Proposal (RFP) or other solicitation documents for a particular project phase is ineligible to compete for that phase of the project for which they developed the documents.

A Consultant firm or its' affiliate that was Engineer of Record on a project will not be considered eligible to compete as a prime Consultant for CEI services on the same project.

It will be the practice to advertise and shortlist Adjusted Score Design-Build projects before advertising the Phase 62 CEI services associated with the same project. This practice will permit firms who are not shortlisted on a Design-Build team to be able to pursue the CEI Services. Any requests to advertise the Phase 62 CEI services prior to shortlisting the associated Adjusted Score Design-Build project must be approved by the Chief Engineer.

Consultants shall adhere to all other Consultant eligibility restrictions as provided in Procurement Office ***Procedure No. 375-030-006, Restriction on Consultants' Eligibility to Compete for Department Contracts.***

A Consultant cannot submit as prime on more than one LOR or Expanded LOR per project. If the Consultant is a member of multiple teams submitting for the same project, it is the responsibility of the Consultant to disclose this information to each respective team.

A Consultant or subconsultant used to qualify for an advertised major work type cannot be substituted without the approval of the District Secretary.

Pursuant to ***Section 287.055, F.S.***, and the ***Federal Brooks Act***, price may not be an evaluation criterion during the advertisement and selection phase for professional

services procurements. Consultants are prohibited from including references to their proposed professional services fees or indirect rates in the LORs, Expanded LOR, Interview, Oral Presentation, or Technical Proposal. It is permissible to address cost savings specifically related to the construction project. Inclusion of prohibited professional services cost data in an LOR, Expanded LOR, Interview, Oral Presentation, or Technical Proposal may cause the submittal to be considered non-responsive.

In order to ensure a fair, competitive and open process, once a project is advertised, all communications between interested firms and the Department must be directed to the appropriate PSU. All technical questions from the Consultant shall be in writing. Project Managers and other Department staff will cease discussions of the project with interested firms, and refer inquiries to the PSU.

All Department staff that makes decisions, approvals, disapprovals, or recommendations regarding the contract procurement is required to complete the Conflict of Interest Certification Form, and attest to the absence of a conflict of interest on the project. The **Conflict of Interest Certification, Form No. 375-030-50** is required to be completed and signed by every Technical Review Committee member, the Professional Services Administrator (PSA), and the Procurement staff involved in the contract acquisition process for every new procurement undertaken. Selection Committee members are required to complete and sign the **Conflict of Interest Certification Form** at every project Selection Committee meeting. Technical Advisors are not required to sign the form, since they are not acting in a direct decision making or recommendation role.

3. LONGLIST/SHORTLIST SELECTION EVALUATION

3.1 Longlist

When requested by the Project Manager and approved by the appropriate Director, the longlist process may be deleted from the selection process for any project. When the longlist process is deleted, all responsive LORs will be submitted to the Selection Committee for shortlisting. If the advertisement specified that final ranking will be made from Expanded LORs, **Sections 3.1** through **3.5** do not apply. The PSU will review all LORs. Except for projects with non-standard professional services types of work not requiring prequalification by the Department, the PSU will identify as non-responsive any letters received from Consultants not prequalified; or who are not technically prequalified in the advertised major type(s) of work (or alternatively who do not have a subconsultant technically prequalified in those type(s) of work) in accordance with **Procedure 375-030-001, Professional Consultant Qualification**; or who do not have an application for such prequalification in process. The PSU will provide the Project Manager or TRC with a copy of all responsive LORs received for a given project, and make available a shortlist report detailing past performance with the Department for all

responding Consultants prequalified to perform the advertised major types of work. Based upon this information, the Project Manager or TRC will longlist a minimum of ten, or all responsive respondents if less than ten, Consultants to be considered. If the TRC is developing the longlist, they must do so in a properly noticed public meeting. If the Project Manager is independently developing the longlist, no public meeting is required. The TRC or Project Manager shall recommend no less than three firms to be shortlisted by the Selection Committee. No one developing the longlist may act as a voting member on the Selection Committee making the shortlist for the subject project. The PSU will advise the Project Manager or TRC of the selection requirements and the factors to be considered in making the longlist.

3.2 Longlist Consideration Factors

Factors that will be considered by the TRC in developing the longlist and making their shortlist recommendation include:

- (A) Past performance grades received by the Consultant on current and previous Department projects, or other performance data included by the Consultant in the LOR or Letter of Qualification.
- (B) The location of the Consultant in relation to the work to be performed, for projects where Consultant proximity to project location is pertinent.
- (C) Any restrictions placed on the Consultant by the prequalification evaluator.
- (D) Volume of work previously awarded.
- (E) Other information contained in the LOR or Letter of Qualification.

Once the Project Manager or TRC has determined the longlist, the PSU will ensure that the project file is sufficiently documented. At a minimum, the file will contain the LORs, and the longlist portion of the **Professional Services Selection Package, Form No. 375-030-2A**. All longlisted firms shown on the **Professional Services Selection Package Longlist Form** will be displayed in alphabetical order, without ranking. The shortlist recommendation from the TRC shall also be included in the **Professional Services Selection Package Form**, to be presented to the Selection Committee for review.

If fewer than three Consultants respond to the advertisement, the Department will readvertise, if the contract schedule permits. Alternatively, the Department will review its list of Consultants prequalified for the major work type(s) and select no fewer than ten (10) prequalified Consultants (or all prequalified Consultants if fewer than 10) deemed to be the most highly qualified, based on qualification information on file, past performance grades, and location (where applicable). The Department will then contact

each of the selected Consultants and solicit LORs for the project.

3.3 Shortlist

Upon completion of a longlist, the PSU will access, through the Department's database, a shortlist profile on each of the designated Consultants. This information, along with supporting data the respective Selection Committee deems appropriate, will be packaged and presented to each Selection Committee member for their review prior to or at the scheduled selection meeting.

The Selection Committee will shortlist no less than three Consultants. Where multiple contracts are being selected with one advertisement, at least two more Consultants than number of contracts being awarded will be shortlisted. When this is the case, only one composite shortlist will be used, but a separate final ranking list will be developed for each contract.

The Selection Committee may, at its discretion, designate alternate Consultants to be contacted should any of the shortlisted Consultants indicate they are unable to continue with the selection process. The Committee is not limited to shortlisting from the list of longlisted Consultants; however, whenever the Committee elects to shortlist other qualified Consultants who are not on the longlist but did submit a LOR/Qualification, the selection file must be documented by the PSU as to the reasons for the selection. The Selection Committee shall also make the final determination on responsiveness of all Consultants who submitted in response to the advertisement. At a minimum documentation will consist of the shortlist portion of **Form No. 375-030-2A, Professional Services Selection Package**.

3.4 Shortlist Consideration Factors

Factors to be considered by the Selection Committee when shortlisting include but are not limited to the following:

- (A) Past performance grades received by the Consultant on current and previous Departmental projects.
- (B) The volume of work previously awarded to the Consultant by the Department as evidenced by new agreements and supplemental amendments executed between the Department and the Consultant within the past five years.
- (C) The distribution of work among the competing Consultants and the utilization of new Consultants.
- (D) The workload of each Consultant, as evidenced by the number of similar projects the Consultant is shortlisted on that have not had a final selection, as well as the

residual fees remaining to be paid to the Consultants on active agreements.

- (E) Balancing the needs of the project to the abilities of the Consultants.
- (F) The Consultant's working relationship/experience with the Department on previous projects.
- (G) The general and specific information used to longlist the Consultants (i.e., prequalification restrictions, location (where pertinent), subconsultant relationships, etc.).
- (H) Proposed subconsultant teaming (applicable for projects advertised with DBE under-utilized work types).

Neither racial nor gender set-asides, preferences nor quotas shall be considered when making contracting decisions.

3.5 Shortlist Notification/Documentation

At the conclusion of a shortlist meeting, the PSU will contact each shortlisted Consultant to advise of their inclusion on the shortlist; will complete **Form No. 375-030-2A, Professional Services Selection Package** Form; and will input the shortlist data into the Professional Services Information System following the shortlist meeting. This form will become part of the permanent project file.

The Procurement Office will publish the results of each meeting in accordance with Florida law. The advertisement will state the project name, description, appropriate financial management numbers, and the Consultants that were shortlisted.

LORs shall not be released after posting the shortlist. The Procurement Office may release the shortlist package excluding the LORs. LORs may be released after the posting of the final ranking.

3.6 Decision on Proposal Requirements (Selection Process)

The following selection processes shall be used for acquiring professional services, based on project type:

Project Type: Miscellaneous minor professional services contracts, District-wide (D/W), and continuing contracts for: Design – roadway; drainage; safety; structures; planning; Project Development and Environmental Studies (PD&E); etc.

Type of Selection- Two Stage Process (LOR & Interview)
Two step selection process- shortlist from 2 page LOR, and then conduct Interviews with the shortlisted firms.
Ground Rules for LOR
<ul style="list-style-type: none">• Requirements specified in advertisement.• LOR for standard work types may not exceed 2 pages. Resumes and organization chart or staffing chart should not be included as additional attachments to LOR.• Minimum font size of 11, with ½ inch margins (for clarity).
Ground Rules for Interviews
<ul style="list-style-type: none">• The Department shall develop a list of standard questions, to be asked of all Consultant firms competing for a contract. The questions can be unique to the contract.• Each firm will be handed the standard questions to review for 5 minutes, just prior to the start of the Interview. The Consultant firm remains in the same room as the TRC and 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.• Interviews are limited to 45 minutes total, 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 45 minute time limit.• The Interview may conclude early if less time is actually required.• Each Consultant firm may make an opening statement of approximately 5 minutes. The opening statement shall not be separately timed.• The same set of standard questions shall be asked of each Consultant firm.• Follow-up questions may be asked of a given Consultant 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.

<ul style="list-style-type: none"> • A maximum of 6 attendees per Consultant team is permitted. The Department has the discretion to specify disciplines that should attend from the Consultant firm. The Department may also elect not to specify disciplines. • No handouts or leave-behinds are allowed. • The Department shall not assign sample (hypothetical) or actual projects to use in the Interview. The Department is permitted to pose questions about hypothetical or actual projects, or situational/scenario questions, but only during the Q&A. The goal is to avoid the cost of extended research if projects were handed out in advance of the Interviews.
<p>Consultant Submittals (for shortlisted firms)</p>
<ul style="list-style-type: none"> • Resumes restricted to 2 pages each. • Organization chart or staffing chart (can be either 8-1/2 x 11 or 11x17, at the discretion of the Consultant). • All submittals except organization chart or staffing chart shall adhere to minimum font size of 11, with ½ inch margins. • Required forms and certifications. • The RFP will specify when submittals are due from shortlisted firms.
<p>Exceptions:</p> <ul style="list-style-type: none"> • Expedited procurement schedules due to advancement of projects or the need to commit funds during a fiscal year may dictate selecting from Expanded LOR, per Section 3.7. Such instances shall be approved by the Chief Engineer, State Transportation Development Administrator, or the State Freight and Logistics Administrator, as applicable. This shall be the exception and not the norm. • All other deviations from the standard process require approval of the Chief Engineer, State Transportation Development Administrator, or the State Freight and Logistics Administrator, as applicable.

Project Type: D/W specialty contracts (Geotechnical, survey, aerial photogrammetry, utilities, statistics, bridge inspection)

<p>Type of Selection- Two Stage Process (LOR & Abbreviated Technical Proposal)</p>
<p>Two step selection process- shortlist from 2 page LOR, and shortlisted firms submit abbreviated Technical Proposals.</p>
<p>Ground Rules for LOR</p> <ul style="list-style-type: none"> • Requirements specified in advertisement. • LOR may not exceed 2 pages. Resumes and organization chart or staffing chart should not be included as additional attachments to LOR. • Minimum font size of 11, with ½ inch margins (for clarity).
<p>Ground Rules for Abbreviated Technical Proposals</p> <ul style="list-style-type: none"> • Abbreviated Technical Proposals are a maximum of 5 pages. • Page count does not include resumes, organization chart or staffing chart, or

required forms and certifications.
Consultant Submittals (for shortlisted firms)
<ul style="list-style-type: none"> • Resumes restricted to 2 pages each. • Organization chart or staffing chart (can be either 8-1/2 x 11 or 11x17, at the discretion of the Consultant). • Staff hours on summary sheet (one sheet showing the hours of prime and all subs)- where applicable. • All submittals except organization chart or staffing chart shall adhere to minimum font size of 11, with ½ inch margins. • Required forms and certifications. • The RFP will specify when submittals are due from shortlisted firms.
<p>Exceptions:</p> <ul style="list-style-type: none"> • Expedited procurement schedules due to advancement of projects or the need to commit funds during a fiscal year may dictate selecting from Expanded LOR, per Section 3.7. Such instances shall be approved by the Chief Engineer. This shall be the exception and not the norm. • All other deviations from the standard process require approval of the Chief Engineer.

Project Type: Minor project (planning, PD&E, design, etc with a total estimated Consultant fee of less than \$2 million); all resurfacing, rehabilitation, and reconstruction (RRR) projects, intermodal projects; and right of way services

Type of Selection- Two Stage Process (LORs & Interviews)
Two step selection process- shortlist from 2 page LOR, and then conduct Interviews with the shortlisted firms.
Ground Rules for LOR
<ul style="list-style-type: none"> • Requirements specified in advertisement. • LOR for standard work types may not exceed 2 pages. Resumes and organization chart or staffing chart should not be included as additional attachments to LOR. • Minimum font size of 11, with ½ inch margins (for clarity).
Ground Rules for Interviews
<ul style="list-style-type: none"> • The Department shall develop a list of standard questions, to be asked of all Consultant firms competing for a contract. The questions can be unique to the contract. • Each firm will be handed the standard questions to review for 5 minutes, just prior to the start of the Interview, one copy for each member of the Consultant team. The Consultants may keep the copy of the questions during the Interview. The Consultant firm remains in the same room as the TRC and 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. Discussions by Consultants during the 5 minutes cannot be considered in evaluation of Consultants. Introductions of Consultant staff and Department staff are also not counted as part of the Interview time.

- Interviews are limited to 45 minutes total, inclusive of Consultant opening statement, 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 45 minute time limit.
- The Interview may conclude early if less time is actually required.
- Each Consultant firm may make an opening statement of approximately 5 minutes. The opening statement shall not be separately timed.
- The same set of standard questions shall be asked of each Consultant firm.
- Follow-up questions may be asked of a given Consultant 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.
- A maximum of 6 attendees per Consultant team is permitted. The Department has the discretion to specify disciplines that should attend from the Consultant firm. The Department may also elect not to specify disciplines.
- No handouts or leave-behinds are allowed.
- Consultant may bring one unaltered aerial plot, 24"x36" maximum for use during the Interview. No other visual aides are allowed.

Consultant Submittals (for shortlisted firms)

- Resumes restricted to 2 pages each.
- Organization chart or staffing chart (can be either 8-1/2 x 11 or 11x17, at the discretion of the Consultant).
- Staff hours on summary sheet (one sheet showing the hours of prime and all subs).
- Schedule (2 page maximum, 11"x17" allowed).
- All submittals except organization chart or staffing chart shall adhere to minimum font size of 11, with 1/2 inch margins.
- Required forms and certifications.
- The RFP will specify when submittals are due from shortlisted firms.

Exceptions:

- Expedited procurement schedules due to advancement of projects or the need to commit funds during a fiscal year may dictate selecting from Expanded LOR, per Section 3.7. Such instances shall be approved by the Chief Engineer, State Transportation Development Administrator, or the State Freight and Logistics Administrator, as applicable. This shall be the exception and not the norm.
- All other deviations from the standard process require approval of the Chief Engineer, State Transportation Development Administrator, or the State Freight and Logistics Administrator, as applicable.
- For minor projects (planning, PD&E, design, etc) with an estimated total Consultant fee of over \$2 million, the District may use the Capacity Improvement Project selection process (LORs & Oral Presentations) at its discretion.

Project Type: Capacity Improvement Projects (roadway widening, new alignment, etc); Major PD&E Studies

Type of Selection- Two Stage Process (LORs & Oral Presentations)
Two step selection process- shortlist from 2 page LOR, and then Consultants conduct Oral Presentation
Ground Rules for LOR
<ul style="list-style-type: none"> • Requirements specified in advertisement. • LOR for standard work types may not exceed 2 pages. Resumes and organization chart or staffing chart should not be included as additional attachments to LOR. • Minimum font size of 11, with ½ inch margins (for clarity).
Ground Rules for Oral Presentations
<ul style="list-style-type: none"> • Presentations shall be project specific. • Presentations should demonstrate an awareness of project issues, explanation of the proposed approach, and plans of staffing for the project. • Order of presentations is determined by random drawing. • A maximum time limit of 30 minutes shall be allowed for the Oral Presentation. A firm time limit of 30 minutes shall be allowed for Q&A following the Oral Presentation. Time may be redistributed between the Oral Presentation and the Q&A at the discretion of the Department, as long as the net total for both sessions is a maximum of 1 hour, and same redistribution is applied to all Consultant firms. • PSU shall serve as timekeeper for Oral Presentations, and the Q&A session. • Approximately 5 minutes each are allowed for set-up and breakdown. Set-up and breakdown are not included in the time limit for Oral Presentation or Q&A, and are not timed. • Questions can be both standard (asked of all firms) and clarifying (related to a point addressed by the Consultant in the Oral Presentation). • Altered aerial boards may be utilized in the Oral Presentation. If the Consultant wishes to leave behind a copy of the board(s), the board(s) shall be reduced in size

<p>to one 11 x 17 plot.</p> <ul style="list-style-type: none"> • Leave-behinds of only the slides from the PowerPoint presentation are allowed. The leave-behinds shall not include any additional documentation other than the slides presented in the actual presentation. • Additionally, one 11 x 17 aerial plot may be left with the Department, along with one CD containing the PowerPoint slides , the aerial exhibit board, required forms, and certifications. • A maximum of 6 attendees per Consultant team is permitted. The Department has the discretion to specify disciplines that should attend from the Consultant firm. The Department may also elect not to specify disciplines.
<p>Consultant Submittals (for shortlisted firms)</p>
<ul style="list-style-type: none"> • Resumes restricted to 2 pages each. • Organization chart or staffing chart (can be either 8-1/2 x 11 or 11x17, at the discretion of the Consultant). • Staff hours on summary sheet (one sheet showing the hours of prime and all subs). • Schedule (2 page maximum, 11"x17" allowed). • All submittals except organization chart or staffing chart shall adhere to minimum font size of 11, with ½ inch margins. • Required forms and certifications. • The RFP will specify when submittals are due from shortlisted firms.
<p>Exceptions:</p> <ul style="list-style-type: none"> • Expedited procurement schedules due to advancement of projects or the need to commit funds during a fiscal year may dictate selecting from Expanded LOR, per Section 3.7. Written Technical Proposals may also be an option for complex projects. Such instances shall be approved by the Chief Engineer. This shall be the exception and not the norm. • All other deviations from the standard process require approval of the Chief Engineer.

Project Type: Less Complex CEI Work Groups 10.1, 10.3, and 10.4 – roadway, drainage, safety, minor structures:

<p>Type of Selection- Selecting from Expanded LOR, per Section 3.7</p>
<p>Ground Rules for Expanded LOR</p> <ul style="list-style-type: none"> • Requirements specified in advertisement. • Expanded LOR limited to 5 pages. • Minimum font size of 11, with ½ inch margins (for clarity). • Page count does not include resumes, organization chart or staffing chart, or required forms and certifications.
<p>Other Consultant Submittals (submitted with Expanded LOR)</p>

<ul style="list-style-type: none"> • Resumes restricted to 2 pages each. • Construction Training and Qualification Program (CTQP) printouts may also be submitted. • Organization chart or staffing chart (can be either 8-1/2 x 11 or 11x17, at the discretion of the Consultant). • Staff hours on summary sheet (one sheet showing the hours of prime and all subs)- where applicable. • All submittals except organization chart or staffing chart shall adhere to minimum font size of 11, with ½ inch margins. • Required forms and certifications. • All submittals are due with the Expanded LOR.
<p>Exceptions:</p> <ul style="list-style-type: none"> • All other deviations from the process outlined above require approval of the Chief Engineer.

Project Type: Complex CEI- Work Groups 10.5.1, 10.5.2, 10.5.3, 10.6.1, 10.6.2, 10.7; and any 99.0 related to major structures, complex interchanges:

Type of Selection- Two Stage Process (LORs & Interviews)
Two step selection process- shortlist from 2 page LOR, and then conduct Interviews with the shortlisted firms.
Ground Rules for LOR
<ul style="list-style-type: none"> • Requirements specified in advertisement. • LOR for standard work types may not exceed 2 pages. Resumes and organization chart or staffing chart should not be included as additional attachments to LOR. • Minimum font size of 11, with ½ inch margins (for clarity).
Ground Rules for Interviews
<ul style="list-style-type: none"> • The Department shall develop a list of standard questions, to be asked of all Consultant firms competing for a contract. The questions can be unique to the contract or project. • Each firm will be handed the standard questions to review for 5 minutes, just prior to the start of the Interview, one copy for each member of the Consultant team. The Consultant may keep the copy of the questions during the Interview. The Consultant firm remains in the same room as the TRC and 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. Discussions by Consultants during the 5 minutes cannot be considered in evaluation of Consultants. Introductions of Consultant staff and Department staff are also not counted as part of the Interview time. • Interviews are limited to 45 minutes total, inclusive of Consultant opening statement, 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 45 minute time limit.

- The Interview may conclude early if less time is actually required.
- Each Consultant firm may make an opening statement of approximately 5 minutes. The opening statement shall not be separately timed.
- The same set of standard questions shall be asked of each Consultant firm.
- Follow-up questions may be asked of a given Consultant 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.
- A maximum of 6 attendees per Consultant team is permitted. The Department has the discretion to specify disciplines that should attend from the Consultant firm. The Department may also elect not to specify disciplines.
- No handouts or leave-behinds are allowed.
- Consultant may bring one unaltered aerial plot, 24"x36" maximum for use during the Interview. No other visual aides are allowed.

Consultant Submittals (for shortlisted firms)

- Resumes restricted to 2 pages each.
- Organization chart or staffing chart (can be either 8-1/2 x 11 or 11x17, at the discretion of the Consultant).
- Staff hours on summary sheet (one sheet showing the hours of prime and all subs).
- All submittals except organization chart or staffing chart shall adhere to minimum font size of 11, with 1/2 inch margins.
- Required forms and certifications.
- The RFP will specify when submittals are due from shortlisted firms.

Exceptions:

- Selecting from Expanded LOR for Design-Build CEI is acceptable with the approval of the District Director of Operations. Selecting from Letters allows time to initiate the CEI procurement after shortlisting the Design-Build contract. Consultant firms are thereby afforded the opportunity to compete for both the Design-Build and the Design-Build CEI contract.
- All other deviations from the process outlined above require approval of the Chief Engineer.

Project Type: General Engineering Consultant Contracts; Non-standard professional services projects

Type of Selection- Two Stage Process (LORs & Interviews/Oral Presentations/Written Technical Proposals)
Two step selection process- First step is shortlist from LORs. Interviews or Oral Presentations with Written Technical Proposals may be required, at the discretion of the Department.
Ground Rules for LOR
<ul style="list-style-type: none">• Requirements specified in advertisement.• LOR for standard work types may not exceed 2 pages. Resumes and organization chart or staffing chart should not be included as additional attachments to LOR.• Minimum font size of 11, with ½ inch margins (for clarity).
Ground Rules for Interviews or Oral Presentations, and/or Written Technical Proposals
<ul style="list-style-type: none">• Requirements specified in RFP.
Consultant Submittals (for shortlisted firms)
<ul style="list-style-type: none">• Resumes restricted to 2 pages each.• Organization chart or staffing chart (can be either 8-1/2 x 11 or 11x17, at the discretion of the Consultant).• Staff hours on summary sheet (one sheet showing the hours of prime and all subs)- where applicable.• All submittals except organization chart or staffing chart shall adhere to minimum font size of 11, with ½ inch margins.• Required forms and certifications.• The RFP will specify when submittals are due from shortlisted firms.
Exceptions:
<ul style="list-style-type: none">• Expedited procurement schedules due to advancement of projects or the need to commit funds during a fiscal year may dictate selecting from Expanded LOR, per Section 3.7. Such instances shall be approved by the Chief Engineer, State Transportation Development Administrator, or the State Freight and Logistics Administrator, as applicable. This shall be the exception and not the norm.• All other deviations from the standard process require approval of the Chief Engineer, State Transportation Development Administrator, or the State Freight and Logistics Administrator, as applicable.

3.7 Selection from Letters

The selection from letters process requires submittal of a single Expanded LOR by the Consultant firm, in response to the contract advertisement. The Expanded LOR shall not exceed five (5) pages. Font size will be restricted to 11 pitch or larger, with ½ inch margins. Oral Presentations, Interviews, or Written Technical Proposals are not permitted when using the Expanded LOR process.

The selection from letters process will occur using either of the following variations:

- (A) Final ranking is developed directly from the responsive Expanded LORs. The TRC shall independently evaluate and score all the responsive Expanded LORs, using the evaluation criteria and weightings provided in the contract advertisement. Upon completion of the TRC evaluation and scoring, PSU will prepare the final selection portion of the **Professional Services Selection Package**. During the noticed and scheduled final selection meeting, the Selection Committee shall review the TRC's recommendations and final rank in order of preference, no fewer than three firms.
- (B) The Project Manager or TRC shall longlist the responsive Expanded LORs, and shall recommend no less than three firms to be shortlisted for the project, using the consideration factors provided in Section 3.2. In the scheduled and noticed shortlist meeting, the Selection Committee shall shortlist no less than three responsive Expanded LORs. The Expanded LORs for the shortlisted Consultants are then independently scored by the TRC, using the evaluation criteria provided in the contract advertisement. Upon completion of the TRC evaluation and scoring, PSU will prepare the final selection portion of the **Professional Services Selection Package**. During the noticed and scheduled final selection meeting, the Selection Committee shall review the TRC's recommendations and final rank in order of preference, no fewer than three firms.

If fewer than three Consultants respond to the advertisement, the Department will re-advertise, if the contract schedule permits. Alternatively, the Department will review its list of Consultants prequalified for the major work type(s) and select no fewer than ten (10) prequalified Consultants (or all prequalified Consultants if fewer than 10) deemed to be the most highly qualified, based on qualification information on file, past performance grades, and location (where applicable). The Department will then contact each of the selected Consultants and solicit Expanded LORs for the project.

The selection from letters process may be utilized for non-complex CEI projects, and when time constraints dictate in accordance with **Section 3.6**. The advertisement must include the evaluation criteria or consideration factors, and their relative criteria point values, on a 100 point scale. If no points are assigned in the advertisement, all factors must be equally weighted and scored, on a 100 point scale. The evaluation criteria in

Section 6.0 shall be used as a guide when establishing review criteria. When the advertisement has stated that the selection from letters process will be used, the PSU will provide the TRC with the Expanded LORs deemed responsive along with a shortlist profile for each Consultant. TRC meetings to discuss the Expanded LORs shall be properly noticed.

The TRC members shall independently evaluate and score the Expanded LORs. They shall provide objective evaluations from a solely technical standpoint. The evaluations must be done individually by each reviewer and not as a consensus evaluation. The evaluators shall provide comments along with their evaluation scores. The TRC will consider the staff hour estimates during the evaluation of the Consultants only in terms of understanding of the scope. The staff hour estimates will not be assigned evaluation criteria points; however, the work effort is recognized as an indication of scope understanding.

When each TRC member has completed the evaluation of each Expanded LOR the raw scores will be transmitted to the PSU, who will calculate the average grade for each proposal. All individual evaluations shall be signed and dated by the evaluator. The individual evaluations will be included in the selection package. The Selection Committee will review the information provided and select in order of preference, no fewer than three firms. The Recording Secretary will document the reasons for the ranking, explaining any difference from the TRC recommendations.

The PSU will notify the selected Consultant and input the final ranking in the Professional Services Information System following the Final Selection Committee meeting.

When the selection from letters process is used, **Sections 4, 5, 6** and **7** of this procedure do not apply.

Subconsultants/teaming arrangements of the Consultant cannot be changed after submittal of Expanded LOR without written approval of the District Secretary.

4. PREPARATION OF RFP

The PSU will prepare the RFP package to be provided to the shortlisted Consultants. The RFP package should consist of the following:

4.1 Standard Provisions

The RFP boilerplate shall contain information on submittal due dates, scope of services meeting, identification of Project Manager, insurance requirements, reference to standard professional services agreement terms, schedule of events, final evaluation scoring criteria, required forms, etc. The boilerplate will specify that all subconsultants

performing the standard types of work covered by **Rule Chapter 14-75, F.A.C.**, must be technically prequalified with the Department or have an application for prequalification under review at the time that they are proposed.

4.2 Instructions for Written Technical Proposals

If Written Technical Proposals are required for the selection process, the following information should be addressed:

- (A) The shortlisted Consultants should be encouraged to use simplified Proposal formats and packaging for the Proposal and to restrict the content of the Proposal to a demonstration of an awareness of project issues, explanation of the proposed approach to the project, and plans for the staffing of the project. Performance of actual design as part of the Proposal should be discouraged.
- (B) A firm limit to the number of pages allowed will be provided, as referenced in **Section 3.6**. Font size will be restricted to 11 pitch or larger, with ½ inch margins. The length of resumes will also be limited, with a maximum length of two pages per person.
- (C) The electronic transmission of Proposals via e-mail should be considered where practical.
- (D) Other requirements will apply, as referenced in **Section 3.6**, depending on project type and selection process.

4.3 Instructions for Oral Presentations

If Oral Presentations are required for the selection process, the following information should be addressed:

- (A) The shortlisted Consultants will be instructed to make their Oral Presentations project specific. The Oral Presentation should provide a demonstration of an awareness of project issues, explanation of the proposed approach to the project, and plans for the staffing of the project.
- (B) Shortlisted Consultants will be instructed that any handouts to be submitted at the Oral Presentation (leave-behinds) will be restricted to copies of slides from the PowerPoint presentation. The leave-behinds shall not include any additional documentation other than the slides presented in the actual Presentation. Additionally, one 11 x 17 aerial plot may be left with the Department, along with one CD containing the PowerPoint slides, the aerial exhibit board, required forms, and certifications.

- (C) Attendance at the Oral Presentation by the Consultant's proposed Project Manager will be strongly recommended.
- (D) A limit on the number of participants will be established. Switching of participants in the Oral Presentation room is not permitted.
- (E) A firm time limit will be provided.
- (F) Unless otherwise approved by the District Secretary or Assistant Secretary or their designee, the RFP will advise that videos and computer animations may not be used in the Oral Presentation. However, any other media may be used.
- (G) Additional written submittals will be restricted to required certifications, staffing charts, resumes, staff hour estimates and schedule of events (except where not applicable). The RFP will require that these be submitted to the PSA prior to or at that time of the Presentation.
- (H) The order of Oral Presentations should be by random drawing at the scope of services meeting or at a teleconference if a scope of services meeting is not held.
- (I) Other requirements will apply, as referenced in **Section 3.6**, depending on project type and selection process.

4.4 Instructions for Interviews

If Interviews are selected in lieu of formal Oral Presentations or Written Proposals, the following information should be addressed:

- (A) Order of Interviews should be by random drawing at the scope of services meeting or at a teleconference if a scope of services meeting is not held.
- (B) No handouts or leave-behinds will be allowed.
- (C) Attendance at the Interview by the Consultant's proposed Project Manager will be strongly recommended.
- (D) A maximum of 6 attendees per Consultant team is allowed. Switching of participants in the Interview room is not permitted. The Department has the discretion to specify disciplines that should attend from the Consultant firm. The Department may also elect not to specify disciplines.
- (E) Introductions of Consultant staff and Department staff are not counted as part

of the Interview time. Interviews are limited to 45 minutes total, inclusive of Consultant opening statement, 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 45 minute time limit. The Interview may conclude early if less time is actually required. Each Consultant firm may make an opening statement of approximately 5 minutes. The opening statement shall not be separately timed.

- (F) No handouts or leave-behinds provided by the Consultant will be permitted. The Consultant may bring one unaltered aerial plot, 24" x 36" maximum for use during the Interview. The unaltered aerial plot shall not be left with the Department after the Oral Presentation. No other visual aids are allowed.
- (G) Additional written submittals will be restricted to required certifications, staffing charts, resumes, equipment lists, staff hour estimates and schedule of events (except where not applicable). The RFP will require that these submittals be provided to the PSA prior to the Interview.
- (H) Other requirements will apply, as referenced in Section 3.6, depending on project type and selection process.

4.5 Scope of Services

The proposed scope of services will be provided.

4.6 Proposed Method of Compensation

The proposed method of compensation should be described.

4.7 Technical Review Criteria

The criteria to be used in the evaluation of Written Technical Proposals, Interviews, or Oral Presentations will be included.

4.8 Staff Hour Estimate Proposal Form

Except when not needed for task assignment type contracts, the Consultant will be requested to complete a summary staff hour estimate. A form for this purpose will be included with the RFP and will be required to be submitted with the proposal.

4.9 Required Forms and Notices

Certification Forms: *DBE Participation Statement, Form No. 375-030-21* (for non-

Fixed Capital Outlay projects), ***MBE Utilization Certificate Form, No. 375-040-24*** (for Fixed Capital Outlay projects), and ***Truth in Negotiation Certificate, Form No. 375-030-30*** will be included and are required to be submitted with the proposal. The RFP should encourage use of DBE or MBE subconsultants.

Vendor Certification Regarding Scrutinized Companies Lists: For state funded contracts, the Department is prohibited from contracting for services of \$1 million or more with companies that are on the Scrutinized Companies with Activities in Sudan List, or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List. ***“Vendor Certification Regarding Scrutinized Companies Lists”, Form No. 375-030-60***, shall be included as one of the required forms in all RFP documents for professional services contracts with anticipated fees of \$1 million or above. As part of their contract review process, Central Office or District Counsel will need to check the Florida State Business Administration’s (SBA) website, which provides a comprehensive list of Scrutinized Companies, to ensure that the prime Consultant firm is not a Scrutinized Company. This shall be done prior to executing the contract. The link to the SBA website is:

<http://www.sbafla.com/fsb/Home/ProtectingFloridasInvestmentAct/tabid/751/Default.aspx>
[X](#)

Federal Certification Forms: If the project is to be federally funded, a ***Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion Form, No. 375-030-32*** as required by ***49 CFR, Section 29.510***; and ***Certification for Disclosure of Lobbying Activities, Form No. 375-030-33*** as required by ***49 CFR, Section 20.100(b)*** will be included and are required to be submitted with the proposal.

Conflict of Interest Certification for Project Development and Environmental (PD&E) Study Contracts: For PD&E projects, a certification that neither the Consultant firm nor any of the principals of that firm have any financial or any other interest in the outcome of the project will be included and is required to be submitted with the proposal.

Notices of Restrictions: For all contracts, a notice will be included in the RFP advising that persons or entities convicted of public entity crimes may not submit bids or transact business with state agencies.

For CEI contracts, a notice will be included advising that a Consultant under contract with the Department to perform CEI or material sampling and testing work on a project may not subcontract with the construction contractor on the same project.

It is good practice to have a complete scope of services and Department staff hour estimate prior to the advertisement of the project. The RFP package can then be prepared and e-mailed to the shortlisted Consultants by the PSU in a timely fashion.

The Project Manager will prepare the scope of services and Department staff hour estimate for each occasion that the Department requires professional services except where not applicable for task assignment type contracts. (For task assignment type contracts, detailed scope of services and staff hour estimate are required at the time of each assignment.) The Department's staff hour estimate will be prepared in the same format as that required of the Consultant and will be completed before proposals are released to the TRC. Scopes must be written in sufficient detail for the shortlisted Consultants to develop their technical proposals. The attention to detail in this scope preparation will reduce the potential need for supplemental agreements during the term of the contract.

The PSU should review the Project Manager's scope of services for clarity and format. Also, the PSU should discuss the method of compensation and other contractual requirements with the Project Manager in order to complete the RFP properly. The PSU will verify the Financial ID Numbers, Federal-Aid Numbers, and budget scheduled in the Work Program to eliminate problems during the contract execution phase.

5. SCOPE OF SERVICES MEETING

Scope of services meetings are optional, but should be held for complex projects or where procedural issues exist. Teleconference scope of services meetings should be used where practical. The purpose of this meeting is to provide a forum for all concerned parties to discuss the proposed project, answer questions on the scope of services, method of compensation, instructions for submitting proposals, and other relevant issues. The need for a meeting will be determined by the Project Manager in conjunction with the PSU. Since the RFP package is the working document on which a scope of services meeting is based, the shortlisted Consultants shall be furnished a copy of the RFP at least one week prior to the scope meeting, but as a minimum, a copy of the scope of services. The scope of services meeting shall be attended by representatives of the shortlisted Consultants, as appropriate, Project Manager, other functional area representatives (as necessary), and moderated by a PSU representative. The Project Manager will explain and answer questions to clarify project objectives. The PSU representative will explain and answer questions to clarify contractual requirements and method of compensation, and selection procedures. The PSU will establish an information cutoff date at the scope of services meeting which should be no less than seven calendar days prior to the proposal submittal deadline. No questions will be answered relating to the project objectives after the information cutoff date. The Consultants will be instructed as to where to direct all questions after the scope meeting.

During and after the scope of services meeting, it is the responsibility of the PSU to ensure that each shortlisted Consultant develops their technical proposal with the same information. If a Consultant receives information from either the PSU or Project Manager relating to the project prior to the Information Cutoff Date, the Department will

ensure that all shortlisted Consultants receive the same information in a timely fashion. The project file will clearly document all communications with any Consultant regarding the scope of services by the PSU or the Project Manager.

At the conclusion of the scope meeting, or when it is reasonable to assume that no further scope changes will be required, the Project Manager will update the scope of services and staff hour estimate, as necessary. A review of the Department's original staff hour estimate following the scope of services meeting is essential to the negotiations process. The updated scope and staff hour estimate should be made available to each member of the TRC prior to the evaluation of the technical proposals. Also, should significant changes result from the scope of services meeting, the shortlisted Consultants will be provided the updated scope of services.

6. REVIEW OF TECHNICAL PROPOSALS, INTERVIEWS, AND ORAL PRESENTATIONS

Each member of the TRC must base their evaluation on the same criteria so that value uniformity can be established. The following considerations may be used as a guide in establishing evaluation criteria. The Project Manager is encouraged to meet with the TRC as a group prior to contract advertisement in order to discuss project requirements, major emphasis points, and develop evaluation criteria. The evaluation criteria, including their relative importance, will be provided to the shortlisted Consultants in the RFP or at the scope of services meeting.

- (A) **Awareness of Project Issues:** (0 to 30 points) - Includes the Consultant's understanding of the scope of services and of any unique issues involved in the project.
- (B) **Proposed Approach to Project:** (0 to 30 points) - Includes the Consultant's approach to the project, unique concepts and cost saving suggestions, proposed quality review schedule, the reasonableness of the proposed schedule based on the quantity of personnel available, whether the individual tasks are staged properly and in proper sequence, and whether the proposed schedule is better than, the same as, or worse than the Department's estimate.
- (C) **Proposed Project Staffing:** (0 to 30 points) - Includes the Consultant's staffing quality and availability, experience on similar projects, proposed subconsultants, interrelationship between the Consultant and any proposed subconsultants.
- (D) **Other Considerations:** (0 to 10 points) Communication ability, use of specialized equipment, proximity to project, commitment to satisfy the Department's needs, past performance on similar projects, etc.

TRC meetings held to discuss the Consultant Technical Proposal, Interview, or Oral Presentation submittals shall be properly noticed.

The TRC members shall independently evaluate and score the Technical Proposals, Interviews, or Oral Presentations. TRC members shall provide objective evaluations from a solely technical standpoint. The evaluations must be done individually by each reviewer and not as a consensus evaluation. The evaluators shall provide comments along with their evaluation scores. When each evaluator has completed the evaluation of each Technical Proposal, Oral Presentation, or Interview, the raw scores and comments will be transmitted to the PSU, who will calculate the average score for each Consultant. All individual evaluations shall be signed and dated by the evaluator. The individual evaluations will be included in the selection package.

The TRC will consider the staff hour estimates during the evaluation of the Consultants only in terms of understanding of the scope. The staff hour estimates will not be assigned evaluation criteria points; however, the work effort is recognized as an indication of scope understanding.

When Oral Presentations or Interviews are utilized, the Department representatives to attend the Oral Presentations or Interviews will be the Project Manager, other members of the TRC, the PSA (or designee), and the Selection Committee members at their option. However, any Selection Committee Member who wishes to attend any Oral Presentation or Interview must attend all Oral Presentations or Interviews for the specified project. All Oral Presentations and Interviews will be recorded by the Department. The audio or video recordings will be kept as a permanent record in the PSU within the District.

7. FINAL RANKING

Upon the completion of the technical review, the PSU will complete the final selection portion of the ***Professional Services Selection Package, Form No. 375-030-2A***, to the extent possible, and attach to these forms the comments written by the TRC. If applicable, the weighted averaging distribution factors for combining the Written Technical Proposal and Oral Presentation will be shown in the RFP.

PSU shall prepare an ordinal ranking matrix for final selection, listing the ordinal rankings of each respective Technical Review Committee member's scores. Ordinal values will be assigned by PSU to each individual Technical Review Committee member's set of technical evaluation scores. The ordinal ranking of "1" will be assigned to a Technical Review Committee member's highest score. The ordinal ranking of "2" will be assigned to the same Technical Review Committee member's second highest technical score, etc. The matrix of ordinal rankings will be reviewed by PSU and provided to the Selection Committee as part of the ***Professional Services Selection***

Package for final selection. Ordinals will be used as a tool to determine skewing, which may sometimes occur due to natural scoring differences between Technical Review Committee members. Skewing does not imply improper scoring. Selection Committee members shall consider ordinal rankings in addition to technical scores in instances of skewing.

Once compiled, the PSU will schedule a final selection meeting. During the final selection meeting, the form will be completed by the recording secretary with a narrative explanation for the reasons for the ranking. If the average technical scores and ordinal rankings are identical for the two top rated Consultants, the Selection Committee may consider DBE/MBE status of the prime Consultant or their proposed commitment of DBE/MBE subconsultants in the final ranking. Deviation from the TRC scores will be clearly explained in the **Professional Services Selection Package**.

The PSU or Project Manager will notify each Consultant of the selection results. The PSU will input the Selection Committee's action in the Professional Services Information System within five working days of the selection meeting.

The Procurement Office will publish the results of each meeting in accordance with Florida law. The announcement will state the project name, description, and appropriate Financial Management numbers, as well as the final ranking of the Consultants.

8. NEGOTIATING CONTRACT FEES

8.1 Negotiating Work Effort

Upon the ranking of the shortlisted Consultants, negotiations will begin with the number one ranked Consultant. At this time, the Consultant will be requested to submit a detailed staff hour estimate and Fee Proposal with support information to the Department. When the final ranking has occurred directly from Expanded LOR, the forms and certifications required under **Section 4.9** of this procedure will also be requested with the Expanded LOR. Staff hour estimates for PD&E, roadway and bridge design projects must be submitted in the staff hour estimating spread sheet provided by the Department. The proposed costs must be submitted in the **Automated Fee Proposal (AFP) Spreadsheet**. Once the Consultant's detailed staff hour estimate is received, the Department will make available the Department's detailed estimate of work to the Consultant. Any negotiation meetings with the Consultant will be adequately noticed as a public meeting. Minutes will be taken. The negotiations for work effort should focus on the technical proposal for the purpose of clarifying and resolving any differences concerning the scope of the project and the level of effort necessary to accomplish the project. The objective of work effort negotiations is to ensure that estimated work effort is fair and reasonable.

8.2 Review Process for Fee Proposals and Audit Package

A pre-award review by the Office of Inspector General is not required. However, the PSU must perform a cost analysis to ensure the proposed costs are reasonable, accurate and allowable.

The fee proposal must contain a certification that any direct costs proposed are not included as overhead in the Consultant's accounting system. The certification should be signed by the Consultant's comptroller, chief financial officer, accountant, or other appropriate person who is knowledgeable of the Consultant's normal accounting requirements. At a minimum, the review of the fee proposal by the PSU must include the following:

8.2.1 Identification of the Basis for Proposed Wage Rates

- (A) The proposed wage rates must be certified in writing as being current and accurate, by a responsible company official. The Department may require payroll registers to confirm the accuracy of the proposed pay rates. The submittal will contain a certification from a responsible company official that the rates are actual current rates on that particular date.
- (B) If averages for select employees are used, payroll information and an explanation of how the average rate was computed (i.e, straight average, weighted average, etc.) must be provided. When this is the case, care should be taken that only employees actually committed to and needed for the project are used in computing the average.
- (C) If the Consultant's average rates for specified job classes are used, appropriate company records that identify employees with the classes and their respective wage rates will be submitted.
- (D) Consultants with audited overhead rates who maintain a published fee schedule but do not bill exclusively from the schedule must maintain a job cost accounting system for their hourly services. However, the direct costs of services billed on cost-based rates or scheduled fees, shall be excluded from the calculation of direct expense rates. The accounting system description will include assurance of the segregation of the costs to deliver fee or rate based services from the costs associated with hourly services. The Basis of Accounting and Description of Accounting System Note should contain the following text, or text containing the same essential elements: "The Company maintains a job-order cost accounting system for the recording and accumulation of costs incurred under its contracts. Direct costs incurred in providing services billed to clients at unit rates

or on the basis of a published fee schedule are charged by functional accounts and accumulated as a single project or grouping to allow segregation of such costs from other direct costs. Each project is assigned a job number so that costs may be segregated and accumulated in the Company's job-order cost accounting system."

- (E) A comparison of the proposed salary or billing rates with prevailing rates for the class of personnel will be performed. The on-line Consultant Wage Rate Averages Report provides wage rate statistics for various Consultant staff classifications by district. The **Consultant Wage Rate Averages Report** can be accessed from the Procurement Office website. If personnel with unusually high salaries are proposed, the negotiators must determine whether there is sufficient need for that individual to justify their work on the project at that rate. If there is not a legitimate need for their expertise, they will not be allowed to bill time on the project. The Department may negotiate contract rates as averages for employee classifications.
- (F) Arbitrary or across the board limitations on direct salary/wage rates which do not consider the factors prescribed in the **Federal Acquisition Regulation (FAR)** cost principles are contrary to the requirements of the **Federal Brooks Act, 40 U.S.C. 1104(a)**, which requires fair and reasonable compensation considering the scope, complexity, professional nature, and value of the services to be rendered, as required in **23 U.S.C. 112(b)(2)**. Additionally, if limitations or benchmarks on direct salary rates and total compensation are too low, it could limit the number of firms and the qualifications of the firms which submit proposals to perform work on projects. Furthermore, direct labor limitations or benchmarks not supported by the cost principles create associated disallowed indirect costs which effectively limits the calculated indirect cost rate, contrary to **23 U.S.C. 112(b)(2)(D)** and **23 CFR 172.7(b)**.
- (G) No rate or salary escalation of any kind, including salary escalation, will be negotiated on any new contracts. Refer to the Negotiation Handbook for the restricted conditions of rate adjustment scenarios for amendments.

8.2.2 Overhead & Fringe Benefits

- (A) If the Consultant is prequalified with the Department, a copy of the Procurement Office's prequalification letter with the approved overhead rate should be included in the fee proposal. Audited overhead rates are not negotiated. The Consultant's actual approved overhead rate as reflected in the letter of approval or in the Professional Services Information System will be used. If the Consultant voluntarily proposes to use a lower overhead rate than the current audit in order to keep overall project costs competitive, the Department may

accept the lower overhead. The use of a lower overhead rate will not be a requirement for contracting. The average overhead rates for both home office and field office overhead are provided in the Department's Negotiation Handbook, available on the Procurement Office website. These average overhead rates are provided for comparison purposes. They are one of the tools the Department's negotiators may use to determine the competitiveness of the overall costs proposed. The submission of an updated overhead audit after the end of the Consultant's fiscal year is required as part of the prequalification renewal process.

- (B) 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 will be prepared by the Consultant in accordance with the instructions contained in Chapter 5.6 of the AASHTO Uniform Audit and Accounting Guide, available on the Procurement Office website.
- (C) Use of the Field Office for non-CEI type projects: For contract negotiation purposes, a field office rate (labor & expenses) shall be applied when Consultant staff is assigned in Department space for a minimum of six consecutive months.
- (D) For contracts with fees less than \$250,000, the Department is authorized to contract with firms without an audited overhead rate. The Consultant may provide a self-certified overhead determination. The average overhead rates provided in the Department's Negotiation Handbook will be used as caps on maximum awarded overhead (indirect costs) rates for firms who submit unaudited rates, including interim reimbursement rates, self-certified reimbursement rates, and job cost accounting system review reimbursement rates for use on professional services contracts.

8.2.3 Operating Margin

The operating margin which is paid in a Consultant contract does not represent net profit to the Consultant. Operating margin is intended to compensate the Consultants for normal business expenses that are excluded from allowable overhead by Federal Regulation (e.g., interest, advertising, bad debts, unrecovered direct costs, etc.). These legitimate costs cannot be recovered on Department contracts except through operating margin. Operating margin compensates the Consultant with a reasonable fee. Consultant operating margin also absorbs the loss when the reimbursed salary is less than the actual salary for a given contract.

Operating margin in Department contracts is calculated as a percentage of direct salaries. The percentage is negotiated within a range of 12 to 42 percent. The resulting

dollar amount is the "fixed fee" portion of a cost plus fixed fee type contract or becomes part of the total fixed price in a lump sum agreement. The negotiation of operating margin as a fixed fee provides incentives for the Consultant to efficiently complete the contract requirements. Completing the contract with less than estimated costs (excluding the fixed fee) benefits both the Department (lower overall contract cost) and the Consultant. Federal Highway Administration (FHWA) will not participate in cost reimbursement contracts unless the Consultant's operating margin is established as a fixed fee.

The operating margin is negotiated based on the complexity of the project, the degree of risk assumed by the Consultant, the project schedule, and Consultant cost controls. The following ***Operating Margin Guidelines*** table provides direction on how these factors should be weighted and considered.

The table is only a guide, not a fixed formula, for negotiating operating margin. There is large variation in operating margins with the range to account for the wide spectrum of cost control by various Consultants that conduct business with the Department. There will be significant variation in operating margin from contract to contract. Negotiators shall not use a standard operating margin for all contracts.

The table summarizes how these factors should be weighted and considered in developing the cost control portion of the operating margin for each individual contract. For cost control efforts, a formula should not be used to calculate the percentage to be applied.

The factors to be considered in negotiating the cost control efforts shall include:

- (A) Burdened salary rates by classification (overhead, expense percentage, and Facilities Capital Cost of Money only);
- (B) Specific services requiring specialized staff, qualifications of proposed team;
- (C) Reasonableness of the proposed distribution of staffing for the project;
- (D) Burdened salaries by geographic region;
- (E) For CEI contracts, if the firm has audited overhead or direct expense percentages that include premium overtime (reimbursed) or firms where the premium overtime is reimbursed directly on the contract (excluded);
- (F) Other items specific to the contract being negotiated.

It is possible for negotiators to negotiate operating margins outside of the range for special circumstances on a contract. For example, if overhead rates, direct expense

rates, or salaries are significantly above (or below) the normal range, operating margins below (or above) the ranges may be negotiated. Other factors that impact the cost/benefit to the Department and/or Consultant may also be considered. The operating margin, overhead rate and direct expense rate may not be applied to the premium portion of overtime costs. Operating margin and overhead are not allowed on direct expenses or subconsultant expenses. The fee proposal must include a justification for the proposed operating margin.

The **Operating Margin Guidelines** table summarizes the ranges that are to be used as a guide in negotiating the operating margin for each contract.

Operating Margin Percentage Calculation for Direct Salaries

Project Complexity	5% to 7%
Degree of Risk	3% to 5%
Project Schedule	1% to 3%
Cost Control Efforts	3% to 27%
TOTAL	12% to 42%

The following table summarizes the definition, suggested standards, and representative project types for each of the criteria in the operating margin.

Operating Margin Guidelines Table (This table is intended as a guideline, not a fixed formula.)			
Criteria	% Range	Suggested Standards	Typical Project Type
<p>Complexity of Project: The degree of difficulty associated with the project. Are there unique aspects to the project?</p> <p>Degree of coordination with others outside FDOT should be considered. This includes other agencies, municipalities, etc., Multiple Districts, multimodal projects.</p>	5% - 7%	<p>Low - Simple Straight forward projects. Small and specific scope of services, very minor issues/improvements.</p>	<p>Bridge Inspection: bridge inspection except scour; All; CEI: 3R Rural, Painting, CEI signalization, simple and straight forward projects; Design: Simple 3R-Rural; 3R Urban ride only; Geotechnical: standard; PD&E: Small simple projects with specific scopes; Planning: Data/traffic Counts; Survey: Resurfacing 3R rural/urban; Traffic Operations: turn-lane projects (design)</p>
		<p>Medium - Projects with some specialized areas requiring some specialized skills. Moderate improvements on a project.</p>	<p>Bridge Inspection: generally not applicable; CEI: CEI resurfacing with some improvements; Design: 3R Urban with some improvements, intersection improvements with safety, Category 1 bridges; PD&E: widening with limited issues and bridge replacement with limited impacts; Railroads: All; Survey: survey in water areas; Traffic Operations: traffic operations studies and signal design projects</p>
		<p>High - Complex multi-disciplined projects requiring specialized skills with significant management issues. Major improvements on a project.</p>	<p>Bridge Inspection: bridge scour; CEI: CEI for multisections in a corridor, MOT Issues, specialized skills, ITS, construction on new alignments, and signal system timing, development and implementation; Design: new alignments, major widening, major reconstruction; railroad bridge design; Segmental/Class 2 bridges, Movable Bridges, PD&E: PD&E with Feasibility study,</p>

			multiple disciplines, significant issues; Planning: large planning (multimodal); Survey: pilings and bridges; Traffic Operations: ITS
Degree of Risk: The amount of financial risk assumed by the Consultant in relation to the project.	3% - 5%	<p>Low - Contracts with well defined and specific scopes, minimal probability of cost overruns and low financial risk exposure. Scope clarification meeting held, if applicable.</p> <p>Medium - Projects with potential for additional coordination efforts with outside agencies/parties; coordination with several Districts, multiple municipalities, etc.</p> <p>High - lump sum contracts with possibility of overrunning costs; experimental design; projects involving significant financial risk, hazardous materials, potential for significant unknown issues.</p>	<p>Bridge Inspection: bridge inspections; CEI: CEI subconsultants providing support personnel, ITS, maximum limiting amount contracts; Design: Simple 3R Rural, 3R urban ride only; Geotechnical: All; PD&E: accurate and specific scope & pre-negotiation meetings; Planning: Most Survey: all, including SUE; Traffic Operations: traffic operations studies; traffic counts</p> <p>Bridge Inspection: bridge scour; CEI: Standard CEI; Design: design for new alignments, major reconstruction, and widening; PD&E: experimental design and broad scopes; Planning: some planning; Railroads: All; Traffic Operations: traffic signal projects, ITS design</p> <p>CEI: high visibility, lump sum contracts, multiple projects; Design: projects with multiple bridges; PD&E: multiple alternatives, multiple agency approval required; Planning: large multimodal projects (airports, seaports, railroads, transit)</p>
Project Schedule	1% - 3%	<p>Low - no critical short term deadlines or requirements for large staffing concentrations, unfunded projects to go on the shelf.</p> <p>Medium - Standard schedule.</p> <p>High - High visibility projects with short durations and aggressive schedules requiring large commitment of staff. Fast track projects with high profile and quick implementation schedule.</p>	<p>Bridge Inspection: Bridge Inspection; Bridge Scour; CEI: ITS; stand alone resurfacing; ride only, support services; Design: all 3R projects, standard schedule; PD&E: no design phase scheduled in Work Program; Planning: All; Railroads: All; Traffic Operations: ITS; Survey: all 3R projects</p> <p>Bridge Inspection: generally not applicable; CEI: push button construction; Design: standard design; bridges, large corridors; Traffic Operations: traffic counts; Survey: increased number of crews needed</p> <p>Bridge Inspection: generally not applicable; CEI: multiprojects, construction bonus, CEI Urban (day & night), high visibility; short duration, utility reallocation by others; Design: Mobility/ Economic Stimulus; PD&E: design phase funded in the Work Program, bridge replacements</p>
Cost Control Efforts: The degree to which the Consultant controls its costs for wage rates (by region), overhead, expenses and FCCM.	3% - 27%	<p>Low (3% - 6%) - Lower or minimal cost control efforts</p> <p>Medium (7% to 15%) - Moderate cost control efforts</p> <p>High (16% - 27%) - Substantial cost control efforts.</p>	The cost control is not generally dependent upon the type of project. Factors to be considered in negotiating this criteria: burdened salary rates (by region) by classification, specialized services requiring specialized staff, reasonableness of the proposed distribution of staffing for the project, reimbursed or excluded premium overtime, and other project specific items.

Total	12% - 42%		
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8.2.4 Identification of Basis for Loaded Rates

If the Consultant is performing a special service, such as surveying & mapping, for which standard loaded billing rates are normally charged, the cost basis for such rates must be identified (i.e., employees, certified wage rates, overhead factors, operating margin, etc.).

For individual specialists without audited overhead rates who typically charge on a loaded billing rate basis as well as for services, such as geotechnical work, photogrammetric mapping, and subsurface utility location for which rates per unit of work are normally charged, a copy of the Consultant's standard fee schedule will be required with an attestation that the fees contained therein are the normal fees for such services whether performed for private or governmental clients. In addition, identification of the cost basis for such rates (i.e., labor hours and wage rates, overhead and operating margin, equipment use rates verified by audit, etc.) shall be required for services acquired on a rate per unit of work basis where practical. Firms are also required to disclose the intended use of lower tier subs during contract negotiations. Lower tier subconsultants/subcontractors/sub-vendors, including drilling firms, must be authorized in the contract prior to services being rendered. It is not appropriate for firms to certify rates as their own that are attributable to lower tier subs, or certify rates as solely their own that reflect a blending of the firm's rates with lower tier sub rates. Unauthorized subs are not in accordance with **Standard Professional Services Agreement, Section 7A**, which states: "The Consultant... will not sublet, assign, or transfer any work under this **Agreement** to other than subconsultants specified in the **Agreement** without the written consent of the Department."

8.2.5 Expenses

- (A) Direct project expenses will be compensated using the direct expense rate which is required as a part of annual overhead audits performed for fiscal years ending December 31, 2002 and after. All professional services contracts negotiated since October 1, 2003 have included reimbursement of direct expenses by application of a direct expense rate based on the audit listing of direct costs in relation to the direct labor base. Separate audited rates are required for home office expenses and field office expenses. These rates represent the ratio of direct expenses to actual direct labor excluding premium overtime. Field office set up, mobilization, rent, and utilities costs are excluded from the audited field office direct expense rate in the audit submittal. The Department will reimburse the costs of field office set up, mobilization, rent, and utility costs as a direct project cost on the contract rather than through the field office direct expense percentage, provided the aforementioned costs are documented by appropriate

receipts. Of course, if the field office is provided through the construction contract or by the Department on another contract, the Consultant does not incur rent or utilities costs, so they cannot be invoiced or booked. There should normally be no other direct expense compensation. The only exceptions to this would be unusual and infrequently occurring items that cost in excess of \$10,000. When such items are compensated separately from the direct expense rate, they must be excluded from the direct expense pool used to calculate the direct expense rate. When Consultants propose such items, the negotiator will discuss this with the Central Office Procurement prior to accepting it.

- (B) If the Consultant does not have a current approved audit that includes a direct expense rate, an expense rate may be negotiated on the basis of the average expense rate data available in the Negotiations Handbook. If this method of determining the compensation for expenses is not used, then sufficient documentation must be provided to support the basis for all expenses contained in the price proposal. Written quotes from vendors, invoices reflecting prices paid on previous purchases, copies of catalog pages, etc. may be used as support for the proposed prices.

As a general rule, the method of acquisition for any capital asset (item costing \$1,000 or more and having a life expectancy of 1 year or more) will be determined through the use of a lease versus purchase analysis. A copy of the analysis will be included in the fee proposal. A reasonable allowance for salvage value of the items, based on the term of the project, must be provided for the purpose of such items.

Acquisition of tangible capital assets for Department ownership through service contracts is normally not acceptable. The requirements of **Rule 60A-1.017, F.A.C.**, must be considered when this is necessary. Property acquired as part of a service contract must be handled in accordance with **Procedure No. 350-090-010, Tangible Personal Property Procedure**.

Unit rates used to compute travel costs may not exceed those authorized for State employee travel in accordance with **Section 112.061, F.S.** Air fare must be based on coach rates with reasonable advance purchase and costs for rental cars must be based on the use of compact cars, unless otherwise justified and approved by the Department. Mileage for private vehicles must be at the state rate. **The Disbursement Operations Handbook**, is available on the Department's Office of Comptroller (OOC) Intranet website.

8.2.6 Subconsultant/Subcontractor/Sub-vendor Costs

Subconsultant/subcontractor/sub-vendor costs must be specifically identified in the price proposal and supported in a manner that will allow the contracting office to make a

determination that the proposed costs are fair, reasonable and competitive. Intended use of all lower tier subs must be disclosed during contract negotiations, regardless of tier level. Unauthorized subs are not in accordance with the **Standard Professional Services Agreement, Section 7A**, which states: "The Consultant...will not sublet, assign, or transfer any work under this Agreement to other than subconsultants specified in the Agreement without the written consent of the Department." Typically, this will require submission of the same type of data as required for the prime Consultant. This includes support for wage rates, loaded billing rates, rates per unit of work, direct expense rates and overhead rates. Subconsultants technically qualified in a standard work type are required to submit an overhead audit if their fees on a single contract are \$250,000 or above. If the subconsultant fee is under \$250,000, a self-certified overhead statement certified by a principal of the subconsultant firm may be accepted. Copies of self-certified overhead statements received from non-prequalified subconsultants will be provided to Central Office Procurement for maintenance in a central file. The requirement for an overhead statement may, at the discretion of the district office, be waived for non-technically qualified firms performing specialty services who do not have overhead information and who typically charge on a loaded billing rate basis. For Consultants where the requirement is waived, loaded billing rates will be negotiated for the contract to ensure reasonableness. At its discretion a district may require an acceptable overhead audit report performed by an independent Certified Public Accountant when contract fees at or greater than \$250,000 are anticipated. The prime Consultant shall not receive overhead and operating margin for subconsultant/subcontractor/sub-vendor services. Subconsultant/subcontractor/sub-vendor fees are pass-through costs, and cannot include administrative mark-up.

The prime Consultant and all subconsultants/subcontractors/sub vendors shall attest to full disclosure of intended use of lower tier subconsultants/subcontractors/sub-vendors, including use of drilling subs.

8.3 Fee Proposal Review

The negotiating staff and/or technical personnel (i.e., Project Manager) will review the various cost elements to determine if the cost elements contained in the fee proposal are necessary for the performance of the required services. The staff and/or technical personnel should provide a written technical analysis of the fee proposal for use in the price review.

The PSU will verify the cost elements of the fee proposal, review the technical analysis, review all proposed salaries, and shall perform a detailed cost analysis, in accordance with **Section 287.055(5)(a), F.S.**

Any errors, deficiencies, omissions, etc., noted during the review of the fee proposal by the PSU will be brought to the attention of the selected Consultant, and corrected data will be requested immediately.

8.4 Establishing the Method of Compensation

Compensation for professional services agreements will involve one or more of the following methods:

LUMP SUM: A firm fixed price not subject to adjustment due to the actual cost experience of the Consultant in the performance of the contract. This places the maximum risk on the Consultant and provides motivation for efficient cost management to maximize profits. It also minimizes the Department's time in contract administration. It is the recommended method of compensation when the scope of services is well defined and the level of effort can be reasonably predicted. The use of lump sum contracts for CEI work is prohibited unless the "extent, scope, complexity, character and duration of the work" have been established.

COST REIMBURSEMENT: The Consultant is reimbursed the actual costs incurred in the performance of the contract. A "maximum limiting amount" is normally established to cap the amount the Department will pay for the services. This method is used when the services are so vague or complex that the level of effort or expenditure cannot be estimated with reasonable accuracy. This provides minimal incentive to the Consultant to control costs and is time consuming to administer. FHWA only participates in cost reimbursement contracts in which the Consultant's operating margin is a lump sum or "fixed fee."

COST PER UNIT OF WORK: A negotiated unit rate for a repetitive task or deliverable product is established and paid for each unit produced. The unit rate is not subject to adjustment. A maximum limiting amount is normally established based on the estimated number of units required. This method is frequently used for geotechnical services, lab tests, soil explorations, traffic counts, bridge inspections, etc.

SPECIFIC RATES OF COMPENSATION: Billing rates are established for units of time, usually per hour. These rates normally include wages, overhead, estimated expenses and operating margin. A maximum limiting amount is normally established. This method is frequently used for surveying services.

Except for extraordinary contract requirements, the method of compensation will be described in the agreement using the standard Method of Compensation language

8.5 Negotiations

During the entire negotiation process, a summary or taped record of the resolution of all decisions between the Consultant and the Department will be kept and will be filed with the official agreement records in the PSU.

Final negotiations will reconcile any variances in work effort from that previously negotiated and establish the compensation to be paid the Consultant for the services to be rendered. The results of all negotiations with the Consultant must be documented in writing and made a part of the permanent project file.

Compensation will be negotiated within the limits established by state and federal law, rules and regulations, whichever is more restrictive. The negotiated compensation will be in an amount the Department determines is fair, competitive, and reasonable considering the scope and complexity of the project.

Should the Department be unable to resolve differences in the considered data or negotiate a fair and reasonable fee for the services as determined by the Department, the Department will terminate negotiations with the Consultant and provide written notice of termination to the Consultant. The Department will then initiate negotiations with the Consultant previously ranked second by the Department's Selection Committee.

Should the Department be unable to negotiate an agreement with the second ranked Consultant, the aforementioned procedure will be initiated with the third ranked Consultant. Should the Department be unable to negotiate a satisfactory agreement with any of the selected Consultants, the Department will select additional Consultants in order of their competence and qualification and continue negotiations in accordance with these procedures until an agreement is reached, or initiate a new selection process in accordance with this procedure.

The decision to terminate negotiations is a business decision the Department makes and it should not cause the Consultant to be viewed negatively or in any way impact their opportunity for future selections.

9. THE AGREEMENT

9.1 Preparation of the Agreement

Subsequent to negotiations, the PSU will prepare an appropriate agreement consistent with the results of the negotiations. The agreement will generally consist of: a ***Standard Professional Services Agreement, Form No. 375-030-12, Exhibit "A" - Scope of Services, Exhibit "B" - Method of Compensation.***

9.2 Agreement Execution

The PSU will coordinate execution of the professional service agreement. The following lists the signatures and approvals necessary for agreements.

9.2.1 The General Counsel's Office

This signature indicates that the agreement has been reviewed by an attorney to determine that the agreement contains all the required statutory provisions; contains all necessary provisions to be legally enforceable; contains all relevant provisions to clearly define the responsibilities and obligations of each party; and to protect the Department's interests.

9.2.2 The Consultant

This signature indicates that the Consultant agrees to all terms, conditions, and provisions contained in the agreement. If any changes have been made by the Consultant subsequent to Legal's initial review, the General Counsel's Office will review the changes and approve.

(A) Corporations:

Generally, only a President or Vice-President may sign on behalf of a corporation. If another person is signing, they must have proper authorization from the corporation. If another other than the President or Vice President will sign, the Procurement office shall request the following documentation from the Consultant firm:

Articles of Incorporation (filed with the Secretary of State, check for amendments)

Corporate Resolution signed by the corporate Secretary identifying by name any other people that are authorized to sign agreements on behalf of the corporation.

(B) Limited Liability Companies (LLC):

If the LLC is member managed, any member may sign on behalf of the LLC, unless the **Articles of Organization** or the **Operating Agreement** states otherwise. If the LLC is manager managed, any manager may sign on behalf of the LLC, unless the Articles of or the Operating Agreement states otherwise. If another person is signing, they must have an appropriate authorization from the LLC. If a member managed company, all managers will sign the designation.

Documentation to request and review:

Articles of Organization for managers or managing members (filed with Secretary of State, check for amendments).

Certificate or affidavit executed by all members or all managers identifying (by name) other people that are authorized to sign agreements with the Department on behalf of the LLC.

9.2.3 Office of Comptroller

Before executing an agreement, fund approval must be obtained through the OOC Contract Funds Management System (CFM). This system checks for 1) available budget (Work Program versus operating); 2) that projects are programmed for the appropriate amount and year in the Adopted Work Program; and 3) any needed federal authorizations are being obtained. These assurances are required for the Comptroller to state that funds are available in accordance with **Section 339.135(6)(a), F.S.** A copy of the approved funds approval e-mail must be placed in the contract file folder for proof of funds approval. If there are any questions regarding the CFM System or budgetary approval, please contact the CFM Section at ContractFunds.ManagementSection@dot.state.fl.us. If there are any changes to the financial provision in the **Standard Professional Services Agreement Terms, Form No. 375-030-12**, the changes must be approved by OOC.

9.2.4 The Procurement Office or District PSU, as appropriate.

While not required by law, this signature has the greatest procedural responsibility. This signature indicates that the signer has either verified or certifies that:

- (A) The Consultant was competitively selected in accordance with the Department's approved selection process, and that all Federal requirements, if applicable, have been met.
- (B) The terms and conditions of the agreement meet the specifications of the Project Manager, are reasonable to the Department and the Consultant, and were written in a form approved by legal counsel.
- (C) The agreement, when negotiated, was done so in good faith and in accordance with all applicable laws, rules, and procedures. Also, that the negotiated price is fair, competitive, and reasonable considering the scope and complexity of the project.
- (D) The method of compensation is appropriate and the amount is reasonable.
- (E) The project is included in the Department's adopted Work Program, and that the project has a proper phase, fund code, and financial management number(s).
- (F) Any change to previously approved form or content has been reviewed and resolved with the appropriate office.

- (G) The individual signing has signature authority.
- (H) OOC and FHWA, if applicable, have authorized funding.
- (I) The prime Consultant has secured and presented proof of professional liability insurance in accordance with the agreement.
- (J) For contracts in excess of \$5 million, PSU will identify the specific appropriation of state funds from which the state of Florida will make payment under the contract during the first year. The Appropriation Bill Number and Line Number will be entered on page one of the **Standard Professional Services Agreement**. Please use the Crosswalk to Budget Entities spreadsheets provided by the Budget Office to properly identify the appropriation information.

9.2.5 The Agency Head (or their Designee)

This signature obligates the Department to the terms, conditions, and provisions of the agreement. This signature completes execution of the agreement.

Signature authority is delegated to Senior Management Level Directors and above and PSAs. Directors, Assistant Secretaries, or District Secretaries may delegate signature authority to other office heads in writing.

9.3 Contract Distribution

The PSU distributes the executed agreements in the manner set forth below.

- (A) Electronic or hard copy to the Department's Comptroller or District Financial Services Office, as applicable.
- (B) One original to the Consultant.
- (C) One original to Professional Service Unit.
- (D) One copy to the Project Manager.
- (E) One electronic copy of every federally funded contract and task work order, to FHWA, per **Procedure No. 700-000-005, Federal-Aid Partnership Agreement**.

9.4 Loading Contracts in CITS and FACTS

The AFP containing all agreed upon negotiations information shall be uploaded by PSU

into the CITS application using the Ipswitch WS_FTP file transfer software. Instructions for use of the AFP are found on the Procurement website. Concurrent with loading the AFP contract information into CITS, the contract average wage rate data from the AFP is also uploaded into the PSI database via Ipswitch WS_FTP. The average wage rate data is used by the Department and Consultants for purposes of comparison of the proposed salary or billing rates with prevailing rates for the class of personnel, as part of contract negotiations.

PSU shall be responsible for uploading professional services contract images into FACTS.

All contracts for professional services shall be invoiced using CITS, unless approval is obtained from Central Office Procurement and OOC to exclude the contract from CITS. Contracts not entered in CITS will require a **Summary of Contractual Services Agreement/Purchase Order Receiving Report and Invoice Transmittal – Contracts Form No. 350-060-02-**. The form may only be completed through FDOT FACTS. Please refer to the Procurement Intranet website for **Contract Summary Form** training.

10. SPECIAL REQUIREMENTS FOR FEDERALLY FUNDED PROJECTS

Consultant contracts are eligible for federal-aid participation where costs are allocable to a particular federal-aid project. This section details the process which will be followed when federal funds are to be requested.

10.1 Oversight Classification

10.1.1 Full Oversight

The following classifications of projects require full oversight by FHWA.

- (A) FHWA reviews and approves all Consultant contracts used on FHWA defined “major projects”. “Major projects” are defined by FHWA as projects with total costs in excess of \$500 million. The designated projects may include those: 1) that require a substantial amount of a State Transportation Agency's (STA) program resources, 2) that have a high level of public or congressional attention, or 3) that have extraordinary implications for the national transportation system. For the purposes of determining whether the project costs exceed \$500 million, FHWA will look at the total cost estimate for the project limits as set forth in the Record of Decision (ROD) or final environmental determination.
- (B) FHWA reviews and approves all Consultant contracts where a Consultant

performs in a management role.

For the aforementioned FHWA oversight projects, a copy of the draft contract together with a cost estimate for the services will be provided to the FHWA Area Engineer (FHWA District Transportation Engineer). A cost estimate for this purpose will be completed using in-house staff hour estimates prepared by the Project Manager. The negotiated fee may be substituted in lieu of the cost estimate. At the same time, a funding request will be made through the District Federal Aid Coordinator for all FHWA funded projects. 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 for FHWA Oversight projects until initial approval is received.

10.1.2 Full Oversight- Planning Contracts

Planning projects also require full oversight by FHWA.

- (A) FHWA reviews and approves all draft Consultant contracts for planning projects.
- (B) FHWA reviews and approves all draft planning task work orders.

Federally funded planning contracts (including planning task assignment type contracts) are subject to a three year term, with no monetary threshold. FHWA approval will be required to extend planning contracts beyond a three year term.

For the aforementioned planning contracts, the Department will provide a copy of the draft Scope of Work and cost estimate (where applicable) for review by the FHWA Planning and Intermodal Coordinator. Scope of Work approval is required for planning contracts. Individual executed task work orders for planning task assignment contracts also require submittal and approval from FHWA.

10.1.3 Oversight Delegated to 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-district wides & non-planning). This would include groupings of professional service assignments for substantially similar activities, and continuing contracts for professional services. General Consultant contracts are excluded from this category.

- (C) Project specific contracts.
- (D) Project specific contracts, where work is done as task assignments in order to facilitate design & post-design phase closure.
- (E) Right of way acquisition projects.

FHWA annually reviews and approves the Department's Quality Assurance Review (QAR) process of District professional services contracts to validate that requirements for delegated projects meet the Federal-aid requirements. The QAR process includes the review of a statistical sampling of professional services contracts.

FHWA has accepted the cost/time limitations for miscellaneous minor professional services contracts (also known as District-wides) of \$1.5 million overall contract limit, \$300,000 per task assignment, and contract term of five years (exception: planning state-wide and planning district-wide contracts). No new task assignments on Districtwides will be started after the five year term ends (with the exception of post design work) unless the new task assignments are submitted with a justification to FHWA for approval as an exception to the approved process. 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.

Other federally funded task assignment contracts (non-district wides & non- planning) are subject to the contract term limit of five years, with no monetary threshold.

This would include 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) unless the new task assignments are submitted to FHWA for approval as an exception to the five year limit. FHWA approval will not be required to extend contracts beyond five years to complete task assignments previously authorized before the five year limit.

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 no monetary threshold. 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, and where the scope and costs for each task are defined at the time of contract execution and FHWA funds authorization, are not

subject to the five year limit or any monetary thresholds.

For the aforementioned delegated contracts only, the Department provides a copy of executed professional services contracts to FHWA. Contract approval in writing from FHWA is not required for these contracts. Individual executed task work orders associated with task assignment contracts (including district-wides) also do not require submittal or approval from FHWA.

10.2 FHWA Monitoring

FHWA will perform independent process reviews to evaluate the program and will participate in some of Department's QAR reviews of District professional services contracts. The Department agrees to review every District through the QAR process on a two-year cycle.

The following classifications of projects require oversight by FHWA. Responsibilities for oversight are assumed by the Department for other FHWA funded projects not covered below.

- (A) Interstate System projects, other than those dealing only with restoration, rehabilitation and resurfacing, with estimated construction costs \$1,000,000 or greater.
- (B) All bridge inspection/scour projects on the National Bridge Inventory System.
- (C) FHWA funded task assignment contracts and multiple project contracts will also be treated as oversight projects and will be submitted for FHWA review and approval. Questions regarding clarification of the classification of specific projects should be addressed to the FHWA Division Administrator.

Right of way acquisition projects do not require oversight by FHWA.

10.6 Declared Emergencies

Whenever there is an emergency declaration for a project for which FHWA funds are to be requested, FHWA will be notified immediately by the PSU that the Department intends to deviate from its normal selection process. FHWA will be provided a copy of the emergency declaration and the preliminary scope of services. FHWA's prior approval will be required for FHWA financial participation. Emergency procurements of professional services must be performed in accordance with Department ***Procedure No. 375-040-130, Emergency Procurement During Governor Declared Emergencies.***

11. DBE AND MBE REQUIREMENTS

The PSUs will determine Disadvantaged Business Enterprises (DBE), per federal definition, or Minority Business Enterprises (MBE), per state definition, requirements in accordance with existing Department rule, procedure and policy.

In order to achieve the overall Department goal of DBE or MBE participation, each District and the Central Office will always give consideration in selection of Professional Consultants to DBE/MBE Consultants and to Consultants who propose to subcontract work to DBE/MBE Consultants when other factors are equal.

12. EXEMPT CONTRACTS

Certain professional services contracts are exempted from formal advertising and selection in strict adherence to the selection procedures outlined above. These include where the fee for professional services is less than the threshold amount in **Section 287.017, F.S.**, for Category Two or when the construction cost is estimated to be less than the threshold amount for Category Five.

For work under the Category Two threshold, at least three qualified Consultants will be considered and ranked in order of preference and negotiations initiated with the Consultant ranked number one. If this competitive selection process is not followed, the contract file will be documented as to the reasons for the selection.

The contract fee will be negotiated, and the negotiations documented in accordance with this procedure. In addition, agreements will be prepared using the **Standard Professional Services Agreement, Form No. 375-030-12**, with standard exhibits; the agreements entered into the Professional Services Information System; and for any work falling within standard types of work, Department procedure for performance evaluation will be followed.

13. TRAINING

Training on this procedure will be included in periodic Project Manager and professional services training programs.

14. FORMS

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

375-030-2A	Professional Services Selection Package
375-030-12	Standard Professional Services Agreement

375-040-24	MBE Planned Utilization
375-030-30	Truth-In-Negotiation Certification
375-030-32	Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion for Federal Aid Contracts
375-030-33	Certification for Disclosure of Lobbying Activities on Federal Aid Contracts
375-030-21	DBE Participation Statement
375-030-50	Conflict of Interest Certification
350-060-02	Summary of Contractual Services Agreement/Purchase Order Receiving Report and Invoice Transmittal - Contracts